



## **SECOND GENERATION DISTRICT PLAN**

### **Plan Overview**

### **Decision of Hearings Panel**

## **Proposed Second Generation Dunedin City District Plan (2GP)**

**7 November 2018**





## **User guide to the decision reports and the marked-up decisions version of the 2GP**

The decisions of the 2GP Hearings Panel are presented in 29 decision reports (one report per hearing topic).

The reports include the Panel's decisions and reasons and incorporate the requirements under s32AA.

At the end of each report a table has been included summarising all the decisions on provisions (Plan text) in that decision report.

### **Marked-up version of the Notified 2GP (2015)**

The decisions include a marked-up version of the notified 2GP, which shows the amendments made to the notified plan in ~~strike-through~~ and underline. Each amendment has a submission point reference(s) or a reference to 'cl.16' if the amendment has been made in accordance with Schedule 1, clause 16(2) of the Resource Management Act. Schedule 1, clause 16(2), allows minor and inconsequential amendments to be made to the Plan.

Amendments to the Schedules below are not marked up as in other sections of the plan as they are drawn from a different source. Any changes to Schedules are detailed in the decision report for the relevant section.

Some very minor clause 16 changes such as typographical errors or missing punctuation have not been marked up with underline or strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes, and in some cases are also discussed in the decision.

### **Hearing codes and submission point references**

As part of the requirement of the DCC to summarise all original submissions, all submission points were given a submission point reference, these references started with 'OS'. Further submissions were also summarised and given a submission point that started with 'FS'.

The submission points are made up of two numbers the first is the submitter number, which is followed by a full stop, the second part is the submission point number for that submitter.

For example, OS360.01 is submitter 360 and their first submission point.

The 2GP Hearings Panel has used these same submission point references to show which submission points different amendments were attributed to. However, to enable these changes to be linked to different decision reports, the reference code was changed to start with a decision report code, e.g. Her 308.244.

A list of hearing codes can be found on the following page.

It should be noted that in some cases where several submitters sought a similar change, the submission point reference may not include all of these submission points but rather include only one or say, for instance, "PO 908.3 and others".

### Master summary table of all decisions

In addition to the summary table at the end of each decision report there is a master summary table that lists all decisions on provisions (Plan text), across all hearing topics, including details of the section(s) of the decision report in which that decision is discussed, and the relevant section(s) of the s42A reports. The s42A report sections will be helpful for appellants needing to identify which other parties have submitted on that provision, as notices of the appeal must be served on every person who made a submission on the provision or matter to which the appeal relates. The master summary table of decisions can be found on the decisions webpage of the 2GP website ([2gp.dunedin.govt.nz](http://2gp.dunedin.govt.nz)).

### List of hearing codes

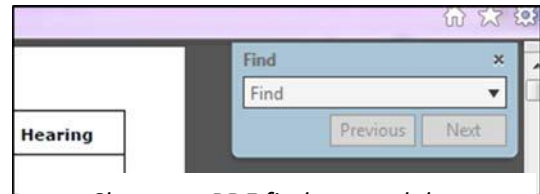
Hearing topic	Code
Commercial Advertising (cross plan hearing topic)	CP
Commercial and Mixed Use Zones	CMU
Community Correction Facilities (cross plan hearing topic)	CP
Defence Facilities and Emergency Services (cross plan hearing topic)	CP
Designations	Des
Earthworks	EW
Heritage	Her
Industrial Zones	Ind
Major Facilities (without Port and Mercy Hospital)	MF
Manawhenua	MW
Mercy Hospital	Mer
Natural Environment	NatEnv
Natural Hazards	NatHaz
Natural Hazard Mitigation	HazMit
Network Utilities	NU
Plan Overview and Structure	PO
Port Zone	Port
Public Amenities	PA
Public Health and Safety (PHS)	PHS
Quarries and Mining Activities (cross plan hearing topic)	CP
Recreation Zone	Rec
Residential Zones	Res
Rural Zones	RU
Rural Residential Zones	RR
Scheduled Trees	ST
Service Stations (cross plan hearing topic)	CP
Temporary Activities	TA
Transportation	Trans
Urban Land Supply	ULS

## How to search the document for a submitter number or name

1. If you want to search for particular submitter name, submission point or Plan provision in any of the reports (decision report, marked-up version of the Plan, or s42A report) the easiest way to do this is to use the 'Find' function.
2. When you have the document open, press the keys CTRL and F (Windows) or CMND and F (Mac) to bring up the 'PDF Finder'.



*Chrome – PDF finder search box*



*Chrome – PDF finder search box*

3. Once the PDF search box appears (in the top left or right corner of your browser) type in the submission number or submitter name and press enter on your keyboard.
4. The PDF finder will search for all instances of this term. Depending on the size of the document and your internet connection it may take a minute or so.
5. Press on the up or down arrows (Chrome) or 'next' (Internet Explorer) in the search box to view the different instances of the term until you find the one you are looking for.
6. An 'advanced search' function is available under the Edit tab in some PDF viewers, this allows you to search 'whole words' only to look for exact strings of letters or numbers



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## 1.0 Introduction

1. This document details the decisions of the Proposed Dunedin City District Plan Hearings Panel/Te Paepae Kaiwawao Motuhake O Te 2GP with regard to the submissions and evidence considered at the Plan Overview and Structure Hearing held on 8, 9, and 10 June 2016, and a reconvened hearing held on 6 December 2017 at the 2GP Hearings Centre and the Edinburgh Room, Municipal Chambers, Dunedin Town Hall.

### 1.1 Scope of Decision

2. The submissions that were allocated to the Plan Overview Hearing included submissions on:
  - Plan Overview and Introduction Section background content;
  - 2GP structure and format;
  - Definitions and terminology used across the Plan;
  - Generic or repeated provisions in the Plan;
  - Drafting protocol and general wording;
  - Generic comments on 2GP as a whole and strategic directions (broadly);
  - Provision of information and supporting information; and
  - Requests that cannot be addressed in the 2GP/topics that are outside the scope of the 2GP provisions.
3. In addition to addressing submissions on these topics the Plan Overview s42A also provided a detailed overview of:
  - the community engagement that was undertaken in the Plan's development
  - a general introduction to some of the case law around plan development
  - detailed introduction to the plan structure, format and drafting protocol.
4. This Decision Report addresses the original and further submission points addressed in the Plan Overview s42A Report, except:
  - *The Oil Companies* (OS634.58), which sought amendments to ensure consistency with the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. This is addressed in the Public Health and Safety Decision Report.
  - *The New Zealand Defence Force* (OS583.9), which had sought amendments to the performance standards table at Rule 4.3.2.1. This is addressed in the Temporary Activity Decision Report.
  - *Transpower* (OS806.3), which sought to include reference to the New Zealand Electrical Code of Practice for Electrical Safe Distances (ECP34:2001) in section 1.1.5. This received support from *Aurora Energy Limited* (FS2375.2) and *Federated Farmers* (FS2449.1). It is addressed in the Network Utilities Decision Report.
  - *Alistair Logan* (OS425.4) who sought amendments to Objective 2.2.5 to include reference to the retention of access to sunlight, given its importance in Dunedin over winter. This is addressed in the Residential Decision Report.

- *The Oil Companies* (OS634.4), which sought an amendment to exclude underground infrastructure such as pipes and tanks at service stations from the definition of 'buildings'. This is dealt with in the Network Utilities Decision Report.
- *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.21) which sought to correct a typographical error in section 1.3.2.3. This is dealt with in the Manawhenua decision.
- Submissions related to the legal status of Raglan Street and related submission points on the zoning of nearby sites: *Peter and Nicole Labes* (OS626.1), *Jillian & Jeff Gray* (OS631.1), *Joan Buchanan* (OS636.1), *Raymond & Jacqueline Spence* (OS639.1), *Stephen & Maryanne Haggie* (OS651.1), *Lina Chen and Libang Kuang* (OS654.1), *Karen Dunlea* (OS655.1), *Jean Duncan* (OS656.1), *Lawrence & Marie Cooper* (OS657.1), *Brent & Fiona Smaill* (OS658.1), *Graham Steele* (OS659.1), *Frida Swerdloff* (OS662.1), *Frances Sharples* (OS665.1), *Gladys Dick* (OS669.1), and *Michael Kerr* (OS670.1); *Craig Paddon* (FS2026.1). This is addressed in the Residential Decision Report.
- Submission from *Heritage New Zealand* (OS547.16) to amend the references to the Heritage New Zealand list categories I and II to 1 and 2. This is dealt with in the Heritage decision.
- Submission from *Robert Wyber* (OS394.24) relating to references in the Plan to "compact city" is addressed in the Urban Land Supply Decision Report.
- Submissions from *Vodafone NZ Ltd* (OS576.10), *Spark New Zealand Trading Limited* (OS923.10), *Chorus New Zealand Limited* (OS925.10) and *Michael David Newman* (OS1009.1), seeking that the term 'antennas' be used in the Plan instead of 'antennae', are addressed in the Network Utilities Decision Report.

5. In addition, it also addresses the following points:

- *Michael Doherty's* submission point (OS695.5), which relates to the building length rule and the definition of additions and alterations and was considered initially considered at the Residential hearing.
- The submission points of *Judy Martin* (OS708.4), *Harbourside and Peninsula Preservation Coalition (HPPC)* (OS447.113) and *Mr Howard Saunders* (FS2373.33), which opposed the submission of *HPPC*, which relate to the family flats topic, and were considered in the Rural Residential s42A Report, pp. 72 – 73.
- *Harbourside and Peninsula Preservation Coalition's* submission point (OS447.89), which relates to the family flats topic and was considered in the Rural s42A Report.
- *University of Otago's* (OS308.101) submission in respect of objective 3.2.1 and associated policies and rules, which was originally considered in the Public Amenities s42A Report, p. 11.
- *University of Otago's* (OS308.357) submission in respect of additions and alterations originally considered in the Heritage s42A Report, p.27.

- *Radio NZ's* (OS918.42) submission in respect of reverse sensitivity originally considered in the Rural s42A Report, p. 163.
- *Christopher Murray Davis* (OS314.2), *Alan Middleditch* (OS207.2), *Jacqui Hellyer* (OS372.1), *Marlene Du Toit Parks* (OS62.1), *Graeme and Lynette Reed* (OS491.3) and *Robert Wyber's* (OS394.47) submissions in respect of family flats, originally considered in the Residential s42A Report, pp. 169 to 173.
- *Marlene Du Toit Parks* (OS62.2) and *Shane Johnston and Sharee Watts'* (OS1067.4) submissions in respect of family flats, originally considered in the Rural s42A Report, p. 266.
- *The Oil Companies'* (OS634.47) submission that requested a new definition for infrastructure reflective of the definition in the RMA. This was supported by *Liquigas Limited* (FS2327.15) and *Waste Management (NZ) Limited* (FS2444.27) and was originally considered in the Public Health and Safety s42A, Report, p. 34.
- *Capri Enterprises Limited* (OS899.2) and *Bindon Holdings Ltd* (OS916.3) submissions in respect of Rule 11.3.3, originally considered in the Natural Hazards s 42A Report, p 169.
- *The NZ Institute of Surveyors - Coastal Otago Branch* (OS490.33) submission for a new performance standard for productive capacity to apply to the proposed new subdivision activity 'boundary adjustment', originally considered in the Rural s42A Report, p. 393, 394.
- *DIAL's* (OS724.28) submission opposing Rule 24.9.1.3, originally considered in the Major Facilities s42A Report, Section 5.7.18, p. 78.
- *Mercy Dunedin Hospital Limited's* (OS241.43) submission to remove subclause 4 from the Notification rules, originally considered in the Mercy Hospital s42A Report, Section 5.11.1, p. 68, 69.
- *KiwiRail Holdings Limited's* (OS322.19) submission to amend Strategic Direction 2.7 to also refer to 'transport', originally considered in the Transportation s42A Report, Section 5.2.4, p. 47-49.
- *Mercy Dunedin Hospital Limited's* (OS241.65) submission which sought to amend Rule 27.10.1 to remove sub-clause (3) and opposing submission of the *Ludgate Sharp Family Trust* (FS2436.12), originally considered in the Mercy Hospital s42A Report, Section 5.13.3, p. 83-85.
- *NZ Transport Agency* (OS881.41) submission to amend Objective 2.7.1 to remove the reference to ratepayers, originally considered in the Transportation s42A Report, Section 5.2.4, p. 45.

### 1.1.1 Structure of report

6. The decision report is structured by topic. The report does not necessarily discuss every individual submitter or submission point; instead it discusses the matters raised in submissions and records our decisions and reasons on the provisions

relevant to each topic<sup>1</sup>. Appendix 2 at the end of the report summarises our decision on each provision where there was a request for an amendment. The table in Appendix 2 includes provisions changed as a consequence to other decisions.

7. Schedule 1 of the RMA outlines key aspects of the process that must be used to prepare and make decisions on a plan change (including the submission and hearing process).
8. Clause 16(2) of that schedule allows a local authority to make an amendment where the alteration "is of minor effect", and to correct any minor errors, without needing to go through the submission and hearing process.
9. This Decision includes some minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments are summarised in section 4.0.

## **1.2 Section 32AA Evaluation**

10. Section 32 of the Resource Management Act 1991 (RMA) establishes the framework for assessing proposed objectives, policies and rules. Section 32AA of the RMA requires a further evaluation to be released with decisions, outlining the costs and benefits of any amendments made after the Proposed Plan was notified.
11. The evaluation must examine the extent to which each objective is the most appropriate way to achieve the purpose of the RMA and whether, having had regard to their efficiency and effectiveness, the policies and rules proposed are the most appropriate for achieving the objectives. The benefits and costs of the policies and rules, and the risk of acting or not acting must also be considered.
12. A section 32AA evaluation has been undertaken for all amendments to the notified Plan. The evaluation is incorporated within the decision reasons in section 3.0 of this decision.

## **1.3 Statutory Considerations**

13. The matters that must be considered when deciding on submissions on a district plan review are set out in Part 2 (sections 5-8, purpose and principles) and sections 31, 32 and 72-75 of the RMA. District plans must achieve the purpose of the RMA and must assist the council to carry out its functions under the RMA.
14. The s42A Report provided a broad overview of the statutory considerations relevant to this topic. These include:
  - Section 75(3) of the RMA, which requires us to ensure the 2GP gives effect to any National Policy Statement (NPS) or National Environmental Standard (NES) that affects a natural or physical resource that the Plan manages. We note that there are no NPS or NES directly relevant to this particular topic

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<sup>1</sup> In accordance with Schedule 1, section 10 of the RMA

- Section 74(2)(a) of the RMA, which requires us to have regard to the proposed Otago Regional Policy Statement (pRPS) and section 75(3)(c) of the RMA, which requires us to ensure the 2GP gives effect to the operative Otago Regional Policy Statement (oRPS). We note that the proposed RPS was notified on 23 May 2015, and decisions released on 1 October 2016. At the time of making these decisions on 2GP submissions some of the proposed RPS decisions are still subject to appeal, and therefore it is not operative
  - Section 74(2)(b)(i), which requires us to have specific regard to any other key strategies prepared under the Local Government Act. The s42A Report highlighted the Dunedin Spatial Plan 2012 as needing to be considered as this DCC strategic document sets the strategic directions for Dunedin's growth and development for the next 30 plus years.
15. These statutory requirements have provided the foundation for our consideration of submissions. We note:
- where submissions have been received seeking an amendment of a provision and that provision has not been amended, we accept the advice in the original s42A Report that the provision as notified complies with the relevant statutory considerations
  - where a submitter has sought an amendment in order to better meet the statutory considerations, we have discussed and responded to these concerns in the decision reasons
  - in some cases, while not specifically raised, we have made amendments to the Plan as the evidence indicated this would more appropriately achieve these statutory considerations, in these cases we have explained this in our decision reasons
  - where we have amended the Plan in response to submissions and no parties have raised concerns about the provisions in terms of any statutory considerations, and we have not discussed statutory considerations in our decision, this should be understood to mean that the amendment does not materially affect the Plan's achievement of these statutory considerations.

## 2.0 Hearing appearances and evidence presented

16. Submitters who appeared at the hearing, and the topics under which their evidence is discussed, are shown below in Table 1. All evidence can be found on the 2GP Hearing Schedule webpage under the relevant Hearing Topic <https://2gp.dunedin.govt.nz/2gp/hearings-schedule/index.html>

**Table 1: Submitters and relevant topics**

<b>Submitter (submitter Number)</b>	<b>Represented by / experts called</b>	<b>Nature of Evidence</b>
Air New Zealand Limited (ANZL) (OS1046)	Bronwyn Carruthers (legal counsel)	Appeared at reconvened hearing and tabled legal submissions
Alastair Logan (OS425)		Appeared at hearing, tabled evidence and spoke to submissions
Alex Charles and Jackie St John (OS876)		Did not appear, pre-circulated evidence (8 June 2016)
Arthur St Neighbourhood Support (OS843)	Liz Angelo	Appeared at hearing
Blueskin Resilient Communities Trust (FS2229)	B Irving and C Hodgson (legal counsel)	Appeared at hearing and tabled legal submissions
BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd (OS634, FS2487)	Georgina McPherson (Principal Planner, Burton Planning Consultants Ltd)  Kahlia Thomas (Graduate Planner, Burton Planning Consultants Ltd)	Did not appear at hearing. Tabled evidence 30 May 2016 and 4 December 2017
Brent & Fiona Smaill (on behalf of Raglan Street Community) (OS658)	Kurt Bowen (surveyor)	Appeared at hearing and tabled evidence 31 May 2016
Bruce Mark Norrish		Appeared at hearing and tabled evidence

(OS461)		
Egg Producers Federation of New Zealand (OS702)	Harrison Grierson (Planning Manager)	Did not appear Tabled evidence (26 May 2016)
Federated Farmers of New Zealand	David Cooper (Senior Policy Advisor)	Appeared at hearing and tabled evidence
Fonterra Limited	Bronwyn Carruthers (legal counsel)	Legal submissions (30 May 2016)
Frances Sharples (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Frida Swerdloff (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Generation Zero	Findlay Campbell	Spoke to submission 9 June 2016
Gladys Dick (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Graham Steele (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Harboursides and Peninsula Preservation Coalition (OS447, FS2267)	Craig Werner	Did not appear Tabled evidence
Jean Duncan (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Jillian & Jeff Gray (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Joan Buchanan (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Judy Martin		Appeared at hearing
Karen Dunlea (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)



Kurt Bowen (OS297)		Appeared at hearing
Lawrence & Marie Cooper (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Lina Chen and Libang Kuang (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence (31 May 2016)
Liquigas Limited	Claire Hunter (Senior Consultant, Mitchell Partnerships Ltd)	Did not appear Tabled evidence
Liz Angelo		Appeared at hearing
Margaret Davidson		Appeared at hearing and tabled evidence
Michael Kerr (on behalf of Raglan Street Community)	Mike Kerr (legal counsel) Kurt Bowen (surveyor)	Tabled evidence
Miro Trust		Tabled letter advising of non-attendance
Murray Soal		Appeared at hearing and tabled evidence
New Zealand Defence Force	Rob Owen (Environmental Manager)	Did not appear Tabled evidence
New Zealand Transport Agency (NZTA)	Kirsten Tebbutt (Principal Planning Advisor)	Did not appear Tabled evidence
NZ Institute of Surveyors - Coastal Otago Branch (OS490)	Maaik Duncan (surveyor) and Kurt Bowen (surveyor)	Appeared at hearing and tabled evidence
Oceana Gold (New Zealand) Limited	Jackie St John (legal counsel)	Did not appear. Pre-circulated legal submissions
Peter and Nicole Labes (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence 31 May 2016
Progressive Enterprises Limited (OS877)	M J Foster (Director of Zomac Planning Solutions Ltd)	Did not appear Tabled evidence (24 May 2016)

Property Council New Zealand (OS317)	Anita Bronsan	Appeared at hearing
Raymond & Jacqueline Spence (on behalf of Raglan Street Community)	Kurt Bowen (surveyor)	Tabled evidence 31 May 2016
Robert Francis Wyber (OS394) (FS2059)		Appeared at hearing, tabled evidence and tabled further evidence on 12 June 2016
Stephen & Maryanne Haggie (on behalf of Raglan Street Community) (OS651)	Kurt Bowen (surveyor)	Did not appear. Tabled evidence
Timothy George Morris (OS951)		Did not appear. Tabled evidence
Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.41)	Timothy Morris (civil engineer)	Did not appear. Tabled evidence
Transpower New Zealand Limited (OS806)	Rebecca Eng (Senior Environmental Planner)	Did not appear Tabled evidence
University of Otago (OS308)	Murray Brass (Resource Planner / Policy Advisor)	Appeared at hearing Tabled evidence

17. Appearances for the Dunedin City Council were:

- Dr Anna Johnson, Reporting Officer for topics where Reporting Officer is not specified in this report
- Paul Freeland, Reporting Officer on a small number of topics, mainly related to subdivision and mapping, as indicated in this report

18. Evidence provided by the Reporting Officers included:

- Section 42A report organised primarily under topic heading where responded to each submission point

- opening statement (tabled and verbal)
- revised recommendations (tabled and verbal) and additional notes
- Reporting Officer's report for reconvened Plan Overview Hearing – Family Flats
- Reporting Officer's report for reconvened Plan Overview Hearing – Policy Drafting and Terminology
- Reporting Officer's opening statement (tabled and verbal)
- Reporting Officer's Addendum to Revised Recommendations – Policy Drafting and Terminology

19. Planning assistance to the hearing was provided by:

- Paul Freeland (Senior Planner), other than for topics where he was the Reporting Officer.

## 3.0 Decisions on submissions by topic

### 3.1 Objectives and Policies Drafting Protocol

20. One of the most critical topics at the Plan Overview Hearing was the objectives and policies drafting protocol. This topic was introduced at the Plan Overview Hearing, at which we received a detailed initial recommendation from the DCC Reporting Officer. It was revisited again at the Reconvened Plan Overview Hearing, where we received revised recommendations from the DCC Reporting Officer after she considered the submissions and evidence heard across the other hearings. We also considered this matter in most of the other hearing topics as we considered various submissions on objective and policy wording.

#### 3.1.1 Broad submissions

21. Two broad submissions were received on the drafting protocol. The *Otago Regional Council* (OS908.17) sought to ensure that consistent references to describe the threshold of acceptable effects are used in policies under Objective 10.2.3 and elsewhere as appropriate. They noted that differences in phrases are used to describe thresholds of acceptable effects and requested that if there is a need to use different phrases, there should be a clear reason for doing so. The *Otago Regional Council* (OS908.3) made a similar submission seeking consistent terminology in the context of definitions.
22. *Federated Farmers of New Zealand* (OS919.1) sought a review of the use of the words 'avoid', 'prevent' and 'require' in the Plan in light of the *King Salmon* decision, and its implications for the region's resource use. *Oceana Gold (New Zealand) Limited* (FS2439.6) and *Horticulture New Zealand* (FS2452.6) supported this submission.

##### 3.1.1.1 s42A Report

23. The Reporting Officer, in her s42A Report provided to the initial Plan Overview hearing, explained that policies are 'courses of action' that are deemed the most appropriate method (e.g. most efficient and effective way) of achieving or implementing the objectives of the Plan.
24. For policies, the drafting protocol uses language that is designed to set out clear actions (in relation to the management of land use activities) to achieve the objectives. Each policy starts with a verb. The verbs used reflect the activity status rules as follows (s42A Report, p. 22):
- "Require..." is used at the start of policies that set up performance standards;
  - "Only allow..." is used in policies that set up discretionary (restricted or fully discretionary) activities;
  - "Avoid..., unless" is used in policies that set up non-complying activities.
25. At the hearing, she noted that there were a few exceptions to this approach where Plan clarity was improved by using a slightly different wording.

26. She considered that this direct link between policy wording and rule type provides for plan clarity and transparency, and should be retained in any amendments made to the Plan.
27. She explained that the policies then detail the criteria or tests to be used in the assessment of consent applications, to achieve the overall objective. Standard wording was developed to indicate different levels of strictness/leniency in terms of the tests applied. She noted that the wording was based on the expert opinions of a 2GP review group that included Ian Munro (planning consultant/RMA commissioner), Michael Garbett and Rachel Brooking (Resource Management lawyers), members of the resource consents team, and senior planners from City Development. She also noted that the Plan had been subject to an external peer review in its development, which was undertaken by Boffa Miskell consultants. She therefore considered it to be 'best practice'.
28. The Reporting Officer explained that the standard wording used in some cases specifies various levels of tolerable effects, and in others, statements of the overall outcomes to be achieved. This provides clarity for plan users and decision makers.
29. She said, at the 'most strict level', the standard wording with respect to the management of effects was: "No material effects from x on y" or "the effects from x on y are insignificant". This wording was chosen to indicate a very low level of adverse effect as being acceptable due to the sensitivity of the issue.
30. At the 'medium to high strictness level', the standard wording was: "where any adverse effects from x on y are avoided or, if avoidance is not possible, no more than minor"; or "Where the (or any) potential adverse effects from x on y can be avoided or, if avoidance is not possible, mitigated to the point that they would be no more than minor". This wording was chosen to indicate that a slightly higher level of effects were acceptable.
31. At the 'medium strictness level', the standard wording was: "effects of/from x on y are avoided or, if avoidance is not possible, adequately mitigated". This wording was chosen because it clearly indicates that avoidance is the preferred outcome, and only if it can be established that avoidance is not possible should the test of "adequately mitigated" be applied. In essence, this was asking the applicant to demonstrate their best effort to achieve the outcome in the policy.
32. At the lowest level of strictness, the standard wording was: "no significant effects from x on y" or "avoid significant effects from x on y". This wording was used where effects are anticipated to occur due to the nature of the activity and/or receiving environment (that is, it was unlikely they could be avoided) and the concern was to only focus on avoiding "significant" effects on some identified aspect of the environment.
33. In response to the *ORC's* submission, the Reporting Officer reiterated that the drafting protocol provides consistent references to describe the threshold of acceptable effects in policies as requested by this submitter. However, she recommended that it may be helpful to include an explanation of the drafting protocol in the User Guide section of the 2GP, rather than rely on a document sitting outside the Plan.

34. In response to *Federated Farmers'* submission, she noted that consideration had been given to the Supreme Court's comments in *EDS v King Salmon* in relation to the meaning of the word 'avoid'. She noted that the Supreme Court did not overturn the previous decisions of the Environment Court that held 'avoid' did not equate to 'prohibit', but did distinguish the context of the word 'avoid' in those cases. In *King Salmon*, the Supreme Court was concerned with 'avoid' as it is used in s5(2)(c) and in relevant provisions of the NZCPS. They found "In that context, we consider that 'avoid' has its ordinary meaning of 'not allow' or 'prevent the occurrence of'" (para 96). This interpretation of 'avoid' is what has been used in the 2GP drafting protocol.
35. Policies that use the word 'avoid' temper this by either using it to state a preference for avoidance; using avoid in the context of setting up a very strongly worded/directive policy related to an outcome that needs to be achieved "avoid... unless"; or using avoid in the context of specific effects, which allows for tolerance for other adverse effects. She argued that this contextualisation ensures 'avoid' is not interpreted as leading to a prohibited activity. Therefore, it does not unduly restrict activities or lead to an interpretation as meaning that an activity must be prohibited in order to achieve the policy.
36. Overall, the Reporting Officer concluded that the drafting protocol was appropriate and was an important part of ensuring policies are effective. She argued that this was supported by the comments of the Supreme Court in *EDS v King Salmon*, which considered the drafting of the policies in the New Zealand Coastal Policy Statement (NZCPS) in terms of their rigidity. The Court noted some policies "give decision-makers more flexibility or are less prescriptive than others" while in contrast other policies "are expressed in more specific and directive terms" (para 127). The Court held that the more directive terms will carry greater weight.
37. In terms of the 2GP, she explained the drafting team had taken these comments to mean that when the 2GP is interpreted, the more directive policies are likely to carry more weight than less directive policies. Therefore, where there was greater certainty about the policy (or course of action) required to implement an objective (and effectively manage any adverse effects) more rigid wording was used, and where there was more uncertainty or options about the policy/course of action required to implement an objective (and effectively manage effects) more flexible and less directive wording was used (e.g. "adequately mitigated").
38. She went on to say the *King Salmon* decision also supports the importance of good objective and policy wording. She noted that *King Salmon* had been recently considered by Judge Jackson in *Appealing Wanaka Incorporated v Queenstown Lakes District Council* [2015] NZEnvC139. Judge Jackson commented with respect to the principle that when making a plan change a decision maker only looks to documents that are one level higher than that being considered unless "*there is some uncertainty, incompleteness or illegality in the objectives and policies of the applicable document does the next higher relevant document have to be considered (and so on up the chain if necessary)*" (para 47). These statements reflect paragraph 88-91 of the *King Salmon* decision, which set out the same tests – lawfulness, completeness, and clarity of meaning, in terms of the lack of need to refer back to Part 2 of the Act where policies clearly articulate a position in terms of the matters covered by Part 2 that meet those tests.
39. The Reporting Officer said that these comments are important not only with respect to understanding which higher order documents are relevant but also because they

establish the tests that should be applied to assessing the quality of the drafting of objectives and policies (e.g. that they should be certain, complete and legal). It is where these tests are not met that decision-makers must go back to Part 2 of the Act.

40. Based on the reasons outlined above, she recommended that the drafting protocol is adhered to with respect to any amendments made to the Plan, with the exception of the 'least strict' standard wording, which she recommended was reviewed and amended if necessary where it occurs. We discuss this further below.
41. However, we note the Reporting Officer, while maintaining her overall position on the importance and general validity of the drafting protocol, did make further recommendations for minor adjustments in wording or usage, including around the wording of 'avoid' policies at the Reconvened Plan Overview Hearing. These are discussed in the following sections.
42. At the hearing, David Cooper gave evidence on behalf of *Federated Farmers* indicating that the s42A Report sufficiently addressed the issues raised in relation to the use of 'avoid', 'prevent' and 'require'.

#### 3.1.1.2 Decision and reasons

43. Overall, we accept the submission of the *Otago Regional Council* (OS908.17) to ensure consistent references to describe the threshold of acceptable effects in policies, and the recommendation of the Reporting Officer to retain the objective and policy drafting protocol subject to a number of amendments discussed below, to ensure plan consistency.
44. We accept the submissions by *Federated Farmers of New Zealand* (OS919.1) and further submissions by *Oceana Gold (New Zealand) Limited* (FS2439.6) and *Horticulture New Zealand* (FS2452.6) that the word "avoid" should be used carefully in light of the *King Salmon* decision. We note that the policy drafting protocol has been reviewed in light of the matters raised by the submitters and agree with the recommendations and reasons provided by the Reporting Officer. Specific changes to the policy drafting protocol are outlined below.
45. Overall, we supported the recommendation of the Reporting Officer to follow a policy drafting protocol and based on the amendments listed below adopted that protocol in our decisions on policy amendments as is discussed in the other decisions. We agree this represents best practice and directions provided by the courts. We suggest that the drafting protocol, which sits outside the Plan, is amended to reflect our decisions discussed below, so that to assist drafting future plan changes.

#### 3.1.2 Least strict threshold – no significant effects

46. The 2GP Policy Drafting Protocol included the following policy drafting for the least strict effects threshold:

Level of strictness	Typical policy wording	2GP Examples
Least strict	"no significant effects from x on y"; or	Only allow mining where there would be no significant effects from air blast and vibration on

(high tolerance for some effects as long as not significant)	"avoid significant effects from x on y"	people's health and safety or on surrounding properties.  Require forestry and tree planting to be set back an adequate distance to avoid significant effects from shading on residential buildings on surrounding properties.
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47. The *University of Otago* (OS308) made a number of submissions on policies that use the "no significant effects" phrasing, and requested that this wording was amended, or that the policies that used it were deleted.
48. As discussed below they also clarified at the Plan Overview Reconvened Hearing that their submission has sought the same change to equivalent or similar provisions elsewhere in the proposed Plan.
49. This matter was first considered at the Natural Hazard Mitigation Hearing, where the *University of Otago* (OS308.167) sought that Policy 8.2.1.2 be amended. This policy is:  
  
Only allow hazard mitigation earthworks and hazard mitigation structures where there are no significant effects on the amenity and character of the surrounding area.
50. The *University of Otago* argued that there is no justification for requiring that there be "no significant adverse effects on amenity and character" and considered that this is a more stringent test than applies to other activities which do not provide the benefits that hazard mitigation does.
51. Its main concern was about the absoluteness/directness of having no tolerance for 'significant effects'. The submitter was of the view that policies drafted using this wording, when read on their own, suggested a prohibition if the effects are significant. It felt that because of this directness and narrowness, if a proposal was appropriate due to its overall positive benefits despite having significant adverse effects, these positive effects would not be considered.
52. The *University* made similar submissions (OS308.101) in respect of Objective 3.2.1, Policies 3.2.1.2, 3.2.1.3, 3.2.1.4 (Public Amenities) and Policy 5.2.1.11 (Network Utilities).
53. The *University of Otago* considered that the framework provided for by these policies was overly negative and did not enable positive effects to be considered. The submission sought that the policies were deleted.
54. Megan Justice (planning consultant) called by *PowerNet* (FS2264.19) and *Aurora* (OS457.14) also raised similar concerns about Policy 5.2.1.11 at the Network Utilities Hearing. She noted that *PowerNet's* submission opposed the requirement to "avoid any significant adverse effects" with no scope available to remedy or mitigate such effects.



55. The Reporting Officer for the Plan Overview Hearing accepted the *University's* concerns that for some activities significant effects may be unavoidable and that requiring that these must be avoided sets an unfair standard as it still may be appropriate to grant consent, having considered both the positive and adverse effects of the activity, and the objectives of the Plan. She recommended that this aspect of the drafting protocol was reviewed, and instead the medium-level of strictness used where the issue raised by this submitter is of concern. Attention should be given to ensuring that these policies give clear guidance on outcomes to be achieved, including those related to positive effects (Plan Overview s42A Report, p. 24).
56. After considering the evidence on policy wording considered across the various hearings, the Reporting Officer clarified her view with regards to this wording in the Plan Overview Reconvened Hearing, and made the following recommendations:
- that the notified wording created a relatively 'hard line' and strict approach to significant effects and could not be accurately described as a 'least strict' threshold. Therefore, this aspect of the policy drafting protocol needed to be amended.
  - there may be situations where a test of "significant effects are avoided" or "no significant effects" is appropriate where this is what is wanted, e.g. a zero tolerance for significant effects. This is particularly appropriate if used as part of two-tier policy test, that also covers the level of tolerance for other – non-significant effects – for example: *Only allow X where: a. significant effects are avoided, and b. all other effects are minimised as far as practicable*
  - where this is not the case, the wording should be changed to "avoid or minimise as far as practicable, significant adverse effects on Y", to remove the absolute prohibition on significant effects (Reconvened Plan Overview Hearing Report - Policy Drafting Protocol and General Terminology Consistency Summary and Revised Recommendations, p. 11).
57. The Reporting Officer noted that many of the policies that had originally used this wording had been recommended to be amended through other hearings. For the remainder, she recommended these policies be reviewed to consider whether the high test for significant effects is appropriate in each situation, and if it is, to consider whether the wording should be changed as shown in the alternatives above. The relevant policies were listed in Appendix 1 of the Reconvened Hearing s42A Report and recommendations added by the relevant Reporting Officers.
58. Mr Murray Brass (planner), on behalf of the *University of Otago*, provided a written submission supporting the recommendation that the current phrasing was not appropriate and that the words "where practicable" should be added.
59. In his written submission, Mr Brass also clarified that with regards to the extent of scope that "In a number of cases the Staff recommendation excludes changes to provisions that would be consistent with the above recommendations, due to a lack of scope." He noted that the *University's* submission included the following point: "Where a submission point above relates to a specific provision, and there are other equivalent or similar provisions elsewhere in the Proposed Plan, the submission is intended to cover all of those provisions."

60. He went on to state: "The intent of that submission point was to provide for consistency across the Plan, even where the *University* did not specifically submit on all uses of a provision. I am comfortable that this does encompass other uses of the drafting addressed above and would invite the Panel to use this submission point to provide scope to changes for consistency where it considers it appropriate."

### 3.1.2.1 Decision and reasons

61. We accept the submission by the *University of Otago* that requests that the policies that use the wording "no significant effects", "avoid significant effects" or closely similar wording be reviewed. We agree with the Reporting Officer that it is appropriate to amend the policies that use this phrasing to read: "avoid or minimise, as far as practicable, significant adverse effects on Y", where a different, more appropriate amendment is not made in response to other submission point or where the policy is not part of a two-tier test in which a strict (zero tolerance) test for significant effects is thought to be the most appropriate policy test.
62. We have relied on the *University's* submission point (OS 308.497), which as discussed above was to make equivalent changes to similar provisions across the Plan, where the policy is not already amended in response to a different submission point.
63. The amendments are listed in Appendix 2 of this decision.

### 3.1.3 Minimise as far as practicable

64. There were a number of submissions, and several aspects of hearing evidence that touched on the appropriate use of the word 'minimise' in policies across the hearings.
65. *Liquigas* (OS906.34) sought the deletion of Objective 19.2.2, due in part to the objective requiring "the minimisation of 'any' adverse effects, regardless of their significance", as well as the term 'minimised' not enabling "a quantitative assessment of the suitability of any minimisation that may be undertaken" (OS906.34). The submitter also sought to amend Policy 19.2.2.6 to delete 'minimised', and replace it with 'avoided, remedied or mitigated' to reduce ambiguity about the acceptable degree of minimisation (OS906.37). The submitter argued that a requirement to 'minimise' is too open ended and needs to be qualified or paired with guidance as to the extent of minimisation required (*Liquigas'* submission, Annexure A, pp. 8-9).
66. In the Industry Hearing, Ms Claire Hunter, the planning consultant called by *Liquigas*, argued that the obligation to 'minimise' effects was too onerous, stating (Statement of Evidence, p. 5):

*"4.3 As currently drafted the objective requires that adverse effects are "minimised as far as practicable". Minimise, in its dictionary definition means to reduce to the smallest possible amount or degree. I think this goes further than a requirement to say mitigate or remedy and I am concerned that the literal meaning of the word "minimise" could be applied when assessing applications.*

*4.4 I am also concerned that this has no regard for the significance or scale of adverse effects. The objective therefore requires that all adverse effects, regardless of whether these effects are minor or less, are to be minimised. I*

*do not agree that this is an appropriate outcome and could potentially constrain the development and ongoing operation of critical and essential network utilities throughout the city. I am therefore of the view that the objective should establish a framework whereby adverse effects should be appropriately managed, taking into account factors such as the degree of significance or scale of the effect, as well as recognising that in certain circumstances technical and/or operational constraints may mean that adverse effects are inevitable and could also be acceptable."*

67. Conversely, *Ravensdown Limited* (OS893.3) supported Objective 19.2.2.d in relation to the minimising of reverse sensitivity effects from activities within the industrial zones on industrial and port activities. They considered that this provision represented good resource management practice.
68. Ms Karen Blair, the planning consultant called by the *Oil Companies*, also outlined concerns about the use of 'minimise' in Objective 19.2.2 and Policy 19.2.2.6 (Statement of Evidence, paragraphs 3.6 and 3.8). She considered that:
- the requirement to minimise adverse effects in the context of the objective is overly onerous and should be qualified; and
  - the requirement to minimise reverse sensitivity effects is uncertain and could potentially leave industrial activities at long term potential risk of reverse sensitivity effects and operational constraints.
69. In contrast to *Liquigas, Radio NZ* (OS918.27) sought to amend Policy 5.2.1.7 as follows:
- Require network utilities structures are located, designed, and operated to ensure any risk to health and safety is ~~no more than minor~~ minimised to the extent practicable
70. *RNZ* argued that the term "no more than minor" is unsuited for use in this policy, as it implies that there is an acceptable set standard for risks to health and safety (without clearly articulating what that standard is). The submitter considered it preferable to require that risks be "minimised to the extent practicable". In the submitter's view, this would allow for a more flexible approach, better recognising the range of network utilities and of risks.
71. In response to this evidence, the Reporting Officer for the Industry Hearing cited legal advice from Rachel Brooking dated 3 August 2016 (Annexure to s42 Report for the Reconvened Hearing), and revised his recommendations for Objective 19.2.2 and Policy 19.2.2.6 as follows:
- Objective 19.2.2*
- Development and activities are designed and operated so that:*
- a. ...
  - b. *any adverse effects on the amenity of adjoining residential, school or recreation zones are minimised to the extent practicable;*
  - c. ...
  - d. *the potential for reverse sensitivity effects on industrial and port activities, from activities that are provided for within the industrial zones, is ~~minimised~~ insignificant.*

*Policy 19.2.2.6*

*Only allow buildings and structures to exceed the maximum height limit where:*

- a. ...
- b. ~~all practicable measures have been taken to avoid or minimise~~ the visual effects of the height limit exceedance have been minimised as far as practicable

### 3.1.3.1 Reconvened Plan Overview Hearing

- 72. At the reconvened hearing, the Reporting Officer provided us with an analysis of the terms 'minimise', and 'mitigate'. She agreed that, taken literally, the term 'minimise' sets "quite a high obligation, and arguably requires effects to be as close to nil as possible", although she also noted the unlikelihood of such an approach in the practical application of decision making under the RMA.
- 73. She also referred to a recent Environment Court consideration of Policy 5.2.1.11 from the notified 2GP, which contains the phrase 'minimised as far as practicable', which did not raise any particular concerns with this phrasing.
- 74. The Reporting Officer considered that 'minimised as far as practicable' was an appropriate policy test, although she agreed with Ms Hunter that it was a high test (Reconvened Plan Overview s42A Report, p. 23).
- 75. Her recommendation was that the phrase 'as far as practicable' should always accompany the use of the term 'minimised', for the same reasons that she considered that 'avoid' should always be followed by 'as far as practicable' in order to address the concerns raised about the use of the word 'avoid' (see Section 3.1.2 above). She considered that the addition of the words 'as far as practicable' largely addressed the concerns of *Liquigas* and the *Oil Companies*, that is, that the requirement to minimise an effect could be taken to an extreme where either the costs of mitigation or the significance of residual effects were ignored, or that mitigation would be required for inconsequential effects and/or without consideration of the additional costs to achieve improvements in the reduction of effects.
- 76. Additionally, she recommended that the drafting protocol be amended to include the option of 'minimised as far as practicable' with clear guidance on its usage and that all variations of this provision that do not include 'as far as practicable', are amended to include this phrasing. Recommended amendments to the Plan's provisions were provided.
- 77. At the reconvened Plan Overview Hearing we also heard from Mr Brass, who supported the recommendation that 'minimise' is replaced with 'minimise as far as practicable'.

### 3.1.3.2 Decision and reasons

- 78. We accept the Reporting Officer's view that the phrase 'as far as practicable' should always accompany the use of the term 'minimise' in directive policies. We note that this is supported by her explanation of why 'avoid' should always be followed by 'as far as practicable' in relation to her discussion of the King Salmon case and the concerns that had been expressed by submitters with respect to the use of the word

'avoid'. It was also supported by the analysis of the word minimise that relied on legal advice from Ms Brooking that had originally been considered at the Industry topic hearing.

79. We consider that this amendment does not substantially alter the application of the Plan. We accept the views expressed by Ms Blair that it is possible to argue that minimise has a level of uncertainty around its extent, and that it should be qualified. Overall, the Plan's legibility will be improved through this amendment.
80. Consequently, we have added "as far as practicable" after the word "minimised" or "minimising" in a number of objectives and policies. Where the policy is not already amended in response to a different submission point, we have made this amendment under the combined scope provided by the *Liquigas* submission (OS906.34) and the *University of Otago's* submission (OS308.497) which sought consistent Plan wide amendments related to policy drafting issues, and in recognition of Mr Brass's support for this change as addressing some of the *University's* broad concerns with policy drafting.
81. The amendments are listed in Appendix 2 of this decision.

### 3.1.4 'Possible' vs 'Practicable'

82. The 2GP Policy Drafting Protocol uses the term 'possible' in the policy wording suggested for medium and medium-high levels of strictness as shown below, emphasis added.

Level of strictness	Typical policy wording	Examples
Medium-high Strictness  (low tolerance for effects)	"where any adverse effects from X on Y are avoided or, if avoidance is not <b>possible</b> , no more minor"; or  "Where the (or any) potential adverse effects from X on Y can be avoided, or if avoidance is not <b>possible</b> , mitigated to the point that they would be no more than minor"	Avoid sport and recreation which involves motor vehicles unless the adverse effects on the amenity of surrounding properties will be no more than minor.
Medium strictness  (Focus on trying to get the best outcome from development)	"effects of/from x on y are avoided"; or  "if avoidance is not <b>possible</b> , adequately mitigated" or outlines outcomes to be achieved	Only allow cemeteries where they are designed and located:  a) to avoid or, if avoidance is not <b>possible</b> , adequately mitigate, adverse effects on the amenity of surrounding

		residential properties; and b) to avoid reverse sensitivity from surrounding permitted activities.
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83. The Reporting Officer explained that this policy wording was chosen to emphasise a preference for the avoidance of effects where this was possible. The protocol for medium-high strictness then uses a directive standard for the level of effects that is expected (i.e. no more than minor). The protocol for medium strictness uses a less directive wording, "adequately mitigated", which gives greater discretion to decision makers to determine what is adequate.
84. Concerns were raised by several experts called by submitters that a requirement to avoid adverse effects 'if possible' is potentially too onerous, because almost anything is 'possible'. They suggested the word 'practicable' was more appropriate because it is more nuanced, and capable of taking into account the practicalities and benefits of avoiding adverse effects. This evidence is summarised below.
85. Submissions were received from *Aurora Energy Limited* (OS457.14), supported by *Trustpower* (FS2127.20), *PowerNet* (FS2264.19), and *Transpower* (FS2453.21)) to amend Policy 5.2.1.11 so that practical constraints were factored in.
86. The Network Utilities' Reporting Officer agreed and recommended amending the policy to "establish a more balanced framework" for decision making (Network Utilities s42A Report, p. 51), by amending it to read "Only allow [the relevant activities] where the activity is designed and located to avoid or, if avoidance is not **possible**, adequately mitigate adverse effects on..."
87. At the hearing, Karen Blair (planning consultant) called by the *Oil Companies*, recommended replacing 'possible' with 'practicable', due to the practical requirements of network utilities (Statement of Evidence, para 5.3).
88. In her revised recommendations, the Network Utilities' Reporting Officer agreed with the *Oil Companies* submission that 'practicable' was preferable to 'possible' in those circumstances, and went on to note that "the phrase 'avoid or, if avoidance is not possible, adequately mitigate' has been used throughout the Plan, and as a result if the Panel are minded to accept this submission, a number of consequential amendments will need to be made to other policies and assessment matters".
89. Similar recommendations were made in response to the *Oil Companies* submissions by the Reporting Officers for the Industrial Hearing and Public Health and Safety Hearing, to replace 'possible' with 'practicable' in Policy 19.2.2.5 and 9.2.2.4, due to the practical constraints to mitigation measures.
90. The *Oil Companies*' filed evidence from Georgina McPherson (planning consultant) supporting the Reporting Officer's replacement of 'is not possible' with 'is not practicable' in relation to Policy 9.2.2.4, stating (Statement of Evidence, para 9.5):

*Possible means that which is able to be done, whereas practicable means that which is able to be done successfully.*

91. Mr Brass, on behalf of the *University of Otago*, considered that "possible" should be replaced with "practicable" in Public Health and Safety policies, considering that this is more realistic, as it allows for consideration of what is proportionate and reasonable in the circumstances, not just what is theoretically achievable (Statement of Evidence Public Health and Safety Hearing, p. 3)
92. Likewise, in the Heritage Hearing, *Vodafone NZ Ltd* (OS576.74 and OS576.33), *Spark New Zealand Trading Limited* (OS923.74 and OS923.33) and *Chorus New Zealand Limited* (OS925.74 and OS925.33) sought to amend the wording of Policy 13.2.2.1.e and associated assessment rules by replacing "possible" with "practicable". They considered that "practicable" is more appropriate for use in an RMA context, and would take into account the practicality of the design and any mitigation measures for any network utility works.

#### 3.1.4.1 Reconvened Plan Overview Hearing

93. The Reporting Officer at the Plan Overview Reconvened Hearing noted that neither possible nor practicable is defined in the Resource Management Act, although the Interpretation section (s 2(1)) defines 'best practicable option' in relation to preventing or minimising contaminant discharge or noise emissions (s42A Report Reconvened Hearing, p. 15).

**best practicable option**, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

- (a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and
- (b) the financial implications, and the effects on the environment, of that option when compared with other options; and
- (c) the current state of technical knowledge and the likelihood that the option can be successfully applied

94. She noted that the terms are often used as synonyms in most dictionaries, although 'possible' is clearly used more commonly in everyday 'plain English'.
95. The Concise Oxford Dictionary (8<sup>th</sup> ed.) contains the following definitions:

**Possible** ... 1 capable of existing or happening; that may be managed, achieved, etc. .... 2 a thing that may exist or happen ... 3 the capability of being used, improved, etc.; the potential of an object or situation ...

**Practicable** ... 1 that can be done or used. 2 possible in practice.

96. The Reporting Officer noted that the Environment Court had discussed the term 'practicable' in *Royal Forest and Bird v Whakatane District Council* [2017] EnvC 051 at [51] (footnotes omitted):

"Practicable" has been held to mean "possible to be accomplished with known means or resources" and synonymous with "feasible," being more than merely a possibility and including consideration of the context of the proceeding, the costs involved and other matters of practical convenience. Conversely, "not

*reasonably practicable" should not be equated with "virtually impossible" as the obligation to do something which is "reasonably practicable" is not absolute, but is an objective test which must be considered in relation to the purpose of the requirement and the problems involved in complying with it, such that a weighing exercise is involved with the weight of the considerations varying according to the circumstances; where human safety is involved, factors impinging on that must be given appropriate weight.*

97. In *Blueskin Energy Limited v DCC* [2017] NZEnvC 150, the Environment Court discussed the phrase "as far as practicable" in respect of Objective 5.2.1 and Policy 5.2.1.11 of the 2GP as notified. For ease of reference, Policy 5.2.1.11 is set out (as notified, emphasis added):

*Only allow network utility structures - large scale, regional scale energy generation in the rural zones, network utilities poles and masts - small scale (other than in the rural, rural residential or industrial zones), community scale energy generation, biomass generators - stand-alone, and biomass energy generation on-site energy generation and energy resource investigation devices (other than in the rural and industrial zones) where the activity is designed and located to avoid any significant adverse effects and minimise adverse effects, as far as practicable, including:*

- a. effects on visual amenity and the character of the zone in which the activity is located; and*
- b. effects on the amenity of any surrounding residential activities.*

98. The Court at [118] held (footnotes omitted, emphasis added):

*Mr Garbett, for the City Council, submitted the phrase "**as far as practicable" in the above objective and policies, requires an applicant to demonstrate that it has taken all steps that are reasonably within its power to achieve the outcome of minimising effects and whether an applicant has done so is to be assessed objectively.** With one qualification, we agree with him. While the wording of policy 5.2.1.11 is a little clumsy, the policy makes an important distinction between significant adverse effects (which are to be avoided) and adverse effects (which are to be minimised). We interpret "as far as practicable" as pertaining to effects that are not "significant adverse effects" as these effects are to be avoided. This interpretation sits comfortably with the construction of the sentence and second, would implement related objectives for the rural zone, for the Significant Natural Landscapes; the strategic direction for these resources and ultimately the related provision under the proposed RPS.*

99. In terms of which word is preferable, the Reporting Officer noted that:

- there are only submissions and recommendations to change 'possible' to 'practicable' and none in the other direction;
- 'practicable' is a more nuanced word that reflects how 'possible' would be interpreted, as decisions under the RMA would be unlikely to result in an unbalanced outcome and that considering costs vs benefits is an important aspect of the Act (e.g. decisions with huge costs and disproportionately small benefits would be unlikely);



- most usages of the term 'practicable' are used alongside an effects 'bottom line' such as 'no more than minor' or 'insignificant'; and
  - those policies that use 'practicable' in a sentence without a bottom line, still need to consider the residual effects after mitigation and whether they are acceptable (such that applications can still be declined even if mitigation has been done as far as practicable).
100. For these reasons, the Reporting Officer recommended 'practicable' as a preferable term for use in the standard phrasing in objectives and policies. Furthermore, changes should be made consistently across the Plan to ensure clarity. If similar policies had slightly different wording, people would assume the different terms to be deliberate, causing confusion and giving rise to unnecessary debates about meaning.
101. She also questioned whether the word 'possible' should be changed to 'practicable' in other instances in policies. However, while she believed the *Otago Regional Council* submission seeking consistency across policy wording (OS908.17) gives us scope to change the standard policy wording 'avoid or, if avoidance is not possible' to 'avoid or, if avoidance is not practicable' across the 2GP, she did not believe that scope extended to changing all usages of 'possible', nor did she necessarily believe that was necessary. An individual assessment of the policies was recommended.
102. The Reporting Officer also addressed whether the term should be defined, noting that she had not found any district plans that define either 'possible' or 'practicable', although the Manukau City District Plan defines 'practicable building platform' and the Auckland 'Regional Plan: Farm Dairy Discharges' includes the statutory definition of 'best practicable option'.
103. The Reporting Officer suggested that if we wished to add a definition, the most helpful guidance is that provided in *Royal Forest and Bird v Whakatane District Council* [2017] EnvC 051 at [51], which provided a simple definition of practicable:

***Practicable***

*Possible to be accomplished with known means or resources.*

104. At the Reconvened Hearing we also heard from Mr Brass, who stated that the *University* had "also made submissions related to this drafting [possible vs practicable], and I have previously stated a preference for the use of the word "practicable". While not defined in the Act, its use in the term "best practicable option" indicates that it involved an assessment of what justified having regard to the environmental effects, cost and achievability. The staff recommendation also considers that 'practicable' is the preferred term, and I support that recommendation."
105. Mr Brass did not support defining the term based on the *Royal Forest and Bird v Whakatane District Council* case. He questioned whether that definition may be somewhat restrictive given its reference to "possible", and suggested that either the definition should include reference to affordability and achievability, or the term not be defined.

### 3.1.4.2 Decision and reasons

106. We accept the submissions which sought to amend policies that used the phrasing “if avoidance is not possible” or similar, to “if avoidance is not practicable”, for the reasons given by the experts and the Reporting Officer, as summarised above.
107. Where the policy is not already amended in response to a different submission point, we have made this amendment based on the various requests to change this wording in individual policies as outlined above and the overarching submission by the *Otago Regional Council* seeking consistency wording through the 2GP. These changes are attributed to ‘PO 908.3 and others’. The changes are listed in Appendix 2 of this decision.
108. We agree with Mr Brass’ evidence that defining the term brings a danger of not covering all the potential nuances of what should or should not be considered practicable in the many different circumstances where it is used. We therefore agree that it is better not to define “practicable”.

### 3.1.5 Most strict threshold

109. The 2GP policy drafting protocol included the following policy drafting for the most strict effects threshold:

Type (4 tiers)	Wording	Example
<b>Most strict</b>  (very low tolerance of effects)	“No material effects from x on y”; or  “the effects from x on y are insignificant”	Only allow community and leisure activities large scale, sport and recreation, early childhood education, and visitor accommodation activities where the adverse effects of development on rural character and visual amenity are insignificant.  Avoid wind generators community scale, biomass generators stand alone and regional scale energy generation in a Natural Coastal Character (NCC) Overlay Zone unless there are no material effects on the natural character values, as identified in Appendix A5.

110. In response to various submissions about policy wording, the Reporting Officer for the Natural Environment topic made the following recommendation at 5.4.12 (p 179) of the s42A Report:

*Change the effects test in Policy 10.2.3.11 to “insignificant effects” from “no material effects”. While these both correspond to the highest tests and are both applied to non-complying activities, I consider the allowance for insignificant effects to be slightly more lenient than no material effects, as it allows for the possibility of some effects albeit very small.*

111. As a result, we requested further information, as to whether there was a nuance between the terms, as the evidence of Natural Environment Reporting Officer

appeared to contradict the opinion given by the Plan Overview Reporting Officer in the Plan Overview Hearing.

112. The Plan Overview Reporting Officer indicated that in her opinion, the difference between 'no material effects' and 'insignificant effects' was negligible, and that it is difficult to see how an argument could be mounted that there is a meaningful difference between the two policy tests in the terms of their degree of strictness.
113. The Reporting Officer noted that the Concise Oxford Dictionary (8<sup>th</sup> ed) provides:

**Insignificant** ... 1 unimportant; trifling ... 3 meaningless...

**Material** ... 4 (often followed by to) important, essential, relevant ...

114. Reference was made to the 2GP's usage of the terms, and the issues arising from having single standard expressed with two different policy tests.
115. The Reporting Officer's recommendation was that there was no need for two standard phrases with the same intended meaning. She preferred the phrasing "the effects from x on y are insignificant", which is used more commonly and mirrors the term 'significant' (Plan Overview Reconvened Hearing Revised Recommendations, p. 3).

#### 3.1.5.1 Decision and reasons

116. We accept the evidence of the Reporting Officer, as summarised above, that the term "the effects from x on y are insignificant" is appropriate and should be used consistently across the Plan for the most strict policy threshold.
117. As noted by the Reporting Officer, there were only three provisions using the "no material effects" wording, all in the Natural Environment section. However, after considering and accepting various other recommendations to these policies in the Natural Environment Decision Report, there is only one policy (Policy 10.2.5.15), which needed to be changed from not material effects to insignificant. This change has been attributed to PO 908.17 and 908.3, the ORC submissions seeking consistent policy wording.

#### 3.1.6 Use of Can vs Will vs Is/Are in policies

118. The s42A Report explained that the 2GP Policy Drafting Protocol allows for the use of the present (is/are) and future tense (will be), depending on the context of the policy (Plan Overview Reconvened Hearing Revised Recommendations, p. 25). The former are generally used where effects might be immediately present (e.g. shading from a building) and the latter is more commonly used where effects may take some time to eventuate or may occur over a long period of time (e.g. noise).
119. As part of an overall review of policies in terms of consistency, in response to the submission by the ORC (OS908.17) to ensure Plan consistency, the Reporting Officer identified that some policies use the words 'can be' rather than 'is' 'are' or 'will be'. The word 'can' is commonly used to indicate the possibility/ability of something to happen rather than a definitive state of something happening. It is therefore less appropriate to use in policies which should indicate a definitive outcome (not a possible one) (Plan Overview Reconvened Hearing Revised Recommendations, p.25).

120. The Reporting Officer reviewed all the policies that use 'can' and identified amendments that should be made in Appendix 5 of the Reconvened Plan Overview Hearing Report.

#### 3.1.6.1 Decision and reasons

121. We agree with the Reporting Officer that the use of 'can be' in policies should be replaced by 'is', 'are' or 'will be', as appropriate. We have made the changes identified in Appendix 5 of the Reconvened Plan Overview Hearing Report, as a minor and inconsequential change under cl. 16. We note that this change also addresses the ORC submission OS908.17.

## 3.2 Drafting Protocol – Other Provisions

### 3.2.1 General Assessment Rule Wording

122. The s42A Report explained that the 2GP contains detailed assessment rules that provide a direct link between all consenting situations (controlled, restricted discretionary, discretionary and non-complying activities, including those due to performance standard contraventions) and the objectives and policies that are directly relevant. These assessment rules also include additional information about how consent applications will be assessed, including:
- potential circumstances that may support a consent application
  - general assessment guidance; and
  - the types of conditions that may be imposed, where relevant.
123. The Reporting Officer explained that this linking approach was made to address critical feedback on the wording of objectives and policies in the operative Plan, which did not provide clear guidance for consents. There was also a desire to remove the need for 'explanations', which have no legal standing (s42A Report, p. 21).
124. The *Harboursides and Peninsula Preservation Coalition* (OS447.64, OS447.100 and OS447.125) sought to amend the assessment rules for non-complying activities in the Natural Environment, Rural and Rural Residential sections to require conditions on non-complying activities that require activities to meet all performance standards for permitted, discretionary and restricted discretionary activities in similar land use activity, development or subdivision.
125. The submitter argued that this was necessary to ensure that when the Council imposed conditions, these conditions met all the same performance standards that similar permitted, discretionary and restricted discretionary activities must meet.
126. Some or all of these submissions were opposed by *Federated Farmers* (FS2449.244), *Vodafone/Chorus/Spark* (FS2076.18, FS2079.3 and FS2146.3) and *PowerNet* (FS2264.26)
127. The Reporting Officer recommended rejecting the *Harboursides and Peninsula Preservation Coalition's* submission on the grounds that, in many cases, performance standards for permitted, discretionary and restricted discretionary activities may be inappropriate. In some instances an activity is non-complying because it will

contravene a performance standard, so specifying a standard that the non-complying activity must meet the performance standard is nonsensical.

128. Additionally, when assessing an application, the relevant performance standards will be considered as part of the permitted baseline assessment. It is in the applicant's best interest to align their application with these standards as far as practicable. Finally, it should be up to the decision-makers assessing an application to determine the appropriate conditions. Non-complying activities are naturally out of the ordinary, and therefore justify a case-by-case assessment.
129. The submitter was unable to attend the hearing; however, it tabled a written submission which made the following points:
  - the proposed addition to rules 10.7.1.1; 16.12.1.1 and 17.12.1.1 sets a minimum performance standard benchmark for a non-complying activity as a condition of consent; and
  - the proposed changes to parts a, b and e of Rule 17.9.2.1 set some assessment standards to ensure different resource consents are subject to uniform benchmarks.
130. The Reporting Officer maintained her recommendation to reject the submissions.

### 3.2.1.1 Decision and reasons

131. We have decided not to make any changes in respect of the submissions received on this topic as we do not consider it necessary for non-complying activities to comply with performance standards. We agree with the Reporting Officer's analysis on this point - that requiring compliance with standards may in some cases be inappropriate, and in others nonsensical, and that the relevant performance standards will be considered as part of the permitted baseline assessment in any event. We therefore reject the submissions of *Harboursides* and *Peninsula Preservation Coalition* (OS447.64, OS447.125, and OS447.100).
132. We note that initially we had concerns that providing guidance on the assessment of resource consents for non-complying activities may be misinterpreted by Plan users as enabling or encouraging non-complying activities to be established under certain circumstances. In reviewing the 2GP provisions, we are satisfied that they correctly refer to sections 104, 104B and 104D of the RMA for assessment, and generally direct applicants to the relevant objectives and policies of the 2GP, including any relevant objectives and policies in the Strategic Directions Section. We also note that there were no specific submissions requesting the removal of the non-complying assessment matters.
133. However, where there is scope to do so, our preference is to remove content under the header 'Potential circumstances where consents may be granted' as we feel this sends the wrong message about anticipating the granting of consents for non-complying activities. This activity status is used in the 2GP where the policy framework does not support the activity in the zone concerned, and the gateway tests for non-complying activities set out in s104D of the Act mean that the granting of consents will be much less common than for discretionary activities and will reflect very unusual circumstances. Where changes are made they are discussed in relation to relevant submissions in other decision reports.

### 3.2.2 Use of word 'rule'

134. *Harboursides and Peninsula Preservation Coalition* (OS447.118 and OS447.38) and *Save the Otago Peninsula* (OS900.71) sought that all instances of the word 'rule' are removed from rules 10.4 and 17.9 (assessment of performance standard contraventions in the Natural Environment and Rural Residential sections). The submission was advanced on the basis that:
- the assessment sections are not rules because they only indicate matters subject to control or discretion and 'guidance' for resource consent decision makers, which may or may not be taken into account;
  - the sections have none of the attributes of a rule and do not conform to the RMA's definition of 'rule'; and
  - confining the use of the word 'rule' to performance standards would keep the terminology from being misleading.
135. The Reporting Officer recommended rejecting the submission noting that the RMA provides no restrictions on the use of the word 'rule' that would support this submission. The Reporting Officer referred to ss43AA, 43AAB and 76 of the RMA; before noting that Rule 17.9 includes matters that a decision-maker's discretion is limited to, with regard to a restricted discretionary activity. Therefore, in her opinion, an assessment rule is properly described as a rule. The rule directs what must be assessed, while leaving discretion for the Council about what weight to give the listed matters in the particular circumstances. In Dr Johnson's view, rules do not need to be rigid, and assessment rules provide an important part of directing the administration of the Plan (s42A Report, p.112).

#### 3.2.2.1 Decision and reasons

136. We agree with the recommendation contained in the s42A Report, and for those reasons reject the submissions of *Harboursides and Peninsula Preservation Coalition* (OS447.118 and OS447.38) *Save the Otago Peninsula* (OS900.7). We note that s. 76(4)(d) of the RMA permits a rule to be "specific or general in its application".

### 3.2.3 Assessment Rule - development considered as part of land use consents

137. The following rule appears above every activity status table in the 2GP:
- "Where a new land use activity requires a resource consent, all associated development activities will be considered and assessed as part of the resource consent even if the development otherwise meets the development performance standards listed in the Plan."*
138. A similar rule also appears in the Management Zones and Major Facilities Zones introduction wording for the assessment of restricted discretionary and discretionary activities, as follows:
- "For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in the Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects".*

139. *Dianne Reid* (OS592.16) and the *Pigeon Flat Road Group* (OS717.17) submitted that this rule appears to be an attempt to override the permitted baseline, as under section 104(2) the resource consent decision-maker must undertake their own analysis regarding the relevance of the permitted baseline and this rule is therefore *ultra vires*. Further submitters *David and Kerry Hiom* (FS2473.16) opposed *Diane Reid's* submission, but did not provide a reason.
140. *DIAL* (OS724.28) opposed the assessment of restricted discretionary activities Dunedin International Airport Zone rule that requires all associated development activities to be considered at the time when resource consent is needed for a new land use activity (Rule 24.9.1.3) and sought to have it removed as practical considerations mean it serves no purpose at the Airport.
141. *Mercy Dunedin Hospital Limited* (OS241.65) opposed the introduction wording for the assessment of restricted discretionary for the Mercy Hospital Zone (Rule 27.10.1.3) and requested that it be removed. The submitter was of the view that this rule indicates that Council's assessment and use of consent conditions will be extended beyond the matters to which its discretion has been restricted and considered this would be contrary to s104C of the RMA. *Ludgate Sharp Family Trust* (FS2436.12) opposed the submission on the basis that Rule 27.10.3 makes it clear that all associated development activities will be considered as part of the resource consent considered under Rule 27.10.
142. The Reporting Officer discussed the 2GP's different approach to the Operative Plan, where activities are separated into land use, development and subdivision activities.
143. Land use activities in the 2GP are the use to which the land is put (what people are doing on the land) e.g. residential activities, farming activities etc. (note that a site may be put to more than one land use) (Section 42A Report, p. 105).
144. Development activities are activities which involve the creation or modification of buildings and structures or other physical development of a site (e.g. dwellings, earthworks). In most cases, development activities have been categorised to be permitted where they are likely to be used for a land use that is permitted (subject to relevant performance standards), lawfully established, or consented.
145. The Reporting Officer explained further that once a land use and development activity is lawfully established, future changes to its buildings and site development will not trigger a consent if they meet the required performance standards (and/or any relevant consent conditions) for development. However, when a land use activity does trigger a consent, but the building modification or physical building does not, it may still be necessary to look at the development activities in order to ensure any adverse effects can be avoided or mitigated in relation to the actual land use activity proposing to use the site. This is because the development performance standards are designed to primarily apply to permitted activities. In some cases, the performance standards might not be adequate to appropriately address the different effects arising from land use activities that require consent. The intent of Rule 16.3.2.4 (and related rules in the same form) is to enable the decision maker when assessing a consent for the land use, to be satisfied the development activity, i.e. buildings and site work, is also appropriate.
146. Dr Johnson's recommendation was to reject the submissions and retain the rule because it ensures that the interrelationship between land use and development

activities can be assessed in an overall and integrated way, which reflects current practice under the operative Plan.

147. At the Major Facilities Hearing counsel for DIAL, Mr Page, noted in his legal submissions that Rule 24.9.1.3 only applied to Restricted Discretionary activities and that s87A of the RMA states that the matters over which discretion has been restricted to must be specified - see 104C(1)(b). He referred to specific case law on the point, (the John Woolley Trust and Lambton Quay Properties Ltd decisions). Mr Page's submission was that the wording of Rule 24.9.1.3 "all associated development activities will be considered" is insufficient and too imprecise so the Rule should be deleted.
148. At the Mercy Hospital Hearing, Ms Louise Taylor, the consultant planner for *Mercy Dunedin Hospital Limited*, stated in her written evidence that she did not consider Rule 27.10.1.3 to be appropriate. She was of the opinion it extends assessment beyond the matters to which discretion has been restricted and indicates that conditions will be applied to permitted development activities. She noted that as discussed at page 84 of the Mercy Hospital s42A Report, "The development activity remains permitted if that is its status in the Plan, even if the land use requires consent."

### 3.2.3.1 Decision and reasons

149. We reject the submissions of *Dianne Reid* (OS592.16), the *Pigeon Flat Road Group* (OS717.17), *DIAL* (OS724.28) and *Mercy Dunedin Hospital Limited* (OS241.65) to remove the requirement for assessment of associated development activities where a new land use consent is sought. We are persuaded by Dr Johnson's argument that the effects of development activities that can be anticipated should be considered as part of assessment of a land use that requires consent. This is because the development performance standards in a zone are designed to be appropriate for anticipated activities. For example, standards in a Residential Zone designed to manage the effects of housing development, but may not be appropriate for a commercial activity such as a motel.

### 3.2.4 Structure of definitions

150. The notified 2GP divides the definitions section (Section 1.5) into three parts: activity definitions, other definitions, and abbreviations. The s42A Report and the Addendum to Reconvened Plan Overview Hearing Report explained the reason for separating the activity definitions from other definitions was to make it clear which definitions are related to activities that are managed through the Plan (e.g. appear in the nested table and activity status tables) versus any terms that were not. The goal was to improve plan clarity and in particular, avoid confusion around similar terms (such as "buildings" which are managed as an activity versus "building" which is a defined term used in the 2GP, which is not an activity (see discussion in relation to submissions on these terms for more information). It was also important for the 2GP development process to ensure that as the planners created the Plan they could keep track of the different terms that were used for activities.
151. *Vodafone* (OS576.76), *Spark* (OS923.76), *Chorus* (OS925.76), *Radio New Zealand* (OS918.72) and *NZTA* (OS881.1) requested that the definitions be consolidated into one definitions section.



152. *Oceana Gold* (FS2439.73), *Horticulture NZ* (FS2452.79), *BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd* (FS2487.119) supported the submissions by *Vodafone/Spark/Chorus*. *NZTA* (OS881.1) but also wanted the acronyms to be included into the combined section, which was supported by *Progressive Enterprises Ltd* (FS2051.6). The *Otago Regional Council* (OS908.1) and *Transpower* (OS806.8) also requested clarification of the need for two separate sections.
153. *Horticulture New Zealand* (OS1090.1) also sought to have Section 1.5 amended to include an explanation for the definitions operation, or combine the activity and other definitions into a single list.
154. The Reporting Officer recommended accepting the submission to combine the activity and other definitions into one list but to use an alternative method to clarify which definitions belonged to 'activities' versus which were other defined terms. She recommended as a consequential change, that those definitions that applied to activities include an explanation of that activity's position in the nested table as this hierarchy/relationship is critical to understand and interpret the activity status tables (Addendum to Reconvened Plan Overview Hearing Report: Policy Drafting Protocol and General Terminology Summary and Revised Recommendations, p. 6).
155. This should be done as follows:
- if it is an activity the definition should read "XXX is an activity in the XXX activities category";
  - if an activity has sub-activities the definition should read "The following activities are managed as sub-activities of XXX";
  - if it is a sub-activity the definition should read "XXX is a sub-activity of XXX".
156. She advised these clarity/consistency amendments can be made under RMA clause 16, as the amendments required do not constitute a substantive change. The Addendum Report contained an appendix setting out the recommended amendments. We note in the Addendum the changes were attributed to PO 576.76 and others; however, we accept the Reporting Officer's advice was it can be treated as a clause 16 change which we agree is more appropriate.
157. The Reporting Officer also recommended moving the nested tables to sit with the definitions and adding additional content to the Section 1.1 User Guide to explain 'activity definitions' and the nested tables.
158. She did not comment on the request to combine the abbreviations with the definitions.

### 3.2.4.1 Decision and reasons

159. We accept the submissions by *Vodafone* (OS576.76), *Spark* (OS923.76), *Chorus* (OS925.76), *Radio New Zealand* (OS918.72), *NZTA* (OS881.1) *Oceana Gold* (FS2439.73), *Horticulture NZ* (OS1090.1, FS2452.79), *BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd* (FS2487.119), *Progressive Enterprises Ltd* (FS2051.6), the *Otago Regional Council* (OS908.1) and *Transpower* (OS806.8) to create a single set of definitions. We think that this is a more efficient structure and appears to be preferred by submitters. We have, however, kept the abbreviations separate to the defined terms, for ease of use.

160. We have also, as recommended by the Reporting Officer, made the following changes under cl. 16:
- moved the nested tables to sit before the definitions; and
  - added the information about the position of 'activity' definitions within these nested tables to each activity definition.
161. We also agree that information about the different types of activities managed by the Plan and the nested tables should be provided, but in accordance with our decision in Section 3.17.1, we consider that this material should sit outside the Plan, where it can be more easily updated.
162. We consider that these will contribute to Plan clarity and assist plan users. While there were submission points requesting some of these amendments, the amendments to the definitions and to the location of the nested tables have been made under cl. 16 as they are of minor and inconsequential effect. These are shown in Appendix 1.

### **3.2.5 Drafting of definitions**

163. The *Otago Regional Council* (OS908.3) submitted that the 2GP's definitions should be written so as to 'not create further uncertainty', and care taken to ensure consistent wording throughout.
164. In addition, during various hearings submissions and evidence were received on specific definitions as well as on the general drafting. For example, in the Network Utilities Hearing the *NZ Transport Agency* (OS881.12) provided evidence from Andrew Henderson which described the definitions as 'confusing'.
165. During the hearings process we expressed concerns about whether the Plan's definitions were clear in terms of lists that started with the words 'includes', and in particular whether the lists could be clearly read as inclusive (i.e. examples), or exclusive (i.e. the complete list of what is included).
166. As a result, we requested a review of the wording of the definitions to ensure clarity. We also sought that, where scope allowed, the use of lists and the content of definitions be reviewed to only include examples where they were truly necessary to understand the definition.
167. We also noted that some activity definitions appear to comprehensively list all activities associated with the core activity e.g. campus, whereas others such as 'retail' only describe the activity. This was highlighted in the CMU Hearing where *Foodstuffs* (OS713.1 and 3) sought to clarify whether activities such as storage and warehousing for retail activities, and ancillary offices and staff facilities were part of the defined retail or industrial activity. We consider this to be the intent of the 2GP, and decided in the Commercial Mixed Use Decision (Section 4.3.6, Ancillary activities) that some additional words be added to clarify that offices, storage and staff facilities associated with commercial activities are considered part of the core activity.
168. The Reporting Officer provided a response to this request in their report to the Reconvened Plan Overview Hearing, where she concluded that there was potential to improve clarity by amending the approach used for drafting definitions.

169. In an Addendum Report, the Reporting Officer provided the following revised recommendation for drafting lists in definitions (Addendum to Reconvened Plan Overview Hearing Report, p. 4):
- lists should not generally flow on from the first part of the definitions that have a descriptive element
  - lists should use bullet points unless there is a clear reason not to
  - semi-colons should be used in bulleted lists in a consistent way
  - lists that contain things specifically 'excluded' from the definition should be worded as "this definition excludes X, which is provided for under the definition of Y" or "this definition excludes activities otherwise defined as XXX"
  - lists that contain things that are included in definitions should be reworded to be one of the following:
    - for the sake of clarity (for inclusive lists used to introduce examples that may not otherwise be considered part of the definition)
    - examples are (for inclusive lists used to include general/common examples to help interpret the definition)
    - consists of: (for exclusive lists; these are mostly used to introduce the activities is a category or sub-category or other activities used in the Plan).
170. Applying this revised approach, amendments were recommended to several definitions to improve their clarity (Addendum to Reconvened Plan Overview Hearing Report, p. 26).
171. The Reporting Officer advised these changes could be made under the *Otago Regional Council* submission OS908.3. She went on to advise the critical question in determining scope was whether someone could be prejudiced by a change, which depends to a certain extent on their initial interpretation of the provision, and based on that, how the change may affect their perceived interests. The Reporting Officer noted that this is difficult to predict accurately but, overall, she was confident that the changes are very minor and for clarification only, and it was unlikely that a party who had not already submitted on the definition based on a more substantive concern would have if they had anticipated the changes suggested.

### 3.2.5.1 Decision and reason

172. We accept the submission of *Otago Regional Council* (OS908.3) to ensure that the 2GP's definitions do not create uncertainty and ensure consistent wording throughout the Plan. We have amended the wording of a number of definitions to clarify whether the lists they contain are inclusive or exclusive lists, but have done this under cl. 16 as these changes are minor and inconsequential. The amendments are shown in Appendix 1. These changes will enable efficient use of the Plan and improve clarity. The following definitions are amended:

### 3.2.6 Use of em-dash (—)

173. The activity status tables show whether an activity in an overlay zone or mapped area results in a change in activity status or requires additional assessment matters (assessment rules) by displaying the activity status (changed or unchanged) in the column for the relevant overlay zone or mapped area.
174. Where neither of the situations above applies (e.g. there is no change in activity status nor any additional assessment matters), or where the situation is not possible

in the Plan, that is, there are no instances of a mapped area or overlay within a specific zone e.g. high class soils in an Industrial Zone, the activity status table displays an em-dash symbol (a long hyphen).

175. The em-dash is described in the legend as meaning “no additional provisions apply or not relevant”.
176. *NZ Institute of Surveyors - Coastal Otago Branch* (OS490.1), *Vodafone NZ Ltd* (OS576.75), *Egg Producers Federation of New Zealand* (OS702.5), *Spark New Zealand Trading Limited* (OS923.75), *Chorus New Zealand Limited* (OS925.75), *Timothy George Morris* (OS951.41) and *RG and SM Morris Family Trust* (OS1054.41) all sought to amend the use of the em-dash as they found it confusing. Two alternatives were suggested:
  - the *Egg Producers Federation of New Zealand* (OS702.5) suggested replacing the em-dashes by the letters N/A, and where additional assessment is required to be looked at, the activity status would be restated (where unchanging) in the overlay columns of the activity status tables (as is the current method).
  - the *NZ Institute of Surveyors - Coastal Otago Branch* (OS490.1) asked to specify the activity status in every cell.
177. The Reporting Officer explained that the goal in differentiating between where additional provisions apply and where they do not apply was to ensure that plan users were made aware where there was a change in activity status and also when it was necessary to look at the additional assessment rules.
178. She recommended accepting the submission by the *NZ Institute of Surveyors - Coastal Otago Branch* in part, in terms of always showing the relevant activity status. However, she said that whatever method was chosen it should clearly indicate where additional assessment matters apply (or do not apply) when the activity status remains the same in both the underlying zone (e.g. Rural Zone) and the overlay zone (e.g. Outstanding Natural Landscape). She recommended using a plus symbol beside the activity status to indicate this. This symbol would only need to be used where the activity status does not change from the underlying zone.
179. She also recommended that where a zone/overlay intersect is not possible in the Plan (for example a General Residential 1 Transition Overlay Zone overlaid by an Area of Significant Conservation Vegetation), either an em-dash or ‘N/A’ would be appropriate.

### 3.2.6.1 Decision and reasons

180. We accept the submissions to replace the em-dash due to its confusing nature. We think the clearest approach is to state the activity status but use an ‘N/A’ when the intersect does not occur. We also agree that a + symbol is used to indicate there is further assessment that applies to the activity.
181. We have made the following amendments under PO 490.1:
  - replace the em-dash with the activity status symbol where this is the same as in the underlying zone;
  - add a plus symbol to the activity statuses that are the same as in the underlying zone but where additional assessment matters apply;
  - replace the em-dash with ‘N/A’ where two overlays do not intersect;

- amend the legend to the activity status tables to reflect these changes.

### 3.2.7 Linking Policies with Rules

182. *Horticulture New Zealand* (OS1090.26) sought that Policy 9.2.2.5, which requires that tree planting and forestry is setback from boundaries to avoid adverse effects, should be amended to clarify what the setback is, and when it would apply in rural areas; or alternatively, provide a cross reference to where the requirements/performance standards are located.
183. Policy 9.2.2.5 sits in the Public Health and Safety section in the City-wide Provisions part of the Plan.
184. The Reporting Officer noted that the Plan is designed to be used by plan users beginning with the activity status table of the relevant zone (Section 42A Report pp. 59 – 60). Once they find the activity or activities of interest, they then either examine relevant performance standards (for permitted or restricted discretionary activities) or if the activity status is discretionary or non-complying go straight to the assessment rules to see how the activity would be assessed and which objectives and policies are directly relevant. If performance standards are contravened, they would also go to the performance standard contravention assessment rules to seek clarification on how the activity would be assessed. Some assessment rules (and their related objectives and policies) sit in the city-wide provisions, and the plan provisions hyperlink to these locations from the assessment rules of the relevant management/major facility zone (s42A Report, p. 60).
185. The Reporting Officer interpreted *Horticulture New Zealand's* submission as essentially seeking that a plan user should be able to follow this backwards; to start with a policy in the citywide provisions and then work back to the zones that have rules that link to it. In the case of the tree planting setbacks, the performance standard (Rule 16.6.11.2) and its related activity status rules (Rule 16.3.2), and guidance on assessment of the performance standard contravention (Rule 16.9.4.9) sit in the Rural section.
186. She recommended rejecting the submission for the following reasons (s42A Report, p. 60):
  - as the policies in the city-wide provisions sections link from, in most instances, several zone provisions, it would not be possible to achieve a connection in the reverse direction (e.g. click on the policy to hyperlink to zones provisions, as there is no single place to link these policies to).
  - it would be inappropriate to include this type of navigation information in the policy text itself, mainly as it is not a substantive part of the policy, it is explanatory/notational information. The only way would be to add explanations or 'notational'/non-regulatory type information adjacent to all the policies. The drafting of the 2GP purposely avoided using explanations to keep the Plan as concise and usable as possible.
  - the 2GP is structured in such a way, including through the use of a policy drafting protocol, which clearly indicates what type of management tool each policy relates to (see the broader discussions around policy drafting protocol in section 3.1), that if a plan-user follows the guidance provided in the User Guide, that it

is unlikely that most people will find it difficult to see how the policies link to various rules.

- overall, the Plan structure as notified is appropriate, as the decision to have some content in the citywide provisions was made to avoid a very large amount of repetition. This improves Plan usability and integrity/consistency.
- the request is unnecessary, as apart from the purposes of making submissions on a new plan/plan change most plan users 'enter' a plan by either checking what rules apply to an activity in certain zone(s) (they have an idea in mind and want to see where they can do it), or what activities are provided for in a certain zone (they have a property in mind and are considering land use options).

### 3.2.7.1 Decision and reasons

187. We reject the submission of *Horticulture New Zealand* (OS1090.26). We consider that the Plan structure, with assessment rules link to citywide sections and to relevant policies is appropriate and convenient for readers. We agree with the reasons given by the Reporting Officer as to why the submitter's request would lead to unnecessary and unhelpful complexity to the Plan.

### 3.2.8 Contravention of Performance Standards

188. Above the activity status tables in the 2GP in the activity status introduction rule wording, it is stated that:

*"Performance standards are listed in the far-right column of the activity status tables. Performance standards apply to permitted, controlled, and restricted discretionary activities. If a permitted or controlled activity does not meet one or more performance standards, then the activity status of the activity will become restricted discretionary, unless otherwise indicated by the relevant performance standard rule. If a restricted discretionary activity does not meet one or more performance standards, then the activity status remains restricted discretionary, unless otherwise indicated in the performance standard".*

189. *The Southern District Health Board* (OS917.40) submitted that the expected activity status should be clarified for *activities* under each performance standard rule heading where they do not meet performance standards. A similar submission was made by the *Ministry of Education* (OS947.11) with respect to the Natural Hazards provisions.
190. *Capri Enterprises Limited* (OS899.2) and *Bindon Holdings Ltd* (OS916.3) sought that the performance standard requiring a minimum floor level (Rule 11.3.3) be amended to clarify whether an alternative activity status applied to activities that contravene this rule. The submitters considered that requiring minimum floor levels is an appropriate approach, subject to levels being determined based on robust scientific analysis. However, the submitter was concerned that the rule does not specify what is required should a development not comply, and that no alternative activity status is nominated.
191. This amendment would require a statement of the activity status that the activity defaulted to if the performance standard was not met under each performance standard.
192. The Reporting Officer considered that, as a general principle, rules which are listed in the activity status introduction must be read as they are an integral part of the

rule framework. These rules clearly explain the default to restricted discretionary unless otherwise stated (Section 42A Report, p. 59).

193. However, she did accept that clarity could be improved if this information was included after every performance standard in addition to, or instead of, the introductory rule. Unfortunately, this would add to the length of the 2GP, which other submitters have criticised as being too long.
194. If we did this, it would be appropriate to amend the rule in the activity status introduction wording to explain that the information on default status is given at the end of each performance standard, rather than repeat the rule.

#### 3.2.8.1 Decision and reasons

195. We accept the submissions of the *Southern District Health Board* (OS917.40), *Ministry of Education* (OS947.11), *Capri Enterprises Limited* (OS899.2) and *Bindon Holdings Ltd* (OS916.3) and have decided to include the activity status for the contravention of a performance standard at the end of every performance standard in the 2GP. This is a key matter that many users of the Plan will be looking for, so locating it with each performance standard will be convenient and improve Plan usability. However, since these changes are of a minor and inconsequential nature, we have made them under cl. 16
196. We have added the following wording into every performance standard where the activity status is not already identified:  
  
"Activities that contravene this performance standard are restricted discretionary activities."
197. Consequential amendments are made to the wording at the beginning of all activity status sections to explain this approach:  
  
"Where a permitted or controlled activity does not meet one or more performances standards, then the activity status of the activity is indicated in the relevant performance standard rule."
198. Amendments are shown in Appendix 1.

### 3.3 Submissions related to 2GP as a whole

#### 3.3.1 General opposition to 2GP

199. The *Property Council New Zealand* (OS317.36) raised general concerns about the effect of 2GP provisions on potential development, and that combined with the strategic directions, would have a negative effect on development.
200. *Dale Brewster* (OS232.1) opposed the 2GP because of uncertainty as to how it would affect him and his house in the future, as well as considering that the process was poor, and that the submission form was complicated.
201. The Reporting Officer acknowledged that district plans can be complex documents for lay people, and that in formulating the 2GP a number of techniques were used to try to communicate information in a simple way, including plain English summary

information sheets at all stages of consultation (including notification) and providing numerous opportunities for people to interact with planners and ask questions either in person or over the phone (s42A Report, p. 113).

202. The Reporting Officer noted that the submission form is in accordance with Form 5 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003, which prescribes the information required to make a submission on a plan change. It was acknowledged that this form is not simple or clear in its language but is what is legally required. For these reasons, she recommended rejecting the submission of *Dale Brewster* (OS232.1).
203. The Reporting Officer noted that s32 of the RMA requires the DCC to carry out an evaluation of alternatives, costs and benefits, and efficiency and effectiveness of the various components of the 2GP. The evaluations are part of a wider RMA framework that sets the purpose, principles, roles, responsibilities, and scope for plan-making. In undertaking these assessments, consideration was given to the costs and benefits to the wider community as well as potential developers. She considered that the strategic directions represent a balanced approach to promoting individual economic well-being and development opportunities and other values that are important to social, economic and cultural well-being more broadly in the community, as well as the importance of environmental well-being and the DCC's obligations around promoting sustainability and protecting environmental bottom-lines (s42A Report, p. 116). This is discussed further in section 3.4.
204. The Reporting Officer did not recommend any amendments at this time in response to this submission. However, given its broad nature, this submission was highlighted for other planners to consider in respect of other recommendations on other topics (s42A Report, p. 116).
205. The *Property Council* was represented by Ms Anita Brosnan, who made submissions critical of the balance between the environment and development, that the Plan was too long and complex and at odds with the national direction towards streamlining of planning processes.

### 3.3.1.1 Decision and reasons

206. We acknowledge that the 2GP is a very comprehensive document that may be seen as complex by members of the general public. We also acknowledge that participation in the submissions and hearings processes is not easy for the general public. While we can bear in mind concerns raised by the *Property Council* and others about this, broad criticisms do not provide us with scope to make specific amendments to the plan. Panel members with experience of the second generation district plans in other centres and the consultation and hearings processes there noted from time to time during the 2GP hearings that the DCC appears to have gone to unusual lengths to engage with the public. We consider the hearing room with direct access from George Street and the hearings management provided by the Council (including several pre-hearing meetings with submitters) were much more user friendly than may have been the case in some other centres. We therefore reject the submissions of *Dale Brewster* (OS232.1), and the *Property Council New Zealand* (OS317.36).



### 3.3.2 Review entire plan in light of sections 5 and 31

- 207. *Murray Soal* (OS291.4) sought that the entire 2GP be rewritten as per sections 5 and 31 of the RMA.
- 208. The Reporting Officer noted that the 2GP had been prepared by DCC in accordance with its obligations under the provisions of the RMA, including section 5, which sets out the purpose of the Act (s42A Report, p. 116). Likewise, she noted that section 31 lists the functions of territorial authorities under the RMA and stated that the 2GP provisions give effect to these functions.
- 209. She did not recommend any amendments in response to this submission.
- 210. *Mr Soal* provided written evidence detailing his concerns with the RMA as a whole, and the subjective nature of the 2GP's provisions. He also took issue with the 2GP's use of overlays and appendices, as well as the implementation of the RMA's sustainable management purpose. *Mr Soal* described the impact on him he felt the planning system imposed. His concern was that environmental protection was being promoted more than promoting use and development.

#### 3.3.2.1 Decision and reasons

- 211. We reject *Mr Soal's* submission (OS291.4). As noted above in relation to the Property Council's submission points (see section 3.3.1), broad criticism of the 2GP can be kept in mind but cannot provide legal scope to make specific changes to the Plan. *Mr Soal's* specific requests are discussed in the Rural Decision Report, and we have assessed and discussed many submission points in relation to section 5 of the Act.

### 3.3.3 Request to withdraw or review whole plan

- 212. *Bruce Mark Norrish* (OS461.1) sought the withdrawal of the 2GP because it has been poorly conceived, and planners do not understand or comply with the RMA.
- 213. *Marrafin Trust* (OS581.1) submitted that the entire Plan should be reviewed as it was unrealistic and restrictive.
- 214. The Reporting Officer was of the opinion that the 2GP is well structured and conceived, and noted the qualifications and experience of the planners involved. The Reporting Officer stated that she considered the 2GP to be realistic and enabling of appropriate development in suitable locations subject to controls. For these reasons she recommended that the submissions by the *Marrafin Trust* (OS581.1) and *Bruce Mark Norrish* (OS146.1) be rejected (s42A Report, p. 117).

#### 3.3.3.1 Decision and reasons

- 215. We do not have jurisdiction to withdraw the 2GP, but we note that we could recommend that to the Council (as planning authority, not as the proponent of the 2GP). However, the submitters provided no expert evidence or legal submissions to support these broad requests, so we are not persuaded that we should do that. We therefore reject these submission points of *Marrafin Trust* (OS581.1) and *Bruce Mark Norrish* (OS461.1)). The appropriateness of restrictions are addressed on a point-by-point basis in other parts of our decision. Although we have made numerous amendments in response to specific submission points, we consider that the 2GP's development process has ensured that overall the Plan is realistic and appropriate.

### 3.3.4 Reliance on Spatial Plan consultation

216. *Robert Wyber* (OS394.1) sought that a full strategic directions public engagement and consultation process take place, and that all consideration of infrastructure, commercial, rural, rural/residential, transition zone, residential and urban edge zoning matters be halted until this is completed. He considered that the DCC has relied on the Spatial Plan consultation under the LGA for the development of these aspects of the 2GP, and that the prior consultation was now 'out of time', pursuant to Clause 3C of the First Schedule to the RMA.
217. The Reporting Officer noted that Clause 3C enables a local authority to not comply with Clause 3 of the First Schedule where they have undertaken prior consultation under another enactment within 36 months of the notification of the proposed Plan. In this instance the consultation on the Spatial Plan concluded over 36 months before the notification of the 2GP. However, in her view this was largely irrelevant as the DCC had consulted on the 2GP in its entirety (including the strategic directions) through the issues and options and preferred options phases of consultation, and via the submissions on the notified Plan, and did not rely on the earlier consultation. The Spatial Plan was considered as part of the statutory and policy context in accordance with section 32 but was not used to replace 2GP consultation under the RMA.
218. The Reporting Officer recommended rejecting *Mr Wyber's* submission (OS394.1) (s42A Report, p. 117).

#### 3.3.4.1 Decision and decision reasons

219. We reject *Mr Wyber's* submission (OS394.1). As noted above in relation to some other broad submission points, some members of the panel have had experience of the public engagement processes of some other councils for their "2nd generation" district plans, and consider the DCC has provided a comparably excellent process.

### 3.3.5 Request to consult with landowners on including scheduled trees in the Plan

220. *Helen Beamish* (OS498.4) requested that the future or continued inclusion of significant trees in the District Plan be made in consultation with current landowners. She was concerned that although original landowners may have agreed, subsequent landowners can have significant trees on their property which they do not want to have scheduled in the 2GP. She was concerned about the restrictions on removing hazardous trees, and felt there should be processes to allow for removal of trees or to remove them from the schedule if landowners did not support their inclusion.
221. The Reporting Officer indicated that all private landowners would have been notified of the 2GP, and where new scheduled items were proposed, would have been consulted with. The Reporting Officer agreed that this should happen as best practice and although it does not result in any changes to the 2GP, recommended that the submission by *Ms Beamish* be accepted (s42A Report, Section 6.6.1, p. 118)

#### 3.3.5.1 Decision and reasons

222. We accept the submission of *Helen Beamish* (OS498.4) in part, to the extent that proper consultation processes with landowners should take place at times of plan reviews. However, we note that scheduled trees can only be removed from the Plan

through a Plan change process. If a tree still meets the criteria for scheduling, there is no guarantee that it will be removed, even if a landowner requests it. No amendments are required to the Plan.

### **3.3.6 Language used in the plan should be tested on public before being released**

- 223. *Derek Onley* (OS988.1) submitted that the Plan is rewritten in accessible language and tested by citizens before being released.
- 224. The Reporting Officer noted that the principle of accessible language was a consideration in the development of the Plan, which was extensively consulted on, and is a continuing consideration in recommendations and decisions on any amendments to the 2GP.

#### **3.3.6.1 Decision and reasons**

- 225. We accept the submission of *Derek Onley* (OS988.1) and agree that accessible language is to be preferred wherever possible. We note that a number of amendments we have made through our decisions will improve the readability of the Plan. We do not however have legal scope to redraft other provisions, except to clarify or correct them using clause 16 of the First Schedule to the Act.

### **3.3.7 Provision of information and supporting information**

- 226. *Ernest and Faye Webster* (OS235.4) sought a better hard copy version of the Plan because they opposed the use of web-based document without a well-designed printed version that they could refer to at the library.
- 227. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.15) submitted that a hard copy volume of maps should have been notified in order to enable their provisions to be properly reviewed. They stated that the use of online maps may have opened this information up to some sections of the community, but for others it is difficult to use and less accessible and that a volume of hard copy maps should be produced and made available to the public at all DCC hubs including libraries, to enable all of the community to be notified of changes to the zones, areas and scheduled items in their neighbourhood.
- 228. *PowerNet Limited* (OS915.29) submitted in support of the electronic format of the maps.
- 229. The *Otago Polytechnic Students Association* (OS268.2) submitted that the DCC should have staff able to assist community groups running temporary events, to help explain the DCC (and RMA) rules and processes, and to actively work with them where necessary in completing applications etc. They stated that a suitable policy should be added to the Plan to reflect this commitment.
- 230. *John and Clare Pascoe* (OS444.101) and *Southern Heritage Trust and City Rise Up* (OS293.162) requested that planners liaise at an early stage with those considering developments to a heritage building or in a heritage precinct to advise and educate, and that standards of heritage conservation best practice and more specific heritage designs be provided.

- 231. The *Otago Regional Council* (OS908.54) requested that the DCC provide for easy access to the full range of source reports which underpin the mapped landslide areas, including making them accessible through its website.
- 232. Both *Howard and Annette Direen* (OS948.2) and *Derek Onley* (OS988.4) requested that the online public submissions process is made more user-friendly. *Mr Onley* also requested that it is tested with citizens before it is released.

### 3.3.7.1 Reporting Officer's response

- 233. The Reporting Officer explained that format of the 2GP as an ePlan (electronic Plan) is in line with other second generation district plans around the country (e.g. Auckland, Wellington and Christchurch). A key aspect of the 2GP is the connection of sections via hyperlinks, which could not be replicated in a hard copy plan. In terms of availability, a hardcopy of the proposed 2GP is available at all public libraries in Dunedin as well as the Service Centres (as will the decisions-version of the plan) (s42A Report, p. 133).
- 234. In relation to the request for hard copy maps, the Reporting Officer noted that due to the number of overlays and mapped areas used, the maps showing large areas across Dunedin did not print in a clear format. They were best viewed online, where the various layers can be turned on and off. A set of maps was available in public libraries at the time of notification, showing particular areas or suburbs likely to be of interest to the specific communities. Members of the public were also able to request hard copy maps of their properties. Printed copies of the decisions-version of the 2GP and future versions of the maps will be made available in a similar fashion.
- 235. In terms of availability of staff to explain the Plan, the Reporting Officer noted that the City Development and Resource Consents teams were available to answer questions on the District Plan, including on heritage proposals. She considered that it is neither necessary nor appropriate to include a policy in the 2GP to reflect this customer service activity, which is standard practice.
- 236. In response to the *ORC's* submission, Reporting Officer Mr Paul Freeland noted that the DCC provides the source data mainly through Land Information Memoranda (LIMs). He noted that not all the source reports are available on the DCC website and making them publicly available would take time. They are variously held by the Otago Regional Council, DCC and GNS, and not all are digitised. He recommended that DCC work towards this outcome.
- 237. In relation to the online submission process, the Reporting Officer referred to the online submission guidelines, which provide step by step instructions and were available on the 2GP website and in hardcopy at the public libraries, service centres, the Drop-in Centre and Customer Service Agency. The submission process was tested by staff before public notification; however, it was not tested by members of the public.

### 3.3.7.2 Decision and decision reasons

- 238. We acknowledge that district plans designed to be viewed electronically present difficulties for many people. Our chairman admits he still prefers to work with hard copies of documents. We accept, however, that this is clearly outweighed by the advantages available only with an electronic format, particularly with a district plan

as complex and sophisticated as the 2GP. We also note that the recently released National Planning Standards require plans to be available electronically. We also expect that DCC is fulfilling its requirements to provide hard copies in libraries and Council offices on an ongoing basis.

- 239. We agree that electronic access to hazards reports is desirable and encourage DCC to enable this.
- 240. The remaining submissions were concerned with the submissions process, which has now passed. We expect that DCC staff will take the comments made on board, to assist in making future plan change processes as smooth as possible.
- 241. We therefore reject the submissions by *Ernest and Faye Webster* (OS235.4), *Otago Polytechnic Students Association* (OS268.2), *John and Clare Pascoe* (OS444.101), *Southern Heritage Trust and City Rise Up* (OS293.162), *Otago Regional Council* (OS908.54), *Howard and Annette Direen* (OS948.2), *Derek Onley* (OS988.4), and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.15).

### **3.3.8 DCC Officers' Discretion**

- 242. *Graeme and Lynette Reed* (OS491.8) requested that DCC Officer's discretion in making decisions on 'less than minor' type matters be limited, because from their experience in Auckland this can lead to problematic decisions.
- 243. The Reporting Officer noted that matters of discretion have been limited throughout the Plan wherever possible, and guidance on the assessment of resource consents has been provided, including identifying potential circumstances which may support a consent application, general assessment guidance, and relevant objectives and policies. While there will be some correlation between the activity status of a resource consent and whether the decision is made by a DCC Officer or Hearing Committee, the 2GP does not stipulate who makes the decision. This is determined on a case-by-case basis and takes into consideration the scale and complexity of the activity, degree of non-compliance and whether the DCC is the applicant. Consequently, she recommended that the submission is rejected (s42A Report, p. 117).

#### **3.3.8.1 Decision and reasons**

- 244. We acknowledge the concern of the submitters; however, we note that the decision-making process is a matter for the DCC, as consent authority, to make on a case-by-case basis. We therefore reject the submission of *Graeme and Lynette Reed* (OS491.8).

## **3.4 Strategic Directions**

- 245. The s42A Report explained that the strategic directions section focuses on key issues for the city and establishes the overall management approach for the 2GP, including zoning and other methods used in the Plan. These strategic directions reflect the strategic directions of the Spatial Plan for Dunedin adopted in September 2012, key goals for Dunedin identified by the community in the development of the 2GP, and the purpose and principles of the RMA (s42A Report, p. 123).

- 246. There are six strategic directions. Each strategic direction includes objectives and policies which outline key methods. The strategic directions include the spatial distribution policies necessary to achieve strategic city-wide objectives.
- 247. We received a number of submissions on the strategic directions, most of these submissions were allocated to related topic hearings. However, broad submissions that were difficult to link to a specific topic were allocated to Plan Overview.

### **3.4.1 Broad submissions on strategic directions**

- 248. *The Otago Regional Council* (OS908.5) broadly supported the strategic directions; and *Kati Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.29) expressed support for the strategic directions in 2.3 to 2.7.
- 249. *Antony Parata* (OS248.5) requested the addition of a policy to give the economic sustainability of DCC infrastructure the same priority as environmental sustainability. He reasoned that Dunedin is not growing and we must live within our means. He noted that the 2GP proposes a significant residential intensification, which will potentially cost ratepayers millions in provision of infrastructure, and the lack of DCC infrastructure at Blueskin Bay is having environmental adverse effects on water quality. His submission also stated that the water supply in the area could not cope in January 2015.
- 250. The *Property Council of New Zealand* (OS317.35) contended that a number of the strategic directions and objectives were too conservative and would not support Dunedin's 'commercial transformation'. The DCC should provide mechanisms that enable economic growth and social prosperity. Instead, it believed the 2GP focuses on 'greening' Dunedin through an emphasis on ecological factors.
- 251. It also had concerns that there are inconsistencies between objectives and policies that sit below the strategic directions and the provisions of the proposed 2GP. In its view, this inconsistency means there are competing tensions between provisions. It gave the example of the cost efficiency of a house that has to be designed to be relocatable in a Hazard 3 overlay zone. Having a strategic direction that Dunedin is environmentally sustainable and resilient distracts DCC from its role in enabling growth and social prosperity. The submitter noted that it found the strategic direction "Dunedin is economically and socially prosperous" lacking in the vision needed, and that the objectives and policies focus on exercising control. It went on to note that despite these concerns, it did support a number of the strategic directions. The *Property Council's* submission was supported by *Robert Wyber* (FS2059.17), *Stewart Campbell* (FS2244.1) and *Oceana Gold (New Zealand) Limited* (FS2439.7)
- 252. *Sustainable Dunedin City* (OS501.1) also made a high-level submission expressing general support of all strategic directions; specifically, that Dunedin is environmentally sustainable and resilient, and provisions related to natural hazards, energy resilience, Dunedin's indigenous biodiversity and being a compact and accessible city.
- 253. The submitter sought a re-emphasis of Strategic Direction 2.3 - Dunedin is economically and socially prosperous, to provide for 'equitable prosperity'. It supported the central importance placed on green and other open spaces in Strategic Direction 2.4 and strongly endorsed Strategic Objectives 2.4.4 and 2.4.5. In relation to Strategic Objective 2.6.2, Cost Efficient Housing, it sought more emphasis on the

need for proven standards in building moisture control and energy standards in installing insulation.

254. *Robert Wyber* (OS394.2) sought the rewriting of the strategic directions, with the content aggregated. He submitted that the phraseology was difficult to understand and should be rewritten to be simple, clear and unambiguous.
255. *Transpower New Zealand Limited* (OS806.17) opposed the Strategic Directions section in part. Although supporting the setting out of strategic objectives and policies *Transpower* expressed concern about the matters covered, considering many to not be district level directions.
256. In addition, *Transpower* opposed the statement in Strategic Direction 2.1 'Introduction', paragraph 3, 'the objectives and policies in the strategic directions section will be most relevant to the assessment of resource consent applications for non-complying activities, but they may also be relevant for other resource consent applications, particularly in considering cumulative effects'. The submitter considered that this is contrary to s104D, which requires that an application is tested against all of the objectives and policies within the Plan.
257. In *Transpower's* view the introduction should be amended to provide clarity of intent and ensure compliance with the RMA. As presently written, the Strategic Directions' provisions provide insufficient direction regarding the matters for which the District Plan must give effect to, including relevant National and Regional Policy Statements. *Transpower* considered that a clear expression of mandatory directions is an absolute minimum for the Strategic Directions.
258. The Reporting Officer did not wish to make any recommendation in respect of the area of development *Antony Parata* referred to, other than noting that the management of discharge into Blueskin Bay is outside of the resource management functions of the DCC and is managed by the Otago Regional Council (s42A Report, p. 124).
259. She went on to note that there is a strategic direction for "affordable and efficient infrastructure" with objectives and policies that address issues related to infrastructure costs. Strategic Objective 2.2.5 specifically addresses adverse effects on the environment from development. Finally, she explained that it is intended that all strategic directions are given the same priority, and that no amendment is required to address this issue.
260. In response to the *Property Council*, the Reporting Officer stated that the strategic directions do provide a focus on economic and social prosperity. She did not agree that having a strategic direction that Dunedin is environmentally sustainable and resilient distracts DCC from its role in enabling growth and social prosperity. She argued instead that the quality of Dunedin's environment is an important aspect of the overall strategy for attracting talent and business to Dunedin. While there may be an inevitable conflict between some strategic directions, the RMA promotes a balancing of these considerations, and this balancing is supported by the strategic directions, both in terms of the methods that flow from them in the Plan and in their role in supporting decisions made on resource consents.
261. In response to *Sustainable Dunedin City*, the Reporting Officer's opinion was that that there was no need to use the term 'equitable prosperity', as the concept of

prosperity as used in the 2GP implies (based on its supporting policies) prosperity for the whole community, not individual prosperity. If the intention was that by 'equitable', the Plan should focus on changing the distribution of prosperity between people (e.g. the distribution of wealth), rather than enabling prosperity broadly across the community, then her opinion was that this is beyond the scope of Part 2 of the RMA.

262. The Reporting Officer agreed in principle with the goals expressed by *Mr Wyber*; however, was of the opinion that the strategic directions have, as a whole, been written in a language that balances the need to be accessible and understandable to most people, while also having the clarity and preciseness necessary to facilitate their effective use for decision-making under the Act (s42A Report, p. 125).
263. She noted that the structure and division of topics and language had been thoroughly tested over many iterations before deciding on the preferred structure and format, and this process included input from a review group which included three resource consents staff, two RMA lawyers who advised on wording and an external, highly experienced, planning consultant.
264. The Reporting Officer also noted that parts of the 2GP had been peer reviewed on two occasions by another highly experienced planner. The consultation process used for the Plan also provided several opportunities for feedback and many adjustments were made as a result.
265. The Reporting Officer did not make any specific recommendations for amendments to address the submitter's concerns. We note that several Reporting Officers used this submission point, and other related points from *Mr Wyber*, to suggest amendments to the Plan to improve clarity, and we accepted several of these recommendations (see for example amendments made to policies 2.2.4.1, 2.6.1.3, 2.6.1.4, and 2.6.3.1).
266. In response to *Transpower's* submissions, she disagreed that a statement clarifying when the strategic directions will be most relevant is contrary to s104D, which requires that an application is tested against all of the objectives and policies within the Plan. The "testing" process involves a judgement as to some objectives being more or less relevant, and guidance to support this assessment does not exclude identification of other objectives and policies as also being judged to be of relevance.
267. She also disagreed that, in principle, the strategic directions need to include the matters outlined in the relevant National and Regional Policy Statements; the requirement is to give effect to these instruments (or have regard to them in the case of the proposed RPS) as outlined in ss74 or 75 of the Act. While these matters may be strategic priorities at a national or regional level they may not be strategic priorities for the district (and the relative importance of different matters covered in these policies will vary in each district).
268. The Reporting Officer also noted that *Transpower* themselves emphasised the need for the strategic directions to be the district's strategic directions. In her opinion there was also no need to include them in the strategic directions as they sit in higher order documents already (and therefore have a higher status in terms of the hierarchy of planning instruments).



269. Instead, the Reporting Officer believed the more important question is, 'are they adequately given effect to in the provisions of the Plan', including in objectives and policies.
270. Overall, the Reporting Officer considered that the Strategic Directions supported a broad range of goals that have been developed with the community over several iterative phases of community engagement and reflected the community's aspirations in terms of how to enable the community's social, environmental, cultural and economic well-being, both collectively and individually. At a broad level, she considered they reflect the requirements of ss 74, 75 and 32 of the Act.
271. She also noted that it was not the intention of the Plan drafters to create a hierarchy of matters through the order that the strategic directions are presented. They were intended to be given equal weight, with the only meaningful difference between them in the choice of policy wording used. She did not think that the order of provisions would commonly be interpreted to hold such meaning.
272. The Reporting Officer considered that the number of submissions supporting the strategic directions, and the relatively few that sought major amendments, reflected their general appropriateness in terms of Part 2 of the Act. Nonetheless, she recognised that these submissions provide important context to be considered, not only in reviewing the content of the strategic directions but also the Plan provisions that derive from them.

#### 3.4.1.1 Decision and reasons

273. We accept in part the submission by *Antony Parata* (OS248.5) to give the economic sustainability of DCC infrastructure the same priority as environmental sustainability insofar as we note that the Plan already includes a strategic direction for affordable and efficient public infrastructure (2.7) and that the adverse effects on the environment from development is managed by Objective 2.2.5.
274. We note that as a result of our decisions on other submissions on the strategic directions policies related to zoning, we have strengthened the link between these policies and objectives (see the ULS Decision Report).
275. We also note that submissions on the zoning around Blueskin Bay is the subject of the Urban Land Supply Hearing and that hearing canvassed the issues related to the potential environment effects of increased residential activity near Blueskin Bay.
276. We acknowledge the concerns of the *Property Council of New Zealand* (OS317.35) but reject their submission to provide mechanisms that enable economic growth and social prosperity. We agree with the Reporting Officer that there is already appropriate recognition of economic growth within the Strategic Directions. We also reject the submission by *Transpower New Zealand Limited* (OS806.17). We are satisfied that the Strategic Directions overall have been appropriately developed, identify the matters to be managed through the 2GP, and are given effect to by the other provisions of the Plan. We note, however, that other amendments we have made to the Plan including to the Strategic Directions may give some relief to this submitter on these matters.
277. We accept the submission from *Mr Wyber* (OS394.2) insofar as we agree that the provisions should be written in a way that is simple, clear and unambiguous. We

note that we have made several changes to strategic objectives in the Plan, many of which we have made to improve the clarity of provisions.

278. We acknowledge the general support of *Sustainable Dunedin City* (OS501.1) to the strategic directions and accept their submission insofar that we consider that the 2GP already provides for equitable prosperity. However, we note that standards for building moisture control and energy associated with installing insulation are managed through the Building Act, and it would be inefficient to duplicate them in the 2GP.
279. We also note a concern we have that the order of the Strategic Directions may be taken to be hierarchical, when this is not the case. We have therefore added, under cl. 16, a clarifying sentence to the introduction of the Strategic Directions section as follows:

*"The Strategic Directions objectives, and the policies under each objective, are not ordered in any particular way."*

### **3.4.2 Request for strategic policy on monitoring resource consents**

280. The *Harboursides and Peninsula Preservation Coalition* (OS447.12) and *Save The Otago Peninsula (STOP) Inc Soc* (OS900.24) sought a new objective under Strategic Direction 2.4.8: Dunedin is maintained as a memorable city with natural character through land use activity, development, and subdivision resource consent enforcement measures.
281. They also sought to add a new policy under this objective: "Dunedin has an established responsibility and programmes for monitoring resource consent near-term and future results, monitoring when new land uses, developments or subdivisions are first completed, and also later through paper tracking systems that interlink Council databases and property sales to ensure ongoing compliance".
282. The reasons given were that unenforced plans and rules are ineffectual at delivering the full intended results.
283. These submissions were opposed by further submitters *Howard Saunders* (FS2373.9, 47), *Geoff Scurr Contracting Limited* (FS2391.108, with regard to OS900.24); and *Federated Farmers of New Zealand* (FS2449.11, 12), and supported by *Geoff Scurr Contracting Limited* (FS2391.14, with regard to OS447.12).
284. The Reporting Officer noted that s35 of the RMA places a duty on every local authority to gather information, monitor and keep records, as is necessary to effectively carry out its functions under the RMA (Section 42A Report, p. 131). This duty includes monitoring of the state of the environment, and resource consents. She noted that the Resource Consents Team of the DCC undertakes regular monitoring of resource consents, investigates complaints and reports annually to the Ministry for the Environment. Between 2014 and 2016 it had taken enforcement action resulting in six successful prosecutions.
285. As there is already a statutory requirement for the DCC to do monitoring and enforcement, she did not consider the additional objective and policy submitted was necessary. She recommended rejecting the submissions of the *Harboursides and Peninsula Preservation Coalition* (OS447.12) and *Save The Otago Peninsula (STOP) Inc Soc* (OS900.24).

### 3.4.2.1 Decision and reasons

286. We reject the submissions of the *Harboursides and Peninsula Preservation Coalition* (OS447.12) and *Save The Otago Peninsula (STOP) Inc Soc* (OS900.24) to add an objective and policy in relation to monitoring. We agree with the Reporting Officer that this would not require or ensure monitoring, nor would it assist in ensuring this monitoring occurs to a greater degree than present. There is a statutory requirement for DCC to undertake monitoring, and the bigger determinant in how much monitoring and enforcement can be undertaken is the resources allocated to the activity. The relief sought by the submitter would be more effectively achieved through increasing resources, and therefore this matter is more effectively raised as a Long Term Plan or Annual Plan matter.

## 3.5 Definitions - general

### 3.5.1 Request to ensure definitions only use terminology that is in the RMA

287. The *Otago Regional Council* (OS908.4) requested that definitions are amended to only use terminology that is recognised under the Resource Management Act 1991 (RMA), such as 'water body'. *Oceana Gold* (FS2439.5) supported this submission.
288. The Reporting Officer recommended rejecting the submission to the extent that the 2GP's terminology should automatically align with the RMA given the need for a contextual approach to individual policies (Section 42A Report, p. 89).

#### 3.5.1.1 Decision and decision reasons

289. We reject the submissions by the *Otago Regional Council* (OS908.4) and *Oceana Gold* (FS2439.5) seeking that only terminology consistent with the RMA is used in the 2GP. In the course of the hearings it has been apparent that some RMA definitions do not make the specific inclusions or exclusions needed in the particular circumstances, and so definitions specific to the usage in the Plan are necessary and appropriate.

### 3.5.2 Definitions: Frequent Public Transport Services

290. *Robert Wyber* (OS394.76 and FS2059.33) requested that the definition be amended to define frequent public transport as every 20 minutes rather than every 30 minutes. His reasons were based on concerns with the use of the term 'frequent public transport services' in Strategic Policy 2.6.3.1, which sets out the criteria for areas of residential expansion or residential intensification (application of General Residential 2 zoning). *Mr Wyber* was also concerned about using criteria that are reliant on a public transport system that the DCC do not manage, as this changes to routes or timetables could occur at any time.
291. The *NZTA* supported the definition (OS881.8).
292. The Reporting Officer explained that the term 'frequent public transportation services' is used to describe public transport routes that provide services at intervals of no greater than 30 minutes from 8am - 6pm Monday to Friday. It is used in the notified Plan in the Strategic Directions and Transportation sections:

- Policy 2.6.3.1, which sets out criteria for urban expansion and future residential development, including being in areas serviced by frequent public transport services;
  - Policy 2.2.2.4, which supports transport mode choices and reduced car dependency through requiring most new housing to locate in areas with frequent public transport services;
  - Policy 2.2.4.1, which specifies one of the criteria for the location of medium density housing as having good transportation choices and being in proximity to frequent public transport services. (Note that the reference to frequent public transport services is not consistent in these policies, as discussed below);
  - Policy 6.2.2.3, which requires visitor accommodation and supported living facilities to be located close to frequent public transport services and related assessment rules;
  - Appendix 6A - Road Classification Hierarchy, in relation to the description of arterial roads, which may support frequent public transport services.
293. The Reporting Officer noted that there are currently only five bus routes in Dunedin that have a weekday frequency of 20 minutes or less: St Clair to Normanby, Opoho to Shiel Hill, Pine Hill to Lookout Point, Halfway Bush to St Kilda, and Balaclava to Logan Park (Section 42A Report, p. 70). Her opinion was that a change to the definition as requested by *Mr Wyber* would mean that either the policy would no longer align with the areas of General Residential 2 zoning, or that these areas would need to be significantly reduced to align with the policy. She felt that this would be contrary to the Strategic Directions and overall approach adopted in the 2GP, which is designed to meet housing needs, provide choice, and maximise the environmental, economic, and social benefits of new residential development while minimising the costs to the community.
294. The Reporting Officer further noted that the change would significantly reduce the areas that met the criteria in Policy 6.2.2.3 for visitor accommodation and supported living facilities. This would make it much more difficult for these activities to establish, and in the Reporting Officer's opinion, would be contrary to the approach taken in the 2GP. It may also be inconsistent with the intention of other amendments requested by *Mr Wyber*. She further noted that in terms of his concerns with timetables changing, as the frequency of bus services is generally population-dependent, it seemed unlikely that if the population of an area increases, that a frequent bus service would be reduced. Supporting increased density in these areas supports the ability to provide the level of service over time.
295. The Reporting Officer recommended rejecting *Mr Wyber's* submission.
296. She also noted that when assessing the submission, it was clear that the term 'frequent public transport services' was not used consistently in the policies, and recommended the following amendments:
- amend Policy 2.6.3.1.a.ii to replace the term high frequency public transportation with frequent public transport services;
  - amend Policy 2.2.2.4.c to replace the term frequent bus services with frequent public transport services; and
  - amend Policy 2.2.4.1.a to replace the term frequent bus services with frequent public transport services.

297. She considered that these changes, which improve the consistency of language and Plan clarity, are within the scope of the submissions of the *Otago Regional Council* (OS908.3 and OS908.17).

### 3.5.2.1 Decision and decision reasons

298. We reject *Robert Wyber's* submission to amend the definition of frequent public transport services (OS394.76) as we agree with the Reporting Officer that a frequency of 20 minutes would be too limiting in terms of how the phrase is used in the Plan. We also agree that allowing greater intensification of areas will support more frequent bus services, and are conscious not to inadvertently make intensification of appropriate areas more difficult.
299. We note that the minor amendments suggested by the Reporting Officer to policies 2.2.2.4 and 2.2.4.1 are no longer relevant or necessary due to changes to these policies made through our Urban Land Supply decisions. Policies 2.6.3.1 and 2.6.3.4 have also been amended as a result of the Urban Land Supply definition and these now refer to 'frequent public transport services'.

### 3.5.3 Definitions: site

300. The definition of 'site' in the 2GP is:

*An area of land which is either:*

- *one allotment in one certificate of title, or two or more contiguous allotments held together in one certificate of title, in such a way that the allotments cannot be dealt with separately without the prior consent of the DCC; or*
- *contained in a single allotment on an approved survey plan of subdivision for which a separate certificate of title could be issued without further consent from the DCC; or*
- *two or more contiguous allotments held in two or more certificates of titles, and where the titles are subject to a condition imposed under section 77 of the Building Act 2004 or section 643 of the Local Government Act 1974, or held together in such a way that they cannot be dealt with separately without the prior consent of the DCC; or*
- *partly made of land which complies with clauses a, b, or c above, and partly made up of an interest in airspace above or subsoil below a road, where both areas of land are adjacent and held together in such a way that they cannot be dealt with separately without the prior approval of DCC; or*
- *for land subdivided under the cross lease system, a building or buildings for residential or business purposes, together with any other building(s) and/or land that is exclusively restricted to the users of that/those building(s), together with the lawful share of any building(s) and/or land of which the user of the exclusive building or buildings enjoys a degree of non-exclusive use; or*
- *for land subdivided under the Unit Titles Act 2010, an area of land containing a principal unit or proposed unit on a unit plan, together with its accessory units, together also with the lawful share of any unit(s) and/or common property of which the user of the principal unit or proposed unit enjoys a degree of non-exclusive use; or*

- for land in a strata title, the underlying certificate of title of the entire land containing the strata titles immediately prior to subdivision; or
- for land not subject to the Land Transfer Act 1952, is the whole parcel of land acquired under one instrument of conveyance.

In addition to the above:

- a site includes the airspace above the land;
- if any site is crossed by a zone boundary under this Plan, the site is deemed to be divided into two or more sites by that zone boundary;
- where a site is situated partly within Dunedin City and partly within an adjoining territorial authority, then the part situated within Dunedin City is deemed to be one site; and
- the area of a 'site' is all of the area associated with any exclusive ownership portion(s) plus the lawful share of any non-exclusive ownership portion(s).

301. Lindsay Carruthers (OS860.9), Neil Grant (OS883.9), David Frew (OS872.9), and John Carruthers (OS879.9) sought that the definition of site be amended to clarify whether it refers to a paddock, parcel of land or entire certificate of title land area. Federated Farmers (FS2449.3, FS2449.5, and FS2449.6) supported these submissions.
302. The Dunedin City Council (OS360.146) sought to amend the definition of Site (10<sup>th</sup> bullet point) as follows: "if any site is crossed by a zone boundary under this Plan, with the exception of a boundary between two rural zones, the site is deemed to be divided into two or more sites by that zone boundary".
303. Federated Farmers (FS2449.2) supported this submission.
304. The Reporting Officer, which we note was Mr Paul Freeland for this matter, noted that the submissions seeking to clarify whether a site is paddock, parcel of land or entire certificate of title land area, relate to the use of the word allotment, referenced in the 2GP definition of site (Section 42A Report, p. 80).
305. The RMA defines allotment in section 218(2)(a) as:
  - (a) any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—
    - (i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
    - (ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or
  - (b) any parcel of land or building or part of a building that is shown or identified separately—
    - (i) on a survey plan; or
    - (ii) on a licence within the meaning of Part 7A of the Land Transfer Act 1952/2017; or

- (c) any unit on a unit plan; or
  - (d) any parcel of land not subject to the Land Transfer Act 1952.
306. The Reporting Officer's view was that allotment, based on the RMA definition, could encompass a paddock, a parcel of land or an entire certificate of title land area, depending on the situation. However, he recommended that the absence of a definition for allotment in the Plan does not help plan usability as it requires the plan user to know that it is defined in the RMA. He therefore recommended that a definition of allotment – as per Section 218(2) of the RMA, is added to the 2GP.
307. He also noted that the reference to relevant sections of the Land Transfer Act 1952 are likely to change to the Land Transfer Act 2017, with this change due to come into force no later than 10 January 2019.
308. In relation to the DCC's submission, the planning approach in the past has been to apply the most restrictive zoning to the whole site where a site is split-zoned. This can lead to inequitable or unanticipated outcomes, where for instance, a small piece of rural zoning can prevent houses being built on the complying sized residentially zoned part of the site. The preferred approach is to treat split-zoned sites as two or more separate sites and apply the relevant Plan provisions for each zone to the relevant part of the site.
309. The Reporting Officer, noted that the 10<sup>th</sup> bullet point of the definition provided for this, but was intended to only capture the situation where the zone boundary abuts a zone that anticipates entirely different land uses. The rules from one Rural Zone to another are not anticipating wholly different land uses and so this clause was not appropriate (s42A Report, p. 80).
310. The Reporting Officer therefore recommended that the submission by the *Dunedin City Council* (OS360.146) is accepted to bring the definition in line with its intended meaning.

### 3.5.3.1 Decision and reasons

311. We accept the submission by the *Dunedin City Council* (OS360.146) to amend the tenth bullet point under the definition of "site" as outlined in that submission. This amendment is shown in Appendix 1 and attributed to PO 360.146 and others.
312. We also accept the submission of *Lindsay Carruthers* (OS860.9), *Neil Grant* (OS883.9), *David Frew* (OS872.9), and *John Carruthers* (OS879.9) to clarify the definition and accept the recommendation of the Reporting Officer to include a definition of allotment. The definition of allotment is based upon ss182(3) and (4) of the RMA, and incorporates upcoming legislative changes to the Land Transfer Act 2017.
313. The new definition of allotment is shown in Appendix 1, with changes attributed to PO 860.9 and others.

## 3.6 Definition of reverse sensitivity

314. The 2GP defines reverse sensitivity as:

*When existing activities are affected by newer uses establishing that may have sensitivity to, and subsequently complain about, the effects of the existing*

*activity; and seek to limit the ability of the existing activities to continue. Common examples are new residential development establishing next to farming or industrial operations, which can lead to the new residents complaining about noise, odour or other nuisance effects from those established activities.*

315. The Reporting Officer explained that the term reverse sensitivity is used extensively throughout the 2GP in policies, objectives and assessment criteria. Every management zone has a policy referring to reverse sensitivity and there are three strategic directions policies that also refer to it. The Reporting Officer explained that the definition was included in the Plan to clarify what is meant, as the term is not commonly known.
316. Seven submitters supported the definition of reverse sensitivity: *KiwiRail Holdings* (OS322.13), *New Zealand Defence Force* (OS583.5), *Transpower New Zealand* (OS806.15), *Fonterra Limited* (OS807.5), *Radio New Zealand* (OS918.18), *Federated Farmers of New Zealand* (OS919.91), and *Horticulture New Zealand* (OS1090.8).
317. The *Oil Companies* (OS634.9) sought that the definition be deleted on the basis that it is unnecessary, given that the term is well defined by case law. The submitter considered that there was a risk that the case law might evolve, resulting in a disconnect.
318. This submission was supported by *Oceana Gold (New Zealand) Limited* (FS2439.1), *Waste Management (NZ) Limited* (FS2444.25) and the *New Zealand Defence Force* (FS2287.1).
319. *Liquigas Ltd* (OS906.2) sought to amend the definition to clarify the issues that arise from the siting of incompatible uses in close proximity to one another, by changing the wording slightly.
320. *Air New Zealand Ltd* (OS1046.5) sought that the definition should be amended to include situations where constraints are sought to be imposed upon the future expansion or development of infrastructure or activities such as the Airport. The submitter was concerned that reverse sensitivity effects on permitted activities should be managed as well as future lawfully established activities.
321. The Reporting Officer initially recommended retaining the definition as notified, and instead making amendments to objectives and policies to clarify that the concept applied to lawfully established activities (Plan Overview s42A Report, pp. 75-76).
322. This recommendation was picked up by reporting officers in other hearings and, as a result, a number of recommendations were made to add "or lawfully established activities" to objectives and policies.

### **3.6.1 Evidence from other hearings**

323. Following the Plan Overview Hearing, provisions relating to reverse sensitivity issues were the subject of several other hearings.
324. *Cadbury Limited* (OS1015.1) sought that Objective 2.3.1 be amended so that it protected land use activities from incompatible uses and potential reverse sensitivity effects, not just the land itself. This was considered in the Industrial Hearing. The Reporting Officer supported this request and proposed an amendment to the



objective to include land use activities and associated industrial activities (Industrial s42A Report, p. 20).

325. *Ravensdown Limited* (OS893.31, OS893.26, and OS893.27) also sought various amendments to the reverse sensitivity policies in the Industrial Zone, to provide for the protection of 'existing lawfully established activities'.
326. *Fonterra* (OS807.45) and *Liquigas* (OS906.38) also wanted to extend the reverse sensitivity provisions in Policy 19.2.2.8 to include protection of industrial development that is provided for but that has not yet established. The Reporting Officer agreed with this aspect of the submission and recommended an amendment to the Policy to only allow non-industrial activities where reverse sensitivity on on-going operation and development of industrial activities is avoided (Industrial s42A Report, p. 50).
327. Further amendments were recommended to Objective 2.3.1 to provide protection of facilities, including network utilities, to enable them to operate efficiently and effectively, in response to submissions made during the Network Utilities Hearing (Network Utilities s42A Report, Section 5.1.3, p. 31).
328. In the Rural Hearing, a submission from *Radio NZ* (OS918.42) to amend Objective 16.2.2 to extend reverse sensitivity protection from 'permitted' activities to all 'authorised' activities was considered. This was supported by *Horticulture NZ*.

### 3.6.2 Plan Overview Reconvened Hearing

329. At the reconvened Plan Overview Hearing, the Reporting Officer reviewed the submissions and evidence related to objectives and policies that referred to reverse sensitivity. These provisions were listed in Appendix 2 of the Reconvened Plan Overview Hearing Report.
330. The Reporting Officer said the review demonstrated that the variability of the wording of provisions was more complex than was originally thought at the time the Plan Overview s42A Report was written. In her opinion this variation in usage created confusion about the concept of reverse sensitivity. She also noted that in many cases there is also duplication of provisions, as some policies include partial explanations of the concept of reverse sensitivity, rather than relying on the definition.
331. As a result, the Reporting Officer revised her recommendation and recommended the definition of 'reverse sensitivity' be amended to ensure it covers all of the scenarios set out in the relevant objectives and policies, and consequently simplify the wording of objectives and policies so that they do not duplicate the definition. Objectives and policies should instead rely on the amended definition to identify which activities are to be protected.
332. The Reporting Officer recommended accepting the submission of *Air New Zealand* (OS1046.5) to expand the definition of reverse sensitivity to include 'future' activities through the following amendments to the definition. She suggested the following wording:

#### ***Reverse sensitivity***

When ~~existing~~ lawful activities that create effects beyond site boundaries (such as noise, odour, traffic movements or electromagnetic interference) are

*affected by newer uses establishing nearby that may have sensitivity to, and subsequently complain about, these effects of the existing activity; and seek to limit the ability of the existing activities to continue. Lawful activities in the context of this definition refers to: existing lawfully established activities, permitted activities, and consented activities that are likely to establish. The most common examples are is new residential development activities establishing next to farming or industrial operations, or airports, which can lead to the new residents complaining about noise, odour or other nuisance effects from those established activities.*

333. As a consequential change, she recommended deleting all references in policies and objectives to 'permitted' activities or activities 'provided for'. This would prevent duplication between the policies and objectives and the definition.
334. Furthermore, the Reporting Officer recommended, as far as scope allowed, other amendments to policies to simplify and remove wording associated with reverse sensitivity being 'from' or 'to' any activity, as this is included in the amended definition. The only exception to this is where the policy restricts the consideration of reverse sensitivity effects to only certain activities (for example if a policy were to say only Industrial activities should be protected from reverse sensitivity effects).
335. Finally, the Reporting Officer recommended amending any usages of the term which clearly contradicted the defined meaning. Her recommendations were provided in Appendix 2 of her Reconvened Plan Overview Hearing Report – Policy Drafting Protocol and General Terminology Consistency (6 December 2017).
336. At the Reconvened Hearing we heard from counsel for *Air New Zealand*, Ms Bronwyn Carruthers, who gave legal submissions in respect of the proposed definition and the scope of its application. Ms Carruthers was concerned to ensure that *Air New Zealand's* ability to develop and expand airport operations was not constrained by future development near the airport, and their designation was not undermined through such development.
337. She argued that, in the case of Dunedin Airport, the Plan already recognises the need to enable future development, through Objective 24.2.2 'development necessary to meet the reasonably foreseeable needs of Dunedin International Airport is enabled'. The existing designation at the airport allows an increase in the number of flights.
338. Ms Carruthers proposed the following additional amendments to the definition:

*When existing lawful activities that create effects beyond site boundaries (such as noise, odour, traffic movements or electromagnetic interference {RNZ sub ref}) are affected by newer uses establishing nearby that may have sensitivity to, and subsequently complain about, these effects of the existing activity; and seek to limit the ability of the existing activities to continue, develop or expand in the future. ~~Lawful activities in the context of this definition refers to: existing lawfully established activities, permitted activities, and consented activities that are likely to be implemented.~~ The most common examples are is new residential development activities establishing next to infrastructure, farming or industrial operations, which can lead to the new residents complaining about noise, odour or other nuisance effects from those established activities.*

339. This amendment would ensure that where objectives and policies refer to "the potential for reverse sensitivity", that potential includes both reverse sensitivity on current operations and more importantly on the ability to develop or expand in the future.

### 3.6.3 Decision and reasons

340. We accept the submission of *Air New Zealand* (OS1046.5) in part to amend the definition of reverse sensitivity to include reference to future activities to the extent that they are lawful (that is, consented activities that are likely to establish, as these are part of the environment that should be considered). We prefer the wording proposed by the Reporting Officer in her revised recommendations.
341. The consequence of this is that the seven submissions supporting the definition as notified are accepted in part (*KiwiRail Holdings* (OS322.13), *New Zealand Defence Force* (OS583.5), *Transpower New Zealand* (OS06.15), *Fonterra Ltd* (OS807.5), *Radio New Zealand* (OS918.18), *Federated Farmers of New Zealand* (OS919.9)<sup>1</sup> and *Horticulture New Zealand* (OS1090.8). The submission from *the Oil Companies* (OS634.9), supported by *Oceana Gold (NZ) Ltd* (FS2439.1), *Waste Management(NZ) Ltd* (FS2444.25) and the *New Zealand Defence Force* (FS2287.1) seeking deletion of the definition are rejected. The submission from *Liquigas Ltd* (OS906.2) seeking amended wording is also rejected as it appears to us to be just stating the obvious.
342. We have also made the consequential amendments suggested by the Reporting Officer; that is, to delete all references to 'permitted' activities or activities 'provided for' in reverse sensitivity policies and objectives, to avoid duplication between these provisions and the definition. To further clarify the objectives and policies we have generally removed any superfluous words, including 'effects' and 'issues' where they occur after reverse sensitivity.
343. This consistent approach to reverse sensitivity throughout the Plan is the most appropriate way of dealing with reverse sensitivity issues. Amendments are listed in Appendix 2 of this decision and shown in Appendix 1, attributed to PO 1046.5.

## 3.7 Definitions relating to infrastructure

### 3.7.1 Background

344. The term public infrastructure is used in several places in the Plan, including Strategic Direction Objective 2.7 Efficient Public Infrastructure:

*Public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden on ratepayers.*

345. The Plan also uses the term 'infrastructure' in several places. It seems, in some contexts the terms were used interchangeably, when perhaps they shouldn't have been.

346. The proposed definition of 'public infrastructure' is:

"The public reticulated systems of pipes and associated accessory structures that enable the management and distribution of stormwater, wastewater or water supply.

This definition excludes any private stormwater, wastewater or water supply systems or structures.”

347. The term infrastructure is not defined in the Plan.
348. Submissions on the definition of public infrastructure and provisions that refer to infrastructure or public infrastructure were considered at both the Plan Overview Hearing and the Transport Hearing. Overall, the submission were concerned with broadening the scope of the term ‘infrastructure’ and/or ‘public infrastructure’ as it is used in the Plan (to include transportation and landfill activities), with a focus on its usage in specific objectives and policies; or generally questioning whether the terms should align with the definition of infrastructure in the RMA as a matter of principle.

### 3.7.1.1 Submissions to include a new definition of Infrastructure

349. *Waste Management (NZ) Limited* (OS796.11) sought to add a new definition of ‘infrastructure’ to the 2GP, as they considered it would be appropriate to have a definition that covers a wide range of important infrastructure assets to the city, including landfills. This submission was supported by *Radio New Zealand Limited* (FS2332.1) and *Aurora Energy Limited* (FS2375.1).
350. The *Oil Companies* (OS634.47) requested a new definition for infrastructure that reflected the definition in the RMA. This was supported by *Liquigas Limited* (FS2327.15) and *Waste Management (NZ) Limited* (FS2444.27) and was heard at the Public Health and Safety Hearing.
351. The *New Zealand Transport Agency* sought that the definitions of ‘network infrastructure’ be deleted (OS881.11); the definition of ‘public infrastructure’ be deleted (OS881.13) and these terms be replaced with the RMA definition of ‘infrastructure’ (OS881.167).
352. The *Otago Regional Council* (OS908.63) sought the simplification of the definition of ‘Public Infrastructure’ to align with the RMA definition of ‘Infrastructure’.

### 3.7.1.2 Submissions on Objective 2.7.1

353. *KiwiRail* (OS322.19) submitted to amend the Strategic Direction 2.7 title ‘Dunedin has affordable and efficient public infrastructure’ to add the words ‘and Transport’.
354. With regard to Objective 2.7, the submitter observed that although the 2GP definition for ‘Public Infrastructure’ does not include roads, rail or other transport networks, Policy 2.7.2.1 related to transportation networks, which would include these items.
355. The *NZ Transport Agency* (OS881.41) submitted that Objective 2.7.1 (‘Public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden on ratepayers’) be amended to remove the reference to ratepayers, as they considered that the cost burden for infrastructure was not carried by ratepayers alone, and that central government played a role in the provision of transport infrastructure. This point was heard at the Transportation Hearing.

### 3.7.1.3 Section 42A Reports and hearing evidence

356. The Reporting Officer at the Plan Overview Hearing (Mr Paul Freeland for this topic) noted that the definition of public infrastructure was designed to align with the subdivision provisions and the provisions of the Public Health and Safety section. In addition, the availability of public infrastructure is a consideration when considering the release of Industrial Transition Overlay zoned land (Rule 12.3.3).
357. He noted that the RMA definition is linked to the functions of regional councils under the RMA (Section 30), including 'strategic integration of infrastructure with land use through objectives, policies, and methods'. In the 2GP, the definition is intended to have a far narrower application as it is specific to the rules in the Public Health and Safety Section and subdivision provisions. There are no 2GP provisions that apply to all types of infrastructure (s42A Report, p. 84).
358. He recommended that the submissions to remove the existing definitions and replace them with the RMA definition of infrastructure be rejected.
359. In relation to the *Oil Companies* submission, the Reporting Officer at the Public Health and Safety hearing considered that the definition of 'network utilities', as amended in the Network Utilities Hearing, addressed the submitter's concerns (Public Health and Safety s42A Report, p. 35). Ms Georgina McPherson (planning consultant for the *Oil Companies*) agreed that the amended definition resolved the *Oil Companies*' concerns (Statement of Evidence, p. 33).
360. The *NZ Transport Agency* called Mr Andrew Henderson (consultant planner) who observed that the 2GP approach to definitions for infrastructure is relatively narrow and generally relates only to infrastructure controlled by local authorities, whereas the *NZTA's* view was that the definitions should be consistent with the RMA.
361. He agreed with the recommendation made at the Transportation Hearing that the definition of 'Public Infrastructure' be amended to include 'Public railway and roading networks (including DCC and NZTA managed roads)' (Statement of Evidence, Transportation Hearing, p. 2).
362. We also received evidence from Kirsten Tebbutt, planning advisor for the *NZ Transport Agency* (OS881.11), at the Plan Overview Hearing in relation to NZTA's request that the definition of infrastructure should mirror the RMA definition. Ms Tebbutt argued that this approach had been 'largely adopted in District Plans around New Zealand', and that this broad definition recognised that it was relied upon by infrastructure providers to define development potential of land, in accordance with its zoning. The narrow 2GP definition makes it unsuitable for this purpose (Statement of Evidence Plan Overview Hearing, p. 5)
363. The Reporting Officer, at the Transport Hearing (Ms Ann Rogers), recommended the definition of 'public infrastructure' be amended as follows: (s42A Report, p. 47).

#### **Public Infrastructure**

##### **Public Infrastructure includes:**

- *the public reticulated systems of pipes and associated accessory structures that enable the management and distribution of stormwater, wastewater or water supply. This definition excludes any private stormwater, wastewater or water supply systems or structures.*

- Public railway {Trans 322.19} and roading networks (including DCC and NZTA managed roads).

#### 3.7.1.4 Decision and reasons

364. We understand that the term public infrastructure was narrowly defined to focus on 3 waters infrastructure to reflect its usage in provision in the Public Health and Safety Section. However, we note as was considered in the Transportation Hearing, the term is used in a few other contexts, namely policies 2.7.1.1 and 2.7.1.2 in the strategic directions, where the experts agreed it should also encompass transportation activities managed by the Plan.
365. We reject the submissions of *Waste Management (NZ) Limited* (OS769.11) to amend the terminology in the Plan such that landfills are covered by the provisions that use the terminology related to public infrastructure, as we did not agree this was appropriate.
366. We also reject the *Otago Regional Council* (OS908.63) request to add new definitions of infrastructure reflecting the RMA definition, as a matter of principle as we accept the definition is inappropriate in the context of how the term is used in the Plan, subject to the amendments discussed below.
367. We accept the submissions from *NZTA* (OS881.11; OS881.13 and OS881.167) in so far as we note that the experts agreed (through expert caucusing between Mr Freeland and Ms Tebutt during the Transportation hearing) that in terms of its strategic usage in the Plan, particularly in the context of policies 2.7.1.1 and 2.7.1.2, it should encompass the transportation activities managed by the Plan and agreed an amendment to the definition of public infrastructure to achieve that. With respect to *Kiwirail*, we note our decision in the Transportation hearing to not include rail activities in the Plan as we were not entirely convinced it was necessary for the reasons argued by the Reporting Officer that rail activity has historically been managed through designation processes. We also did not receive clear and compelling evidence on a set of provisions that would work effectively and efficiently and align with the 2GP. We note, however, that we have amended the wording of Objective 2.7 to refer to the multi-modal transportation network so that there is stronger strategic support for the full range of transportation activities of the Plan.
368. To give relief to the *NZTA* submissions we have amended the definition of public infrastructure to include DCC and NZTA managed roads as well as other publicly owned transportation infrastructure. We agree that it is necessary to widen the definition of 'public infrastructure' so that Strategic Direction Objective 2.7.1 can be achieved.
369. It also addresses the request by *NZTA* (OS881.41) that sought to amend Objective 2.7.1 to remove the reference to ratepayers, so we accept these submissions in part. To give effect to this decision we have replaced 'ratepayer' with 'the public' in Objective 2.7.1.2 and Policies 2.6.1.3, 2.6.3.1 and 2.7.1.2 to acknowledge that infrastructure users other than ratepayers may contribute to the cost of new public infrastructure.
370. We have, however, amended the definition of public infrastructure to read:

Public Infrastructure consists of:

- the public reticulated systems of pipes and associated accessory structures that enable the management and distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures.
- public roading (including DCC and NZTA managed roads). {PO 881.11, PO 881.13}

371. As a consequential change we have amended a number of other provisions in the Plan to reflect this amendment. These amendments are of three types:

1. Where we have amended the Plan to change the reference from 'infrastructure' to 'public infrastructure' to pick up amended definition of public infrastructure, which now includes transportation networks. This is attributed to PO 881.167 (Policies 2.7.1.1 and 2.7.1.2, Introductions in 15.1, 16.1 and 17.1)
2. Where we have amended the Plan where the Plan usage the term "public infrastructure" to add clarification that in the context of that provision it only applies to 3 waters infrastructure. This is done where this is necessary to not broaden the meaning as a consequence of change to definition of public infrastructure, where this is inappropriate. This is attributed to PO 881.11 and 881.13 (Policy 9.2.2.7 and 9.2.1.4 and assessment rules that paraphrase these policies)
3. Where we have amended the Plan to change the reference from 'infrastructure', or other similar terminology (e.g. reticulated infrastructure in 2.2.4.1), to 'public infrastructure' to link to a defined term but where we have also narrowed the definition to only apply to certain types of public infrastructure due to the context of the provisions. This is attributed to PO 881.11 and 881.13 and PO 881.167 (Policy 2.2.5.2)
4. Rearrangement of wording where public and infrastructure used where this adds clarity considering above but no change to meaning is made (under cl.16).

372. We note that the submission points from *NZTA* were best understood as a 'package' of interlinked requests to achieve a certain outcome, which we have tried to give relief to. We note our use of the submission references for these amendments have been divided for ease of explaining the different types of interlinked amendments we have made rather than as particularly linked to the summary of that point as indicated in the summary of submissions.

### **3.7.2 Network infrastructure**

373. The *Dunedin City Council* (OS360.234) sought the deletion of the definition of 'network infrastructure' because this definition had been left in the 2GP inadvertently and is not used in the 2GP provisions (s42A Report, p. 84).

374. The Reporting Officer recommended that the submission is accepted, noting that the definition of network infrastructure overlaps with the definition of public infrastructure.

#### **3.7.2.1 Decision and reasons**

375. We accept the *Dunedin City Council* (OS360.234) submission to delete the definition of 'network infrastructure' for the reasons given.

## 3.8 Definitions relating to buildings and structures

### 3.8.1 Amend definitions to align definitions with Building Act

376. *Vodafone* (OS576.77), *Spark* (OS923.77) and *Chorus* (OS925.77) sought to “remove any duplication of defined terms, including amending the definition of building(s) so that there is a single definition that is the same as the Building Act 2004 definition, and amending definitions of structure(s) so that there is a single definition”.
377. *Oceana Gold* (FS2439.74) and *Horticulture NZ* (FS2452.80), supported the consolidation proposed by these submitters, but opposed the definition’s alignment with the Building Act. The concern expressed was that aligning the definition would ‘encompass dams or waste rock stacks’, and would not be the most appropriate definition for the 2GP.
378. *Horticulture New Zealand* (OS1090.9) also sought to amend the definition of ‘structure’ to match the RMA definition.
379. The Reporting Officer advised that the definitions of ‘buildings’ and ‘structures’ are key definitions used in the Plan, which are necessary to support the Plan structure which manages development activities separately from land use activities. Specific definitions of ‘buildings’ and ‘structures’ (as activities to be managed) were created to appropriately capture these activities for the purpose of the Plan rules. These activity definitions are distinct from the common usage (and defined terms) of ‘building’ and ‘structure’, which are used when referring to the physical buildings/structures.
380. She noted that a key consideration of drafting the definitions for ‘buildings’ and ‘structures’ was to ensure that the related rules would be as efficient as possible by only capturing activities where management was considered necessary (and avoid capturing activities with no or negligible effects). For example, ensuring performance standards for setbacks from boundaries captured buildings and structures that may affect the amenity of neighbouring properties or the streetscape, but did not capture letterboxes, play equipment or other minor structures that are commonly located within these setbacks. A generic definition of structures that did not include limitations around size or time in situ would capture all those minor structures and result in ineffective and inefficient regulation.
381. The Reporting Officer’s view was that changing the definitions to match those of the RMA would lead to rules capturing many more types of buildings and structures in the rules than intended, leading to ineffective and inappropriate regulation. She recommended that the submissions are rejected (s42A Report, pp. 92-93).

#### 3.8.1.1 Decision and reasons

382. We reject the submissions by *Vodafone* (OS576.77), *Spark* (OS923.77), and *Chorus* (OS925.77) and *Horticulture New Zealand* (OS1090.9) to align the definitions of Buildings and Structures to be the same as the Building Act. The Building Act is a separate statutory regime, and the definitions for the 2GP and definitions under the Building Act are used for different purposes.
383. We note the simpler definition for structure used in the 2GP encompasses all the aspects of the wordier RMA definition; therefore, there appears to be no reason to



change it. The only critical difference is the aspect of being “fixed to land”; we note that this matter is considered in the 2GP definition of “structures”.

384. We also reject the requests to merge the definitions for the reasons given by the Reporting Officer. The terms, although similar, are clearly used for different purposes and have different meanings.

### **3.8.2 Definition of building: exclude artificial crop structures**

385. *Horticulture NZ* (OS1090.6) sought to exclude artificial crop structures from the definition of ‘building’ because they are “structures covered in a permeable cloth that are not a solid structure”.
386. The Reporting Officer recommended rejecting this submission on the basis that such structures clearly do not meet the definition, and to explicitly exclude all potential structures that clearly do not fall within the definition would make the definition cumbersome.
387. This matter was also considered in the Rural Hearing, where *Horticulture New Zealand* (OS1090.38) requested clarification as to whether artificial crop protection structures, which are structures with framing and a material cover and/or sides to protect crops from pests or climatic conditions, are a ‘building’. The Reporting Officer for the Rural Hearing also considered that they are a ‘structure’ in terms of the definitions in the 2GP.

#### **3.8.2.1 Decision and reasons**

388. We reject the submission by *Horticulture NZ* (OS1090.6) to exclude artificial crop structures from the definition of ‘building’. We agree that in most instances these will not meet the definition. However, we do not consider an explicit reference to artificial crop structures (or any other item which does not meet the definition) is needed within the definition.

### **3.8.3 Exempt fences from definition of structures in the rural zones**

389. *Federated Farmers of New Zealand* (OS919.85) sought to amend the definition of structures to provide a specific exclusion for fencing in the rural zones, with appropriate site standards.
390. The Reporting Officer recommended rejecting this submission but did not provide any reasons (s42A Report, p. 91).

#### **3.8.3.1 Decision and reasons**

391. Our decision is to reject the submission from *Federated Farmers* (OS919.85) to amend the definition of structures to exclude fencing in rural zones, as fencing is a permitted activity in the rural zones, so in general there is no need for an exclusion. While there are some controls on fencing with regard to vegetation clearance, earthworks and the drip line of trees, we consider this approach to be better than a blanket exclusion of fencing from the definition of ‘structures’, because in some urban situations the Plan does manage fences along with other structures.

## 3.9 Definition of additions and alterations

### 3.9.1 Background

392. The definition of 'additions and alteration' in the 2GP is as follows:

*"Any changes to the fabric, characteristics, or size of a building or structure, including the removal or replacement of building components, and the attachment or construction of additional components.*

*For the purposes of the heritage provisions of this Plan, earthquake strengthening and restoration are managed as sub-activities of additions and alterations. Additions and alterations that are related to work required to comply with section 112 (Alterations) or section 115 (Change of use) of the Building Act 2004 are also treated differently in the policies and the assessment rules.*

*This definition excludes:*

- *activities defined as repairs and maintenance or demolition; and*
- *signs, for the purposes of heritage activity status provisions."*

### 3.9.2 Submissions

#### 3.9.2.1 Industrial hearing

393. *Lainston Properties Limited* (OS239.2) sought to amend Rule 19.6.11.1 (Boundary setbacks in the industrial zones) deleting the words 'and alterations'. The reasons were that resource consent was obtained to provide a minimum front yard of 6 metres to Dukes Road for their building. A new tenant now required alterations to the building which would not alter the front yard but under the 2GP would require resource consent for an 'alteration'.

394. Mr Barry Chamberlain, on behalf of *Lainston Properties Limited*, appeared at the Industrial Hearing regarding this matter and made the following statements:

- there is no definition of 'alteration' which means that any alteration of any kind or size will trigger the requirement for a resource consent, which does not seem reasonable or necessary;
- the lack of definition means that any person undertaking work cannot design 'alterations' to comply with the rule. This has the potential to detract from Dunedin as an easy place to be involved in an industrial situation and hampers employment and economic activity in the City;
- if the DCC wishes to retain its position then the only option available is to rewrite the rule to enable reasonable certainty in its application. If this is undertaken then the submitter would request an opportunity to make a further submission on the rewritten clause.

### 3.9.2.2 Heritage Hearing

- 395. *KiwiRail Holdings Ltd* (OS322.1) sought to retain the definition of 'Additions and Alteration' without amendment.
- 396. The *University of Otago* (OS308.357) sought to amend Rule 34.3.4.13 (Campus zone – additions and alterations of character-contributing buildings) to clarify that the rule applies only to external alterations, not internal. The submitter considered that internal additions and alterations should be permitted.
- 397. For completeness, we note that *Dunedin City Council* (OS360.17) sought to correct the title of 'Additions and Alteration' by adding an 's', i.e. 'Additions and Alterations', and to add 'including building utilities', to clarify that these are included in relation to the heritage rules. We accepted both these submissions and have made these changes in the Heritage decision.

### 3.9.2.3 Commercial and Mixed Use Hearing

- 398. While he did not make a specific submission seeking amendments to the definition, Mr Michael Ovens pointed out in evidence that internal alterations in buildings with an existing internal height of less than 4m will contravene Rule 18.6.13 Minimum Ground Floor to Ceiling Height.

### 3.9.2.4 Residential Hearing

- 399. *Mr Michael Doherty* (OS695.5) sought an exception be added to the building length rule (Rule 15.6.1) for existing consented and/or legally established structures where the previously consented footprint will not be exceeded by alterations for permitted purposes. In his view, this is necessary to ensure that the on-going use of established (consented) structures for permitted purposes would not be adversely impacted, and to allow for alterations to structures where such alterations remain within the previously consented footprint.
- 400. The Reporting Officer noted that where a resource consent has been granted prior to the 2GP becoming operative, the performance standards in the 2GP do not apply, as the consent granted sets out the rules and conditions that apply to that development (s42A Report, Section 5.8.2, p. 210). The 2GP rules do not impact existing structures that have been legally established unless new, unconsented works are proposed, in which case the 2GP rules do apply. She did not consider it necessary to amend the performance standard as requested to achieve the outcome sought by *Mr Doherty*.

### 3.9.2.5 Revised recommendation

- 401. The Reporting Officer explained that, stated in the definition, 'additions and alterations' are in the buildings and structures activities sub category, which is in the development category in the nested tables.
- 402. This means that all rules that refer to either 'additions and alterations' directly, or more broadly to 'buildings and structures activities' or 'all development activities', include this activity.
- 403. In the Plan, buildings and structures, including additions and alterations, are generally permitted and managed through performance standards. These include

size, height, site coverage, and setbacks from the site boundaries and various features such as waterways and the National Grid, minimum ground floor to ceiling height (in primary pedestrian street frontages) and building colour (in commercial heritage precincts).

404. The exceptions to this are:

- Heritage Provisions: where additions and alterations to scheduled heritage buildings, character contributing buildings in heritage precincts, and large additions to non-character contributing buildings in heritage precincts, all require resource consent. This includes changes to the internal features of scheduled heritage buildings where these are protected.
- Landscape, Natural Coastal Character, and Area of Significant Conservation Value overlays: where depending on the final size of the building and the type of overlay, resource consent may be required. A performance standard also manages the reflectivity of the exterior surfaces of buildings and structures, including additions and alterations, in any landscape or coastal overlay zone.

405. The Reporting Officer for the Reconvened Plan Overview and Structure Hearing noted that the definition of additions and alterations is quite broad, which was driven by the more prescriptive rules around heritage buildings (including the protection of interior features in scheduled heritage buildings). However, this has had the unintended consequence that the definition does not work as intended in its usage for 'normal' bulk and location performance standards, which were intended (as is general planning practice) to only apply to changes to the external envelope of buildings.

406. The Reporting Officer provided two options. Either amending the definition of additions and alterations, or splitting the definition of additions from alterations. It was noted that the first option was simple and easy to implement, however the definition would then become more complex and somewhat unusual in style due to including elements of rules. The second option was more complex and would require a large number of consequential changes. This would result in a better drafting style, but with the volume of amendments created a high risk of creating unintended consequences.

407. The recommendation was to adopt the first option.

### 3.9.2.6 Decision and reasons

408. We accept the submissions by *Lainston Properties Limited* (OS239.2), and the *University of Otago* (OS308.357) to amend the definition, to clarify that it generally only applies to the exterior of building. As we understand the plan drafting, additions and alterations were not intended to apply to the internal alterations of buildings, except where these features were protected in heritage buildings. In terms of how best to achieve that outcome in the 2GP we consider that the first option suggested by Dr Johnson is better. At this stage of the plan development to embark upon a plan wide re-ordering of the magnitude required to implement the second option is not appropriate. This amendment will resolve the problems identified by *Lainston Properties* and Michael Ovens.

409. The amended definition of Additions and Alterations is shown below. This also incorporates changes made as a result of other submissions which are discussed in

the Heritage and Network Utilities decisions, and changes to clarify how signs are managed. The latter changes are made under cl. 16 as a minor change.

Changes to the external envelope (i.e. size) of a building or structure; and signs attached to buildings and structures.

For the purposes of rules that apply to protected parts of scheduled heritage buildings and scheduled heritage structures and character-contributing buildings, additions and alterations also include:

- i. ~~Any~~ changes to the fabric, or characteristics, ~~or size~~ of a building or structure, including the removal or replacement of building components, and the attachment or construction of additional components, including building utilities {Her 360.17} but not including signs and network utilities; and
- ii. changes to the internal fabric or characteristics of scheduled heritage buildings where the interior features are protected.

For the purposes of the reflectivity performance standard that applies in landscape and coastal character overlay zones, this definition also includes any change to the light reflectance value (LRV) of exterior surfaces, including roofs.

~~For the purposes of the heritage provisions of this Plan, earthquake strengthening and are managed as sub-activities of additions and alterations. Additions and alterations that are related to work required to comply with section 112 (Alterations) or section 115 (Change of use) of the Building Act 2004 are also treated differently in the policies and the assessment rules.~~

This definition excludes:

- activities defined as repairs and maintenance or demolition
- ~~signs, for the purposes of heritage activity status provisions~~

The following activities are managed as sub-activities of additions and alterations: (PO cl. 16)

- earthquake strengthening
- restoration
- signs attached to or incorporated into buildings

Additions and alterations that are related to work required to comply with section 112 (Alterations) or section 115 (Change of use) of the Building Act 2004 are also treated differently in the policies and the assessment rules.

Additions and alterations are an activity in the buildings and structures sub-category, which is the development activities category.

410. Changes are attributed to PO 239.2 and PO 308.357.

411. We reject the submission by *Mr Doherty* (OS695.5) to add an exemption for consented activities for the reasons outlined by the Reporting Officer.

## 3.10 Definition of sensitive activities

### 3.10.1 Background

- 412. The topic of definitions associated with 'sensitive activities' was addressed at the Reconvened Plan Overview Hearing on 6 December 2017.
- 413. The Reporting Officer explained that the definitions related to sensitive activities were developed firstly as part of the 2GP's approach to Natural Hazards management, which considers both the level of risk in the environment and the sensitivity of activities to that risk (in terms of the vulnerability of the activity to effects from a natural hazard and/or the potential for that activity to exacerbate the effects of the hazard).
- 414. As part of this approach, definitions were developed for 'sensitive activity'; 'potentially sensitive activity' and 'least sensitive activity'.
- 415. Activities were then assigned into the nested table categories of 'sensitive activities'; 'potentially sensitive activities' or 'least sensitive activities'. The primary purpose of these definitions was to allow natural hazards provisions to be applied to a set of activities, without the need to list all of those activities individually (essentially to create a descriptive short hand for a set of activities).
- 416. The Reporting Officer explained that, later in the Plan's development, Plan drafters decided to use the defined term "sensitive activities" in the National Grid setback provisions and transportation activities provisions as well as the natural hazards provisions. This later addition is apparent in the reference to these provisions in the category definition of 'sensitive activities' but not "sensitive activity" (which still refers only to natural hazard provisions)
- 417. She also noted that there are several provisions in the Plan that use the term 'sensitive activities' where given the content of the definition, it is clear that the Plan drafters did not intend the defined term 'sensitive activities' to be applied. Instead, the meaning of the term (i.e. the activities considered 'sensitive' in each case) was intended to be determined by its context, and by the normal plain English meaning.
- 418. She also highlighted that the Plan had a separate definition for 'noise sensitive activities', which is used in relation to noise and acoustic insulation performance standards.

### 3.10.2 Technical issues discussed by Reporting Officer

- 419. The Reporting Officer considered that different ways in which the term 'sensitive activities' had been used in the notified plan had resulted in provisions that were not clear in all situations. She provided a summary of various submissions – received at a range of different hearings – on the 'sensitive activity'/'sensitive activities' definitions, and on provisions that use these terms. She also summarised the recommendations made by the different Reporting Officers in response to these submissions. The purpose of this was to highlight that the provisions as notified, as well as their potential evolution in response to submissions considered at different hearings, were leading to a lack of clarity across the Plan.

420. To resolve this issue, she considered that a number of amendments to provisions should be made, under clause 16, to clarify provisions that refer to sensitive activities (s42A Report Reconvened Plan Overview Hearing, p. 41).
421. She considered that the notified definitions of 'sensitive activities', 'sensitive activity', 'potentially sensitive activity' and 'least sensitive activity' should be amended so that they are used only to natural hazards provisions. This would be achieved by removing references to transportation, national grid setback and network utility provisions from the definition of sensitive activities, and renaming the definitions "Natural hazards sensitive activities", "Natural hazards sensitive activity", "Natural hazards potentially sensitive activity" etc.
- a. For the National Grid Setback provisions, she suggested that either the performance standards that determine the setback of certain activities from the Grid should be amended to list all activities of concern, or a new defined term "National Grid sensitive activities" should be used in these provisions.
422. In relation to this approach, the Reporting Officer for Network Utilities (Ms Jane Macleod) considered that any definition or list of National Grid sensitive activities did not need to contain all activities listed in the notified "sensitive activities" definition; there did not seem to be any need to treat cemeteries, crematoriums, emergency services and landfills as sensitive activities for the purposes of national grid setback provisions. She noted that the definition of 'sensitive activities' in the National Policy Statement for Electricity Transmission (2008) is restricted to schools, residential buildings and hospitals (s42A Report Reconvened Plan Overview Hearing, p. 41).
423. Although there was no scope through submissions to remove these activities from the definition, she considered that this change could be made as a clarification of provisions under cl. 16 because, in her view, the notified definition of 'sensitive activities', in relation to national grid setback provisions, is not clear. It refers to types of activity "considered to be a sensitive activity for the purposes of the national grid setback, new roads..." etc– but the definition of 'sensitive activity', as noted above, relates only to natural hazards provisions.
424. In addition, Ms Macleod noted that, at the Network Utilities Hearing, Ms Ainsley McLeod, consultant planner called by *Transpower*, requested that a narrower list of activities be considered sensitive for these provisions, as follows:
- hospitals
  - registered health practitioners
  - early childhood education
  - residential activities
  - campuses
  - schools
  - training and education
  - visitor accommodation
  - marae-related activities

425. Although Ms McLeod's request was outside the scope of *Transpower's* (OS806.11) submission, it indicates that *Transpower* supports the removal of cemeteries, crematoriums, emergency services and landfills from the list of activities treated as sensitive for the purposes of National Grid provisions. Therefore, in Ms Macleod's view, no submitters would be prejudiced by this change.
426. For policies that refer to 'sensitive activities' but were clearly not designed to link to or rely on the definition, the Reporting Officer for Plan Overview noted that, if the recommendation to rename 'Sensitive Activities' to 'Natural Hazard Sensitive Activities' etc. was agreed with, this would resolve the issue. There would be no definition of 'sensitive activities' and instead a reliance on the common understanding of the term, which she thought was appropriate, as the interpretation would rely on the context of its usage.
427. In addition, we note that during deliberations Mr Paul Freeland (DCC Senior Planner), who provided technical advice to the Panel, suggested that the reference to 'sensitive activities' in the introduction to the Taieri Aerodrome Zone (Section 33.1) be amended to refer to Noise Sensitive Activities.

### 3.10.3 Amendments to provisions

428. We agree that the drafting changes discussed above are appropriate and can be made pursuant to clause 16 of the First Schedule to the RMA. This results in the following amendments to provisions:
- Amend the Natural Hazards sensitive definitions to include 'Natural Hazards' as follows:
    - Least Sensitive Activity to Natural Hazards Least Sensitive Activity
    - Least Sensitive Activities to Natural Hazards Least Sensitive Activities
    - Potentially Sensitive Activity to Natural Hazards Potentially Sensitive Activity
    - Potentially Sensitive Activities to Natural Hazards Potentially Sensitive Activities
    - Sensitive Activity to Natural Hazards Sensitive Activity
    - Sensitive Activities to Natural Hazards Sensitive Activities
  - Amend the definition of Natural Hazards Sensitive Activities to remove references to the "national grid setback, new roads or additions or alterations to existing roads".
  - Make consequential changes to various 2GP provisions that refer to these terms.
  - Add a new definition for National Grid Sensitive Activities as follows:

#### **National Grid Sensitive Activities**

The group of activities that are considered to be sensitive for the purposes of the National Grid provisions, and that consist of:

- early childhood education
- hospitals
- marae-related activities



- prisons or detention centres
- registered health practitioners
- residential activities (excluding new working from home activities in existing dwellings)
- schools
- visitor accommodation
- Make consequential changes to replace 'sensitive activities' with 'National Grid sensitive activities'.
- For clarification, amend the introduction to the Taieri Aerodrome Zone (Section 33.1) to refer to Noise Sensitive Activities.

### **3.11 Submissions on General Plan terminology**

#### **3.11.1 Use of 'footprint' and 'gross floor area'**

429. In cross-checking the Plan, the Reporting Officer identified an issue of consistency in respect of use of the terms 'footprint', 'gross floor area', 'floor space' and similar terms throughout the Plan. The terms are generally used in the Plan in the following ways:
- footprint - generally used when the size of a building or structure is important for amenity reasons (eg. the size of structures in a heritage precinct)
  - ground floor area - although a similar concept to footprint, this term has been used primarily for the hazards rules, to denote the size of a building or structure in terms of how it might deflect floodwater. It is defined in the Plan on this basis
  - gross floor area is used to denote the size of a building as it relates to commercial or on some cases residential usage. For a building with several storeys this would include the space across all floors
  - gross public floor area is used in some car parking rules. It is defined in the plan.
430. These terms are used inconsistently, and in some cases rules which specify a floor area dimension are silent on how that dimension is to be interpreted (eg. footprint or gross floor area).
431. We have considered the use of these terms and have decided that plan usability would be improved if terms are used more consistently.
432. To that end, where there is unlikely to be any prejudice to plan users, we have added or amended the terms used to match the list above, under cl. 16. These include:
- adding a definition of 'footprint' as: "The area of ground covered by a building or structure, measured from the external side of walls or external surfaces and excludes any eaves or spouting"
  - adding a definition of 'gross floor area' as: "The total internal floor area used for the stated activity. This includes all normal parts of the activity, for example storage, warehousing, office and staff facilities"
  - adding 'GFA' (gross floor area) to the abbreviations list

- removing additional descriptors from rules where these are now included in the definition:
  - residential maximum building site coverage performance standard
  - rural and CMU maximum gross floor area performance standard
- adding 'footprint' to a number of rules which were silent on how the area dimension should be interpreted. These include:
  - size limit on buildings on landscape building platforms
  - Rule 8A.5.4 (setback of earthworks from buildings greater than 10m<sup>2</sup>)
- replacing floor area and ground floor area with footprint, where the meaning clearly matches the explanation for footprint above, including:
  - residential boundary setbacks performance standard, in relation to the area of decks
  - rules in relation to structures in heritage precincts
  - boundary setbacks for structures in Schools Zone
- adding 'gross floor area' where rule is silent and meaning clearly matches the explanation for gross floor area above:
  - rural minimum site size performance standard
- replace 'floor space' with 'gross floor area' in industrial and Taieri Aerodrome maximum gross floor area performance standards.

### 3.11.2 Use of term 'motor vehicles'

433. *Robert Wyber* (OS394.84) sought that the term 'motor vehicles' in all introductions, objectives, policies and commentaries (not rules) is replaced with the term 'motor vehicles powered by fossil fuels'.
434. The Reporting Officer recommended rejecting *Mr Wyber's* submission, arguing that if the term motor vehicle was changed as requested by this submitter, the policies where it was used would not be applicable to electric cars, which would lead to the rules being ineffective in terms of managing the effects of vehicles overall. She gave examples of policy 20.2.2.6 and 15.2.3.6, which provide for the use of motor vehicles for sport and recreation where there will be no, or only minimal, adverse effects on nearby residents and other users. The effects of concern, including dust, could be generated by vehicles powered by any fuel.
435. *Mr Wyber* appeared at the Plan Overview Hearing and tabled evidence accepting that his original request was 'spread too wide'. He then sought to reduce the extent of relief sought and asked that this be limited to 'the type of operationally specific examples and any others of similar exclusionary intent as outlined by the Reporting Officer'.
436. The Reporting Officer's recommendation remained unchanged. She noted that although the proposed distinction between fossil fuel and electric vehicles has logic; given the timeframe for moving the bulk of motor vehicle stock in Dunedin to electric vehicles compared to the lifetime of the 2GP, the current wording was appropriate.

#### 3.11.2.1 Decision and reasons

437. We reject the submission of *Robert Wyber* (OS394.84). We consider that in many instances decision makers under the 2GP will be focused on the effects of the vehicles generally, rather than how they are powered. As discussed in our Transportation decision, we have considered electric vehicles in several contexts, and acknowledge

the importance this and other technologies, such as driverless vehicles, will have in the future.

### **3.12 Submission points related to generic or repeated provisions in the plan**

#### **3.12.1 Default status for activities not covered in a nested table**

438. The Reporting Officer explained that a 'default activity status' rule appears above every activity status table in the 2GP. The rule states that the nested table in Section 1.6 is intended to be a complete list of activities and that where an activity is not covered by any of the activities in the nested table, the activity status will be non-complying. These provisions override the default provision of the RMA (section 87B), which deems activities requiring a resource consent under Part 3 of the Act, but not stated in a relevant plan or proposed plan, to be discretionary activities (s42A Report, Section 6.4.4, p. 102).
439. The Reporting Officer explained that many district plans do not rely on section 87B of the RMA and instead draft rules similar to the 2GP rule, imposing either a discretionary or non-complying activity status. The Quality Planning website notes the use of the default non-complying activity status used in many plans as an alternative to the discretionary activity status where activities are not classified. The current operative Plan defaults to non-complying in most of its chapters.
440. *Ben Graham* (OS361.13), *Mathew O'Connell* (OS364.9), *Pigeon Flat Road Group* (OS717.18), *John Scott* (OS1084.10) and *Dianne Reid* (OS592.17) opposed the default activity status rule. The submitters sought that instead of defaulting to a non-complying status, any activity not covered in the nested table should default to discretionary status. The reasons were that: simply because the DCC has not thought of an activity does not mean that it will be inappropriate; non-complying activity status could create regulatory inefficiencies; and non-complying status adds nothing to the analysis.
441. The submissions were supported by *Federated Farmers of NZ* (FS2249.307) and opposed by *David and Kerry Hiom* (FS2473.17) and *Harboursides and Peninsula Preservation Coalition* (FS2267.62).
442. The Reporting Officer recommended rejecting these submissions, noting that the RMA provides for a broad range of activity status, and a non-complying status is used where an activity is not 'provided for' in a certain environment. The instance of activities not listed in the plan is likely to be rare. Generally, the omission of the activity from the table will be because it will have been seen as not appropriate.
443. The Reporting Officer further noted that the stringent nature of the examination of the activity in terms of s104D is appropriate for managing generally inappropriate activities. Due to the absence of any directly relevant policies to set out a framework for assessing a consent application, the 'no more than minor' test provides an appropriate test to fill that gap, which can be coupled with an assessment against any policies for similar activities. She concluded that the default rule was appropriate.
444. *Blueskin Resilient Communities Trust* filed legal submissions (dated 10 June 2016) in support of its further submission FS2229.9 on a submission by the *University of*

*Otago* seeking to remove non-complying activities from the Plan (see section 3.12.1). *BRCT* filed legal submissions from Campbell Hodgson and Brigit Irving that are more relevant to the issue of non-complying activities being the default activity status. These argued that:

- a non-complying activity status is correct for inappropriate activities, however where an activity has not been anticipated, no analysis of that activity's appropriateness will have been undertaken;
- the difference between discretionary and non-complying status decision-making is limited to the thresholds for consent, and not the matters able to be taken into account
- because the relevant plan provisions have not been drafted with the unanticipated activity in mind, an assessment of the activity's consistency with those provisions "cannot be made".

445. The Reporting Officer maintained her recommendation to reject the submissions seeking to remove the default provisions for activities not provided for in the nested tables.

#### 3.12.1.1 Decision and reasons

446. We reject the submissions of *Ben Graham* (OS361.13), *Mathew O'Connell* (OS364.9), *Pigeon Flat Road Group* (OS717.18), *John Scott* (OS1084.10) and *Dianne Reid* (OS592.17) to change the activity status of activities not listed in the nested table to discretionary. We agree with the Reporting Officer that these will generally be activities that are not anticipated within the zone, and therefore that non-complying status provides an appropriate test.

#### 3.12.2 Use of non-complying activity status in general

447. The *University of Otago* (OS308.440) sought that non-complying activities be removed from the Plan or changed to discretionary activities.

448. Mr Murray Brass, Policy Advisor for the *University of Otago*, noted that the 2GP contains a large number of non-complying activities, most of which appeared to result from a desire for caution, rather than reflecting the seriousness of adverse effects (including 'catch-all' provisions whereby any activity not specifically referred to is non-complying regardless of effects). Mr Brass believed that this is an unreasonable planning approach, and these provisions should be removed unless there are specific exceptional reasons to justify that level of restriction.

449. The *University's* submission was supported by the *Blueskin Resilient Communities Trust* (FS2229.9) and opposed by *Liquigas Limited* (FS2327.14). *Liquigas* submitted that the use of non-complying activity status appropriately reflects the gravity of the issues associated with the encroachment of sensitive uses into areas where potential risks to life and property associated with hazardous facilities are present.

450. The Reporting Officer recommended rejecting the *University's* submissions, noting that the RMA provides for a broad range of activity status, and a non-complying status is used where an activity is not 'provided for' in a certain environment (s42A Report, p. 120). The reasons for using a non-complying status is to require a stringent examination of the activity in terms of section 104D. To pass one of the 'gateway' tests, either the adverse effects of allowing the activity will be no more

than minor the activity is not contrary to the objectives and policies of the plan. This is generally due to an application being a 'true exception'. This can occur where the activity has distinguishing features such as its special scale, design, nature, or potentially significant positive effects on environmental, social, economic, or cultural well-being for the community, a special locational requirement (where it cannot locate where the activity is provided for within the plan). In making this assessment it is particularly important to consider cumulative effects, including potential cumulative effects caused by precedent of granting consent. This is especially important with an activity having effects that are no more than minor – as often an individual activity on its own may not be the straw that breaks the camel's back but may lead to that outcome through the precedent of approving a large number of similar activities

451. Mr Brass provided evidence detailing that over the past five years, the *University* has obtained 45 resource consents; 16 of which were for non-complying activities. This entailed significant cost and time, including applications containing a section on why the non-complying activities were 'true exceptions'. In Mr Brass's view, this had generally not served any useful resource management purpose. Under the 2GP, it was hoped that there would be a reduction in unnecessary non-complying activities; however, this was not the case. A list of current University activities that under the 2GP would be non-complying was provided, with the point made that despite this non-complying activity status these activities were readily contemplated at their locations – and are not exceptions. Mr Brass considered that they do not cause significant adverse effects and do not warrant a non-complying status.
452. Mr Brass also raised concern with the 2GP's drafting approach, including having assessment matters for non-complying activities, which appeared to be contrary to the presumption that these activities should only be approved if a 'true exception'.
453. *Blueskin Resilient Communities Trust's* legal submissions were more relevant to the issue of non-complying activity status being the default activity status, and are discussed in section 3.12.1 above.
454. The Reporting Officer maintained her recommendation to reject the submissions seeking to remove the non-complying activity status, and the default provisions for activities not provided for in the nested tables.

### 3.12.2.1 Decision and reasons

455. We reject the submission from the *University of Otago* (OS308.440). We do not accept that the activity status of non-complying should never be used, as there are situations where a higher threshold test for granting consent is appropriate, particularly where this reflects a strong policy direction. Where we have used non-complying activity status in our decisions, we have been careful to assure ourselves that the effects of an activity in that location, or that contravention of a performance standard, will have effects that are sufficient to warrant a non-complying activity status. In several instances we have changed the activity status from non-complying to something else, but in general we believe that the status has a place in the Plan.

### 3.12.3 Notification rules

456. Notification rules are included in all management and major facilities zones to provide guidance on which activities will be notified or not, and who will be

considered as an affected person. Sub-clauses 4 and 5 of the Notification rule (Rule 27.4) are as follows:

4. *In accordance with section 95B of the RMA, where an application is not publicly notified, Council will give limited notification to all affected persons.*
  5. *All other activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.*
457. *Mercy Dunedin Hospital Limited* (OS241.43) opposed subclause 4 and requested that it be removed, as it is not consistent with the RMA. The submitter considered that Section 95B (1) of the RMA specifies that a consent authority 'must' determine if there are affected parties, and s95B (2)-(4) outline how limited notification 'must' be given. This is adequately encompassed in sub-clause (5) and therefore sub-clause (4) is unnecessary.
458. Louise Taylor, consultant planner for *Mercy*, considered the rule to be "superfluous" (Statement of Evidence *Mercy Hospital* Hearing, Appendix A, pp. 3-4).
459. The Reporting Officer considered that it is desirable to provide Plan users with assistance without the need to fully understand the provisions of the RMA. She also noted that in terms of drafting protocol for the 2GP, notification advice is provided in a number of locations throughout the Plan. She therefore recommended that the submission from *Mercy Dunedin Hospital Limited* (OS241.43) be rejected (s42A Report, Section 5.11.1, p. 69).

### 3.12.3.1 Decision and reasons

460. We accept the submission by *Mercy Dunedin Hospital Limited* (OS241.43) to remove subclause 4 from the *Mercy Hospital* notification rule (27.4) as we agree that it is encapsulated within sub-clause 5 and is therefore superfluous. We have removed the equivalent clause from all notification provisions in the Plan as a minor and inconsequential change under cl. 16. Further minor amendments are required to align the notification rules throughout the plan considering amendments to the RMA under the 2017 Amendment Act. These are attributed to cl 16.

### 3.12.4 Submissions on boundary treatment performance standard

461. The 'Boundary treatments and other landscaping' performance standard appears in the Commercial and Mixed Use, Industrial and several Major Facilities zones.
462. The Dunedin City Council sought to make some minor amendments to the wording of this rule to avoid ambiguity and enable greater practicality and enforceability (OS360.213).
463. The Reporting Officer recommended accepting the submission, as the proposed amendments simplified and provided additional clarity to this performance standard. No submissions in opposition were received (s42A Report, p. 100).

### 3.12.4.1 Decision and reasons

464. We accept the Dunedin City Council's submission OS360.213, and have made the following changes across the plan to the Boundary treatments and other landscaping performance standards, as requested, and for the reasons given by the submitter:

- '...be protected by a physical barrier that prevents cars from ~~accidentally driving into or~~ damaging plants;
- '...f for required trees, use trees that are at least 1.5m high at the time of planting and capable of growing to a minimum height of 5m within 10 years of planting; ...'
- '...Any road boundary fences provided must be placed on the property side of any required road frontage landscaping required by this rule.

### 3.13 Family Flat provisions

465. The topic of family flat provisions was initially addressed in the Plan Overview, Residential, Rural and Rural Residential Hearings. At the Reconvened Plan Overview Hearing on 6 December 2017, the Reporting Officer provided summary recommendations on the submissions related to family flats. She also considered the drafting of these provisions. She clarified that in most cases she did not depart substantially from the recommendations made by the Reporting Officers at the original hearings; instead she made recommendations about the drafting and format of changes to improve consistency across the three zones that have family flats provisions.

466. To avoid repetition, we address all the submissions related to family flat provisions in this decision.

#### 3.13.1 Background

467. The s42A Report for the Reconvened Plan Overview Hearing on 6 December 2017 provided the following background to the topic of family flats.

468. Family flats are secondary residential units, sometimes referred to as granny flats or minor dwellings in other district plans.

469. A Residential Unit is defined as:

*For the purposes of determining density, a residential unit is any building, or part of a building, that is capable of being used as a self-contained residence with sleeping, cooking, bathing, and toilet facilities.*

470. It is important to note that a residential unit is not the same as a residential building. A residential unit can be a part of a residential building (for example an apartment in an apartment building, or a house divided into two flats).

471. Family flats are defined as:

*A secondary residential unit occupied by a person or persons related to, dependent on, or, in the rural zones, employed by, the household that lives in the primary residential unit on the same site. To be considered a family flat, the residential unit must be:*

- *within the same site as the primary residential unit;*
- *on the same available water and waste infrastructure connection, or the same non-reticulated wastewater disposal system;*
- *on the same household electricity account; and*
- *share the same vehicle access as the primary residential unit.*

*This definition excludes sleep outs.*

472. The 2GP provides for family flats as an aspect of residential activity (land use). The rules providing for family flats are in the density performance standard in the residential, rural and rural residential zones (rules 15.5.2, 16.5.2 and 17.5.2).
473. There are restrictions on family flats included in the definition (as shown above) as well as in the density performance standard.
474. Not meeting the restrictions in the definition of a family flat means that a residential unit is considered a 'normal' residential unit rather than a family flat and the rules relating to a second residential activity on a site apply (which requires all performance standards to be met as if the sites were to be subdivided).
475. The density performance standard limits:
  - the number of family flats to one per site (with contravention of the standard leading to a non-complying activity status)
  - the size of family flats to 60m<sup>2</sup> (with contravention of the standard leading to a non-complying activity status); and
  - in the rural and rural residential zones, a requirement that a stand-alone family flat may only have a maximum separation distance of 30m from the primary residential building (with contravention of the standard leading to a restricted discretionary activity status).
476. The Residential and rural zone sections have policies which direct the family flat component of the density standards as follows:

Policy 15.2.4.3

*Limit the size of family flats to a size that:*

- a. *reflects their purpose as providing a second residential unit for people related to residents of the main residential unit; and*
- b. *minimise any adverse effects on the amenity and character of the neighbourhood.*

Policy 16.2.1.6

*Require any family flat to be of a size and location in relation to the primary residential building (house) that:*

- a. *reflects its use for housing a person or persons related to, dependent on, or employed by the household that lives in the primary residential building on the same site; and*
- b. *adequately discourages future pressure to subdivide the family flat.*

477. There is no equivalent policy in the Rural Residential Section, which appears to be an accidental omission.



### 3.13.2 Submissions and initial recommendation

#### 3.13.2.1 Support for provisions

478. *Christopher Murray Davis* (OS314.2) and *Marlene Du Toit Parks* (OS62.1 and OS62.2) submitted in support of family flats provisions. *Ms Du Toit Parks* supported Rules 15.5.2 and 16.5.2.2 because she considered enabling family flats to be built would allow the submitter to house and support elderly parents. These submission points were included in the Residential and Rural s42A Reports.

#### 3.13.2.2 Request to reduce requirements/restrictions

479. *Alex Charles and Jackie St John* (OS876.1) sought the deletion of: 'on the same household electricity account; and share the same vehicle access as the primary residential' from the definition of 'Family Flats'. This submission point was considered at the Plan Overview Hearing.

480. At the Plan Overview Hearing, a statement from *Mr Charles and Ms St John* dated 8 June was tabled, outlining that:

- the submitter's suggested amendment was not intended to undermine the purpose of the definition, which was supported
- the suggested amendment related specifically to the submitter's property, which had physical constraints that would require resource consent for a family flat to be constructed. The most efficient access for a family flat on their property would be separate to the primary residential unit, onto a different street, and the distance between the flat and the unit would be significant
- it is not always practicable for infrastructure to be shared
- alternatively, the submitter suggested the inclusion of "where practicable" to the requirement to share an electricity account, and vehicle access.

481. In response, the Reporting Officer was sympathetic to the situation of the submitter and the challenges they outlined in their specific circumstances. The Reporting Officer considered it would be ultra vires to include a matter of judgement in a definition. To achieve the result sought by the submitter while maintaining the legality of the Plan provisions, the Reporting Officer suggested that an option for the Panel to consider was to move the two matters – shared electricity account and shared driveway to a performance standard and make contravention of this standard a restricted discretionary activity. The judgement of 'practicability' could then be made legitimately via a consent process. The Reporting Officer suggested this could also be done for infrastructure connections (currently included in the definition).

#### 3.13.2.3 Request for amendments or clarity regarding tenancy of Family Flats

482. The *Otago Property Investors Association (OPIA)* (OS539.3) requested the definition of family flats be made less prescriptive. *Judy Martin* (OS708.2) similarly sought the deletion of the wording relating to relationship or dependency. She also sought to amend the definition of family flats to remove the conflicting, confusing and intrusive instructions as to who can occupy them. *Robert Wyber* (FS2059.29 and FS2059.30) submitted in opposition to these submissions.

483. *Alan Middleditch* (OS207.1) requested clarification about what happens if a non-family member wants to live in the family flat. *Mr Wyber* (OS394.63) also sought that the definition indicate what the status of a family flat becomes when "the person or persons related to, dependant on or employed by the household that lives in the primary residential unit on the same site" moves or passes on and is not replaced by someone else who meets the definition.
484. These submission points were considered at the main Plan Overview Hearing on 8-10 June 2016.
485. The Reporting Officer recommended rejecting the submissions as the removal of the limitations on use would largely negate the difference between a family flat and a second residential dwelling (s42A Report, p. 68).
486. However, she did recommend amendments that increased the range of people that could occupy family flats in response to the submissions by *OPIA* and *Ms Martin* (s42A Report, Section 6.3.2, p. 67). She thought these changes would provide a broader view of what a 'normal' residential household's makeup might be, rather than allowing family flats to be used as a second residential activity. This in part also addressed the concerns of *Mr Wyber*, as it provided clarity as to who can occupy a family flat. However, the Reporting Officer was concerned that any further reduction in the proposed limitations on use would largely negate the difference between a family flat and a second residential unit.
487. The Reporting Officer recommended (s42A Report, Section 6.3.2, p. 68):
- accepting the submissions seeking clarification as to who can occupy a family flat
  - rejecting the removal of limitations on the use of a family flat by persons unrelated, or independent of the primary residential unit
  - amending the definition of family flats as follows:

*A secondary residential unit occupied by a person or persons related to; dependent on; or ~~in the rural zones~~, or employed on-site as a domestic, child-care, or farm worker, by the household that lives in the primary residential unit on the same site. To be considered a family flat, the residential unit must:*

- *be within the same site as the primary residential unit;*
- *be on the same available water and waste infrastructure connection, or the same non-reticulated wastewater disposal system;*
- *be on the same household electricity account; and*
- *not be on a different tenancy agreement to the primary residential unit, and*
- *share the same vehicle access as the primary residential unit.*

*This definition excludes sleep outs.*

*'Related to or dependent on' means a person who has a close connection to the resident(s) of the primary residential unit, including by being a family member, friend or flatmate which may include contribution to shared household costs.*

488. At the Plan Overview Hearing *Robert Wyber* (OS394.63 and FS2059.30) raised issues around the enforceability of the restrictions around the nature of the occupation of

family flats and was particularly concerned about family flats being rented out. He argued this was a loophole that needed to be rectified. He argued that a family flat, when not needed for a family member or employee, should be stripped out and converted to a sleepout or shed, as it would not meet density and parking requirements so should not be operated as a residential unit. He referenced the Christchurch City Council's process for similar development.

489. At the Plan Overview Hearing *Judy Martin* (OS708.2) indicated she supported the recommended amendment to extend the ability of employees to live in family flats in more than just the Rural Zone. *Ms Martin* did not consider there needed to be restrictions on financial gain from letting out family flats and suggested they should be able to be built on a vacant section prior to the construction of the primary dwelling. She suggested that if the primary dwelling wasn't constructed within five years, family flats could be removed. In response to questions, the Reporting Officer clarified that if constructed first, family flats would be the primary dwelling and would be able to be extended to make it larger. The Reporting Officer had suggested amendments that would broaden the provisions to include a wider range of employees on the property and explained that flatmates with contributions to the household are included, as the restrictions were about it not being a separate household, such as separate tenants in the primary dwelling and family flats (Reporting Officer's report for Reconvened Plan Over Hearing, p. 7).
490. In response to submissions and discussions at the Rural Hearing regarding the inclusion of conservation activity associated with visitor accommodation, and questions on whether the definition of family flats should be amended so that the flats may be occupied by conservation volunteers as well as farmworkers, the Rural Reporting Officer (Mr Michael Bathgate) noted in the revised recommendations that the definition as notified refers to "persons...in the rural zones, employed by the household that lives in the primary residential unit". The Reporting Officer considered that this definition included conservation workers. However, the amendment recommended in the Plan Overview s42A Report, to refer to "persons... employed on-site as a domestic, child-care or farm worker" could be interpreted as excluding conservation workers. The Reporting Officer considered that it was within the scope of the definition as notified to add to the previously recommended amendment, so that conservation workers are also referred to (Reporting Officer's report for Reconvened Plan Over Hearing, p.8).
491. The Reporting Officer considered that there is scope to amend the definition to include conservation workers and volunteers, and suggested that appropriate wording would be as follows:

*"A secondary residential unit occupied by a person or persons related to, dependent on, or, in the rural zones, employed on-site, in a paid or voluntary capacity, as a domestic, child-care or farm or conservation worker by, the household that lives in the primary residential unit on the same site..."*

#### 3.13.2.4 Request to add additional restrictions on the location or building materials of stand-alone family flats in front yards

492. *Robert Wyber* (OS394.47) sought a new requirement for family flats to be located behind the principal dwelling. *Mr Wyber's* submission did not provide specific reasoning for this request.

493. *Graeme and Lynette Reed* (OS491.3) sought the addition of a new performance standard restricting the location of family flats to where they were not visible from roads, unless they were built of the same material and design as the principal dwelling on the property.
494. These submission points were considered at the Residential Hearing.
495. The Residential Reporting Officer (Ms Jacinda Baker) noted that family flats may be provided for either within the same building as the principal dwelling, or in a stand-alone building. In the case of stand-alone buildings, she considered that the performance standards relating to maximum height and boundary setbacks, together with the maximum family flat size set out in Rule 15.5.2.5, were sufficient to maintain or enhance the amenity of the streetscape, in accordance with Objective 15.2.4. She also noted that due to the prevalent pattern of development, with dwellings located at or close to the front boundary setback requirement, there would be limited circumstances where family flats can be built in front of the principal dwelling as a permitted activity (Residential s42A Report, p. 172).
496. Ms Baker considered that requiring family flats to be located behind the primary dwelling would place undue restrictions on the development of these units, and may exclude the only practicable or accessible area in which they could be located. Furthermore, in some cases, she considered the front of a site may provide the most accessible option for a person with limited mobility (Residential s42A Report, p. 172).
497. The Reporting Officer did not consider it appropriate or necessary to require family flats to be built of the same material as the primary dwelling, and suggested that in some cases it may even be contrary to the objectives of the Plan in terms of streetscape amenity, as the majority of houses in Dunedin are more than 20 years old and building materials may be unattractive and/or not as energy efficient as modern materials (Residential s42A Report, Section 5.8.10, p. 306).

### 3.13.2.5 Request to increase size

498. *Jacqui Hellyer* (OS372.1) sought that the maximum gross floor area for family flats be increased, provided that the density and bulk and location provisions were satisfied. In *Ms Hellyer's* view, given the sloping nature of many backyards in the proposed General Residential 1 Zone, the 4.5m maximum height was too restrictive and the 60m<sup>2</sup> too cramped.
499. *Alan Middleditch* (OS207.2) also sought that the maximum area of family flats be increased from 60m<sup>2</sup> to 70m<sup>2</sup>. He considered that 60m<sup>2</sup> was too restrictive and would require a laundry in the kitchen which was not ideal for Maori and Pacific Island cultures.
500. These submission points were considered at the Residential Hearing.
501. The Residential Hearing Reporting Officer indicated that based on her understanding of the potential configurations for this type of development, there appeared to be a number of standard design options that provide for a two-bedroom unit as a secondary residential unit on a site, with laundry facilities located in the bathroom (Residential s42A Report, Section 5.7.1.6, p. 171). She indicated that a limit on size was to encourage them to be used for their intended purpose and to reduce adverse amenity effects that may result from the establishment of new family flats,

particularly for immediate neighbours. The Reporting Officer was of the opinion 60m<sup>2</sup> would provide sufficient space for one or two bedroom family flats, and that the 60m<sup>2</sup> maximum area should not be increased.

502. In cases where landowners sought to establish family flats larger than 60m<sup>2</sup>, resource consent would be required for a non-complying activity. The Reporting Officer acknowledged that there may be cases, as highlighted by *Ms Hellyer*, where family flats larger than 60m<sup>2</sup> could be established without significant adverse effects on the surrounding environment, taking into account factors such as the size of the site and the proximity of neighbours. The Reporting Officer recommended that the activity status for family flats that do not comply with Rule 15.5.2.5 should be amended from non-complying to restricted discretionary as this would allow the individual circumstances of each proposal to be considered, and consent granted where proposals are considered to be consistent with Policy 15.2.4.3. She noted that this amendment would also be consistent with the approach taken in rural and rural residential zones, where the contravention of size defaults to a restricted discretionary activity.
503. The submitters did not appear at the hearing.
504. In the *Residential Follow Up Questions* Memorandum dated 3 March 2017, the Reporting Officer for the Residential Hearing provided further information requested by us about the size restriction of 60m<sup>2</sup>.
505. The memorandum set out that:
  - in setting the figure of 60m<sup>2</sup>, the Reporting Officer considered the size factors for residential units commonly used by other Councils and considered the standard designs for stand-alone family flats offered by various companies (which offered 1 and 2 bedroom units at 60m<sup>2</sup>). It was determined that the figure of 60m<sup>2</sup> was an appropriate figure that would allow for small 1 or 2 bedroom family flats ancillary to the primary dwelling. Larger family flats may have more effects on neighbours and may be more likely to be used for purposes other than those intended by the provisions providing for family flats; and
  - clarity about the size of family flats could be improved through the addition of reference to the gross floor area (GFA); and
  - the recommendations made by the Reporting Officer to make contravention of performance standards for size a restricted discretionary activity was a compromise position to allow resource consent for family flats over 60m<sup>2</sup> to be applied for, rather than increasing the size limit (as requested by *Ms Hellyer* (OS372.1) and *Mr Middleditch* (OS207.2)) (Residential s42A Report, p. 172).
506. The Reporting Officer provided revised recommendations in the memorandum suggesting that restricted discretionary activity status for contravention of the performance standard for size was still considered appropriate. However, if we considered this to be too enabling, the option of discretionary activity status could also be considered, and/or additional guidance on the assessment of resource consents could be provided to specify specific circumstances where consent should, or should not, be granted.

### 3.13.2.6 Request to increase separation distance in Rural Zone

507. *Mr Shane Johnson and Ms Sharee Watts* (OS1067.4) requested that the 30m separation distance be increased based on the size of the primary building (e.g. a family flat must be within 120m of a primary residential building that is 120m<sup>2</sup>). They submitted that a 30m separation for family flats was too close in a rural setting, suggesting the contours in Dunedin often don't allow for buildings this close, and that staff and employers need space from each other. This submission point was considered at the Rural Hearing.
508. The Rural Reporting Officer noted that the option of not requiring family flats to be within, attached to, or close to the principal dwelling was considered in the Rural Section 32 Report. He was of the opinion that family flats should be located close to a primary dwelling to lessen the impacts on amenity and character, and reduce pressure for future subdivision. The separation distance of 30m was derived from a review of provisions for family flats and minor dwelling units in other district plans. His view was that the formula suggested by the submitter would provide too great a separation and give the appearance of separate residential activities occupying separate curtilages. It would also make it difficult to meet the notified definition of family flats, which required family flats to share the same services (including non-reticulated wastewater disposal systems) and same vehicle access (Rural s42A Report, p. 267).
509. The Reporting Officer considered it was appropriate to retain the standard and to consider any non-compliance with the 30m setback through a restricted discretionary consent process that could assess any reasons given for the larger separation and whether the increased distance could create pressure for future subdivision of the site or have any other adverse effects on rural character and visual amenity.
510. The submitters did not appear at the Hearing.

### 3.13.2.7 Request to amend activity status for contravention of density for family flats performance standard

511. *Harbourside and Peninsula Preservation Coalition (HPPC)* (OS447.89, 113) sought to amend the density rules in the rural and rural residential section (Rules 16.5.2.3.b and 17.5.2.2) by appending a sentence clarifying that exceeding one family flat per site results in a non-complying activity status, with associated consequential changes.
512. The submitter stated that "failure to meet performance standards that are quantified and germane to the very definition of a zone need to obtain the full scrutiny of RMA 104D"; and "The possibility of more than one family flat on Rural Residential sites would be inappropriate and the family flat concept would be open for abuse; for instance, the potential construction of five family flats for each of five children. We think this could become an unintentional outcome of the way the 2GP assessment provision is currently written".
513. The submission was opposed by *Howard Saunders* (FS2373.33), stating that the original wording was satisfactory. These submission points were considered at the Rural and Rural Residential Hearings.

514. The Rural and Rural Residential Reporting Officer clarified that breaches of the density rule for family flats were non-complying activities. Breaches of the distance from the principal residential building and the maximum gross floor area of family flats were restricted discretionary activities. This needed to be clarified in the rule wording, and various amendments were proposed (Rural s42A Report, pp. 270-276 and Rural Residential 42A Report, p. 72)
515. Mr Craig Werner appeared at the Rural and Rural Residential Hearings on behalf of the *HPPC* but did not provide evidence on this topic.

### 3.13.2.8 Request to construct the family flat prior to the main dwelling

516. *Judy Martin* (OS708.4) sought that new development on a rural residential site be allowed to build the smaller family flat before the main dwelling, with a five or ten-year grace period before the main dwelling is constructed. The family flat could be required to be removable in this situation, in case of non-compliance.
517. This was heard in the Rural Residential Hearing.
518. The Reporting Officer for the Rural Residential Hearing noted that there is nothing to stop the family flat being built first (Rural Residential s42A Report, pp. 72 - 73)

### 3.13.2.9 Further recommendation

519. Having considered all the evidence and recommendations on family flats made at the residential, rural and rural residential hearings, the Reporting Officer at the Reconvened Plan Overview Hearing (6-8 December 2017) provided revised recommendations, to ensure a consistent approach across the three zones. We note that no submitters attended or tabled evidence at the Reconvened Hearing.
520. In summary, the recommended amendments were to (Plan Overview Reconvened Hearing s42A, p. 8):
- a. move all restrictions/performance standards, except the limit on the number of family flats (of 1 per site), from the definition and density performance standards in each zone into new family flat performance standards;
  - b. as a minor and inconsequential change (clause 16) split the family flat performance standard into two subheadings as follows to make it easier to reference those standards that default to a different activity status if contravened (as recommended below):
    - Family flat – Tenancy (defaults to non-complying)
    - Family flat – Design (defaults to restricted discretionary)
  - c. as a minor and inconsequential change (clause 16), amend the format of the density standard in the residential section to be consistent with the rural section, and more clearly show the allowance for a family flat
  - d. amend the activity status for performance standard contravention for family flats as follows:

Restriction	Location in 2GP as notified	Recommended location	Notified Activity Status	Recommended Activity
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			<b>if not met</b>	<b>Status if not met</b>
Shared services and access	Definition	Family flats performance standard	NC	RD
Size – 60m <sup>2</sup>	Density Performance standard	Family flats performance standard	NC Residential zones) RD (Rural and Rural Residential zones)	RD
Tenancy	Definition	Family flats performance standard	NC	NC
Located on same site as primary residential unit	Definition	Definition	NC	NC
Max. separation distance of 30m (Rural and Rural Residential zones)	Density Standard	Family flats performance standard	RD	RD

521. As a consequential change, amend the restricted discretionary and non-complying assessment rules, and relevant policies, in each zone.

### 3.13.3 Decision and reasons

522. Firstly, we agree with many of the submissions made to amend the family flats provisions. We also agree with the Reporting Officer that in order to give effect to them it is necessary to make some structural changes to the provisions, including removing all restrictions embedded in the definition and the density performance standards (apart from the density restriction itself) and adding them to two new family flats performance standards in each of the residential, rural and rural residential zones (15.5.15.1, 2; 16.5.14.1, 2 and 17.5.13.1, 2). This streamlines the definition and moves the parts that are in fact a rule to the rule section.
523. One performance standard contains all the restrictions on tenancy, and the other on design of the family flat. We have made consequential amendments to the activity status tables (rules 15.3.3.3, 16.3.3.23 and 17.3.3.10) to add a reference to the new performance standards.
524. These changes are consequential on accepting the submissions discussed below, in particular OS876.1, OS207.1 and OS207.2, OS372.1, and OS394.63, and in some cases have been made under cl. 16, where content that has not been submitted on has been moved to ensure the rules are coherent. Where further changes have been made in response to submissions, these are outlined below.
525. We accept in part the submission by *Alex Charles and Jackie St John* (OS876.1) to remove the requirement that the family flat uses the same driveway and electricity



account. While we do not agree to delete these requirements, we consider the relief recommended by the Reporting Officer to make contravention of these standards a restricted discretionary activity is a reasonable compromise that will go some way to providing relief to the submitters. This will allow resource consent to be applied for and the practicality of achieving the performance standards to be considered on a case-by-case basis. We consider that these requirements are verifiable mechanisms that tie family flats to the primary households; however, there will be situations where this is adequately achieved by other means.

526. We accept in part the submissions by *Robert Wyber* (OS394.47) and *Graeme and Lynette Reed* (OS491.3) that requested additional restrictions on the location and building materials of family flats in front yards. We have not added any additional restrictions on the design or location of family flats, but acknowledge that the location and materials of family flats can mitigate the effects of family flats on amenity values. Accordingly, for family flats which contravene the design aspects of the new Family Flat performance standard we have added the following 'potential circumstances that may support a consent application' to the assessment rules for restricted discretionary performance standard contraventions in the residential and rural zones (rules 15.9.3.X and 16.9.3.1):
- the family flat is in the same residential building as the primary residential unit;
  - the design of the family flat matches the design of the primary residential building;
  - landscaping or other forms of screening will be used to reduce the visibility of the family flat; and
  - the family flat will not be easily viewed from outside the site.
527. These changes are attributed to PO 394.47 and PO 491.3. We note that the assessment guidance for family flats in the Rural Residential Zone (Rule 17.9.3) already includes these assessment matters; however, we have made amendments to under cl. 16 to clarify that these are only relevant where the family flat is in a separate building to the primary residential unit, as this is what was implied by the drafting but not specifically stated. This also gives consistency between the various sections of the Plan.
528. We accept in part the submissions of *Jacqui Hellyer* (OS372.1) and *Alan Middleditch* (OS207.2) which sought to increase the maximum area of family flats. While we consider that a maximum gross floor area of 60m<sup>2</sup> is sufficient to enable a family flat being able to be put to its intended purpose while limiting the impact on residential amenity, we agree with the relief recommended by the Reporting Officer that the activity status for contravention of this performance standard should be restricted discretionary rather than non-complying in the residential zones, as it is likely that there will be situations when a larger gross floor area may be appropriate depending on the location on, and/or size of, the site. We note that in the rural and rural residential zones contravention of the size limit is already a restricted discretionary activity.
529. We reject the submission by *Shane Johnson and Sharee Watts* (OS1067.4) to reduce the separation distance between family flats and the primary residential building (house) in a Rural Zone. We consider that it is important to locate family flats close

to the primary residential building, to lessen impacts on amenity and character and reduce pressure for future subdivision.

530. Several submitters requested amendments or clarity in relation to the tenancy of family flats. We accept in part the submissions of the *Otago Property Investors Association* (OS539.3), and *Judy Martin* (OS708.2) insofar as we have enabled family flats to be occupied by a domestic or child-care worker employed on-site. Additionally, we agree with the Reporting Officers' recommendations that the rule be clarified to indicate that family flats can be used by voluntary workers in the rural and rural residential zones. Amendments to the new performance standards 15.5.15.1, 16.5.13.1 and 17.5.13.1 to achieve this are attributed to PO 539.3 and PO 708.2.
531. *Alan Middleditch* (OS207.1) and *Robert Wyber* (OS394.63) sought clarification about what happens if a non-family member wants to live in the family flat. We accept in part these submissions and note that the Reporting Officer advised at the hearing that contravention of the family flats provisions of the 2GP would result in the need for resource consent. We have amended the family flats tenancy performance standards (15.5.15.1, 16.5.13.1 and 17.5.13.1) to clarify that family flats must not be on a different tenancy agreement to the primary residential unit and that contravention of these rules is a non-complying activity. We have also made consequential amendments in response to these submissions and those discussed above to the relevant policies (15.2.4.3 and 16.2.1.6 and a new Policy 17.2.1.7), to clarify that density and tenancy restrictions are to reduce the risk that the family flat will be used for a separate tenancy or subdivided off in the future. Amendments have also been made to the non-complying assessment rules (15.12.5.8, 16.12.6.8 and 17.12.6.7). These changes are attributed to PO 207.1 and PO 394.63.
532. The Reporting Officer recommended clarifying what 'related to or dependent on' in the provisions means, suggesting it to mean a person connected to the primary residential unit including being a family member, friend or flatmate, who contributed to shared household costs. We disagree with this recommendation and instead retain the notified wording specifying a family flat must only be occupied by a person or persons related to or dependent on the household that lives in the primary residential unit on the same site, without clarifying this term further. Our reason is that anyone can claim to be a friend or flatmate. The provisions for family flats are a significant concession to several normal standards, allowed to meet the identified needs of dependents of the occupiers of the primary buildings. Friends and flatmates are not dependents.
533. We accept in part the submissions of the *Harbourside and Peninsula Preservation Coalition* (OS447.89 and OS447.113) to make it clearer that more than one family flat on a site in the rural or rural residential zones is a non-complying activity. We consider that the Density performance standards for the residential, rural, and rural residential zones are explicit that contravention of the performance standard is a non-complying activity. As discussed earlier, for clarity we have relocated the non-density related family flats performance standards from the Density performance standards and into the new Family Flats performance standards.
534. The new performance standard in the residential zones section (15.5.15.1) is shown below, with those in the rural and rural residential sections (rules 16.5.13.1 and 17.5.13.1) following a similar approach:

**"15.5.15.1 Family Flats- Tenancy**

- a. *Family flats must:*
- i. *only be occupied by:*
    - 1. *a person or persons related to or dependent on the household that lives in the primary residential unit on the same site; or*
    - 2. *employed on-site as a domestic or child-care worker by the household that lives in the primary residential unit on the same site; and*
  - ii. *not be on a different tenancy agreement to the primary residential unit.*
- b. *Standard residential activity that contravenes this performance standard is a non-complying activity.*

**15.5.15.2 Family Flats - Design**

- a. *Family flats must:*
- i. *not exceed a maximum gross floor area of 60m<sup>2</sup>;*
  - ii. *be on the same available water and waste infrastructure connection, or the same non-reticulated wastewater disposal system as the primary residential unit;*
  - iii. *be on the same household electricity account; and*
  - iv. *share the same vehicle access as the primary residential unit.*
- b. *Standard residential activities that contravene this performance standard are a restricted discretionary activity."*

## **3.14 Subdivision provisions**

### **3.14.1 Section 226 of the RMA**

535. Section 226 of the RMA sets out the restrictions on issue of certificates of title for subdivision. It sets out a number of situations where the Registrar General of Land can issue a certificate of title for land shown as a separate allotment on a survey plan. Section 226(1)(e)(ii) provides for a certificate of title to be issued if a certificate is issued by the territorial authority stating that the allotment is in accordance with the requirements and provisions of the district plan and the proposed district plan (if any).
536. The *NZ Institute of Surveyors – Coastal Otago Branch* (OS490.4) sought the inclusion of section 226(1)(e)(ii) of the RMA in the 2GP, and that the following text from the operative District Plan be included in all zone provisions within the 2GP.

*"Applications for certification of allotments on an existing Survey Plan pursuant to section 226(1)(e)(ii) of the Resource Management Act 1991 subject to their being in accordance with the provisions of the District Plan. Allotments for certification are required to have all services available within the road providing access or within the allotment and to have legal and physical access. All title boundaries to be created by certification that are within proximity to structures, must not create a non-complying structure in accordance with this District Plan."*

537. The Reporting Officer, who on this topic was Mr Paul Freeland, noted that the 2GP cannot override this section of the RMA, and there are many other sections of the RMA that apply to the use of land which are not replicated in the 2GP. He did not support the inclusion of direct references to the legislation in the 2GP, as subsequent changes to that legislation will require plan changes to be made. The recommendation was to reject the submission, but he suggested including a Note to Plan User drawing attention to section 226(1)(e)(ii) of the RMA. This could be amended without a formal plan change if the legislation is amended.
538. We received evidence dated 31 May 2016 from *NZ Institute of Surveyors – Coastal Otago Branch* (OS490.4) submitting that in their opinion the inclusion of advice on section 226 was necessary to guide both DCC planners and applicants as to the conditions required to obtain approval. The submission stated: *"The specific provisions need to be stipulated because a section 226 decision does not allow for any conditions of consent."* Amended wording was provided by the submitter to align better with the 2GP:

*"Applications for certification of allotments on an existing Survey Plan pursuant to section 226(1)(e) of the Resource Management Act 1991 are acceptable and are subject to their being in accordance with the provisions of the District Plan. Allotments for certification are required to comply with the subdivision performance standards of the relevant zone. No land use or development activity non-compliances must arise on the resultant allotment as a result of the certification of that allotment."*

539. In his revised recommendation, the Reporting Officer recommended that the following Note to Plan Users (General Advice) be inserted after each Activity Status table for subdivision in the management and major facility zones:

*"Under section 226(1)(e) of the Resource Management Act 1991, where an existing allotment shown on a survey plan meets all relevant provisions of the district plan and any proposed district plan, the Dunedin City Council must issue a certificate to that effect to enable the Registrar-General of Land to issue a certificate of title for that separate allotment."*

#### 3.14.1.1 Decision and reasons

540. We accept the submission by *NZ Institute of Surveyors – Coastal Otago Branch* (OS490.4) to include references to section 226(1)(e)(ii) of the RMA in the 2GP. We agree with the recommendation of the Reporting Officer to add a Note to Plan Users, to sit under the subdivision activities activity status table, in all management and major facilities zones. This will improve efficiency by making Plan users aware of a RMA provision that negates the need for resource consent for subdivision in some circumstances.
541. The note is worded as recommended in the Reporting Officer's revised recommendations, with amendments attributed to PO 490.4.

#### 3.14.2 Boundary Adjustments

542. *The New Zealand Institute of Surveyors – Coastal Otago Branch* (OS490.3, OS490.31 and OS490.33) sought that boundary adjustments are provided for as a restricted discretionary activity, and a new performance standard for productive capacity applies. This submission was heard at the Rural Hearing. The submitter

noted that “there is no specific reference to boundary adjustment type surveys, wherein title adjustments are made between adjoining owners, sometimes arising from “give and take” fence positions, sometimes arising from topographic or drainage patterns present, or the agreement between neighbours to acquire additional land for other reasons. The last noted situation could be readily enough processed as a subdivision requiring compliance, area wise, with the application zone requirements, but in the case of the first two examples, a practical approach is usually required as the farming approach will probably not change.” The submitter sought specific mention of rural boundary adjustments in the 2GP, with a performance standard that the productive capacity of the adjustment would be maintained across the adjoining properties, to give certainty to the rural community.

543. The Reporting Officer, which was Mr Freeland, supported the submissions in part, stating that the submitter’s request that boundary adjustments be provided for in the 2GP as a restricted discretionary activity had been considered at the time of drafting, but rejected (s42A Report, p. 99). This was because it was difficult to determine the threshold at which a ‘boundary adjustment’ had ‘knock-on or unintentional effects’ such as circumventing density requirements.
544. Mr Freeland noted that boundary adjustments that meet the 2GP’s performance standards are restricted discretionary activities, and he considered it appropriate for boundary adjustments that did not meet these standards to be considered under a non-complying activity status.
545. He went on to note that the minimum site size performance standard for subdivision as notified essentially provides for boundary adjustments for three-site subdivisions, but recommended this should be amended to include two-site subdivisions, including boundary adjustments.
546. At the Rural Hearing, Mr Bathgate did not recommend acceptance of the submission for a new performance standard relating specifically to boundary adjustments. He also considered that the concept of maintaining productive capacity across property boundaries would be difficult to encapsulate in an objective and measurable rule. The Reporting Officer also noted that the assessment of general subdivision as a restricted discretionary activity includes consideration of the effects on long term maintenance of rural land for productive rural activities (Rule 16.10.4.1.a).
547. The *NZ Institute of Surveyors*, after further discussions with the DCC, sought to clarify that the boundary adjustments their submission had in mind were minor adjustments correcting building encroachments or occupational variances. The submitter sought, in light of the tighter focus of their submission, the following relief as set out in their tabled statement of 31 May 2016:

*"We now seek to have Boundary Adjustments which meet the following criteria classified as a Controlled Activity given the narrower focus proposed below. Our criterion is provided in principle and we are open to the DCC policy department finalising the exact form the provisions will take and its presence in the District Plan subject to the overall intent continuing.*

*The criterion is proposed as follows:*

- a. *The boundary adjustment shall not create a resultant site with new non-compliances of the land use performance standards.*

- b. *A boundary adjustment shall not create a resultant site which increases an existing non-compliance of a land use performance standard.*
- c. *The boundary adjustment shall not create a resultant site having new non-compliances with the development performance standards beyond those which are internal to the adjustment. In the event an adjoining property is subjected to a new non-compliance their affected person's signature shall be obtained.*
- d. *The boundary adjustment shall not create a resultant site which does not meet the subdivision performance standards."*

548. The evidence explained further that the rule would ensure all resultant sites to continue to remain compliant with the subdivision performance standards, unless these non-compliances were 'internal to the subdivision' (eg. boundary setback infringements between two sites within the subdivision) or have no material impact on existing non-compliances.
549. Having considered the above statement, and oral evidence given at the hearing on 9 June 2016, the Reporting Officer maintained his original recommendation (Section 42A Report, p. 99).

#### 3.14.2.1 Decision and reasons

550. We reject the requests by *The New Zealand Institute of Surveyors – Coastal Otago Branch* (OS490.3, OS490.31 and OS490.33) to provide for all boundary adjustment subdivisions as restricted discretionary activities. We note that subdivisions that meet the relevant performance standards have a restricted discretionary activity status, and it would be inconsistent for subdivisions (albeit boundary adjustment subdivisions) that contravene the performance standards to have the same activity status. We consider that the criterion and explanation provided by the submitter illustrate the difficulties in determining which boundary adjustments should be provided for, and which should be avoided. On balance, we consider that the minimum site size and associated density provisions of the 2GP are at the foundation for managing land use, and failure to meet minimum site size or density should have a non-complying activity status. We acknowledge that this unfortunately means that even minor boundary adjustments will need consent, but if they are truly minor there should be no difficulty meeting the gateway test for non-complying activities in s104D of the Act.
551. However, we agree with Mr Freeland that the Residential minimum site size subdivision performance standard (Rule 15.7.4.2.a) should be amended to include two-site subdivisions. We have made this change in the Residential decision.

#### 3.14.3 Structure of Subdivision Provisions

552. The subdivision objectives, policies and rules are currently integrated into the zone provisions. This is to ensure that reference to a management zone's provisions, as far as possible, provides a 'one-stop shop' for finding out the relevant rules for a given location. This is also because the policies related to subdivision link to the same objectives as the management of land use and development.

553. The *NZ Institute of Surveyors - Coastal Otago Branch* (*NZ Institute of Surveyors*) (OS490.2) sought an additional section in the 2GP, copying and collating all the subdivision provisions from the Management and Major Facilities zones into one dedicated subdivision section, while leaving the subdivision provisions in the zones where they appear.
554. The Reporting Officer recommended rejecting the submission, as duplicating the provisions would (Section 42A Report, p. 58):
- adds to complexity. A single set of objectives, policies and rules in the 2GP is the most appropriate approach for ease of use
  - significantly add to the length of the document
  - create a risk that changes to one version of a rule will not be carried through to its mirrored provisions, causing confusion; and
  - muddle the structure of the Plan.
555. She considered that, overall, the benefits to a professional body such as the surveyors of duplicating these provisions are outweighed by the costs outlined above.
556. Following the s42A Report, the *NZ Institute of Surveyors* liaised with the DCC, and in a written statement dated 31 May 2016, advised the Panel that their position had altered. It was no longer seen as critical for a separate section to be included within the 2GP covering subdivision (NZIS Evidence, para 18).

#### 3.14.3.1 Decision and reasons

557. We reject the submission of the *NZ Institute of Surveyors* (OS490.2). We consider that a separate subdivision section is unnecessary, for the reasons given by the Reporting Officer.

### 3.15 Maps

558. We received a number of submissions in respect of the 2GP's maps. The Reporting Officer on this matter was Mr Paul Freeland.

#### 3.15.1 Dynamic Information

559. *Kurt Bowen* (OS297.1) and the *NZ Institute of Surveyors* (OS490.11) sought the removal of all dynamic information from the 2GP that relates to the proposed flood hazard area, minimum floor level area and infrastructure constraint area, and place it into an updatable register linked to the Plan, unless adequate provision can be made to recognise these features are dynamic.
560. This submission was supported by *Robert Wyber* (FS2059.36) and opposed by *the Oil Companies* (FS2487.121).
561. The Reporting Officer acknowledged that hazard information is dynamic and liable to change; however, he recommended rejecting the submission as the RMA does not have a mechanism for updating for this type of information without a plan change (s42A Report, p. 138). He also noted that it may be appropriate to provide access to the DCC's Hazard Information Management System and/or the Otago Regional Council Natural Hazards Database through links from the 2GP website. Alternatively,

relevant hazard information could be provided and regularly updated on the Data Map, which does not link through to any District Plan rules.

562. He noted that regular updates to the minimum floor levels, natural hazards layers, and infrastructure constraint areas would be made as new information becomes available, and that the 2GP can only provide a snapshot of hazard information.

#### 3.15.1.1 Decision and reasons

563. We reject the submissions of *Kurt Bowen* (OS297.1) and *NZ Institute of Surveyors* (OS490.11) to remove all dynamic information from the 2GP mapping. We agree with the reasons outlined by the Reporting Officer. We note that in the Natural Hazards Decision we have made a number of changes to the natural hazard mapping, including removing the minimum floor level mapping from the Plan maps. Minimum floor levels will be managed through the Building Act. The data is retained in the Data Map for information only and is not linked to any 2GP provisions (see the Natural Hazards decision report).
564. We also note that through the Residential Decision we have reduced the extent of the infrastructure constraints mapped area to only apply to GR2-zoned land (see the Residential decision report).

#### 3.15.2 Topographical map

565. *Helen Skinner and Joseph O'Neill* (OS312.16) sought that the location of Stony Hill be corrected on the topographical basemap available when viewing the 2GP mapping.
566. We were advised by the Reporting Officer that this correction to the map has already been made pursuant to cl 16(2) of the First Schedule to the RMA (Section 42A Report, p. 138). We therefore accept the submission.

#### 3.15.3 Updatable infrastructure map

567. *Robert Wyber* (OS394.23) requested that dynamic water and waste infrastructure information, including network capacity and choke points, be included in the 2GP.
568. The Reporting Officer noted that the DCC does hold this information, and it has contributed to the development of the 2GP, including the location of 'infrastructure constraint mapped areas' and consideration of urban expansion and development of Transition Overlay Zones. It is, however, subject to change and will require updating. It therefore does not lend itself to inclusion as a static map within the 2GP. The data could, however, be made available on the DCC website (s42A Report, Section 6.7.2, p. 138).
569. Consequently, the Reporting Officer recommended rejecting *Mr Wyber's* (OS394.23) submission.

#### 3.15.3.1 Decision and reasons

570. While we consider this providing access to this data is a good idea, such information would best sit outside the 2GP, as it does not specifically relate to any rules and this would allow it to be regularly updated. We therefore reject the submission by *Robert Wyber* (OS394.23) but encourage the DCC to action this request as soon as practical.



### 3.15.4 Accurate mapping information

- 571. *Dennis and Janet Gray* (OS485.1) made a submission expressing concern about the accuracy of the overlay scales with digitisation, topographic maps and aerial photography and sought the suspension of the 2GP process until accurate mapping is provided to all city ratepayers.
- 572. *Federated Farmers of New Zealand* (OS919.3) requested that the overlay mapping be reviewed where landowners have concerns about the accuracy of the 2GP mapping. In many instances landowners have raised concerns about the mapping of hazard overlays in particular, regarding their own property.
- 573. The Reporting Officer agreed that the zone and overlay zone boundaries should be accurately mapped, as these determine the activity status and/or development controls on properties.
- 574. He noted that the 2GP has utilised the most accurate aerial photography and other data that the DCC currently holds. In addition, through the submission process, corrections to mapping are being considered on a case-by-case basis.
- 575. He recommended rejecting the submission of *Dennis and Janet Gray* (OS485.1); however, accepted the principle that mapping should be accurate. He recommended that the *Federated Farmers* submission is accepted, but noted that the specific requests would be considered on a case-by-case basis in the relevant 2GP hearing.

#### 3.15.4.1 Decision and reasons

- 576. We accept the submission of *Federated Farmers of New Zealand* (OS919.3) to review mapping where landowners have expressed concern about the accuracy of the mapping. This has occurred throughout the 2GP development process, and through specific submissions on other topics, such as natural hazards. Considering this approach, and the underlying accuracy of the mapping, we reject the general submission of *Dennis and Janet Gray* (OS485.1)

### 3.15.5 Mapping symbology

- 577. The *Clutha District Council* (OS686.3) sought a change to mapping symbology to make it easier to differentiate between the Coastal Environment mapped area and the Natural Coastal Character overlay zones.
- 578. The Reporting Officer noted that since notification some changes to symbology have been made to improve the legibility of the mapping. This has not changed any 2GP provisions, and has been actioned in accordance with cl 16(2) of the First Schedule of the RMA. The Coastal Environment mapped area is now shown in orange hatching and is easier to discern from the Natural Coastal Character overlay zones.

#### 3.15.5.1 Decision and reasons

- 579. We accept the submission by *Clutha District Council* (OS686.3) to change mapping symbology as it will improve clarity and Plan usability. We note this change has already been actioned and no further amendment is necessary.

### 3.15.6 Designation mapping

580. The *New Zealand Transport Agency* (OS881.165) sought to amend the maps to allow designations for individual Requiring Authorities to be “turned off”/separated, potentially by being able to select the designations of specific requiring authorities, or the designations to be more easily identified.
581. The Reporting Officer noted that land subject to multiple designations is currently difficult to interpret on the 2GP maps as the information is held in one 2GP map layer. However, the functionality to be able to turn on and off map layers for individual requiring authorities would result in a very long and unwieldy legend as there are over 20 requiring authorities with designations in the 2GP, and the legend would need to cascade down the page.
582. The Reporting Officer recommended that the submission is accepted in part, and where land is subject to multiple designations, the electronic maps should display a ‘multiple designations’ symbol. Details of the multiple designations, including priority in terms of s177 of the RMA, could be displayed in the pop-up that appears when you click on the property, along with the other metadata that currently appears in the pop-up.

#### 3.15.6.1 Decision and reasons

583. We accept in part the submission of the *New Zealand Transport Agency* (OS881.165), to the extent that we agree that the symbology is changed so that multiple designations are more easily identified. We agree that this will improve usability. We do not agree that all designations should be individually selectable, for the reasons given by the Reporting Officer.

## 3.16 Other requests

### 3.16.1 Wider Regional and Inter-regional Resilience Planning

584. The *Otago Regional Council* (OS908.67) sought that the 2GP provide for consideration of wider regional and inter-regional resilience planning. The submission was supported by the *Blueskin Resilient Communities Trust* (FS2229.4).
585. The Reporting Officer noted that Strategic Direction 2.2 (Dunedin is Environmentally Sustainable and Resilient) sets out objectives and policies in relation to resilience planning. She considered that this strategic direction is consistent with the wider regional planning approach with regard to resilience planning and, therefore, the outcome sought is already provided for within the 2GP (s42A Report, p. 119).
586. As a result, the Reporting Officer did not recommend any amendments in response to this submission.

#### 3.16.1.1 Decision and reasons

587. We accept the submission by the *Otago Regional Council* (OS908.67) and further submission by the *Blueskin Resilient Communities Trust* (FS2229.4) as we consider that Strategic Direction 2.2 and its supporting policies address the submitters’ concerns. Accordingly, we have not made any amendments to the 2GP in response to this submission.

### 3.16.2 Building insulation standards

588. The *Otago Regional Council* (OS908.70) sought that the Plan is amended to provide for the importance of insulation standards. This submission was supported by the *Blueskin Resilient Communities Trust* (FS2229.5).
589. The Reporting Officer considered that although encouraging warm and healthy homes, through insulation, was important, it is a matter which is better considered through the provisions of the Building Act and through other initiatives that sit outside the Plan (s42A Report, p. 118).
590. The Building Act 2004 provides minimum requirements in terms of insulation. Providing for insulation standards in the 2GP would be a duplication of the role of the Building Act. Although it was noted that in some central city Commercial and Mixed Use zones, acoustic insulation is required for noise sensitive activities (which include residential and visitor accommodation activities).
591. She also listed other initiatives of the DCC, outside the Plan, which encourage insulation of houses. For these reasons, she recommended that the submission be rejected.
592. We received written submissions from *BRCT* in support of their submission for insulation standards being included in the Plan. The submitter considered that ensuring insulation of a higher standard than under the 'building code controls the actual effects of land use', enabling people to be warmer and drier in their homes. As people are part of the environment, the positive effect on people meets the purpose of the RMA by providing for a community's health and wellbeing. Because requiring better insulation has no adverse environmental effects, and only beneficial effects (including lessening strain on electricity infrastructure) the suggested amendment achieves the 2GP's Strategic Objectives of energy resilience and environmental performance, as well as satisfying matters of national importance under the RMA (ss 7(f), (g) and (j)).

#### 3.16.2.1 Decision and reasons

593. We reject the submissions of *Otago Regional Council* (OS908.70) and *Blueskin Resilient Communities Trust* (FS2229.5) to include in the 2GP provision for the importance of insulation standards. We consider that this matter is best managed through the Building Act 2004 and does not require duplication in the 2GP.

### 3.16.3 Indigenous Species in Planting Plans

594. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.14) requested that the Plan be amended to encourage and require land use, development and subdivision proposals to incorporate indigenous species in planting plans as much as possible.
595. The Reporting Officer noted that the Plan supports the retention of indigenous vegetation through restricting clearance of indigenous vegetation in certain locations, and enables the establishment, maintenance or enhancement of indigenous vegetation as a conservation activity (s42A Report, p. 119). Other landscaping requirements are principally for amenity purposes, and not for biodiversity or cultural reasons, and in her opinion it would be unreasonable to

require indigenous vegetation to be used to meet the various landscaping requirements of the Plan. Sometimes planting is required for particular screening purposes or to assist with soil stability, and fast-growing exotic-species may be preferred. Potentially, where landscaping is required as a condition of consent in a landscape protection area, an argument could be made for the use of indigenous vegetation; however, this should be considered on a case-by-case basis during a resource consent process rather than required via a rule in the Plan.

### 3.16.3.1 Decision and reasons

596. We reject the submission by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.14) to require activities to incorporate indigenous species in planting plans. We note that the Plan already encourages and requires land use, development and subdivision proposals to incorporate indigenous species in some instances.

## 3.17 Section 1 and the User Guide

### 3.17.1 Plan User Guide (Section 1.1)

597. The Reporting Officer noted that Section 1.1 of the Plan contains a User Guide that gives a brief description of what a District Plan is, its content and its structure. It then summarises the content of each 2GP section into a table (Table 1.1A), followed by a step by step guide on how to use the 2GP. The User Guide also contains information on consultation with Kai Tahu ki Otago Ltd (now Aukaha) and a non-exhaustive list of other requirements outside the District Plan. Additional information about the Plan's structure and drafting protocol is provided in the 2GP Users' Guide (titled 'Introduction to the 2GP and ePlan'), which is available on the 2GP website.
598. A number of submissions received raising issues in respect of the 2GP's drafting style, which referred to the User Guide and Drafting Protocol: *Transpower NZ Limited (Transpower)* (OS806.2) and (OS806.4); *Mike Cowell* (OS178.3); *Otago Regional Council* (OS908.17); and *Southern District Health Board* (OS917.40). In particular, *Mike Cowell* (OS178.3) submitted that the Plan needed to be 'user-friendly' given how daunting the document had become to the average citizen. It was submitted that "something more is needed, for clarification and ease of use".
599. In particular, the Reporting Officer recommended that in response to the *Otago Regional Council* (OS908.17) submission, that it could be helpful to include an explanation of the drafting protocol directly into the User Guide section of the, rather than rely on a document sitting outside the Plan. As a result, the Reporting Officer recommended the expansion and inclusion of these documents into the first chapter of the Plan (s42A Report, para. 46).
600. The 'Introduction to ePlan and 2GP (Sept 2015 version)' was annexed to the s42A Report as a draft (attachment 2) for inclusion in the 2GP as a guide to its overall interpretation and application. The Reporting Officer recommended that the final form of this guide would need to be reviewed once the Panel finalised the balance of their decisions on the 2GP.

### 3.17.1.1 Decision and reasons

- 601. Having considered the options of including this information either inside or outside the Plan, we have considered that it is more appropriate for these guiding documents to sit outside the 2GP, as it allows them to be more easily updated without a Plan Change. The information will also be more 'visible' sitting on the 2GP website, rather than in the Plan itself.
- 602. We also note that we were provided with draft content only. Neither we nor submitters have seen the final proposed content, and we are not in a position to draft this ourselves.
- 603. We therefore accept the submissions above to the extent that we understand that the User Guide will be updated and be available on the 2GP website for public use. We have made other recommendations in this decision in relation to material which we believe could helpfully be included within the User Guide.

### 3.17.2 User Guide - addition of description of Overlay Documents

- 604. *Mike Cowell* (OS178.3) submitted that the 2GP should include a document providing guidance on overlays and their implication for property owners.
- 605. The Reporting Officer considered that a description of all zones, overlays and mapped areas and how they related to Plan provisions would aid Plan-users and reduce confusion. It was recommended that this description is prepared and included as part of the User Guide.
- 606. An initial draft of this document was included as Attachment 1 to the Plan Overview s42A Report.

### 3.17.2.1 Decision and reasons

- 607. We accept the submission of *Mike Cowell* (OS178.3) in part, to the extent that we agree that this material would be useful, but consider it should list outside the Plan, as discussed earlier. This will be a helpful aid and will reduce confusion.

### 3.17.3 Table 1.1A – Description of Plan Sections and Section 1.1 – other requirements outside District Plan

- 608. *Transpower New Zealand Limited* (OS806.2) requested that Table 1.1A in the User Guide, giving a brief description of the different chapters of the 2GP, was clarified with respect to the description of the City-wide Activities section. In particular, the submitter wanted the meaning of 'specific effects' referred to in this description to be explained or clarified as well as the final sentence referring to the placement and application of the objectives, policies, performance standards and assessment rules.
- 609. *Transpower*, in a separate submission point (OS806.4), also suggested some minor adjustments to the description of the City-wide Provisions Chapter.
- 610. The Reporting Officer recommended that these submission points be accepted, and provided possible clarifying amendments (Section 42A Report, pp. 41 – 43).

### 3.17.3.1 Decision and reasons

611. We agree that changes to the content of Table 1.1A would be helpful. However consistent with our decisions elsewhere, we consider that this material would better sit outside the plan, so it can be updated as required to assist in plan usability. We therefore reject the submissions by *Transpower New Zealand Limited* (OS806.2 and OS806.4) to amend the content within the 2GP, and instead remove Section 1.1 from the 2GP. This is done as a minor change under cl. 16 as the content is not part of the Plan provisions.

### 3.17.4 Section 1 Mayor's Foreword

612. *Transpower NZ Limited (Transpower)* (OS806.1) sought the amendment or deletion of the Mayor's forward, given that it had been written prior to the hearings' process on the 2GP, and would not remain relevant.

#### 3.17.4.1 Decision and reasons

613. We consider that the Mayor's forward should be removed from the 2GP as it is no longer relevant, and therefore accept *Transpower's* submission (OS806.1).

### 3.17.5 Information on When Rules Have Legal Effect

614. We received submissions from *Transpower* (OS806.5) seeking clarification around Section 1.2.2, which deals with when rules have effect. The provision was supported by the *University of Otago* (OS308.2).
615. The Reporting Officer recommended that Section 1.2 be deleted as it will become out of date when decisions on the 2GP are released (Section 42A Report, Section 6.1.3, p. 44). She also recommended that it be replaced with a broader guide to when provisions apply and that marking-up tools are used in ePlan to show the status of provisions as they become deemed operative once they are beyond appeal.

#### 3.17.5.1 Decision and reasons

616. We accept *Transpower's* (OS806.5) submission, and the relief recommended by the Reporting Officer to delete Section 1.2 and replace it with a broader guide (outside the Plan) that explains the status of provisions. We have deleted Section 1.2 under cl. 16 as it is no longer relevant. The changes are shown in Appendix 1.
617. Consequently, we reject the *University's* submission (OS308.2).

### 3.17.6 Statutory framework

618. *Transpower* (OS806.6) submitted that Section 1.3.2.1 and Section 1.3.2.2 include mis-interpretations of the RMA in relation to the policy hierarchy. They submitted that the words 'provide guidance' in section 1.3.2.1 in relation to National Policy Statements is contrary to s75(3)(a) of the RMA. They also submitted that the language in interpreting this RMA section, from the *King Salmon* case should be used instead.
619. *Transpower* made the same point in relation to the Regional Policy Statements and s75(3)(c) of the RMA (OS806.7). The 2GP uses the wording 'the District Plan must be prepared having regard to any relevant regional plans and policy statements,'

whereas s75(3)(c) of the RMA states 'give effect to'. They submitted that the 2GP language is contrary to that of the RMA.

- 620. *Transpower* (OS806.7) also noted that the titles for the Otago Regional Policy Statements (operative and proposed), operative regional plans and National Environmental Standards are incorrectly summarised, and proposed amendments to correct this.
- 621. The *University of Otago* (OS308.3) supported the inclusion of Section 1.3 covering the statutory framework.
- 622. The Reporting Officer recommended amending Section 1.3.2.1 and Section 1.3.2.2 adopting the changes suggested by *Transpower* (OS 806.6 and OS806.7), subject to using the s75 RMA wording 'give effect to' and not the word 'implement' (Section 42A Report, pp. 49–50).

#### 3.17.6.1 Decision and reasons

- 623. We agree with the wording changes proposed by *Transpower* (OS806.6 and OS806.7); however, we consider that this text is more useful located on the 2GP website rather than being included in the Plan. This way it will be easier to update, which will allow its accuracy to be maintained in a timely fashion. We have removed it from the Plan as a minor change under cl. 16.
- 624. We therefore reject *Transpower's* submissions, and the submission by the *University of Otago* (OS308.3) supporting its inclusion in the 2GP.

#### 3.17.7 Section 1.1.5 Other requirements outside the District Plan

- 625. *BP Oil* (OS634.57) requested that the 2GP is amended to be consistent in its reference to the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. Clause 7(1)(a)(i) of the regulations containing these standards does not refer to the 'upgrade' of a fuel storage system, as stated in the 2GP, but instead refers to the 'replacement' of fuel storage systems.
- 626. The Reporting Officer recommended that the Plan is amended to refer to the replacement of fuel storage systems, to avoid any potential ambiguity.

#### 3.17.7.1 Decision and reasons

- 627. We accept the submission by *BP Oil* (OS634.57) to amend 'upgrade' to 'replacement' of fuel storage systems in Section 1.1.5 (Other requirements outside the District Plan) as we agree this is the terminology used in the NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. See Appendix 1, amendment to 1.1.5.3 attributed to PO 634.57.

### 3.18 Submissions relating to matters outside of the scope of the 2GP

- 628. We received a number of submissions that sought relief beyond the scope of the Plan. As these matters are out of the scope of the 2GP we will not make a decision on them, suffice to say that we accept the Reporting Officer's recommendation as to

why the submission is out of scope. These are referred to and discussed in the s42A Report for the Plan Overview Hearing pp. 140 -146.

## 4.0 Minor and inconsequential amendments

629. Clause 16(2) of Schedule 1 of the RMA allows a local authority to make an amendment where the alteration “is of minor effect”, and to correct any minor errors, without needing to go through the submission and hearing process.
630. This Decision includes minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to “cl.16”. Some amendments have been discussed earlier; others include:
- correction of typographical, grammatical and punctuation errors
  - removing provisions that are duplicated
  - clarification of provisions (for example adding ‘gross floor area’ or ‘footprint’ after building sizes)
  - standardising repeated phrases and provisions, such as matters of discretion, assessment guidance, policy wording and performance standard headings
  - adding missing hyper-linked references to relevant provisions (eg. performance standard headings in the activity status tables)
  - correctly paraphrasing policy wording in assessment rules
  - changes to improve plan usability, such as adding numbering to appendices and reformatting rules
  - moving provisions from one part of the plan to another
  - rephrasing plan content for clarity, with no change to the meaning
631. Minor changes such as typographical errors have not been marked up with underline and strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes in the marked-up version of the Plan.



## **Appendix 1 – Amendments to the Notified 2GP (2015)**

Please see [www.2gp.dunedin.govt.nz/decisions](http://www.2gp.dunedin.govt.nz/decisions) for the marked-up version of the notified 2GP (2015). This shows changes to the notified 2GP with strike-through and underline formatting and includes related submission point references for the changes.

## Appendix 2 – Summary of Decisions

1. A summary of decisions on provisions discussed in this decision report (based on the submissions covered in this report) is below.
2. This summary table includes the following information:
  - Plan Section Number and Name (the section of the 2GP the provision is in)
  - Provision Type (the type of plan provision e.g. definition)
  - Provision number from notified and new number (decisions version)
  - Provision name (for definitions, activity status table rows, and performance standards)
  - Decision report section
  - Section 42A Report section
  - Decision
  - Submission point number reference for amendment

## Summary of Decisions

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
1. Plan Overview and Introduction	Definition	1.5			Amend definition of reverse sensitivity	PO 1046.5	3.6	
1. Plan Overview and Introduction	Definition	1.5		Additions and alterations	Amend definition	PO 239.2 and 308.357	3.5.3	Ind 5.45
1. Plan Overview and Introduction	Definition	1.5		Site	Amend definition	PO 360.146	3.5.3	6.3.7
1. Plan Overview and Introduction	Definition	1.5		Network Infrastructure	Remove the definition of Network Infrastructure	PO 360.234	3.7	6.3.8
1. Plan Overview and Introduction	Definition	1.5		Allotment (new)	Add new definition for allotment	PO 860.9 and others	3.5.3	6.3.7
1. Plan Overview and Introduction	Definition	1.5		Family flats	Amend definition to move some content to new Family flats - design performance standard	PO 876.1	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
1. Plan Overview and Introduction	Definition	1.5		Public Infrastructure	Amend definition of public infrastructure to add 'public roading and other transportation networks (including	PO 881.11 and PO 881.13	3.7	6.3.8

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					DCC and NZTA managed roads"			
1. Plan Overview and Introduction	Introduction	1		Foreward	Remove Mayor's Foreward	PO 806.1	3.17.4	6.1.1
2. Strategic Directions	Policy	2.2.4.4			Amend policy wording to reflect changes to new Family flats - tenancy performance standards	PO 539.3 and 708.2	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
2. Strategic Directions	Policy	2.2.5.2			Amend policy to: 1. add the word 'public' to infrastructure and 2. add clarification that the policy only applies to 3 waters infrastructure where this is necessary to not broaden the meaning as a consequence of change to definition of public infrastructure	PO 881.11; PO 881.13; PO 881.167	3.7	6.3.8

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
2. Strategic Directions	Policy	2.3.1.1			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
2. Strategic Directions	Policy	2.3.1.1			Amend policy wording to replace 'practical' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
2. Strategic Directions	Policy	2.3.1.6			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
2. Strategic Directions	Policy	2.3.1			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
2. Strategic Directions	Policy	2.3.3.2			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
2. Strategic Directions	Policy	2.6.1.3	2.6.1.4		Amend policy to reflect the change to the objective.	PO 881.41	3.7	Trans 5.2.4
2. Strategic Directions		2.6.3.1	2.6.2.1		Amend policy to reflect the change to the objective.	PO 881.41	3.7	Trans 5.2.4
2. Strategic Directions	Policy	2.6.3.1	2.6.2.1		Amend policy wording to add reference to frequent public transport	PO 908.3	3.5.2	6.3.4

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
					services			
2. Strategic Directions	Policy	2.6.3.4	2.6.2.3		Amend policy wording to add reference to frequent public transport services	PO 908.4	3.5.2	6.3.9
2. Strategic Directions	Policy	2.7.1.1			Amend policy to change reference from 'infrastructure' to 'public infrastructure' to pick up amended definition of public infrastructure, which now includes transportation networks	PO 881.167	3.7	6.3.8
2. Strategic Directions	Policy	2.7.1.2			Amend policy to change reference from 'infrastructure' to 'public infrastructure' to pick up amended definition of public infrastructure, which now includes transportation networks	PO 881.167	3.7	6.3.8
2. Strategic Directions		2.7.1.2			Amend policy to reflect the change to the objective.	PO 881.41	3.7	Trans 5.2.4

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
2. Strategic Directions	Objective	2.7.1			Amend objective to change reference to 'ratepayers' to 'the public'.	PO 881.41	3.7	Trans 5.2.4
3. Public amenities	Activity status	3.3			Amend activity status table to replace em-dash with + or N/A and correct legend	PO 490.1	3.2.6	6.2.1
4. Temporary Activities	Policy	4.2.1.1			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
4. Temporary Activities	Policy	4.2.1.2			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
4. Temporary Activities	Policy	4.2.1.3			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
4. Temporary Activities	Objective	4.2.1			Amend objective wording to add 'as far as practicable' after the word minimised	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
4. Temporary Activities	Assessment of Controlled Activities	4.6.2.1			Amend guidance as a consequence of change to Policy 4.2.1.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
4. Temporary Activities	Assessment of Restricted Discretionary Performance Standard Contraventions	4.7.2.3			Amend guidance as a consequence of change to Policy 4.2.1.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
4. Temporary Activities	Assessment of Restricted Discretionary Performance Standard Contraventions	4.7.2.4			Amend guidance as a consequence of change to Policy 4.2.1.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13



<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
4. Temporary Activities	Assessment of Restricted Discretionary Performance Standard Contraventions	4.7.2.5			Amend guidance as a consequence of change to Policy 4.2.1.2	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
4. Temporary Activities	Assessment of Restricted Discretionary Activities	4.8.2.1	delete		Amend rule to reflect changes made to Policy 4.2.1.3	PO 908.3 and others	3.1.4	6.3.9
5. Network utilities	Activity status	5.3			Amend activity status table to replace em-dash with + or N/A and correct legend	PO 490.1	3.2.6	6.2.1
6. Transportation	Policy	6.2.1.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.1.3			Amend policy wording to add 'as far as practicable' after the word minimises	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
6. Transportation	Policy	6.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.3.1			Amend policy wording to replace	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
					'possible' with 'practicable'			
6. Transportation	Policy	6.2.3.3			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.3.4			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.3.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.3.8			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.3.10			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
6. Transportation	Policy	6.2.4.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.4.4			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
6. Transportation	Policy	6.2.4.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Policy	6.2.4.6			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
6. Transportation	Policy	6.2.4.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.3.2	6.10.3.2		Amend guidance as a consequence of change to Policy 6.2.3.10	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.3.5	6.10.3.5		Amend rule to reflect changes made to Policy 6.2.3.5	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.3.6	6.10.3.6		Amend rule to reflect changes made to Policy 6.2.2.1	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.3.7	6.10.3.7		Amend rule to reflect changes made to Policy 6.2.3.3	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.3.8	6.10.3.8		Amend rule to reflect changes made to Policy 6.2.3.1	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.4.1	6.10.4.1		Amend rule to reflect changes made to Policy 6.2.1.2	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.5.1	6.10.5.1		Amend rule to reflect changes made to Policy 6.2.4.1	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.5.2	6.10.5.2		Amend rule to reflect changes made to Policy 6.2.4.4	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.5.3	6.10.5.3		Amend guidance as a consequence of change to Policy 6.2.4.6	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.5.4	6.10.5.4		Amend rule to reflect changes made to Policy 6.2.4.5	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.5.5	6.10.5.5		Amend rule to reflect changes made to Policy 6.2.4.7	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.6.2	6.10.6.2		Amend rule to reflect changes made to Policy 6.2.3.X	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Performance Standard Contraventions	6.9.6.3	6.10.6.3		Amend rule to reflect changes made to Policy 6.2.3.1	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Activities	6.10.2.1	6.11.2.1		Amend rule to reflect changes made to Policy 6.2.3.4 and Policy 6.2.3.3	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
6. Transportation	Assessment of RD Activities	6.10.2.2	6.11.2.3		Amend rule to reflect changes made to Policy 6.2.2.1	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Activities	6.10.2.4	6.11.2.4		Amend rule to reflect changes made to Policy 6.2.3.4	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of RD Activities	6.10.2.7	6.11.2.2		Amend rule to reflect changes made to Policy 6.2.3.8	PO 908.3 and others	3.1.4	6.3.9
6. Transportation	Assessment of D Activities	6.11.3.2	6.12.3.2		Amend guidance as a consequence of change to Policy 6.2.1.3	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
6. Transportation	Assessment of Controlled Activities	6.8A.1	6.9.1		Amend rule to reflect changes made to Policy 6.2.3.4	PO 908.3 and others	3.1.4	6.3.9
7. Scheduled Trees	Policy	7.2.1.3			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
7. Scheduled Trees	Assessment of RD Activities	7.7.2.1			Amend rule to reflect changes made to Policy 7.2.1.3	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Policy	9.2.1.4			Amend policy to add clarification that the policy only applies to 3 waters infrastructure where this is necessary to not broaden the	PO 881.11 and 881.13	3.7	6.3.8

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
					meaning as a consequence of change to definition of public infrastructure			
9. Public Health and Safety	Policy	9.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Policy	9.2.2.2			Amend policy wording to add 'as far as practicable' after the word avoid and 'adverse' after the word significant	PO 308.497	3.1.3	PO 6.5.1 and Reconvened hearing report, p.11
9. Public Health and Safety	Policy	9.2.2.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Policy	9.2.2.7			Amend policy to add clarification that the policy only applies to 3 waters infrastructure where this is necessary to not broaden the meaning as a consequence of change to definition of public infrastructure	PO 881.11 and 881.13	3.7	6.3.8

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
9. Public Health and Safety	Policy	9.2.2.12			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Assessment of RD Performance Standard Contraventions	9.4.3.2	9.5.3.2		Amend guidance to reflect changes made to Policy 9.2.2.7	PO 881.11 and 881.13	3.7	6.3.8
9. Public Health and Safety	Assessment of RD Performance Standard Contraventions	9.4.3.6	9.5.3.5		Amend rule to reflect changes made to Policy 9.2.2.12	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Assessment of RD Performance Standard Contraventions	9.4.3.9	9.5.3.8		Amend rule to reflect changes made to Policy 9.2.2.5	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Assessment of Restricted Discretionary Performance Standard Contraventions	9.5.2.2	9.6.2.2		Amend guidance to reflect change to definition of public infrastructure (ensure still only applies to 3 waters infrastructure) and amend to reflect change in Policy 9.2.2.7 wording	PO 881.11 and 881.13	3.7	6.3.8



<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
9. Public Health and Safety	Assessment of Restricted Discretionary Performance Standard Contraventions	9.5.2.5	9.6.2.5		Amend guidance to reflect change to policy 9.2.2.7	PO 881.11 and 881.13	3.7	6.3.8
9. Public Health and Safety	Assessment of D Activities	9.6.2.1	9.7.2.1		Amend rule to reflect changes made to Policy 9.2.2.1	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Assessment of D Activities	9.6.4.1	9.7.4.1		Amend guidance as a consequence of change to Policy 9.2.2.2	PO 308.497	3.1.3	PO 6.5.1 and Reconvened hearing report, p.11
9. Public Health and Safety	Assessment of D Activities	9.6.4.4	9.7.4.4		Amend rule to reflect changes made to Policy 9.2.2.1	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Assessment of Controlled Activities	9.6.4	9.7.4		Amend guidance to reflect change to policy 9.2.2.7	PO 881.11 and 881.13	3.7	6.3.8
9. Public Health and Safety	Assessment of NC Activities	9.7.3.1	9.8.3.1		Amend rule to reflect changes made to Policy 9.2.2.1	PO 908.3 and others	3.1.4	6.3.9
9. Public Health and Safety	Assessment of Controlled Activities	9.3A.1.1	9.4.1.1		Amend guidance to reflect changes made to Policy 9.2.1.4	PO 881.11 and 881.13	3.7	6.3.8
10. Natural Environment	Policy	10.2.1.3	10.2.1.6		Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
10. Natural Environment	Policy	10.2.2.3			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Policy	10.2.2.4	10.2.2.5		Amend policy wording to add 'as far as practicable' after the word minimises	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Policy	10.2.3.4	10.2.3.5		Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Policy	10.2.3.6	10.2.3.9		Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Policy	10.2.3.8	10.2.3.10		Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Policy	10.2.5.7	10.2.5.9		Amend policy wording to replace 'possible' with	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
					'practicable'			
10. Natural Environment	Policy	10.2.5.8	10.2.5.12		Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Policy	10.2.5.12	10.2.5.13		Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Policy	10.2.5.15	10.2.5.6		Amend policy wording to replace the test 'no material effects' with effects 'are insignificant'	PO 908.17 and 908.3	3.1.5	4.8.3 and 6.3.4
10. Natural Environment	Assessment of Restricted Discretionary Performance Standard Contraventions	10.4.3.4	10.5.3.4		Amend guidance as a consequence of change to Policy 10.2.2.3	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Assessment of RD Performance Standard Contraventions	10.4.3.6	10.5.3.6		Amend rule to reflect changes made to Policy 10.2.3.8	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
10. Natural Environment	Assessment of RD Performance Standard Contraventions	10.4.3.7	10.5.3.7		Amend rule to reflect changes made to Policy 10.2.5.12	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Assessment of Restricted Discretionary Performance Standard Contraventions	10.4.3.8	10.5.3.8		Amend guidance as a consequence of change to Policy 10.2.3.6	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Assessment of Restricted Discretionary Performance Standard Contraventions	10.4.3.9	10.5.3.9		Amend guidance as a consequence of change to Policy 10 .2.5.8	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Assessment of Restricted Discretionary Performance Standard Contraventions	10.4.3.10	10.5.3.10		Amend guidance as a consequence of change to Policy 10 .2.2.4	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Assessment of RD Performance Standard Contraventions	10.4.4.1	10.5.4.2		Amend rule to reflect changes made to Policy 10.2.3.4	PO 908.3 and others	3.1.4	6.3.9

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10. Natural Environment	Assessment of RD Performance Standard Contraventions	10.4.4.2	10.5.4.3		Amend rule to reflect changes made to Policy 10.2.5.7	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Assessment of RD Performance Standard Contraventions	10.4.4.5	10.5.4.6		Amend guidance as a consequence of change to Policy 10.2.2.4	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
10. Natural Environment	Assessment of RD Activities	10.5.2.4	10.6.3.7		Amend rule to reflect changes made to Policy 10.2.3.4	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Assessment of RD Activities	10.5.2.16	10.6.3.18		Amend rule to reflect changes made to Policy 10.2.5.7	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Assessment of D Activities	10.6.2.5	10.7.2.4		Amend rule to reflect changes made to Policy 10.2.5.7	PO 908.3 and others	3.1.4	6.3.9
10. Natural Environment	Assessment of D Activities	10.6.2.8	10.7.2.8		Amend rule to reflect changes made to Policy 10.2.3.4	PO 908.3 and others	3.1.4	6.3.9
13. Heritage	Policy	13.2.1.3			Amend policy wording to add 'as far as practicable' after the word minimise and minimising	Her 308.244, Po 904.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13

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13. Heritage	Policy	13.2.1.4			Amend policy wording to add 'as far as practicable' after the word minimises	Her 308.245, PO 904.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
13. Heritage	Policy	13.2.1.5			Amend policy wording to add 'as far as practicable' after the word minimised	Her 308.246, PO 904.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
13. Heritage	Policy	13.2.1.8			Amend policy wording to add 'as far as practicable' after the word minimise	Her 308.249, PO 904.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
13. Heritage	Policy	13.2.3.4			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13

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13. Heritage	Assessment of Controlled Activities	13.4.2.1			Amend guidance as a consequence of change to Policy 13.2.1.3	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
13. Heritage	Assessment of Restricted Discretionary Performance Standard Contraventions	13.5.3.1			Amend guidance as a consequence of change to Policy 13.2.1.3	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
13. Heritage	Assessment of Restricted Discretionary Performance Standard Contraventions	13.5.4.7			Amend guidance as a consequence of change to Policy 13.2.3.4	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
13. Heritage	Assessment of Restricted Discretionary Activities	13.6.3.3			Amend guidance as a consequence of change to Policy 13.2.1.4 and 13.2.1.5	Her 308.245, 308.246, PO 904.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13

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13. Heritage	Assessment of Restricted Discretionary Activities	13.6.3.4			Amend guidance as a consequence of change to Policy 13.2.1.8	Her 308.249, PO 904.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
14. Manawhenua	Policy	14.2.1.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Policy	14.2.1.4			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Policy	14.2.1.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of RD Performance Standard Contraventions	14.3.2.4			Amend rule to reflect changes made to Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of RD Performance Standard Contraventions	14.3.2.5			Amend rule to reflect changes made to Policy 14.2.1.1 and Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9



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14. Manawhenua	Assessment of RD Performance Standard Contraventions	14.3.2.6			Amend rule to reflect changes made to Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of RD Performance Standard Contraventions	14.3.2.7			Amend rule to reflect changes made to Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of RD Activities	14.4.2.2			Amend rule to reflect changes made to Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of RD Activities	14.4.2.3			Amend rule to reflect changes made to Policy 14.2.1.5	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of RD Activities	14.4.2.4			Amend rule to reflect changes made to Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of D Activities	14.5.2.2			Amend rule to reflect changes made to Policy 14.2.1.5	PO 908.3 and others	3.1.4	6.3.9
14. Manawhenua	Assessment of D Activities	14.5.2.3			Amend rule to reflect changes made to Policy 14.2.1.4	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Introduction	15.1		Residential introduction	Amend introduction to change reference from 'infrastructure' to 'public infrastructure' to pick up amended definition of public infrastructure, which	PO 881.167	3.7	6.3.8

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					now includes transportation networks			
15. Residential Zones	Policy	15.2.1.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Policy	15.2.3.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Policy	15.2.3.3			Amend policy wording to add 'avoids or, if avoidance is not practicable, adequately mitigates'	PO 308.497	3.1.3	PO 6.5.1 and Reconvened hearing report, p.11
15. Residential Zones	Policy	15.2.3.4			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Policy	15.2.3.5			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5

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15. Residential Zones	Policy	15.2.3.5			Amend policy wording to add 'or minimise as far as practicable' after the word avoid	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
15. Residential Zones	Policy	15.2.3.5			Amend policy wording to add 'to avoid, as far as practicable'	PO 308.497	3.1.3	PO 6.5.1 and Reconvened hearing report, p.11
15. Residential Zones	Policy	15.2.3.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Policy	15.2.4.3			Amend policy wording to reflect changes to new performance standards 15.5.15.1 and 15.5.15.2	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
15. Residential Zones	Policy	15.2.4.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
15. Residential Zones	Activity status	15.3.3.3		Standard residential activity	Add link to new Family flats performance standards	PO 207.1, 876.1 and others	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
15. Residential Zones	Note to Plan User	15.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
15. Residential Zones	Land Use Performance Standard	15.5.2		Density	Amend performance standard to move some content to new Family flats - tenancy performance standard	PO 207.1, PO 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
15. Residential Zones	Land Use Performance Standard	15.5.15.1	15.5.14.1	Family Flats - Tenancy	Add new performance standard, with content moved from density performance standard and amend to clarify who may live in them	PO 207.1, PO 539.3, PO 708.2, PO 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
15. Residential Zones	Land Use Performance Standard	15.5.15.2	15.5.14.2	Family Flat - Design	Add new performance standard, with content moved from Family Flats definition and amend to make contravention a RD activity	PO 876.1, PO 372.1, PO 207.2	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
15. Residential Zones	Assessment of RD Performance Standard Contraventions	15.9.3.6	15.10.3.6		Amend rule to reflect changes made to Policy 15.2.3.2	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	15.9.3.x (new)	15.10.3.4		Add new rule and guidance for contravention of (new) Family Flats – Design performance standard and add 'Effects on neighbourhood residential character and amenity' as the matter of discretion	PO 394.47, PO 491.3, PO 207.2, PO 372.1, PO 207.1, PO 394.63 and PO 876.1	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
15. Residential Zones	Assessment of RD Activities	15.10.2.1	15.11.2.1		Amend rule to reflect changes made to Policy 15.2.3.4 and Policy 15.2.4.7	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of RD Activities	15.10.2.2	15.11.2.2		Amend rule to reflect changes made to Policy 15.2.3.5	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
15. Residential Zones	Assessment of D Activities	15.11.2.2	15.12.2.2		Amend rule to reflect changes made to Policy 15.2.3.4	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of D Activities	15.11.2.3	15.12.2.3		Amend rule to reflect changes made to Policy 15.2.3.4	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of D Activities	15.11.2.4	15.12.2.4		Amend rule to reflect changes made to Policy 15.2.3.4	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of D Activities	15.11.2.5	15.12.2.5		Amend rule to reflect changes made to Policy 15.2.3.4	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of D Activities	15.11.2.6	15.12.2.6		Amend rule to reflect changes made to Policy 15.2.4.7	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of D Performance Standard Contraventions	15.12.3.3	15.13.3.3		Amend rule to reflect changes made to Policy 15.2.1.5	PO 908.3 and others	3.1.4	6.3.9
15. Residential Zones	Assessment of Non-complying Activities	15.12.5.8 (new)	15.13.5.7		Add new rule and guidance for contravention of new family flats - tenancy performance standard	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
16. Rural Zones	Introduction	16.1		Rural Introduction	Amend introduction to change reference from 'infrastructure' to 'public infrastructure' to pick up amended definition of public	PO 881.167	3.7	6.3.8

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					infrastructure, which now includes transportation networks			
16. Rural Zones	Policy	16.2.1.6			Amend policy wording to reflect changes to new performance standards 15.5.15.1 and 15.5.15.2	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
16. Rural Zones	Policy	16.2.2.1			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
16. Rural Zones	Policy	16.2.2.1			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
16. Rural Zones	Policy	16.2.2.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Policy	16.2.2.4			Amend policy wording to replace 'possible' with	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
					'practicable'			
16. Rural Zones	Policy	16.2.2.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Policy	16.2.2.7	16.2.2.6		Amend policy wording to add 'or minimise as far as practicable' after the word avoid	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
16. Rural Zones	Policy	16.2.2.8	16.2.2.7		Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
16. Rural Zones	Policy	16.2.2.8	16.2.2.7		Amend policy wording to add 'or minimise as far as practicable' after the word avoid	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
16. Rural Zones	Objective	16.2.2.			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5



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16. Rural Zones	Policy	16.2.4.3			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
16. Rural Zones	Activity status	16.3.3.23	16.3.3.26	Standard residential activity	Add link to new Family flats performance standards	PO 207.1, 876.1 and others	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
16. Rural Zones	Note to Plan User	16.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
16. Rural residential	Activity status	16.3			Amend activity status table to replace em-dash with + or N/A and correct legend	PO 490.1	3.2.6	6.2.1
16. Rural Zones	Land Use Performance Standard	16.5.2		Density	Amend performance standard to move some content to new Family flats - tenancy performance standard	PO 207.1, PO 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Land Use Performance Standard	16.5.13.1	16.5.14.1	Family Flats - Tenancy	Add new performance standard, with content moved from density performance standard and amend to clarify who may live in them	PO 207.1, PO 539.3, PO 708.2, PO 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
16. Rural Zones	Land Use Performance Standard	16.5.13.2	16.5.14.2	Family Flat - Design	Add new performance standard, with content moved from Family Flats definition and amend to make contravention a RD activity	PO 876.1, PO 372.1, PO 207.2	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.3.1			Amend rule and guidance for contravention of (new) Family Flats – Design performance standard and add ‘Effects on neighbourhood residential character and amenity’ as the matter of discretion	PO 394.47, PO 491.3, PO 207.2, PO 372.1, PO 207.1, PO 394.63 and PO 876.1	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
16. Rural Zones	Assessment of RD Performance Standard Contraventions	16.9.3.3			Amend rule to reflect changes made to Policy 16.2.2.4	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.9.3.7			Amend guidance as a consequence of change to Policy 16.2.2.1	PO 1046.5	3.6	6.3.5
16. Rural Zones	Assessment of RD Performance Standard Contraventions	16.9.3.7			Amend guidance as a consequence of change to Policy 16.2.2.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.9.4.1	16.9.4.2		Amend guidance as a consequence of change to Policy 16.2.2.1	PO 1046.5	3.6	6.3.5
16. Rural Zones	Assessment of RD Performance Standard Contraventions	16.9.4.1	16.9.4.2		Amend guidance as a consequence of change to Policy 16.2.2.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
16. Rural Zones	Assessment of RD Performance Standard Contraventions	16.9.4.1	16.9.4.2		Amend rule to reflect changes made to Policy 16.2.2.2	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.9	16.9.4.5		Amend guidance as a consequence of change to Policy 16.2.2.7	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.9.5.5			Amend guidance as a consequence of change to Policy 16.2.4.3	PO 1046.5	3.6	6.3.5
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.1	16.10.2.3		Amend guidance as a consequence of change to Policy 16.2.2.8	PO 1046.5	3.6	6.3.5
16. Rural Zones	Assessment of RD Activities	16.10.2.1	16.10.2.3		Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of RD Activities	16.10.2.2	16.10.2.4		Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of RD Activities	16.10.2.3	16.10.2.5		Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of RD Activities	16.10.2.4	16.10.2.6		Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.4.1			Amend guidance as a consequence of change to Policy 16.2.4.3	PO 1046.5	3.6	6.3.5

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16. Rural Zones	Assessment of D Activities	16.11.2.2			Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of D Activities	16.11.2.3			Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of D Activities	16.11.2.4			Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of D Activities	16.11.2.5			Amend rule to reflect changes made to Policy 16.2.2.5	PO 908.3 and others	3.1.4	6.3.9
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.12.6.6	16.12.5.6		Amend guidance as a consequence of change to Policy 16.2.4.3	PO 1046.5	3.6	6.3.5
16. Rural Zones	Assessment of Non-complying Activities	16.12.6.8 (new)	16.12.5.7		Add new rule and guidance for contravention of new family flats - tenancy performance standard	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, Rural 5.8.2
17. Rural Residential Zones	Introduction	17.1		Rural Residential introduction	Amend introduction to change reference from 'infrastructure' to 'public infrastructure' to pick up amended definition of public infrastructure, which now includes transportation	PO 881.167	3.7	6.3.8

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					networks			
17. Rural Residential Zones	Policy	17.2.1.7			Amend policy wording	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
17. Rural Residential Zones	Policy	17.2.2.1			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
17. Rural Residential Zones	Policy	17.2.2.1			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
17. Rural Residential Zones	Policy	17.2.2.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Policy	17.2.2.4			Amend policy wording to replace 'possible' with	PO 908.3 and others	3.1.4	6.3.9

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					'practicable'			
17. Rural Residential Zones	Policy	17.2.2.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Policy	17.2.2.6			Amend policy wording to add 'or minimise as far as practicable' after the word avoid	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
17. Rural Residential Zones	Policy	17.2.2.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Policy	17.2.3.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Policy	17.2.3.3			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Policy	17.2.4.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9

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17. Rural Residential Zones	Activity status	17.3.3.10	17.3.3.12	Standard residential activity	Add link to new Family flats performance standards	PO 207.1, 876.1 and others	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
17. Rural Residential Zones	Note to Plan User	17.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
17. Rural residential	Activity status	17.3			Amend activity status table to replace em-dash with + or N/A and correct legend	PO 490.1	3.2.6	6.2.1
17. Rural Residential Zones	Land Use Performance Standard	17.5.2.1		Density	Amend performance standard to move some content to new Family flats - tenancy performance standard and clarify that more than one family flat per site is a NC activity	PO 207.1, PO 394.63, PO 447.113	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
17. Rural Residential Zones	Land Use Performance Standard	17.5.13.1	17.5.13.1	Family Flats - Tenancy	Add new performance standard, with content moved from density performance standard and amend to clarify who may live in them	PO 207.1, PO 539.3, PO 708.2, PO 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2



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17. Rural Residential Zones	Land Use Performance Standard	17.5.13.2	17.5.13.2	Family Flat - Design	Add new performance standard, with content moved from Family Flats definition and amend to make contravention a RD activity	PO 876.1, PO 372.1, PO 207.2	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
17. Rural Residential Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	17.9.3.1			Amend guidance for contravention of (new) Family Flats – Design performance standard including by adding a reference to Policy 17.2.1.7	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
17. Rural Residential Zones	Assessment of RD Performance Standard Contraventions	17.9.3.3			Amend rule to reflect changes made to Policy 17.2.2.4	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	17.9.3.7			Amend guidance as a consequence of change to Policy 17.2.2.1	PO 1046.5	3.6	6.3.5

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17. Rural Residential Zones	Assessment of RD Performance Standard Contraventions	17.9.3.7			Amend guidance as a consequence of change to Policy 17.2.2.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
17. Rural Residential Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	17.9.4.1			Amend guidance as a consequence of change to Policy 17.2.2.1	PO 1046.5	3.6	6.3.5
17. Rural Residential Zones	Assessment of RD Performance Standard Contraventions	17.9.4.1			Amend guidance as a consequence of change to Policy 17.2.2.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
17. Rural Residential Zones	Assessment of RD Performance Standard Contraventions	17.9.4.1			Amend rule to reflect changes made to Policy 17.2.2.2	PO 908.3 and others	3.1.4	6.3.9

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17. Rural Residential Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	17.9.4.9	17.9.4.4		Amend guidance as a consequence of change to Policy 17.2.2.6	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
17. Rural Residential Zones	Assessment of RD Performance Standard Contraventions	17.9.4.9	17.9.4.4		Amend rule to reflect changes made to Policy 17.2.2.7	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Assessment of RD Activities	17.10.2.1	17.10.2.3		Amend rule to reflect changes made to Policy 17.2.2.7 and Policy 17.2.3.2	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Assessment of RD Activities	17.10.2.2	17.10.2.4		Amend rule to reflect changes made to Policy 17.2.2.5	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Assessment of RD Activities	17.10.2.3	17.10.2.1		Amend rule to reflect changes made to Policy 17.2.3.3	PO 908.3 and others	3.1.4	6.3.9
17. Rural Residential Zones	Assessment of D Activities	17.11.2.2	17.11.2.1		Amend rule to reflect changes made to Policy 17.2.2.5, Policy 17.2.3.3 and Policy 17.2.4.2	PO 908.3 and others	3.1.4	6.3.9

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17. Rural Residential Zones	Assessment of Non-complying Activities	17.12.6.7 (new)	17.12.6.6		Add new rule and guidance for contravention of new family flats - tenancy performance standard	PO 207.1 and 394.63	3.13	PO 6.3.2, Res 5.7.1.6, 5.8.10, RR 5.4.4, 5.4.5, Rural 5.8.2
18. Commercial and Mixed Use Zones	Policy	18.2.1.7			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
18. Commercial and Mixed Use Zones	Policy	18.2.2.2			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
18. Commercial and Mixed Use Zones	Policy	18.2.2.2			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use Zones	Policy	18.2.2.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use Zones	Policy	18.2.2.9			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use	Objective	18.2.2			Amend objective as consequential to amendments to	PO 1046.5	3.6	6.3.5

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Zones					definition of reverse sensitivity			
18. Commercial and Mixed Use Zones	Objective	18.2.2			Amend objective wording to add 'as far as practicable' after the word minimised	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
18. Commercial and Mixed Use Zones	Policy	18.2.3.10			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use Zones	Note to Plan User	18.3.7A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.3.4			Amend guidance as a consequence of change to Policy 18.2.1.7	PO 1046.5	3.6	6.3.5

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18. Commercial and Mixed Use Zones	Assessment of RD Performance Standard Contraventions	18.9.6.4			Amend rule to reflect changes made to Policy 18.2.3.10	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.2.2	18.10.2.3		Amend guidance as a consequence of change to Policy 18.2.2.8	PO 1046.5	3.6	6.3.5
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.2.3	18.10.2.4		Amend guidance as a consequence of change to Policy 18.2.2.2	PO 1046.5	3.6	6.3.5
18. Commercial and Mixed Use Zones	Assessment of RD Activities	18.10.2.3	18.10.2.4		Amend rule to reflect changes made to Policy 18.2.2.2	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use Zones	Assessment of RD Activities	18.10.2.4	18.10.2.5		Amend rule to reflect changes made to Policy 18.2.2.7	PO 908.3 and others	3.1.4	6.3.9
18. Commercial and Mixed Use Zones	Assessment of D Activities	18.11.3.1			Amend rule to reflect changes made to Policy 18.2.2.9	PO 908.3 and others	3.1.4	6.3.9
19. Industrial Zones	Policy	19.2.1.5			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5

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19. Industrial Zones	Objective	19.2.1			Amend objective as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
19. Industrial Zones	Policy	19.2.2.9	19.2.2.8		Amend policy wording to add 'or minimise as far as practicable' after the word avoid	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
19. Industrial Zones	Note to Plan User	19.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
19. Industry	Activity status	19.3			Amend activity status table to replace em-dash with + or N/A and correct legend	PO 490.1	3.2.6	6.2.1
19. Industrial Zones	Development Performance Standard	19.6.1		Boundary Treatments	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
19. Industrial Zones	Assessment of Restricted Discretionary Activities	19.10.3.2	19.10.3.3		Amend guidance as a consequence of change to Policy 19.2.2.9	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11

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19. Industrial Zones	Assessment of Non-complying Activities	19.12.5.4			Amend guidance as a consequence of change to Policy 19.2.1.5	PO 1046.5	3.6	6.3.5
20. Recreation Zone	Policy	20.2.2.1			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
20. Recreation Zone	Policy	20.2.2.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Policy	20.2.2.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Policy	20.2.2.8			Amend policy as consequential to amendments to definition of reverse sensitivity	PO 1046.5	3.6	6.3.5
20. Recreation Zone	Policy	20.2.2.8			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13



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20. Recreation Zone	Policy	20.2.2.8			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Policy	20.2.2.9			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
20. Recreation Zone	Policy	20.2.2.9			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Policy	20.2.2.10			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Policy	20.2.2.12			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Note to Plan User	20.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
20. Recreation	Activity status	20.3			Amend activity status table to replace em-dash with + or N/A and correct legend	PO 490.1	3.2.6	6.2.1

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20. Recreation Zone	Assessment of RD Performance Standard Contraventions	20.9.3.2			Amend rule to reflect changes made to Policy 20.2.2.5	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Assessment of RD Performance Standard Contraventions	20.9.4.13	20.9.4.7		Amend guidance as a consequence of change to Policy 20.2.2.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
20. Recreation Zone	Assessment of RD Activities	20.10.2.2	20.10.2.3		Amend rule to reflect changes made to Policy 20.2.2.7	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Assessment of Restricted Discretionary Activities	20.10.2.3	20.10.2.4		Amend guidance as a consequence of change to Policy 20.2.2.8	PO 1046.5	3.6	6.3.5
20. Recreation Zone	Assessment of Restricted Discretionary Activities	20.10.2.3	20.10.2.4		Amend guidance as a consequence of change to Policy 20.2.2.8	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
20. Recreation Zone	Assessment of RD Activities	20.10.2.3	20.10.2.4		Amend rule to reflect changes made to Policy 20.2.2.8	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Assessment of RD Activities	20.10.2.4	20.10.2.5		Amend rule to reflect changes made to Policy 20.2.2.12	PO 908.3 and others	3.1.4	6.3.9

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20. Recreation Zone	Assessment of RD Activities	20.10.2.6	20.10.2.7		Amend rule to reflect changes made to Policy 20.2.2.12	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Assessment of RD Activities	20.10.3.1			Amend rule to reflect changes made to Policy 20.2.2.10	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Assessment of D Activities	20.11.2.2			Amend rule to reflect changes made to Policy 20.2.2.12	PO 908.3 and others	3.1.4	6.3.9
20. Recreation Zone	Assessment of Restricted Discretionary Activities	20.11.2.3			Amend guidance as a consequence of change to Policy 20.2.2.9	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
20. Recreation Zone	Assessment of D Activities	20.11.2.3			Amend rule to reflect changes made to Policy 20.2.2.9	PO 908.3 and others	3.1.4	6.3.9
21. Ashburn Clinic	Policy	21.2.2.7			Amend policy wording to add 'or minimise as far as practicable' after the word avoid	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
21. Ashburn Clinic	Note to Plan User	21.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1

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21. Ashburn Clinic	Development Performance Standard	21.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
21. Ashburn Clinic	Assessment of Restricted Discretionary Performance Standard Contraventions	21.8.4.8	21.8.4.3		Amend guidance as a consequence of change to Policy 21.2.2.7	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
22. Dunedin Botanic Gardens	Policy	22.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
22. Dunedin Botanic Gardens	Note to Plan User	22.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
22. Dunedin Botanic Gardens	Development Performance Standard	22.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
22. Dunedin Botanic Gardens	Assessment of RD Performance Standard Contraventions	22.9.4.1			Amend rule to reflect changes made to Policy 22.2.2.1	PO 908.3 and others	3.1.4	6.3.9
23. Dunedin Hospital	Note to Plan User	23.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1

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23. Dunedin Hospital	Development Performance Standard	23.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
24. Dunedin International Airport	Note to Plan User	24.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
24. Dunedin International Airport	Development Performance Standard	24.6.2		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
25. Edgar Centre	Policy	25.2.2.1			Amend policy wording to add 'or minimises as far as practicable' after the word avoids	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
25. Edgar Centre	Note to Plan User	25.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
25. Edgar Centre	Development Performance Standard	25.6.2		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3

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25. Edgar Centre	Assessment of Restricted Discretionary Performance Standard Contraventions	25.8.4.8	25.8.4.4		Amend guidance as a consequence of change to Policy 25.2.2.1	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
26. Invermay and Hercus	Policy	26.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
26. Invermay and Hercus	Note to Plan User	26.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
26. Invermay and Hercus	Development Performance Standard	26.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
26. Invermay and Hercus	Assessment of RD Performance Standard Contraventions	26.9.4.1			Amend rule to reflect changes made to Policy 26.2.2.1	PO 908.3 and others	3.1.4	6.3.9
27. Mercy Hospital	Policy	27.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
27. Mercy Hospital	Note to Plan User	27.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1

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27. Mercy Hospital	Notification Rule	27.4.4 (Removed)			Remove explicit reference to s 95B of the RMA	PO 241.43	3.12.3	PO 4.11 and Mer 5.11.1
27. Mercy Hospital	Development Performance Standard	27.6.1		Screening of parking areas {Was "Boundary Treatments and Other Landscaping"	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
27. Mercy Hospital	Assessment of RD Performance Standard Contraventions	27.9.4.1			Amend rule to reflect changes made to Policy 27.2.2.1	PO 908.3 and others	3.1.4	6.3.9
28. Moana Pool	Policy	28.2.2.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
28. Moana Pool	Note to Plan User	28.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
28. Moana Pool	Development Performance Standard	28.6.2		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
28. Moana Pool	Assessment of RD Activities	28.9.2.1	28.9.2.2		Amend rule to reflect changes made to Policy 28.2.2.7	PO 908.3 and others	3.1.4	6.3.9
29. Otago Museum	Note to Plan User	29.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the	PO 490.4	3.14.1	6.4.1

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					RMA			
29. Otago Museum	Development Performance Standard	29.6.1		Boundary Treatments	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
30. Port	Note to Plan User	30.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
31. Schools	Policy	31.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
31. Schools	Policy	31.2.2.6	31.2.2.5		Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
31. Schools	Policy	31.2.2.7	31.2.2.6		Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
31. Schools	Note to Plan User	31.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
31. Schools	Assessment of RD Performance Standard Contraventions	31.9.3.2			Amend rule to reflect changes made to Policy 31.2.2.7	PO 908.3 and others	3.1.4	6.3.9



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31. Schools	Assessment of RD Performance Standard Contraventions	31.9.4.1			Amend rule to reflect changes made to Policy 31.2.2.1	PO 908.3 and others	3.1.4	6.3.9
31. Schools	Assessment of D Activities	31.10.2.1	31.10.2.2		Amend rule to reflect changes made to Policy 31.2.2.6	PO 908.3 and others	3.1.4	6.3.9
32. Stadium	Policy	32.2.2.5			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
32. Stadium	Note to Plan User	32.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
32. Stadium	Development Performance Standard	32.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
32. Stadium	Assessment of D Activities	32.10.3.2			Amend rule to reflect changes made to Policy 31.2.2.5	PO 908.3 and others	3.1.4	6.3.9
33. Taieri Aerodrome	Note to Plan User	33.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1

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34. Campus	Policy	34.2.2.1			Amend policy wording to add 'or minimises as far as practicable' after the word avoids	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
34. Campus	Note to Plan User	34.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the RMA	PO 490.4	3.14.1	6.4.1
34. Campus	Development Performance Standard	34.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
34. Campus	Assessment of Restricted Discretionary Performance Standard Contraventions	34.9.4.1			Amend guidance as a consequence of change to Policy 25.2.2.1	PO 308.497	3.1.2	PO 6.5.1 and Reconvened hearing report, p.11
35. Wakari Hospital	Policy	35.2.2.1			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
35. Wakari Hospital	Policy	35.2.2.7			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9
35. Wakari Hospital	Note to Plan User	35.3.5A		Other RMA Considerations	Add new note referencing s 226(1)(e)(ii) of the	PO 490.4	3.14.1	6.4.1

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					RMA			
35. Wakari Hospital	Development Performance Standard	35.6.1		Boundary Treatments and Other Landscaping	Amend performance standard wording (minor amendments)	PO 360.213	3.12.4	6.4.3
35. Wakari Hospital	Assessment of RD Performance Standard Contraventions	35.8.4.1			Amend rule to reflect changes made to Policy 35.2.2.1	PO 908.3 and others	3.1.4	6.3.9
35. Wakari Hospital	Assessment of RD Activities	35.9.2.1	35.9.2.2		Amend rule to reflect changes made to Policy 35.2.2.2	PO 908.3 and others	3.1.4	6.3.9
8A. Earthworks	Policy	8A.2.1.1			Amend policy wording to add 'as far as practicable' after the word minimise	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
8A. Earthworks	Policy	8A.2.1.2			Amend policy wording to add 'as far as practicable' after the word minimises	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
8A. Earthworks	Policy	8A.2.1.3			Amend policy wording to replace 'possible' with 'practicable'	PO 908.3 and others	3.1.4	6.3.9

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
8A. Earthworks	Assessment of Restricted Discretionary Performance Standard Contraventions	8A.6.3.1			Amend guidance as a consequence of change to Policy 8A2.1.1	PO 308.497 and EW 241.21	3.1.3	PO 6.5.1 and Reconvened hearing report, p.11
8A. Earthworks	Assessment of Restricted Discretionary Performance Standard Contraventions	8A.6.3.2			Amend guidance as a consequence of change to Policy 8A2.1.2	PO 308.497 and EW 241.21	3.1.3	PO 6.5.1 and Reconvened hearing report, p.11
8A. Earthworks	Assessment of Restricted Discretionary Performance Standard Contraventions	8A.6.3.3			Amend guidance as a consequence of change to Policy 8A.2.1.1	PO 906.34 and 308.497	3.1.3	Reconvened PO hearing report p.23 and Ind report 5.13
8A. Earthworks	Assessment of RD Activities	8A.7.2.1			Amend rule to reflect changes made to Policy 8A.7.2.1	PO 908.3 and others	3.1.4	6.3.9
0. Plan					Retain Strategic Direction 2.2, and the Plan generally regarding wider regional and inter-regional resilience planning		3.16.1	6.6.1

<b>Plan Section</b>	<b>Provision Type</b>	<b>Provision number</b>	<b>New Number</b>	<b>Provision Name</b>	<b>Decision</b>	<b>Submission Point Reference</b>	<b>Decision Report Topic number</b>	<b>S42A Report Section Number</b>
0. Plan					Do not amend the Plan to provide for the importance of insulation standards		3.16.2	6.6.1
0. Plan					Do not amend the Plan to require activities to incorporate indigenous species in planting plans		3.16.3	6.6.1
0. Plan					Do not amend by incorporating guiding documents into the Plan itself		3.17.1 and 3.17.2	6.5.1 and 6.1.2