



SECOND GENERATION DISTRICT PLAN

Cross Plan: Mining activities 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).

List of hearing codes

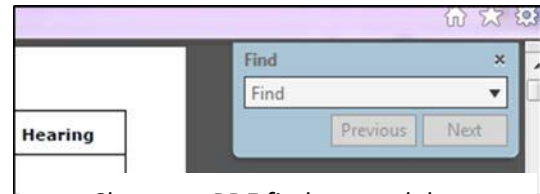
Hearing topic	Code
Commercial Advertising (cross plan hearing topic)	CP
Commercial and Mixed Use Zones	CMU
Community Correction Facilities (cross plan hearing topic)	CP
Defence Facilities and Emergency Services (cross plan hearing topic)	CP
Designations	Des
Earthworks	EW
Heritage	Her
Industrial Zones	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 decision 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 Cross Plan – Mining Activities Hearing.
2. The Mining Activities Hearing was part of the Cross Plan Provisions Hearing, which also included Commercial Advertising, Management of Service Stations, Management of Community Corrections Facility Activities and the Management of Emergency Services and Defence Facilities.
3. The Cross Plan Provisions Hearing was held on the 6, 7 and 8 of July 2016, at the 2GP Hearings Centre. A reconvened hearing for the Mining Activities topic was held on the 12th of April 2017 to hear the Reporting Officer's revised recommendations. The Reporting Officer also provided further information on the use of scheduling as a method for managing quarries.

1.1 Scope of Decision

4. This Decision Report addresses the original and further submission points addressed in the Mining Activities Section 42A Report.
5. The decision also addresses submission points transferred from other topics, as follows:
 - *Saddle Views Estate Ltd* (OS458.38 and OS458.39) submissions in support of Policy 9.2.2.6 and Rule 9.6.3.1, which were included in the Public Health and Safety Section 42A Report.

1.1.1 Section 42A Report

6. The Mining Activities Section 42A Report considered provisions in several different Plan sections, primarily Section 16: Rural Zones, but also including 1: Plan Overview and Introduction, 2: Strategic Directions, 9: Public Health and Safety, 17: Rural Residential, 19: Industrial Zones and 20: Recreation Zone.
7. Other mining-related submission points, focusing on policies, activity status and assessment rules in landscape or wāhi tūpuna overlays were addressed in the Section 42A Reports for Natural Environment and Manawhenua where they formed part of a holistic consideration of submissions on those particular provisions. The Rural and Natural Environment Section 42A Reports also covered other provisions that are relevant to mining. The decisions on those sections should also be read in conjunction with this decision.

1.1.2 Structure of Report

8. The Decision Report is structured by topic. The report does not necessarily respond to every individual submission point; instead it discusses the matters raised in submissions and records our decisions and reasons on the provisions relevant to each topic¹. 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.
9. 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).
10. 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.
11. This Decision Report includes some minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process.

¹ In accordance with Schedule 1, section 10 of the RMA

These amendments are referenced in this report as being attributed to “cl.16”. These amendments are summarised in Section 5.

1.2 Section 32AA Evaluation

12. 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.
13. 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.
14. A Section 32AA evaluation has been undertaken for all amendments to the notified plan. The evaluation is included within the decision reasons in section 3.0 of this decision.

1.3 Statutory Considerations

15. 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.
16. 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 is no NES directly relevant to this particular topic, however the following NPS is relevant:
 - The New Zealand Coastal Policy Statement 2010 (NZCPS) contains a number of objectives and policies relevant to mining activities such as sand mining and quarrying where they take place in the coastal environment. These include objectives and policies in relation to the extent and characteristics of the coastal environment; activities in the coastal environment; indigenous biological diversity; preservation and restoration of natural character; natural features and natural landscapes; and public open space and public access. While these matters are directly addressed in the Natural Environment Decision, we have also considered these where appropriate in this decision.
 - 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.

17. 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

18. 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: Hearing appearances

Submitter (Submitter Number)	Represented by/experts called	Nature of evidence	Topics under which evidence is discussed
<i>Blackhead Quarries Ltd</i> (OS874)	Allan Cubitt (Resource Management Consultant)	Spoke to written statement of evidence.	<ul style="list-style-type: none"> 3.1: Quarry scheduling 3.2: Activity status of expanded or new mining activity 3.8: Policy 16.2.2.6
	Phil Page (legal counsel)	Spoke to statement tabled at hearing.	
<i>Harboursides and Peninsula Preservation Coalition (HPPC)</i> (OS2267)	Craig Werner (representative)	Written statement of evidence (not present at hearing).	<ul style="list-style-type: none"> 3.7: Policy 16.2.2.5 3.9: Policy 16.2.3.4 3.10: Policy 16.2.3.5 3.12: Rule 16.11.2 Assessment of discretionary land use activities
<i>Neighbours of Blackhead Quarry</i> (FS2335)	Andrew McSkimming	Spoke to statement tabled at hearing.	<ul style="list-style-type: none"> 3.11: Rule 16.5.9 and Rule 17.5.10 Separation distances
	Tony Devereux	Spoke on behalf of the submitter.	
<i>Oceana Gold (New Zealand) Ltd</i> (OS1088) (FS2439)	Mark Christensen, (Counsel)	Spoke to statement tabled at hearing.	<ul style="list-style-type: none"> 3.1: Quarry scheduling 3.3 Macraes Gold Project Overlay Zone 3.12: Rule 16.11.2 Assessment of discretionary land use activities 3.13: Appendices
	Dale Oram (General Manager of Macraes Gold Operation)	Spoke to written expert (economic) evidence.	
	Mike Copeland (Economic Consultant)	Spoke to written statement of evidence.	
<i>Port Otago Ltd</i> (OS737)	Andrew Pullar (Civil Engineer – Port Otago Ltd)	Spoke to written statement of evidence.	<ul style="list-style-type: none"> 3.1: Quarry scheduling
	Len Andersen (Counsel)	Spoke to statement tabled at hearing.	

<i>Tussock Top Farm Ltd</i> (OS901)	Alan Cubitt (resource management consultant)	Spoke to written statement of evidence.	<ul style="list-style-type: none"> 3.1: Quarry scheduling
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19. Appearances for the Dunedin City Council were:

- Katie James and Michael Bathgate, Reporting Officers
- Kirstyn Lindsay, Senior Planner, Resource Consents
- Paul Freeland, Senior Policy Planner, City Development
- John Sule, Senior Planner, Resource Consents
- Rachel Brooking, Counsel for DCC
- Mike Moore, Consultant Landscape Architect for DCC

20. Evidence provided by the Reporting Officers included:

- Section 42A Report
- Addendum to Section 42A Report
- Evidence of Michael Moore for Mining Activities
- Opening statement (verbal)
- Revised Recommendations Summary (tabled and verbal)
- Revised Recommendations Summary Supporting Materials

21. Planning assistance to the Hearing was provided by:

- Anna Johnson (City Development Manager)

3.0 Decisions on provisions sought to be amended

3.1 Quarry scheduling

3.1.1 Background

22. Dunedin City has approximately 20 consented quarries, seven designated DCC quarries, and a further six are scheduled permitted activities under the operative District Plan.

3.1.2 Submissions

23. Three submitters, *Blackhead Quarries Ltd* (OS874.2), *Tussock Top Farm Ltd* (OS901.2) and *Saddle Views Estate Ltd* (OS458.31) requested that the 2GP should retain Rule 6.5.8(ii) of the operative Plan or, alternatively, that a special quarry zone be created, subject to the second paragraph being amended to read "Except as otherwise provided for by any conditions of any resource consent". *Saddle Views Estate Ltd* requested that, in the alternative to permitted activity scheduling, a "Major Facilities Zone, 'Quarry Zone', 'Scheduled Activity' or a 'Quarrying Policy Area' be used for all existing quarries, including the existing Saddle Hill quarries as well as the quarries scheduled in the operative District Plan. *Blackhead Quarries Ltd* also sought to have Logan Point Quarry included in the list of quarries to be scheduled.
24. *Port Otago Ltd* (OS737.14) sought the equivalent of a scheduled activity by requesting that the activity status rule in the Rural Zone section (Rule 16.3.3.13) be amended so that the Aramoana Quarry at 853 Aramoana Road was listed as a permitted activity in the Coastal Rural Zone. The submitter stated that this was to provide for "the maintenance and development of harbour rock walls and structures including work on the Aramoana mole and Long Mac Groyne".
25. *Port Otago Ltd* noted that the Aramoana Quarry site is subject to a High Natural Coastal Character Overlay, meaning that the activity status of much of the quarry site was non-complying.
26. *Kati Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.83) opposed Port Otago's submission and requested that any increase in the scale of quarrying should require an assessment of effects on wāhi tūpuna values.
27. *Peninsula Holdings Ltd* (OS771.6) sought that there be a consistent approach to mining activities in the 2GP, including designating future quarry areas. The submitter requested that the DCC "identify all quarry areas that currently have consents" and that all quarries should be treated the same.

3.1.3 Section 42A Report

28. In the Background section of the Section 42A Report, the Reporting Officer, Katie James, discussed the history of scheduling in the operative District Plan stating that it was a 'stop-gap' measure that was "not intended to be continued in the 2GP" (s42A Report, Section 2.0, p. 4).
29. We understand that scheduling was used to provide for six quarries after a group of quarry operators sought amendments to the 1999 version of the proposed District Plan in order to provide for their existing quarries to be permitted activities. The Environment Court (C175/2001) directed the DCC to modify the proposed Plan and insert Rule 6.5.8.ii Scheduled Permitted Activities, listing five quarries: Blackhead Quarry, Fairfield Sand Pit No 3, Mt Kettle Quarry and Waldronville Gun Club Sand Pit, along with Port Otago Quarry at Aramoana, which was subject to a Consent Memorandum (RMA 903/99). The Rule included a number of conditions for Quarrying and Aggregate Processing Activities for these quarries including noise, hours of

operation, airblast overpressure, rehabilitation measures and landscaping. The Court also directed that Residential Zone Rule 8.7.7 be amended to add quarrying situated at Fairfield Sand Pit No 1, with associated conditions.

30. We also understand that during the development of the 2GP, the Plan development leadership team did not consider that the continued use of the scheduled activity approach was the most efficient or effective method. Therefore, the scheduling approach, which was also used for Invermay Agricultural Centre, the EnviroWaste Fairfield Landfill and the Portobello Marine Laboratory, was not carried over to the 2GP.
31. The Reporting Officer noted that one of the concerns around effectiveness in terms of mining was feedback from the DCC Resource Consents planners that the conditions included in the operative Plan for the scheduled quarries were not up to current industry standards or easy to monitor and enforce.
32. Further, she noted that there are around 20 consented quarries in Dunedin that are not listed as scheduled permitted activities in the operative District Plan. The Reporting Officer noted that this raises an issue of equity and consistency of approach if only a subset of Dunedin quarries is provided with permitted activity status. Therefore, she reasoned that a more equitable and effective approach was for all mining activities to be managed via resource consents, and for new quarries or expansion of quarries to be managed as discretionary activities in the rural zones, which is where they primarily locate.
33. The Reporting Officer explained that the DCC held discussions in 2015 with parties owning and/or operating sites containing scheduled permitted quarries. These parties were encouraged to lodge applications for Certificates of Compliance in anticipation of the 2GP not scheduling permitted quarries. However, processing of the lodged applications was suspended in September 2015 while further information was sought under section 139(4) of the RMA. The intended process ran into issues as the level of information required was equivalent to that required for a resource consent application. She further explained that under the 2GP, in the absence of a Certificate of Compliance, the quarry operators would have to rely on existing use rights under section 10 of the RMA, unless they applied for a resource consent.
34. The Reporting Officer recommended that the *Blackhead Quarries Ltd*, *Tussock Top Farm Ltd* and *Saddle Views Estate Ltd* requests for scheduling for quarries be rejected because she did not consider that the scheduling approach to be the most efficient and effective way of managing quarries. She also recommended rejecting the submission of *Port Otago Ltd* to add the Aramoana Quarry as a permitted activity under Rule 16.3.3.13 because this essentially amounted to a request for permitted activity scheduling (s42A Report, Section 4.3.1, p. 20).
35. The reasons why she did not consider that the scheduling approach was effective were:
 - i. monitoring and enforcing conditions on a permitted activity is more challenging than monitoring and enforcing conditions on a resource consent
 - ii. the conditions included in the operative Plan for the scheduled activities are inadequate and do not reflect current best practice
 - iii. the approach of using conditions in the Plan is too rigid and inflexible.
36. The Reporting Officer considered that the benefits of the resource consent approach were that it allowed for a tailored approach to managing the activity and a more efficient approach to enabling variation of conditions than scheduling, where required. She stated that the inclusion of conditions in the District Plan would mean a relatively expensive Plan change process for a change to any conditions, which may lead to a mix of conditions in the 2GP and different conditions through resource consents, which would be administratively difficult to monitor and enforce and may be confusing for Plan users.
37. The Reporting Officer also discussed the alternative to scheduling suggested by the submitters, which was the use of a Major Facility zoning. She did not consider this to

be an appropriate way of managing quarries as quarries and mining do not meet the overall intent of the major facility provisions and the criteria used to identify these facilities. She explained one of the key criteria was that the facility needs to differ significantly in terms of effects from activities which are normally provided for in the surrounding zone and therefore cannot be easily managed within the standard provisions that apply in the zone.

38. The Reporting Officer noted that the rural zones provide for mining as a discretionary activity and as such mining activities are already anticipated and provided for. Furthermore, their effects, though potentially significant may not be different to other activities occurring in that zone. She concluded that quarries can generally be efficiently managed in the underlying zone, which in most cases will be rural, and are one of a range of activities that would normally be expected in the rural zones.
39. She also explained that it would be difficult to have a single set of performance standards on a permitted activity that would be suitable to all sites and quarries as they differ significantly in terms of effects depending on whether they include blasting or not, what scale they are operating at and the significant variability in the sensitivity of the receiving environment. In response to the submission by Peninsula Holdings Trust, the Reporting Officer, concluded that the variability in location, scale and effects means that it is more effective and efficient to manage quarries on a case by case basis through the resource consent process. She also did not recommend designating future areas for quarrying as in her view this was best left to the market, as it would be driven by the location of (and scale of) demand and other supply sources and providing for quarries as discretionary activities in rural zones created greater locational opportunities.

3.1.4 Hearing

40. In her opening statement, the Reporting Officer reiterated the reasons that were included in her s42A Report regarding why she did not support scheduling, adding that reviewing and adding appropriate 'best practice' conditions for the individual quarries as scheduled activities would involve a level of detail equivalent to that which would be required for processing individual resource consent applications for each quarry.
41. The Reporting Officer was supported by two other planning witnesses (Mr Paul Freeland, Senior Policy Planner and Ms Kirstyn Lindsay, Senior Resource Consents Planner) who reiterated the DCC's concerns that:
 1. It can be difficult to monitor or enforce restrictions on noise and hours of operation without conditions of consent requiring the holder of a resource consent to supply information relating to the exercise of the resource consent to the DCC (s108 RMA). Permitted activities are seldom, if ever, monitored by the DCC, whereas there is a monitoring programme in place to ensure that resource consent conditions are complied with.
 2. The conditions included in the operative Plan for the scheduled activities are inadequate, do not reflect current best practice, and it was further noted that no effort had been made by the submitters to suggest a more appropriate set of conditions (in part because during the development of the 2GP the submitters were working with the DCC to instead issue certificates of compliance).
 3. It was noted that the difficulty in monitoring the current conditions of the scheduled activities in the operative District Plan is perhaps best illustrated by the difficulties the quarry operators have had to date in trying to demonstrate compliance to the satisfaction of the resource consent planner attempting to issue Certificates of Compliance (s129 RMA) or Existing Use Certificates (s139 RMA).
42. The Reporting Officer discussed the options available to quarries which are not currently operating under resource consents and who wish to confirm that they are lawfully established, if the 2GP approach was to go ahead as proposed. She noted that quarries can apply to the DCC for an Existing Use Certificate where they met the three limb test of RMA s10; that they were lawfully established before the rule became operative or

the proposed Plan was notified, the effects of the use were the same or similar in character, intensity and scale and the use had not been discontinued for more than 12 months. Given the variable and intermittent nature of quarries, she advised that each application for existing use certificates would need to be decided on a case by case basis, with the onus of proof being placed on the applicant to satisfy the consent authority that the activity meets the s10 test.

43. If a certificate of compliance was not an option, or in situations where there was uncertainty surrounding existing use rights, the Reporting Officer considered that it may be preferable to seek a resource consent. She noted that this would clarify the nature of the activity, allowing consideration of a change in character, scale and intensity, which would not be permitted under the certificates of compliance or existing use options.
44. The Reporting Officer noted the concern raised by *Port Otago Ltd* about its ability to operate its Aramoana Quarry if it had to gain consent as it is within a High Natural Coastal Character Overlay in the 2GP.
45. Three of the quarry operators, *Blackhead Quarries Ltd*, *Tussock Top Farm Ltd* and *Port Otago Ltd* attended the hearing. The operators reiterated their request that their quarries, and existing Dunedin quarries more generally, be included in the 2GP as scheduled permitted activities or alternatively that they have special zoning.
46. Mr Page, Counsel appearing for *Blackhead Quarries Ltd*, tabled evidence where he was critical of the proposed approach that would mean the quarries would need to rely on existing use rights which he considered as "fraught with difficulty" (Submission of Counsel for Blackhead Quarries Ltd, p. 4). He also highlighted the on-hold status of the Certificate of Compliance applications for the quarries as further evidence of the problematic nature of establishing existing use.
47. Mr Cubitt, resource management consultant, called by both *Blackhead Quarries Ltd* and *Tussock Top Farm Ltd*, tabled written evidence and spoke at the hearing, also arguing that the existing use rights provisions of the RMA did not adequately provide for the quarries. He noted that existing use rights are extinguished after a period of one year if a use is discontinued, and that the use of some quarries is intermittent. He was also concerned that existing use rights do not allow for any increase in character, intensity and scale (which may be needed depending on construction demand).
48. In Mr Cubitt's opinion, requiring a resource consent for quarries that are already in existence would be inefficient and lead to reverse sensitivity issues because of the "involvement of neighbouring property owners (lifestylers) who have come to the area well after the quarry has been established" (Blackhead Quarries Evidence, p. 7).
49. Mr Cubitt expressed his view that the provisions for mining requested by *Blackhead Quarries Ltd* and the other quarry operators were appropriate because such resources are "vital to the sustainable management of communities" and quarries are constrained to site specific locations (Blackhead Quarries Evidence, pp. 3-4). He also considered that the conditions associated with Blackhead Quarry Ltd's quarries listed in the operative District Plan were 'comprehensive' and that there was "no valid resource management reason" to move away from the scheduling approach in the 2GP.
50. Mr Cubitt did not consider the concern of the Reporting Officer regarding the conditions for quarries in the operative Plan to be valid because in his opinion the "scheduled activity approach anticipates the scale and scope of the activity within the scheduled area" so there would be no need for a review process. He also did not consider the concern over the mix of conditions in the Plan and different conditions in resource consents to be valid because it would be "no different to requiring a permitted activity that does not meet a permitted activity standard to get resource consent" (Blackhead Quarries Evidence, p. 6).
51. Mr Cubitt drew attention to the schedule of 150 quarries that was inserted into the Clutha District Plan in 2005 in a 'significant' plan change process as an exemplar for

- scheduling, stating that to his knowledge there were "no issues with the operation of these quarries".
52. Mr Cubitt considered that scheduling or spot zoning was the most efficient and effective way of providing for existing quarries and their 'ongoing development' and that "ensuring the protection and continuation of existing quarries will also assist in avoiding the need to establish an entirely new quarry activity elsewhere" (Blackhead Quarries Evidence, p. 8).
 53. Mr Andersen, Counsel appearing for *Port Otago Ltd* stated in his written statement that it "is fundamental to Port Otago's operations that the use of the Aramoana quarry remains a permitted use rather than Port Otago having to rely on existing use rights" (Submissions on Behalf of Port Otago Ltd, p. 1). He also clarified that Port Otago sought an extension for the maintenance of the Long Mac Groyne as well as the Aramoana Mole.
 54. A key issue for *Port Otago Ltd* was the potential loss of existing use rights if the existing use was discontinued for twelve months, with Mr Andersen noting the variance in the amount of rock being required for maintenance of the Mole each year. He stated that *Port Otago Ltd* would have to remove a "sufficient volume of rock" each year "to ensure that the effects of the use are the same or similar in character, intensity and scale which on the basis of the average since 1986 would be about 5,000m³ a year". Mr Andersen also raised concerns about the ability of Port Otago to be able to remediate after a major storm, which would require a greater volume of extraction than the existing use rights (if they amounted to the average of 5,000m³ a year).
 55. Further, Mr Andersen raised the issue of the intermittent use of blasting and whether it "would be prudent to increase explosive use so there was blasting each year" (ibid, p. 3) so as not to lose existing use rights to blast.
 56. With regard to the request to extend the use of the Aramoana Quarry to enable maintenance of the Long Mac Groyne, Mr Andersen noted a) that if Port Otago Ltd had to rely on existing use rights for the quarry, it would not be able to carry out work on the Long Mac Groyne and b) a resource consent application for the Long Mac Groyne would remove existing use rights for Port Otago Ltd to be able to operate the quarry to serve the Mole. However, Mr Andersen also stated that if the Aramoana Quarry retained its permitted status, a resource consent could be made for repair and maintenance to Long Mac Groyne "without any risk to the maintenance and repair of the Mole" (Submissions on behalf of Port Otago, p. 4).
 57. Mr Pullar, Civil Engineer, called by *Port Otago Ltd*, provided more details about the operation and use of the Aramoana Quarry, stating in his written evidence that he considered the quarry to be "close to the end use, with no value added by including an additional consenting step within the 2GP with the possibility consent could not be granted as this is a non-complying activity" (Evidence of Andrew Pullar, p. 9). He also described *Port Otago Ltd's* proposed work to build up the Long Mac Groyne to minimise sand loss from Shelly Beach, with the project being only likely to go ahead if the Aramoana use was extended.
 58. In response to the Reporting Officer's suggestion that the scheduled activities in the operative District Plan could rely on existing use rights, the Panel asked how practical that approach would be. This resulted in a discussion, primarily between legal counsel; Phil Page for *Blackhead Quarries Ltd*, Len Andersen for *Port Otago Ltd* and Rachel Brooking for the DCC. While the consensus between the legal counsel was that the current lawfully established activities could continue to operate, we heard that establishing the level of use may be difficult as it is based upon documenting what has happened over time (often at least 12 months). We were also advised that existing use rights do not apply to alterations or additions to buildings that increase their degree of non-compliance with the District Plan, and noted that the burden of proof falls on the person carrying out the activity to prove that they have existing use rights, should existing use rights be questioned.

3.1.5 Reconvened Hearing

59. As the time allocated to the hearing finished before the Reporting Officer could provide any revised recommendations, the hearing was reconvened to enable this to occur.
60. At the reconvened hearing the Reporting Officer did not amend her recommendations regarding scheduling and reiterated her original views.
61. In response to the statement from Mr Cubitt that "the scheduled activity approach anticipates the scale and scope of the activity", the Reporting Officer stated that she considered the conditions listed in Rule 6.8.5(ii) of the operative District Plan to be limited in nature and that if conditions were now to be developed for each of the quarries scheduled in the operative Plan, they would be likely need to be more detailed and wide-ranging, similar to the conditions that would be required in a resource consent. Further, if all existing quarries were to be scheduled, she noted that the 2GP would "end up with a large and unwieldy set of separate resource consent conditions attached to the Plan" (Revised Recommendations Summary, p. 2). She also noted the difficulties in establishing conditions for pre-RMA quarries.
62. The Reporting Officer drew attention to the Revised Recommendations supporting material which included a memorandum from Ms Lindsay to provide further information on the use of scheduling, as well as examples of conditions for two different resource consents in Dunedin, to illustrate the difference between the scheduling conditions in the operative District Plan and resource consents.
63. In Ms Lindsay's opinion, scheduling quarries would set up the potential for conflict between the conditions of scheduling, existing use rights and any rights or controls imposed by resource consents. She considered that holding a resource consent rather than being scheduled would be a more nimble approach because variations to consents would be less cumbersome than a Plan change.
64. Ms Lindsay's memo also traversed the different options that the Panel would need to consider in making a decision:
- 1) whether to schedule just the six quarries currently scheduled in the operative Plan, or
 - 2) to broaden it out to submitters who have requested that their quarries be scheduled (i.e. *Saddle Views Estate Ltd* and *Tussock Top Farm Ltd*), or
 - 3) to include all quarries in Dunedin City.
65. If option 1 was chosen by the Panel, Ms Lindsay considered that it would be likely that there would need to be a review of conditions for quarries scheduled in the operative District Plan to ensure alignment with best practice, with a Plan change being required to amend conditions if they were found to be inadequate. It was the opinion of Ms Lindsay that the quarry could still choose to rely on existing use rights rather than complying with revised schedule conditions.
66. If additional quarries were to be scheduled, lawful rights of unconsented quarries would need to be established and conditions to manage the effects of these would need to be imposed. Ms Lindsay noted that such conditions may be more onerous than what the quarries already operate under and they may instead choose to rely on existing use rights. With respect to consented quarries, she noted that the conditions of the consent may be carried across to the schedule but not only would it be a duplication of controls, the resource consent conditions would also ultimately need to be reviewed to ensure that they were in line with best practice. In addition, if the conditions of consent were varied, this would potentially set up a conflict between the schedule and consent. Finally, she noted that any new quarries would still require a resource consent so there would "always be quarries which sit outside of the schedule" (Revised Recommendations Summary Supporting Material, p. 3).
67. In response to Mr Cubitt's suggestion that the DCC follow the approach taken in the Clutha District Plan (CDP), Ms Lindsay noted that the conditions in the CDP schedule

referred to resource consent conditions, suggesting a duplication of controls and that there were no conditions relating to matters such as the protection of ridgelines, hours of operations, volume, quarry footprint and remediation. She also suggested that the conditions of the CDP appeared to throw up some challenges with respect to monitoring and enforcement. In her view the scale of quarries in Dunedin that the Panel needed to consider "is so varied that generic conditions will be too onerous for some and too permissive for others" (ibid).

68. A summary table was presented to the Panel, outlining potential benefits and costs of scheduling in comparison with either managing quarries through a discretionary resource consent approach or relying on existing use rights or certificates of compliance. Certainty for scheduled activities, having a publicly available mapped location and a consistent approach if all existing quarries were included were listed as potential benefits, while the potential costs included:
 - the need to develop case by case site specific performance standards/conditions;
 - significant amount of work (including affected parties' consultation for new conditions) and costs (including staff time);
 - if only the six quarries in operative District Plan were included it would not be a consistent approach for all quarries;
 - if scheduling all quarries, conditions for 20 consented quarries may need to be reassessed and updated for consistency;
 - that it may be difficult to define quarry rights/conditions for some quarries;
 - implications of special treatment for quarries versus other activities such as factory farming or rest homes.
69. During discussion at the hearing, Mr Freeland noted the rudimentary nature of the existing conditions for the scheduled permitted quarries in the operative District Plan, stating that they did not provide for a consistent approach and that they were not comprehensive or detailed enough to monitor or enforce. He also noted that he did not believe that the public had been involved in the original scheduling process. In his view, he considered that there should be a public process involving neighbours, the Otago Regional Council and the DCC. Mr Freeland also stated that work could be done to work out performance standards or scales or types of mines but that this would not be able to be carried out within the time frame of the 2GP.
70. Mr John Sule (Senior Planner), speaking from a resource consents perspective, stated that in his view gaining a resource consent would not be problematic for the quarries, noting that the majority of resource consent applications for quarries in Dunedin have been approved, subject to conditions.
71. To assist in our consideration of this topic, the Panel issued a Minute, dated 8 May 2017, advising that our preliminary view was that there was merit in re-instating the schedule for existing scheduled quarries but we also requested further information from the scheduled quarry operators regarding the volume of their operations so that this might be added to the schedule. Responses were received from *Port Otago Ltd* and *Blackhead Quarries Ltd* regarding five of the six scheduled permitted quarries.
72. Mr Andersen, Counsel for *Port Otago Ltd* responded to the Minute on 26 May 2017, advising that the maximum annual volume of material extracted at Aramoana Quarry is 50,000 m³.
73. Mr Page, Counsel for *Blackhead Quarries Ltd* responded to the Minute on 7 July 2017, advising that with regard to Fairfield Sand Pit No. 3 and Fairfield Sand Pit No. 1, *Blackhead Quarries Ltd* proposes "a maximum annual production of 10,000 tonnes each." (Blackhead Quarries Response to Hearing Panel Minute, p. 1). With regard to the quarries at Mt Kettle and Blackhead, *Blackhead Quarries Ltd* submitted that it would not be workable to provide a maximum annual production cap.

74. Mr Page stated that "the volume requirement from Blackhead and Mt Kettle is highly unpredictable" with quarry production being "highly dependent on civil construction projects in the city" (ibid, p. 2). Citing a number of upcoming large projects in the city that will require aggregate, Mr Page argued that "limiting quarry production on the basis of historical volumes is likely to result in the local quarries running out of capacity". Mr Page also stated that a resource consent process would lack "timeliness and flexibility for Blackhead to adjust its annual production outputs in anticipation of local project demand". Further, *Blackhead Quarries Ltd* "wishes to retain flexibility" in the way it uses Mt Kettle and Blackhead to ensure certainty of supply (ibid, p. 3).
75. In lieu of a volumetric control, Mr Page pointed to the conditions of Rule 6.5.8(ii) of the operative District Plan; with Blackhead Quarry being subject to a condition to limit the encroachment of quarry extraction towards Blackhead Road; while Mt Kettle is subject to a rule to preserve the skyline view as well as a requirement for setback from adjoining properties and retention of indigenous vegetation. He stated that "these controls should be retained and are a better and a more direct control on quarry activities than annual volume" (ibid, p. 4).
76. It transpired that a Minute had not been sent directly to the current operator of the remaining scheduled quarry (Waldronville Gun Club Sand Pit). This sand pit had previously been operated by Blackhead Quarries, and it may have been assumed they were still responsible for it. However, it is noted that this quarry is on land owned by DCC (which assists with management of any issues that may arise) and it also has constraints in terms of its Mining Permit including an area limitation of 4.9 hectares.

3.1.6 Decision and reasons

77. Overall, after having considered all of the evidence, statements, and submissions, we consider the best approach to managing quarries is to:
 - retain scheduling of the six existing quarries that were scheduled under the operative District Plan following determinations by the Environment Court, limited by the conditions that attach to those schedules and by additional conditions volunteered by the operators; and
 - not schedule the other existing quarries, and for those to be managed in terms of the conditions of consent for each site where these apply; and
 - any expansions to existing quarries outside of those scheduled parameters, and outside of existing resource consent conditions, to require resource consent (refer to discussion below in section 3.2 for 'Activity status of expanded or new mining activity').
78. In response to submissions, we:
 - accept in part the submissions of *Blackhead Quarries Ltd* (OS874.2), *Tussock Top Farm Ltd* (OS901.2) and *Saddle Views Estate Ltd* (OS458.31), to carry over Rule 6.5.8(ii) of the operative District Plan to the 2GP. Some amendments are required for the rule and the schedule to fit the style and content of the 2GP. We have not included a separate Quarry Zone as requested. Our decision also includes carrying over Rule 8.7.7.7 of the operative District Plan which provides scheduled permitted activity status in the Residential Zone for Fairfield Sand Pit No. 1. We note that the Waldronville Gun Club Sand Pit zoned as Rural in the operative District Plan is zoned Recreation in the 2GP;
 - accept the submission of *Port Otago Ltd* to provide for Aramoana Quarry as a permitted activity, which will be achieved through the same scheduling process. Further, we accept *Port Otago Ltd's* request to allow for the use of the Aramoana Quarry to carry out maintenance at Long Mac Groyne, noting that this would be for emergency use;

- reject the submission of *Blackhead Quarries Ltd* to add Logan Point Quarry or that of the same submitter, *Saddle Views Estate Ltd* or *Tussock Top Farm Ltd* to add all existing quarries to the schedule;
 - reject the submission of *Peninsula Holdings Ltd* (OS771.6) to designate future quarry areas and identify all consented quarry areas.
79. The reasons for our decisions relating to scheduling of existing quarries are:
- We recognise the six sites in the operative District Plan Schedule are an existing resource that should be enabled in terms of continuing operation;
- whilst it is accepted that the conditions for each of those scheduled quarries appear not to be comprehensive, or as well defined, as the more precise conditions for quarries that have been through a resource consent process, the conditions have nevertheless been ascribed by the Environment Court, as considered appropriate to manage effects on the particular environments in which they are located;
 - some additional criteria have been added in response to information provided by the owners and operators of quarries, including quantum limits for annual production;
 - to remove the schedule for those quarries would remove the certainty of operation which we were told and have accepted is important for those quarries to be able to operate; and
 - it is doubtful that any new provisions included in the 2GP to replace the schedules would be effective, as the quarries would in any event be able to rely upon the existing use rights conferred by the schedules in the operative District Plan (as noted in Ms Lindsay's evidence).
80. For those quarries that already hold resource consents, we consider the most efficient and effective method to manage these is not to schedule them, but to enable them to be managed in terms of their existing conditions of consent, noting that the conditions are quite detailed and site-specific.
81. We note that no parties provided detail of how a scheduled activity would or could be drafted in the 2GP; therefore, we sought advice from the hearings panel adviser on this.
82. These amendments made to give effect to this decision, which are shown in Appendix 1 (attributed to CP 874.2 and others), include:
- a clause in a new mining policy in the Strategic Directions section to set up the method (see Policy 2.3.1.8, as set out in section 3.4.5)
 - a new definition for 'scheduled mining activity'
 - an addition to the Rural Activities category definition to add scheduled mining activities and an addition to the Rural Activities category nested table to add scheduled mining activity
 - amendment to the definition of natural hazards potentially sensitive activities to add scheduled mining activity as a consequential change (mining is a natural hazards potentially sensitive activity) and amendment to the hazard provisions sensitivity classification to add scheduled mining activity
 - a new schedule for the scheduled mining activities added as Schedule A1.5
 - adding the scheduled mines to the 2GP map
 - a change to the activity status tables in Rural, Residential and Recreation sections to add 'scheduled mining activity'
 - a new performance standard for scheduled quarries in each of the sections. Our decision is that the scheduled quarries should have the same conditions carried over to the 2GP from the operative District Plan, with the addition of volumetric limits for quarries where those limits were provided by the operators as part of the hearing process. These performance standards will indicate that scheduled mining activities that do not meet these standards are considered to be a new (or expanded) mining activity

- While noting that Aramoana Quarry is already limited in use to only obtaining rock for the purpose of maintaining and repairing the Aramoana Mole, the quarry operator volunteered a maximum annual extraction limit which we have included in the scheduled mining activity performance standard.

3.2 Activity status of expanded or new mining activity

3.2.1 Submissions

83. As well as seeking scheduling or other permitted activity zoning, *Blackhead Quarries Ltd* (OS874.2), *Tussock Top Farm Ltd* (OS901.2) and *Saddle Views Estate Ltd* (OS458.31) sought that any expansion outside of the permitted quarry footprint becomes a controlled activity, with the control being limited to measures to mitigate noise and vibration, dust, visual and landscape effects, safe and efficient operation of the roading network, setback from water bodies, hours of operation and rehabilitation.
84. *Saddle Views Estate Ltd* (OS458.31) requested that quarry activities outside of the suggested zone/policy area/scheduled site become a restricted discretionary activity (and exempt from compliance with other performance standards not relating to mining activity). They sought that the DCC's discretion be limited to the same matters of control as listed in their request for the controlled activity status for quarry expansion.
85. *Blackhead Quarries Ltd* (OS874.4) and *Tussock Top Farm Ltd* (OS901.4) also requested that a new rule be added to make the establishment of a new quarrying or aggregate processing activity a restricted discretionary activity, unless it is in a natural landscape or natural coastal character overlay zone, where it would be a discretionary activity. The decision regarding the activity status for establishing a new quarry or aggregate processing activity in a natural landscape or natural coastal overlay zone was referred to the Natural Environment Hearing. *Blackhead Quarries Ltd* (OS874.42) and *Tussock Top Farm Ltd* (OS901.35) also sought to remove mining from the list of discretionary activities, as a consequential amendment to their requests for changes in activity status.
86. *Kati Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.78 and FS2456.79) opposed *Blackhead Quarries Ltd* (OS874.4) and *Tussock Top Farm Ltd* (OS901.4) because they were concerned that it would limit Kai Tahu input into resource consent applications.

3.2.2 Section 42A Report

87. The Reporting Officer, Katie James, recommended rejecting the requests from the quarry operators to make the expansion of the mining footprint at lawfully established sites a controlled activity. In her opinion that would not provide adequate management, given the potential scale and range of effects of mining (s42A Report, Section 4.4.1, p. 22).
88. The Reporting Officer also recommended rejecting the requests to make new mining activity a restricted discretionary activity because she considered that it would be difficult to develop a discrete list of all relevant matters, without excluding a potential adverse effect, particularly in areas that are not currently subject to mining activities. She also noted that including a large list of matters would be contrary to the 2GP drafting protocol for restricted discretionary activities, and that retaining the activity status as (full) discretionary would appropriately allow for a range of objectives, policies and other planning provisions to be considered.
89. Therefore, the Reporting Officer recommended that the activity status for mining activities in the Rural Zone remains as discretionary for new activities as well as for the expansion of existing operations, allowing the full range of potential effects of mining activities to be appropriately considered in order to achieve Part 2 of the RMA.

3.2.3 Hearing

90. Mr Page, legal counsel for *Blackhead Quarries Ltd*, reiterated that the submitter wished to retain explicit permitted activity status in the 2GP for its existing quarries, but he also indicated that *Blackhead Quarries Ltd* was comfortable with new quarries being managed as discretionary activities, subject to the policy framework being made more enabling. This was a change in stance from its original submission which simply requested a change in activity status for new mining activities to restricted discretionary.

3.2.4 Decision and reasons

91. We reject the submissions of *Blackhead Quarries Ltd*, *Tussock Top Farm Ltd* and *Saddle Views Estate Ltd* to change the activity status of expanded or new mining activity. Our decision is that mining should retain its discretionary activity status.
92. We agree with the reasons provided by the Reporting Officer. In particular, there are a number of potential adverse effects arising from expanded mining and quarrying, and the potential sensitivities of adjacent land uses, in particular where a new mine is proposed to be established, are such that a full assessment of potential effects and consideration of relevant objectives and policies in the 2GP is appropriate. Controlled activity status would not be acceptable, because there may well be situations where it may be most appropriate to refuse to grant consent, or where it is considered appropriate to provide the opportunity for involvement of affected parties in the resource consent process (a concern raised by *Kati Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.78 and FS2456.79)). Restricted discretionary status is also inappropriate due to the wide range of potential effects that may need to be considered.
93. We also note that the Natural Environment Decision Report contains decisions related to mining in the Outstanding Natural Landscape, Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlays. In that report our decision was to amend the activity status of mining in ONLs to non-complying and to amend the activity status of mining in ONF's, ONCC's and HNCC's to prohibited.

3.3 Macraes Gold Project Overlay Zone

3.3.1 Submissions

94. *Oceana Gold Ltd* (OS1088.2) sought to introduce a new zone to the 2GP, to be called Macraes Gold Project Overlay Zone (MGPOZ), to match the extent of *Oceana Gold Ltd's* mineral tenements and landholdings (refer Appendix 2 of submission). It was proposed that the MGPOZ be largely managed the same as the High Country Rural Zone but with mining and associated activities as either permitted activities (on land previously subject to mining-related activities) or controlled activities, with performance standards or control over matters such as rehabilitation, heritage features, ecological values, blasting, noise and vibration.
95. As an alternative to adding the new zone and its provisions into the 2GP at the current time, the submitter sought to identify the MGPOZ as a transitional overlay zone. Then, as the Mining Zone in the adjoining Waitaki district's District Plan was reviewed, the 2GP would be amended to mirror the new Mining Zone provisions for that plan, either through a joint plan change process or in a separate DCC process.
96. The submitter also requested along with this option that there be a requirement added that any new land uses in the general area of Macraes mine requiring consent be assessed with regard to the future zoning of the land for mining activities.

3.3.2 Section 42A Report

97. In her Section 42A Report, the Reporting Officer acknowledged that, because the Macraes Gold Project is of a large scale and occurs across two territorial authority boundaries, it would be appropriate to consider the approach that the Waitaki District Council has taken to assist in achieving integrated management of the resource (p. 21). However, she considered it would not be efficient or effective to incorporate the special zone requested into the 2GP at this time, as the ongoing review of the Waitaki District Plan provisions may lead to inconsistency with the suggested MGPOZ.
98. The Reporting Officer also considered that the alternative suggestion of a transitional overlay zone would not be an appropriate solution because there would be no known zone to be transitioned into. She, therefore, recommended rejecting the submission by *Oceana Gold Ltd* because adding a new zone or transitional overlay zone would require a level of detail that was not available, or practicable to develop, at this stage. Because further information as well as proper consultation was required before a new zone could be considered for the 2GP, she recommended that it may therefore be appropriate to consider a Plan change at a later stage in order to properly align the provisions with the Waitaki plan review.

3.3.3 Hearing

99. At the hearing, *Oceana Gold Ltd*, through a statement by legal counsel Mr Christensen, said it supported the Section 42A Report recommendation that a future joint plan change with Waitaki District Council would be a more appropriate way of managing the Macraes project rather than amending the 2GP at the present time. He suggested that the 2GP should mirror the provisions in the Waitaki District Plan as much as possible and that *Oceana Gold Ltd* was likely to seek a plan change for this purpose.
100. Mr Oram, General Manager of Macraes Gold Project, presented evidence relating to the nature of the submitter's mineral interests in the Macraes area. He also discussed the locational constraints of mining, as well as the unavoidable impacts associated with the large-scale project, before supporting *Oceana Gold Ltd's* request for special zoning.
101. Mr Copeland presented expert economic evidence for *Oceana Gold Ltd*. In his tabled evidence he discussed the employment and other economic benefits of mining to Dunedin and provided evidence on potential economic benefits of the Macraes Gold Project over the next decade.
102. The Panel asked Mr Christensen to clarify if the use of zoning would 'put people on notice'. Mr Christensen replied in the affirmative and stated that although *Oceana Gold Ltd* would have a good idea of where likely strikes might occur, it could not be specific.
103. In her revised recommendations, the Reporting Officer agreed in principle with *Oceana Gold Ltd* that a future Plan change would be more appropriate than amending the 2GP at the present time. However, she recommended rejecting the request by the submitter that any new land uses needing consent in the area should be assessed having regard to likely further zoning for mining purposes. She considered that it would be difficult to write provisions based on a yet to be determined future zoning, and also the risk of any new activities locating in the wider areas without knowledge of the Macraes Gold Project and its programme of expansion would be very low.

3.3.4 Decision and reasons

104. We reject the submission by *Oceana Gold Ltd* (OS1088.2) to add a new zone to the 2GP called the Macraes Gold Project Overlay Zone, or alternatively to add a transitional overlay zone. We agree with the Reporting Officer's reasons for recommending against adding a new zone for which provisions have not been developed at the current time,

ahead of the outcome of the review of the Waitaki District Plan provisions, and the alternative suggestion of a transitional overlay zone would also be premature.

105. We note that the submitter essentially agreed with the Reporting Officer on this point, in suggesting that a future Plan change is the appropriate way forward.
106. We also reject the submission by *Oceana Gold Ltd* to include a requirement that any new land use requiring consent in the area be assessed with regard to likely future zoning for mining. We agree with the reasons given by the Reporting Officer, and also consider it is not appropriate to have provisions applied to assessment of applications for other land use activities that require assessment of potential for future mining to take place in any given area.
107. We also refer the submitter to the Natural Environment Decision Report where we discuss the issue of biodiversity offsetting and the addition of a new policy (2.2.3.5) in the strategic directions section and amendments we have made to Section 10 policies to ensure there is a pathway for mining activity to gain consent, where appropriate, as a non-complying activity by using biodiversity offsetting, if the offsetting can meet the criteria laid out in Policy 2.2.3.5. We consider these changes give relief to many of the submitter's concerns regarding the 2GP's approach to managing effects on biodiversity and recognise the often unavoidable effects of mining on local biodiversity, where in some cases these adverse effects can only be mitigated or remedied through the use of offsets.

3.4 Strategic directions

3.4.1 Background

108. In the 2GP, the strategic directions and rural objectives relating to mining provide for mining activities as one of a range of rural activities. Policy 2.3.1.2 requires resource users to maintain or enhance the productivity of farming and other activities that support the rural economy. Policy 2.3.1.6 relates to the identification of facilities that contribute significantly to economic and social prosperity of the city

3.4.2 Requests for new objectives and policies and requests to amend Policy 2.3.1.2 and 2.3.1.6

109. *Saddle Views Estate Ltd* (OS458.31), *Blackhead Quarries Ltd* (OS874.31) and *Tussock Top Farm Ltd* (OS901.24) requested that objectives and policies be added to the 2GP, consistent with and supporting their requests for special zoning or scheduling of quarries (as addressed in the discussion above). *Blackhead Quarries Ltd* and *Tussock Top Farm Ltd* also suggested that these provisions be added to either their proposed Major Facilities Zone or the Strategic Directions sections of the 2GP.
110. *Oceana Gold Ltd* (OS1088.17) requested that Policy 2.3.1.2 be amended as follows:
"Maintain or enhance the productivity of farming and other activities including mining that support the rural economy through:..."
111. *Oceana Gold* (OS1088.18) also sought that Strategic Policy 2.3.1.6 include reference to the Macraes Gold Project.
112. *Saddle Views Estate Ltd* (OS458.59) requested that a new objective and supporting policy be added to the Strategic Directions: "To enable Dunedin's mineral needs to be largely met from within the District, while ensuring that..." and supporting policy be added to Section 2 Strategic Directions because "minerals are essential for the development of the District and Region".

3.4.3 Section 42A Report

113. With respect to the submissions by *Saddle Views Estate et al*, as the Reporting Officer, Katie James, had recommended that no new zoning or scheduling be created for mining activities, she noted that there would be no appropriate plan section to include the full suite of objectives and policies requested by the submitters (s42A Report, Section 4.4.1, p. 23).
114. She also stated that she considered that including the alternative provisions suggested by *Blackhead Quarries Ltd* and *Tussock Top Farm Ltd* would overstate the importance of mining in relation to a wide range of productive rural activities.
115. Further, she said it is not appropriate to add a new objective to the Rural Zone section as this would not fit with the existing framework of the 2GP.
116. The Reporting Officer responded to each of the proposed objectives and policies in Attachment 1 of the Section 42A Report (p. 70). In summary, she considered that the objectives and policies suggested by the submitter:
- did not strike an appropriate balance in terms of RMA Part 2 matters given the potential adverse effects associated with mining activities;
 - did not fit within the structure of the Plan or 2GP drafting protocol, noting that Objective 16.2.1 refers to rural zones being reserved for productive rural activities as well as the protection and enhancement of the natural environment. She noted that apart from farming, grazing and conservation activities which have a specific policy to enable them, other rural activities (including mining) are provided for through Policy 16.2.1.2; and
 - provided an imbalanced focus on mining compared to other activities managed by the 2GP which do not have such a large set of very detailed policies.
117. However, she considered that some minor amendments could be made to the 2GP to give more emphasis to mining and in order to better recognise that mining activities are a productive part of the rural economy. She recommended minor amendments to Policy 2.3.1.2 in the Strategic Directions and the Rural Zones Introduction, and to the assessment rules for mining and landfills.
118. In relation to *Oceana Gold Ltd*, the Reporting Officer considered that specifically referring to mining was one way of providing greater recognition for mining within the 2GP (s42A Report, Section 4.3.2, p. 25). However, she noted that apart from farming, other activities were not singled out at the top level of Policy 2.3.1.2 so she did not consider it appropriate to amend the policy as requested by the submitter. Following the drafting protocol of the 2GP, part (a) is aimed at rules that *enable* permitted activities such as farming and part (b) is for rules that *provide* for other activities that support the rural economy (emphasis added).
119. The Reporting Officer recommended accepting in part *Oceana Gold Ltd's* submission, and with amendments to Policy 2.3.1.2 to clarify which activities were enabled and which were provided for, specifically referring to farming and mining as examples respectively. She recommended that the policy be amended to read:
- "Maintain or enhance the productivity of farming and other activities that support the rural economy through:
- a) rules that enable productive rural activities including farming;
 - b) rules that provide for rural industry and other land-based activities such as mining that support the rural economy or are most appropriately located in the rural zone;"
120. In response to *Oceana Gold* (OS1088.18) seeking that Policy 2.3.1.6 refer to the Macraes Gold Project, the Reporting Officer noted that as she did not consider Major Facility zoning as the most appropriate way of managing mining activity, the policy should not be amended as requested.

121. In response to *Saddle Views Estate Ltd* (OS458.59), the Reporting Officer considered that while it may be appropriate to specify mining within the description of 'other' rural activities in Policy 2.3.1.2, as recommended in response to *Oceana Gold Ltd* submission, having a specific strategic direction and policy for mining may overstate its importance. Instead, the Reporting Officer recommended that the Rural Introduction should be amended to specifically refer to mining as an example of a productive rural activity, for reasons as noted above.

3.4.4 Hearing

122. At the hearing there was no specific discussion in relation to Policy 2.3.1.2, Policy 2.3.1.6 or the proposed new objectives or policies.

3.4.5 Decision and reasons

123. We reject the submissions by *Saddle Views Estate Ltd* (OS458.31), *Blackhead Quarries Ltd* (OS874.31) and *Tussock Top Farm Ltd* (OS901.24) to add a full suite of objectives and policies to the 2GP to support their requests for special zoning or scheduling of quarries. However, we accept in part the request by *Blackhead Quarries Ltd* and *Tussock Top Farm Ltd* to add provision for mining to the Strategic Directions section of the 2GP.
124. We reject the submission by *Oceana Gold Ltd* to amend Policy 2.3.1.6 by adding reference to the Macraes Gold Project because we have decided not to create a major facility zone for mining or to add a zone specific to the Macraes Gold Project, as discussed in sections 3.1 and 3.3.
125. We accept in part the submission by *Oceana Gold Ltd* to add consideration of mining to Policy 2.3.1.2. However, we do not agree with the Reporting Officer's recommended amended wording for the policy or as requested by the submitter. Our decision is to add a new Policy 2.3.1.8 to Objective 2.3.1, as set out below and shown in Appendix 1 (referencing CP1088.17 and others), noting that this will also give partial relief to the submissions by *Blackhead Quarries Ltd* and *Tussock Top Farm Ltd*. We also use the policy to set up the method for scheduled mining activities, as discussed in Section 3.1:

Policy 2.3.1.8:

Provide for mining activities by:

- a. using scheduled activities rules for quarries and sand mines that are reliant on these rules from the Dunedin City District Plan (2006), with maximum annual extraction limits based on existing operations;
 - b. considering as part of resource consent applications for new or expanded mines:
 - i. the need for mining activities to locate where resources are available; and
 - ii. the transport benefit of having mines close to where the product of mines is required. {CP1088.17 and others}
126. Consequential changes to the assessment rules to refer to this new policy are discussed below in Section 3.12.
127. Our reasons are that a specific strategic direction and policy for mining as part of Policy 2.3.1.2 may overstate its importance. However, providing for mining through a new policy as set out above will appropriately recognise that mining activities need to locate where the resource is in the rural environment, and to locate close to where the resource is required to minimise transportation costs, such as for road aggregate.
128. We also accept the Reporting Officer's recommendation to add a reference to mining in the Rural Introduction as shown in Appendix 1 (referencing CP458.59) for the reasons outlined by the Reporting Officer, including to give more emphasis to mining and in order to better recognise that mining activities are a productive part of the rural

economy, but as noted above not to overstate its importance relative to other productive rural activities.

3.5 Policy 2.4.6.2

3.5.1 Background

129. Policy 2.4.6.2 requires the maintenance of identified values within the different rural environments through mapping rural zones and using rules limiting density, managing bulk and location, form and design of development associated with large scale activities, and managing the pattern, scale and design of subdivision.

3.5.2 Submissions

130. *Oceana Gold Ltd* (OS1088.22) sought to amend Policy 2.4.6.2 to refer to mining because the submitter considered that the addition of mining in the policy recognises "that an effective way for the Macraes Gold Project to maintain the identified values is through the new MGPOZ".

3.5.3 Section 42A Report

131. The Reporting Officer recommended that although not supporting the MGPOZ (for reasons discussed in Section 3.3 above), the submission be accepted in part because she considered that it was appropriate to acknowledge mining as an example of large scale activity in rural environments.
132. At the hearing there was no specific discussion in relation to Policy 2.4.6.2 or the amendments requested.

3.5.4 Decision and reasons

133. We accept the submission by *Oceana Gold Ltd* (OS1088.22) to amend Policy 2.4.6.2 by adding reference to mining in that policy, as shown in Appendix 1 (CP1088.22).
134. Our reason is that we consider that it is appropriate that mining is acknowledged as an example of large scale activity in rural environments, which, together with factory farming needs to be managed appropriately in terms of its form and design.

3.6 Policy 16.2.1.2

3.6.1 Background

135. Policy 16.2.1.2 provides for rural activities other than farming and grazing as well as veterinary services, rural industry, community activities, cemeteries and crematoriums in the rural zones where the effects can be managed in line with Objectives 16.2.2, 16.2.3, 16.2.4 and their policies and the objectives and policies of any relevant overlay zones.

3.6.2 Submissions

136. *Oceana Gold* (OS1088.54) sought to retain Policy 16.2.1.2, subject to mining not coming under the definition of rural industry as per *Oceana Gold* (OS1088.7), discussed in section 3.16 of this report.
137. *Blackhead Quarries* (OS874.19) and *Tussock Top Farm Ltd* (OS901.14) sought to amend Policy 16.2.1.2 so that the reference to Objectives 16.2.2, 16.2.3 and 16.2.4 and their policies as well as objectives and policies of relevant overlay zones are removed.
138. The submission by *Blackhead Quarries* was opposed by *Harboursides and Peninsula Preservation Coalition* (FS2267.41) because they considered it to be appropriate that

Policy 16.2.1.2 referred to relevant considerations, and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.56), because of concern that removing the references would limit Manawhenua input. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.58) also opposed the submission by *Tussock Top Farm Ltd*. The request to remove the reference to the wāhi tūpuna overlay zones relates to submission points from the same submitters to remove the wāhi tūpuna overlay from their sites. This was discussed in the Manawhenua Section 42A Report where the Reporting Officer recommended that these submissions be rejected.

3.6.3 Section 42A Report

139. With regard to *Oceana Gold's* submission, the Reporting Officer referred to her recommendation that the definition of rural industry is amended in response to *Oceana Gold* (OS1088.7), and noted the submitter's support to retain Policy 16.2.1.2.
140. With regard to the submissions seeking amendment, the Reporting Officer noted that the drafting protocol has the first objective in each zone focused on the purpose of the zone. Activities that are permitted in the zone are generally reflected in policies that 'enable' those activities, while activities that require consent are reflected in policies that 'provide for' those activities. The Reporting Officer considered that it was appropriate that activities that are discretionary should be considered against the relevant objectives of the zone, and thus the policy should reflect that direction. She agreed with the submission made by the *Harboursides and Peninsula Preservation Coalition* that it is appropriate to consider the wider policy context in order to promote a holistic approach to managing mining and other activities in rural zones.

3.6.4 Decision and reasons

141. We reject the submissions of *Blackhead Quarries* (OS874.19) and *Tussock Top Farm Ltd* (OS901.14) to amend Policy 16.2.1.2 to remove the references to objectives 16.2.2, 16.2.3 and 16.2.4 and their policies as well as objectives and policies of relevant overlay zones. We agree with *Harboursides and Peninsula Preservation Coalition* and the assessment of the Reporting Officer that it is important that the policy refers to relevant objectives and policies to provide appropriate direction in managing mining and other activities.

3.7 Policy 16.2.2.5

3.7.1 Background

142. Policy 16.2.2.5 seeks to only allow a range of activities, including mining, "where adverse effects on the amenity of residential activities on surrounding properties will be avoided or, if avoidance is not possible, adequately mitigated".

3.7.2 Submissions

143. *Saddle Views Estate Ltd* (OS458.22) and *Tussock Top Farm Ltd* (OS901.15) sought to amend Policy 16.2.2.5 to enable mining and other activities where any significant adverse effects on residential amenity are avoided, remedied or mitigated. The reason given by *Saddle Views Estate Ltd* is that the policy places an 'inappropriate threshold'.
144. These submissions were opposed by *Otago Regional Council (ORC)* (FS2381.15, FS2381.21) which was concerned that the change in wording would be too enabling and inconsistent with the RPS which requires a "restrictive approach to protect rural values from new activities that may have reverse sensitivity effects".

145. *Blackhead Quarries Ltd* (OS874.20) also sought that Policy 16.2.2.5 be amended to 'enable' rather than 'only allow', where 'significant' adverse effects can be avoided, remedied or mitigated.
146. This was opposed by further submitters *ORC* (FS2381.19) and *HPPC* (FS2267.46). *HPPC* also asked that an amendment be made to the provision by adding the words "insignificant, bordering on un-detectable".

3.7.3 Section 42A Report

147. The Reporting Officer agreed with the submission of *ORC*, that the amendment was too enabling, and recommended that the submissions of *Saddle Views Estate Ltd* and *Tussock Top Farm Ltd*, along with that of *Blackhead Quarries Ltd* be rejected
148. The Reporting Officer also noted that *Oceana Gold Ltd* (OS1088.2) had also sought that Policy 16.2.2.5 be amended, to exclude the proposed MGPOZ from the requirement to avoid adverse effects on surrounding properties. As this was a consequential change to the request to include the MGPOZ in the 2GP it had already been considered under Section 4.3.1 of the Section 42A Report, which did not support the inclusion of the MGPOZ.
149. Overall, the Reporting Officer recommended that Policy 16.2.2.5 be retained without amendment, as she considered that the policy struck the right balance as written.

3.7.4 Hearing

150. In a tabled statement at the hearing, *HPPC* requested a range of mitigation standards be set for different zones or overlays to define what is adequate in different receiving environments. *HPPC* stated further that the addition of 'bordering on undetectable', as requested in its submission, was especially appropriate for proposals for mining in Outstanding Natural Landscape overlays. However, we note this was beyond what can be sought through a further submission so we disregarded this aspect of the submission.
151. In her revised recommendations, the Reporting Officer stated that she did not consider it to be practical or necessary to set different mitigation standards for different zones or overlays because the assessment of resource consent applications for mining already involves the consideration of effects based on particular receiving environments. As discussed in the Section 42A Report, the Reporting Officer did not accept the insertion of 'bordering on undetectable' because it conflicts with the 2GP drafting protocol; the balance struck by the policy is already appropriate; and she believed that it would set an unachievable standard which would be inconsistent with a discretionary status for mining in ONL, SNL and NCC overlays in rural zones.

3.7.5 Decision and reasons

152. Firstly, we note that the Natural Environment Decision Report deals with related submissions on the activity status of mining in natural environment overlay zones. As a result of those submissions we note that our decision is to amend the activity status of mining in ONLs to non-complying and to amend the activity status of mining in ONFs, ONCCs and HNCCs to prohibited.
153. We reject the submissions by *Saddle Views Estate Ltd*, *Tussock Top* and *Blackhead Quarries Ltd* to 'enable' mining and our decision is to not amend the policy as requested. However, we note that there have been a number of amendments made to the policy in relation to submissions heard in the Rural, Plan Overview and Cross Plan – Service Stations hearings.
154. Our reason is that we agree with the Reporting Officer that the policy already strikes the right balance between providing for development in the rural areas where adverse effects on amenity of residential activities are able to be managed. Amendment to

include the word 'enable' for those activities is considered to be lowering the bar for assessment of amenity effects.

155. We also reject the further submission by *HPPC* (FS2267.46) to set a range of different mitigation standards or to add the words 'bordering on undetectable' for the reasons outlined above by the Reporting Officer. In essence, it conflicts with the 2GP drafting protocol; the balance struck by the policy is already appropriate; and it would set an unachievable standard which would be inconsistent with a discretionary status for mining in SNL and NCC overlays in rural zones. We also consider that HPPC, as a further submitter with respect to this policy, is not able to request specific amendments through the further submission process. We do, however, note that the issue of planning provisions for mining receiving environments is also addressed in our decision with respect to the Natural Environment section.

3.8 Policy 16.2.2.6

3.8.1 Background

156. Policy 16.2.2.6 seeks to "Only allow factory farming, domestic animal boarding and breeding (including dogs), rural industry, mining, landfills or non-rural activities, other than those that are permitted in the rural zones, where the potential for reverse sensitivity effects, that may affect the ability of permitted activities to operate, will be avoided or, if avoidance is not possible, will be no more than minor."

3.8.2 Submissions

157. *Saddle Views Estate Ltd* (OS458.23), *Blackhead Quarries Ltd* (OS874.21) and *Tussock Top Farm Ltd* (OS901.16) sought to remove Policy 16.2.2.6. *Saddle Views Estate Ltd* stated that the policy confused 'the issue of reverse sensitivity effects (as defined by case law) with the direct effects on neighbouring properties'.

3.8.3 Section 42A Report

158. The Reporting Officer agreed with *Saddle Views Estate Ltd* in part as she did not think it was appropriate to use 'reverse sensitivity' in the policy (s42A Report, Section 4.3.3.4, p. 36). She noted that Policy 16.2.2.6 was aimed at situations where new activities such as mining move into an area with existing activities such as farming or rural tourism – small scale that may be affected by the new activity. For this reason, she explained, that it was not a reverse sensitivity matter; rather it was more simply a matter of the potential adverse effects on neighbouring land uses that needed to be considered before allowing an activity such as mining.
159. However, the Reporting Officer did not share the view of the submitter that the policy needed to be deleted, as she considered that it was an important part of a suite of policies aimed at minimising the potential for conflict between activities in the rural zones. She recommended that the policy be amended to remove reference to reverse sensitivity and instead refer to adverse effects, and that consequential changes be made to assessment rules.

3.8.4 Hearing

160. In Mr Cubitt's written evidence, he reiterated that the activities listed in Policy 16.2.2.6 "should not be subject to a reverse sensitivity policy" (noting that this had been acknowledged by the Reporting Officer), and "should not be limited to generating no more than minor adverse effects."

3.8.5 Decision and reasons

161. We accept the submissions by *Saddle Views Estate Ltd* (OS458.23), *Blackhead Quarries Ltd* (OS874.21) and *Tussock Top Farm Ltd* (OS901.16) to remove Policy 16.2.2.6. We agree with *Saddle Views Estate Ltd* that the policy as notified confuses reverse

sensitivity and direct effects. We also consider that the amendment recommended by the Reporting Officer to focus the policy on direct effects means that in effect the policy would be largely superfluous, with the listed issues already being covered in policies 16.2.2.5 and 16.2.3.5. Therefore, we have decided to remove the policy altogether.

162. To implement our decision, we have:

- deleted Policy 16.2.2.6
- consequentially amended the following rules to remove reference to Policy 16.2.2.6:

Rule 16.10.2.2 Domestic animal boarding and breeding (including dogs), Rule 16.10.2.3 Intensive Farming, Rule 16.11.2.3 Rural industry, Rule 16.11.2.4 Mining, Landfills. See Appendix 1 (amendments attributed to CP 458.23 and others).

3.9 Policy 16.2.3.4

3.9.1 Background

163. Policy 16.2.3.4 requires that mining and landfills only be allowed where there is reasonable certainty that land will be "restored to an acceptable standard with respect to landform and productive potential".

3.9.2 Submissions

164. *Saddle Views Estate Ltd* (OS458.24), *Blackhead Quarries Ltd* (OS874.22) and *Tussock Top Farm Ltd* (OS901.17) sought to amend Policy 16.2.3.4 so that the word 'rehabilitated' replaces 'restored'.

165. *Saddle Views Estate Ltd* also sought that the word 'only' be removed. *Saddle Views Estate Ltd* stated that the requirement to restore landform and productive potential was impractical because when significant volumes of excavated material have been removed full restoration is not possible, and "only rehabilitation is possible".

166. The use of the proposed word 'rehabilitated' was opposed by the following further submitters:

- *HPPC* (FS2267.50) who sought that "restoration rather than rehabilitation is required to ensure that the original natural communities are what evolve as practicable"
- *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.75) who preferred the use of 'restore'
- *Waste Management (NZ) Ltd* (FS2444.23, FS2444.33) who referred to their original submission with respect to concern about the requirement for land to be restored, in terms of effects on productive potential.

167. *Oceana Gold Ltd* (OS1088.57) sought to amend Policy 16.2.3.4 to clarify what an 'acceptable standard' is.

3.9.3 Section 42A Report

168. The Reporting Officer, Katie James, noted that the phrase 'only allow' was part of the standard 2GP drafting protocol for a policy for discretionary activities and the rationale for why it should remain unchanged was covered in the Plan Overview Section 42A Report (Section 4.8.2, p. 22).

169. The DCC also provided pre-circulated landscape evidence from Mr Mike Moore (landscape consultant). In evidence, Mr Moore suggested that 'restore' implies return to an original condition, whilst 'rehabilitate' can mean return to a good (or acceptable),

but possibly changed, condition. It was the opinion of Mr Moore that restoration to a pre-existing state, if that is what 'restore' means, would not normally be practical and that rehabilitation to an agreed standard would be more practicable (Michael Moore Evidence, pp. 4-5).

170. Mr Moore also stated that where a site or area was considered to be of such value that complete restoration is required, consent for a mining activity should probably not be given at all. Under the 2GP, the value of a particular site would be considered on a case by case basis, taking into account landscape overlays and corresponding activity status (i.e. non-complying or discretionary).
171. The Reporting Officer also advised that she had sought legal advice on the matter of the proposed amendment to Policy 16.2.3.4, which indicated that the two terms were often used interchangeably and that there was no case law to be found on interpretations of these terms.
172. After considering the above evidence and advice, the Reporting Officer recommended that the Panel replace 'restored' with 'rehabilitated', and that consequential changes be made to the corresponding parts of Policy 20.2.2.9 and Rule 20.11.2.3 in the Recreation Zone (s42A Report, Section 4.3.3.5, p. 39).
173. With regard to the submission by *Oceana Gold*, the Reporting Officer noted that the word 'acceptable' allows discretion "based on the unique circumstances of the proposed activity and its environmental context..." (s42A Report, Section 4.3.3.5, p. 39). However, she considered that further guidance could be added in the assessment rules under 16.11.2.4, based on wording provided by Mr Moore. See Section 3.12 below for discussion on the assessment rules.

3.9.4 Hearing

174. In his tabled evidence at the hearing, Mr Craig Werner, representing *HPPC*, stated that while the use of the word 'rehabilitated' may be appropriate for mining in the general Rural Zone, 'restored' would be a more appropriate standard for landscape overlays. He said the proposed new wording did not provide enough guidance, and the submitter would prefer restoration to be used so that "original natural communities (flora and fauna) evolve 'as practicable'". Mr Werner suggested that this would allow a hearing committee to "fully apply its discretion on the cost-benefit trade-offs involved" which would be more appropriate than "an ad hoc overall standard for just the 'low bar' standard of adequate rehabilitation..." (Evidence of Craig Werner, p. 2).
175. In her revised recommendations, the Reporting Officer said she did not consider it appropriate to make the distinction between 'rehabilitation' and 'restoration' in the general Rural Zone versus landscape overlays, because there is already a specific objective, and policies, aimed at maintaining the values of overlays contained within the 2GP Natural Environment section. In addition, the values of the landscape overlay zones are a priority consideration in the assessment of mining activities under Rule 16.11.2.4. She, therefore, disagreed with the submitter that the recommended change to the policy provides a low bar standard. She considered that in tandem, the Natural Environment and Rural objectives, policies and rules would provide for the protection of natural landscape values.

3.9.5 Decision and reasons

176. Our decisions on this policy are made in response to submissions addressed in both the Mining Activities and Rural Zone Section 42A Reports.
177. We accept in part the submission by *Saddle Views Estate Ltd* (OS458.24), *Blackhead Quarries Ltd* (OS874.22) and *Tussock Top Farm Ltd* (OS901.17) to amend Policy 16.2.3.4. Our decision is that rather than replacing 'restored' with 'rehabilitated' it is appropriate that both terms are used in the policy.

178. We note that the 'productive potential' wording was addressed in the Rural Section 42A Report in response to the original submission by *Waste Management (NZ) Ltd* (OS796.26) who submitted that a closed landfill was unable to return to a productive rural state. The Reporting Officer for the Rural report recommended that reference to 'productive potential' be replaced with reference to 'productive or recreational use' in order to recognise that a return to productive land may not always be achievable in the short to medium term, but that some form of recreational use may well be possible.
179. We accept in part the submission by *Waste Management New Zealand* (OS796.26) heard at the Rural Hearing, regarding the submitter's concern about a return to productive potential. We consider that along with 'productive or recreational use' being included in the policy, that the word 'conservation' should also be added as a potential further use of former mining or landfill sites.
180. We accept in part *Oceana Gold (New Zealand) Limited* (OS1088.57) with regard to the submitter's request to clarify what an 'acceptable standard' is with respect to restoring landform. We have amended Rule 16.11.2.4 in order to provide additional guidance on restoration and rehabilitation as shown in section 3.12 below.
181. We reject the submission by *Saddle Hills Estate Ltd* to remove the word 'only' from the start of the policy.
182. The reasons for our decision are that we accept the planning evidence of the Reporting Officer, and the landscape evidence of Mr Moore, that the focus in the policy on restoration is impractical and inappropriate. We consider the policy should be broadened to include both restoration and rehabilitation, and the appropriate term can be applied in any particular circumstance. We also acknowledge and accept, in the context of the Rural Zone and its wider objectives and policies, that potential end uses of rehabilitated land should include recreational, and conservation uses in addition to rural productive use. Consequently, there is no need to delete the word 'only' from the policy as had been requested by *Saddle Views Estates Ltd* because the emphasis on restoration has now been changed.
183. Therefore, in response to the submissions above, we have amended Policy 16.2.3.4 as set out below and shown in Appendix 1 (and have also made consequential changes to 16.11.2.4 as shown in section 3.12):

Policy 16.2.3.4

"Only allow mining and landfills where there is reasonable certainty that land will be restored or rehabilitated {CP458.24 and others} to an acceptable standard with respect to landform and to enable a return to a productive, recreational or conservation use as soon as possible ~~productive potential.~~ {RU796.26}

184. We partly agree with the recommendation by the Reporting Officer to make consequential changes to Policy 20.2.2.9 and Rule 20.11.2.3. Our decision is to use 'restored or rehabilitated' in these provisions, as shown in Appendix 1. For consistency, as well as adding 'rehabilitated' to 20.11.2.3.b which refers to Policy 20.2.2.9, it has also been added to 20.11.2.3 d and e, under 'Potential circumstances that may support a consent application'.

3.10 Policy 16.2.3.5

3.10.1 Background

185. Policy 16.2.3.5 reads "Only allow factory farming, rural tourism - large scale, rural industry, rural research - large scale, mining and landfill activities where there are no significant adverse effects from large scale development on rural character and visual amenity".

3.10.2 Submissions

186. *Saddle Views Estate Ltd* (OS458.25), *Blackhead Quarries Ltd* (OS874.23) and *Tussock Top Hill Ltd* (OS901.18) sought that Policy 16.2.3.5 be amended to 'allow' or 'enable' mining and other activities where significant adverse effects can be avoided, remedied or mitigated. The reasoning given by *Saddle Views Estate Ltd* was that the policy as drafted "places an inappropriate threshold for the consideration of adverse effects associated with important activities such as quarries".
187. *Oceana Gold Ltd* (OS1088.58) requested that Policy 16.2.3.5 be removed because it considered the policy was "incompatible with the reality of large scale mining". *HPPC* (FS2267.52) opposed *Oceana Gold Ltd's* submission because it considered that the adverse effects of activities referred to in the policy needed to be addressed in order to align with Objective 16.2.3.

3.10.3 Section 42A Report

188. The Reporting Officer, Katie James, said the rationale for the words 'only allow' in the policies was addressed in the Plan Overview Section 42A Report, although that report did however recommend a change to drafting where there was concern that 'no significant adverse effects' created too stringent a test.
189. The Reporting Officer recommended that the submissions by *Saddle Views Estate Ltd* and *Blackhead Quarries Ltd* were accepted in part and that Policy 16.2.3.5 be amended to state:

"Only allow factory farming, rural tourism - large scale, rural industry, rural research - large scale, mining and landfill activities where ~~there are no significant~~ adverse effects from large scale development on rural character and visual amenity are avoided or, if avoidance is not possible, adequately mitigated." {CP458.25 and others}.

The Reporting Officer also recommended a consequential amendment be made to the assessment rule for mining and landfills (Rule 16.11.2.4).

3.10.4 Hearing

190. At the hearing, Mr Werner, representative for *HPPC*, stated that the words 'adequately mitigated' provided too weak a standard, and the amendment proposed in the Section 42A Report "undermines the original standard of no significant adverse effects..."
191. In her revised recommendations, the Reporting Officer noted that the Plan Overview Section 42A Report recommended a change to drafting in response to concerns that 'no significant adverse effects' creates too stringent a test. The Plan Overview Reporting Officer accepted "that for some activities significant effects may be unavoidable and that setting a requirement that these must be avoided sets an unfair standard as it still may be appropriate to grant consent considering both the positive and adverse effects of the activity" (p. 25, para 131).
192. The Reporting Officer stated that, as notified, Policy 16.2.3.5 would potentially be prohibitive of any large scale activity. In contrast, the proposed new wording (as recommended in the Plan Overview Section 42A Report) stated that if avoidance is not possible, effects must be adequately mitigated. She noted the recommended amendment recognises that, while the priority is to avoid adverse effects, in some instances significant effects on rural character and visual amenity may be unavoidable due to the scale of the development. She therefore did not agree with the submitter that the new policy wording provided 'too weak a standard'. Instead, it was her view that the recommended change provided a better balance in terms of providing for large scale rural activities in appropriate circumstances, taking into account positive as well as negative effects, but only allowing them where effects can be adequately managed.
193. It is relevant that, in the Reconvened Plan Overview and Structure Decision Report, the Natural Environment Reporting Officer, Michael Bathgate, stated that having reviewed

the wording of Policy 16.2.3.5 in light of the evidence in the report, as well as reconsidering the points raised in the submissions, his revised recommendation was to amend the policy as follows:

"Only allow factory farming, rural tourism - large scale, rural industry, rural research - large scale (outside the Invermay Farm mapped area) {RU 924.10}, rural contractor depots - large scale, {RU 911.11}, mining and landfill activities where ~~there are no~~ significant adverse effects from large scale development on rural character and visual amenity will be avoided or minimised as far as practicable. {RU704.11}"

194. He considered this constituted partial relief to *Saddle Views Estate Ltd* (OS458.25), *Blackhead Quarries Ltd* (OS874.23) and *Tussock Top Hill Ltd* (OS901.18) who sought the inclusion of the phrase 'avoid, remedy or mitigate' to manage significant adverse effects (Appendix 1, p.12, Reconvened Plan Overview Hearing Report).

3.10.5 Decision and reasons

195. We accept in part the submissions of *Saddle Views Estate Ltd* (OS458.25), *Blackhead Quarries Ltd* (OS874.23) and *Tussock Top Hill Ltd* (OS901.18) to amend Policy 16.2.3.5. We do not agree with the submitters' requests to 'allow' or 'enable' mining but we agree with the Reporting Officer's original recommendation insofar as it amended Policy 16.2.3.5 (and made a consequential amendment to Rules 16.10.2.5, 16.11.2.2, 16.11.2.4 and 16.11.2.5), removing the word 'significant'. This change also addresses the concerns around the 'no significant effects' wording that were raised by the *University of Otago* (OS308.497), which we discuss and respond to in the Plan Overview Decision Report, and also in the Rural Decision Report where we made a decision with respect to submissions on Policy 16.2.3.5. We prefer the Reporting Officer's revised recommendations at the Plan Overview Hearing, insofar as they recommended "minimised as far as practicable" rather than "adequately mitigated" for the policy test. Having considered all evidence and submissions on this topic, we consider this sets a more appropriate bar for management of these activities.
196. Policy 16.2.3.5, as amended, now reads:
- Only allow ~~factory farming~~ intensive farming {RU 1090.3}, rural tourism - large scale, rural industry, rural research - large scale (outside the Invermay Farm mapped area) {RU 924.10}, rural contractor and transport depots - large scale, {RU 911.5} mining and landfills activities {RU cl. 16} where ~~there are no significant~~ {CP458.25 and others} adverse effects from large scale development on rural character and visual amenity will be avoided or minimised as far as practicable {RU 704.11 and others}.
197. We reject the submission by *Oceana Gold Ltd* (OS1088.58) to remove the policy.
198. We agree with the reasons given by the Reporting Officer as set out above. In particular, whilst we acknowledge the concerns of *HPPC* regarding potential weakening of a policy direction, in this case we do not consider that the policy should be framed in such a way that it is prohibitive of mining and the other types of non-farming activities that do occur, and in many cases are appropriately located and managed, in rural areas. The suggested amendments to the policy wording will in our consideration provide the appropriate balance between being enabling of land uses and managing of adverse effects.

3.11 Rule 16.5.9 and Rule 17.5.10 Separation distances

3.11.1 Background

199. The separation distance rules were introduced into the proposed 2GP in the rural and rural residential zones to reduce the potential for reverse sensitivity effects arising in relation to lawfully established rural activities. The rules require new residential buildings to be set back from factory farming, domestic animal boarding and breeding

including dogs, mining, landfill activity, and community or regional scale wind generators. The proposed distances were based on a review of other plans and in-house discussion with technical staff. Submissions on these rules were also heard in the Rural Residential and Rural Hearings. The following discussion relates specifically to mining activities.

3.11.2 Submissions

200. *Saddle View Estate (OS458.32)* sought to identify a "Quarry Buffer Area" around existing quarries to protect them from reverse sensitivity effects. This was opposed by *HPPC (FS2267.75)* who sought to adopt the proposed 2GP wording because "reasonable control of quarry operations would not require a separate land set aside buffer zone". It was also opposed by *Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (FS2456.103)* who were concerned that any increase in the scale of the activity would require assessment.
201. *Saddle Views Estate Ltd (OS458.43)*, *Blackhead Quarries Ltd (OS874.46)* and *Tussock Top Farm Ltd (OS901.39)* sought to amend Rule 16.5.9 so that separation distances from mining operations are increased from 100 metres in the rule, to 200 metres for non-blasting activities, and to 500 metres for mining activities involving blasting.
202. *Saddle Views Estate Ltd* submitted that Rule 16.5.9 was inefficient and ineffective at addressing reverse sensitivity effects as it does not accord with standards applied in Australia or other relevant district plans, although those standards were not cited. The submission stated that the proposed separation distance (of 100 metres) is inadequate to protect a quarry from reverse sensitivity effects.
203. *Neighbours of Blackhead Quarry (FS2335)* opposed these submissions and requested amendment to Rule 16.5.9 and Rule 17.5.10 to clarify where the separation distance is measured from; and to require new residential buildings to be either 50m from the boundary of the site containing the mining activity, or 100m from the extent of the current operational area, or 400m from the extraction area where blasting may occur. The *Neighbours of Blackhead Quarry* submitted that the amendments sought to Rule 16.5.9 would constrain development on the submitters' sites to an unnecessary extent in terms of the area that may be impacted by quarry activities. They also contended that, in interpreting Rule 16.5.9, the operational area of Blackhead Quarry could be considered to be the site boundary.

3.11.3 Section 42A Report

204. The Reporting Officer, Mr Bathgate, in his Section 42A Report, recommended that the submission of *Saddle Views Estate* to identify a quarry buffer zone be rejected as under assessment rule 16.11.2.4 a buffer area may already be required as a condition on a resource consent for mining, while a potential circumstance that may support a consent application is that the activity would be set back from its own boundary. In addition, he considered that any concerns about reverse sensitivity could be adequately dealt with by recommended changes to Rule 16.5.9.
205. With regard to the requests to increase separation distances in Rule 16.5.9, Mr Bathgate said he had considered comparable practices elsewhere and discussed this matter with resource consent planners and environmental health staff involved in monitoring and enforcement. He recommended that the submissions from *Saddle Views Estate Ltd (OS458.43)*, *Blackhead Quarries Ltd (OS874.46)* and *Tussock Top Farm Ltd (OS901.39)* be accepted.
206. Mr Bathgate also said he had considered there was a need for further clarification that the separation distances are not measured from site boundaries, but from areas of the mining operation that are actively being used at the time any new residential building is being erected. He recommended amending Rule 16.5.9 and Rule 16.5.10 to clarify that separation distances will be measured from 'active' operational areas within the site containing the mining activity.

3.11.4 Hearing

207. At the hearing, Andrew McSkimming and Tony Devereux for *Neighbours of Blackhead Quarry* tabled a statement seeking that:
- the separation distance from non-blasting areas is reduced to 100m (Rules 16.5.9.d, 17.5.10.d); or
 - an exception is included in these rules where a building site is subject to a 'no complaints' covenant; or
 - a setback rule is applied to the quarry preventing it from having a working area within 100m of the site boundary; or
 - written approval be required from the quarry to be obtained at the time of subdivision consent for a future house on an identified building platform, to preclude the need for a further consent process for any future dwelling.
208. *Neighbours of Blackhead Quarry* also sought consideration for site-specific rules for each quarry, all of which have different circumstances with regard to an appropriate setback for neighbours.
209. We note that these requested changes go beyond submitting support or opposition to the *Saddle Views Estate Ltd* original submission, and therefore what can be sought by a further submission. We have, therefore, only considered this in so far it is material to considering the submission by *Saddle Views Estate Ltd*.
210. The Reporting Officer, in his revised recommendations, acknowledged that the Blackhead situation may at present be acceptable for the neighbours, but this may be partly attributable to factors such as the presence of the trees. However, he said trees can not always be relied upon as a means of permanent screening. He also noted that mining and quarrying can have effects unrelated to blasting that may extend further than 100m. Mr Bathgate reiterated his opinion that 200m is a more appropriate separation distance, noting that this did not preclude any residential development from occurring within the 200m. Instead, this would trigger a resource consent requirement to consider the potential for reverse sensitivity effects and whether they can be minimised for any particular proposal.
211. With regard to the 'no complaints' covenant, Mr Bathgate noted that while these may be considered as part of a resource consent application, there can be difficulties in their enforceability. In his opinion it is not good practice to require these covenants as part of a district plan rule, with the 2GP instead seeking to manage effects in an upfront fashion rather than seeking to eliminate complaints.
212. The Reporting Officer said the request for a setback rule from the working area of the quarry may not effectively address reverse sensitivity effects, due to the existing rights or consents under which established quarries are already operating and are able to continue operating. He noted that even if quarries were to agree to vary their conditions based on this approach, for Blackhead Quarry it would depend on what happens with the permitted scheduled rule. For example, in the case of Blackhead Quarry there is an existing rule requiring a 100m setback from Blackhead Road for extraction only. As with other scheduled conditions, if this condition on the scheduled rule is to change it would require a Plan variation or Plan change. Mr Bathgate also noted that part of the proposed 2GP assessment guidance for any new mining activity includes the setback from its own boundaries.
213. With regard to the request for gaining written approval from the quarry, Mr Bathgate did not consider it good practice to write exceptions into a performance standard based on affected party approvals and considered that this would be generally regarded as ultra vires. He considered that it would raise uncertainty around matters such as how and by whom the approval was held and what would happen if parties changed. However, Mr Bathgate did suggest that consideration of written approval could be

added into assessment rules 16.9.3.7 and 17.9.3.7 as guidance for any breach of separation distance.

214. In relation to having site-specific separation rules for each quarry in the 2GP, the Reporting Officer considered this to be impractical due to the number of quarries, and the amount of work to assess each one individually. He stated that the rule was designed to predict circumstances where there may be adverse effects and to manage these through the resource consent process.

3.11.5 Decision and reasons

215. We reject the submission of *Saddle Views Estate Ltd* (OS458.32) to identify a quarry buffer area round existing quarries to protect them because the 2GP already provides for buffers and setbacks as considerations in consent applications for mines, as well as separation distances being required through Rule 16.5.9.
216. We accept the submissions from *Saddle Views Estate Ltd* (OS458.43), *Blackhead Quarries Ltd* (OS874.46) and *Tussock Top Farm Ltd* (OS901.39) and the relief recommended by the Reporting Officer to amend Rule 16.5.9 and Rule 17.5.10 as shown in Appendix 1 and attributed to CP458.43 and others.
217. Our reasons are the same as that given by the Reporting Officer, as outlined above. In particular, we agree that increased separation distances are appropriate to properly address potential reverse sensitivity issues that may arise from operational quarries. We also accept the Reporting Officer's recommended amendments to the rules to clarify that separation distances are to be measured from the active areas of a quarry rather than the site boundary, and this accordingly is less restrictive on the neighbours than they appear to have appreciated when making their submissions.
218. Accordingly, we reject the further submission of *Neighbours of Blackhead Quarry* (FS2335). As noted above the requests included in the tabled statement for *Neighbours of Blackhead Quarry* are beyond the scope of a further submission and therefore could not be made. Nonetheless we accept the reasons given by the Reporting Officer for why making an exception for a 'no complaints' covenant, requiring written approval from the quarry, or applying a setback rule to a quarry preventing it from having a working area within 100m of the site boundary would not be appropriate.
219. While also out of scope, we do not agree with the relief suggested by the Reporting Officer, i.e. for consideration of written approval to be added to assessment rules. The RMA has relevant provisions around requiring written approvals, and the part these play in the processing and granting of resource consents is already covered in that statute. It is not considered appropriate to assign a greater weight in the 2GP to an application that has obtained a written approval, rather it should be determined on its merits having regard to a range of factors that relate to any particular application and any particular site.

3.12 Rule 16.11.2 Assessment of discretionary land use activities

3.12.1 Background

220. Rule 16.11.2 lists the assessment matters for resource consent applications for discretionary land use activities in the rural zones.

3.12.2 Submissions

221. *Saddle Views Estate Ltd* (OS458.28) sought to amend the "Relevant objectives and policies (priority considerations)" part of the assessment rule for mining and landfills (16.11.2.4) as a consequence of the submitter's related submissions to amend Rural policies and rules.

222. *HPPC* (FS2267.71) opposed *Saddle Views Estate Ltd's* submission, particularly the removal of the word 'adequately' from 16.11.2.4.b relating to mitigation of adverse effects on amenity. The submission was also opposed by *Horticulture New Zealand* (FS2452.67) who objected to removing the consideration of reverse sensitivity effects from clause c of the rule, and by *Kati Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.100) who objected to the removal of wāhi tūpuna mapped areas as a consideration under clause g.
223. *Saddle Views Estate Ltd* (OS458.46), *Blackhead Quarries Ltd* (OS874.51) and *Tussock Top Farm Ltd* (OS901.46) sought that an extra assessment rule for mining be added in all relevant sections that would read: "Whether the activity already exists in the environment and the contribution the activity makes to the social, economic, and cultural wellbeing of the community".
224. *Oceana Gold Ltd* (OS1088.60) requested that Rule 16.11.2 be amended so that the "potential circumstances that may support a resource consent application" under the rules for rural industry and mining and landfills had a sentence added that would read: "the development will have significant positive effects in terms of economic, social, and/or cultural wellbeing of people and communities."

3.12.3 Section 42A Report

225. The Reporting Officer, Katie James, recommended that *Saddle Views Estate Ltd's* (OS458.28) submission to amend the assessment rule for mining and landfills as a consequence of the related submissions on Rural Zone policies and rules be accepted in part, and that amendments be made consequential to her recommendations on Policies 16.2.2.6, 16.2.3.4 and 16.2.3.5 (Section 42A, Section 4.3.3.8, p. 53). She also recommended that the opposing further submissions be accepted with respect to their areas of concern.
226. In considering the assessment rules for mining, the Reporting Officer also recommended further relief be provided to submissions by *Saddle Views Estate Ltd* (OS458.31), *Blackhead Quarries Ltd* (OS874.31) and *Tussock Top Farm Ltd* (OS901.24) in relation to their proposed new objective and policy suite for quarrying, discussed above relating to Strategic Directions, in Section 3.4 of this decision. In Attachment 1 to the Section 42A Report (which discusses the Reporting Officer's response to the proposed objective and policies), she made a number of comments and recommendations:
- The Reporting Officer considered that the constraints imposed by the location of aggregate resources could be considered in the assessment of any application for mining, and recommended adding a new clause as follows:
- "In assessing an application for mining, Council will consider the constraints imposed by the location of the mineral resource and any logistical or technical requirements to access the resource {CP 901.24} and others"
227. Although she saw compensation measures as "methods of last resort", she was of the opinion that environmental compensation could be considered as part of the assessment of mining applications. Note that the change recommended by the Reporting Officer was superseded by the recommendation in the Natural Environment Section 42A Report relating to biodiversity offsetting.
228. The Reporting Officer recommended additional guidance be provided in the assessment rule in relation to rehabilitation of former mining or landfill sites. This was in response to a submission by *Oceana Gold Ltd* (OS1088.57) which sought clarification as to what an acceptable standard was in relation to restoration, as required by Policy 16.2.3.4 (this is also discussed above in Section 3.9).
229. With regard to the positive effects of mining for the community, she noted that in the 2GP, the main reference to positive effects in terms of well-being is in Objective 16.2.1. This states that "Rural zones are reserved for productive rural activities and the

protection and enhancement of the natural environment, along with certain activities that support the wellbeing of rural communities." She recommended that the wording of the objective be changed to remove the reference to 'rural' before 'communities', and that Rule 16.11.2.1 (assessment of all discretionary activities) should have an extra matter added under "Potential circumstances that may support a consent application" as follows: "the activity will have significant positive effects in terms of community well-being".

3.12.4 Hearing

230. At the hearing, Mr Werner, representative for *HPPC* said that clause b of Rule 16.11.2.4 (which, as notified, reads "adverse effects on the amenity of residential activities on surrounding properties are avoided or, if avoidance is not possible, adequately mitigated") could dilute amenity protections depending on the definition of 'residential'.
231. In response, in her revised recommendations, the Reporting Officer stated that with respect to the specifying of residential activities in the rule, and in policies under the objectives cited, this wording was the original 2GP wording and no submissions sought these words be amended, nor were any changes recommended in the Section 42A Report. She explained that the underlining of the words appearing in the report did not denote a recommended change but instead was a styling error that arose because of copying content from the ePlan (which underlines words to denote that the term has a pop-up definition).
232. In presenting legal submissions at the hearing, Mr Christensen, appearing on behalf of *Oceana Gold Ltd*, acknowledged the intent of the additional guidance on rehabilitation recommended in the Section 42A Report through the amendment to Rule 16.11.2.4. However, he considered that it might create more uncertainty than it solves and questioned terms such as 'effective screening' and 'blend seamlessly'. He suggested that a more simple approach was to follow the approach of the Waitaki District Plan policies for rehabilitation and establishment of activities after mining, and those assessment rules were provided.
233. In her revised recommendations, the Reporting Officer noted that those terms were proposed in the rules as part of general assessment guidance in considering an application, and were not intended as an absolute rule such as a performance standard. She clarified that the terms will have differing meanings and relative importance on a case by case basis for each application. She further noted that *Oceana Gold Ltd* had provided assessment rules for mining in the Waitaki District Plan as a suggested alternative. She suggested that these could be considered for inclusion in any future Plan change, but stood by her recommendation to amend the assessment rule as outlined.

3.12.5 Decision and reasons

234. We accept in part the submission by *Saddle Views Estate Ltd* (OS458.28) to amend the assessment rule for mining and landfills (Rule 16.11.2.4). We consider that amendments are required and address these below with reference to specific recommendations of the Reporting Officer.

Consequential Changes to clauses (c) - (e):

235. As a consequential change to the removal of Policy 16.2.2.6 discussed in Section 3.8 above, we have deleted clause c. We also agree with the Reporting Officer's recommendation to amend Rule 16.11.2.4.d (new e), as a consequential change to Policy 16.2.3.5, so that it reads:

~~"There are no significant a-~~ {CP 458.25 and others} Adverse effects on rural character and visual amenity from large scale development are avoided or minimised as far as practicable {RU 704.11 and others} (Policy 16.2.3.5).

236. We agree in part with the Reporting Officer's recommended changes to Rule 16.11.2.4.e in line with the recommended changes to Policy 16.2.3.4, but consequential to our decision on that policy, our decision is that the rule be amended to read:

"Land will be restored or rehabilitated {CP458.24 and others} to an acceptable standard with respect to landform and to enable a return to productive, recreational or conservation use as soon as possible ~~productive potential~~ {RU796.26} (Policy 16.2.3.4)"

237. The reason for our decision on the above points is that these changes to clauses (c) to (e) reflect our decisions with respect to Policy 16.2.2.6, Policy 16.2.3.5, and Policy 16.2.3.4, for the reasons outlined in those parts of our decision, and are therefore considered consequential changes.

Restoration and Rehabilitation

238. We agree in part with the amendment recommended by the Reporting Officer to add further guidance to the assessment rule for mining and landfills in relation to restoration or rehabilitation. We consider that the wording should support conversion to a recreational use and our decision is to add a new clause to 16.11.2.4 as follows:

In assessing effects on rural character values and amenity, Council will consider whether any proposed restoration or rehabilitation measures will ensure that final landforms:

1. screen or enhance the view of excavated faces from surrounding public and residential viewpoints through appropriate landscaping, plantings or siting of public amenities; and/or

2. minimise evidence of mining or landfill activity by blending final contours with surrounding landforms to achieve as natural appearance as possible, and by providing for the establishment of vegetation cover appropriate to the local character {CP 1088.57}

239. The reason for our decision is that, as discussed in Section 3.9 above, we consider clarification is required to what an acceptable standard was in relation to restoration and rehabilitation, as required by Policy 16.2.3.4. The amendments recommended by the Reporting Officer will, in our consideration, provide the appropriate guidance.

Environmental Compensation

240. In relation to the Reporting Officer's recommendation to add a new clause relating to considering positive effects of environmental compensation, we note that the Officer's recommendation in the Mining Activities Section 42A Report was superseded by a recommendation in the Natural Environment Section 42A Report to provide for the use of biodiversity offsetting in the 2GP. Our decision in relation to submissions heard in the latter report was to provide a framework for biodiversity offsetting and environmental compensation in the 2GP. Any biodiversity offsets or environmental compensation offered up as part of an application will be taken into account as positive effects under s104 of the RMA, and will be assessed against new Policy 2.2.3.5 and Policy 2.2.3.6. Rule 16.11.2.4 refers to Natural Environment section 10.6 guidance on the assessment of resource consents in relation to relevant section 10 objectives and policies, which in turn references the policies that relate to biodiversity offsetting and environmental compensation - policies 2.2.3.5 and 2.2.3.6 (see Natural Environment decision for further detail).

241. We consider this constitutes allowance for appropriate compensatory measures.

Positive Effects of Mining

242. We accept in part the submissions of *Saddle Views Estate Ltd* (OS458.46), *Blackhead Quarries Ltd* (OS874.51) and *Tussock Top Farm Ltd* (OS901.46) and that of *Oceana Gold Ltd* (OS1088.60) with respect to recognising the potential contribution or positive effects of mining.

243. With regard to the relief recommended by the Reporting Officer, we accept the change suggested to Objective 16.2.1 to remove the word 'rural'.
244. We do not agree with the Reporting Officer's recommended change to Rule 16.11.2.1 to add a new potential circumstance that may support a consent application (i.e. "the activity will have significant positive effects in terms of community well-being").
245. The reasons for our decision is that new Policy 2.3.1.8 as set out in Section 3.4 above sets out the approach of the 2GP with regard to providing for mining activities. While we consider that both:
- the need for activities to locate where resources are available, and
 - the transport benefit of having mines close to where the produce of mines is required

should be considered (and we have drafted the new Policy 2.3.1.8 accordingly), we consider that further amendments risk over-emphasising the importance of mining to social and economic wellbeing relative to other productive rural activities. Instead, our decision is to add a new clause to the mining assessment rule (Rule 16.11.2.4) that will reference the new policy as follows:

Relevant objectives and policies (priority considerations)

a. Objective 2.2.2...

b. Policy 2.3.1.8.b {CP1088.17 and others}

243. We also agree with the recommendation of the Reporting Officer to add a new clause regarding locational constraints and any logistical or technical requirements for mining in the general assessment guidance in Rule 16.11.2.4, attributed to CP 901.24 and others.
243. Finally, our decision adds a reference to mining in the Rural Introduction as shown in Appendix 1 (referencing CP458.59) to better recognise that mining activities are a productive part of the rural economy.

3.13 Appendices

3.13.1 Submissions

246. *Oceana Gold Ltd* (OS1088.61) sought to amend Appendix A7.1 (i.e. the description of rural character values in the High Country) to recognise the presence and contribution of the Macraes Gold Project to the High Country Rural Zone.

3.13.2 Section 42A Report

247. The Reporting Officer, in forming her opinion on Oceana Gold's submission, consulted with Barry Knox, Senior Landscape Architect at the DCC. She considered that it is appropriate to recognise the presence and role of the Macraes Gold Project in the Taieri Ridge area, and recommended accepting the submission in part by including the suggested wording for the second paragraph under the description, and by adding a sentence at the end of the third paragraph. She did not agree with the addition of the words "and interest", as she considered it was not appropriate to add new wording to the values section to focus specifically on mining.
248. The following amendments to Appendix A7.1 were proposed by the Reporting Officer:
- ~~"This~~Parts of this zone comprise highly significant and visible high country containing distinctive and rugged ridges, centred around the Strath Taieri plain. It is characterised by strongly defined landform and minimal influence of human elements. The scale is large and expansive. Although much of the area is grazed and managed under an extensive pastoral regime, the vegetative cover, in the main, retains its natural patterns and character.

The landscape is highly coherent with rock outcrops creating particular interest. The skyline in many places is dramatic on account of these. The rugged character of the landform and the large scale of this landscape combine to create an effect which is distinctively Central Otago. The modified landscapes of the Macraes Gold Project (largely within the Waitaki District but now also in Dunedin City) area create a further point of difference."

3.13.3 Hearing

249. At the hearing *Oceana Gold Ltd* submitted that the amendment proposed by the Reporting Officer in her Section 42A Report should be further amended by adding the word "the modified and dynamic landscapes...". Mr Christensen said that it was appropriate for the description to recognise that as the mine is in current operation and likely to extend further, "further landform changes are anticipated".
250. In her revised recommendations, the Reporting Officer agreed with the addition of "and dynamic". While noting that "all landscapes are dynamic to a greater or lesser extent" she recognised that this is particularly the case with the Macraes Gold Project landscape and was comfortable with adding 'dynamic' as it amends the description rather than the values of the zone listed in Appendix A7.1.

3.13.4 Decision and reasons

251. We accept in part the submission by *Oceana Gold Ltd* to amend Appendix A7.1, to give recognition of the presence of the Macraes mine, a substantial land use in the High Country Rural Zone.
252. The amendments are shown in Appendix 1 of this report, attributed to submission point CP1088.61.
253. Our decision is to accept the addition of "Parts of this zone comprise" to the beginning of the second paragraph of the description. We also accept in part the wording regarding the modification of the landscape by the Macraes Gold Project but so that the end of the third paragraph reads:
- The landscape is modified over a small area by the Macraes Gold Project, which is largely within the Waitaki District Council but now also extends into Dunedin City.
254. The reason for our decision is that we accept there is a need to recognise that Macraes Mining Project is a substantial and significant land use, but that it does occupy only part of this extensive zone. We also need to acknowledge that the mine is largely within the neighbouring Waitaki District.
255. We do not agree with adding the words "point of difference", and "dynamic" to the description as requested by the submitter, because it is not the purpose of the Appendix to signal possible expansion projects of existing land uses in the zone. Any such proposals will need to be assessed on their merits having regard to the wider suite of objectives and policies.

3.14 Definition of Mining

3.14.1 Background

256. Mining is defined as "The use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation and associated processing of minerals, sand or aggregates; or mineral exploration or prospecting that involves blasting.

This definition excludes:

mineral exploration, which does not involve blasting

mineral prospecting, which does not involve blasting; and

on-site extraction of aggregate for the sole purpose of constructing and maintaining access within a farm or forestry property, which is included as part of a farming or forestry activity.

3.14.2 Submissions

257. *Oceana Gold* (OS1088.6) sought to amend the definition of mining to "the use of land, structures and buildings for the primary purpose..."

3.14.3 Section 42A Report

258. The Reporting Officer recommended that the submission be rejected because this change would be inconsistent with the rest of the 2GP. She noted that many other activities defined in the Plan also use structures, the use of which is encompassed by the broader concept of 'land and buildings' used in the definitions for all of these activities.

3.14.4 Decision and reasons

259. We reject the submission of *Oceana Gold* (OS1088.6) to add 'structures' to the definition of mining, for the reasons summarised by the Reporting Officer above, noting that we have amended the definition of mining consequential to changes to the definitions of mineral exploration and mineral prospecting as discussed in Section 3.15 below.

3.15 Definitions of mineral exploration and mineral prospecting

3.15.1 Background

260. Mineral prospecting is defined as:

"Any activity undertaken for the purpose of identifying land likely to contain exploitable mineral deposits or occurrences. This definition includes geological, geochemical and geophysical surveys, the taking of samples by hand or hand-held equipment and aerial surveys.

This definition excludes mineral prospecting that involves blasting, which is defined as mining."

261. Mineral exploration is defined as:

"Any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals. This definition includes any drilling, dredging, or excavations, whether surface or sub-surface, that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence.

This definition excludes mineral exploration that involves blasting, which is defined as mining."

262. Mineral Prospecting Activity and Mineral Exploration Activity are permitted activities under the operative Dunedin District Plan in the rural zones and have the same meanings as the 2GP.

3.15.2 Submissions

263. *Saddle Views Estate Ltd* (OS458.34), *Blackhead Quarries Ltd* (OS874.26) and *Tussock Top Farm Ltd* (OS901.45) sought for the definition of 'mineral prospecting' to be amended to reflect the definition in the Crown Minerals Act 1991 (CMA).

264. *Saddle Views Estate Ltd* (OS458.1), *Blackhead Quarries Ltd* (OS874.25) and *Tussock Top Farm Ltd* (OS901.20) also sought to amend the definition of 'mineral exploration'

so that it is in line with the definition contained within the CMA, which does not exclude blasting from the definition. *Saddle Views Estate Ltd* suggested that blasting "can be small scale to allow the examination of underlying geology". *Oceana Gold Ltd* (FS2439.49, FS2439.50 and FS2439.51) submitted in support of these submissions.

3.15.3 Section 42A Report

265. With regard to the definition of mineral prospecting, the Reporting Officer noted that the proposed definition was essentially the same as the CMA definitions, with three exceptions: the notified 2GP definition specifically excluded mineral prospecting involving blasting, which was defined as mining; it included the word 'exploitable' to describe potential mineral deposits or occurrences; and, unlike the CMA definition it did not include reference to the taking of small samples offshore by low impact mechanical methods.
266. The Reporting Officer said that offshore samples are outside the jurisdiction of the 2GP so it is not necessary to include it in the 2GP definition of 'mineral prospecting'. However, she recommended that the word 'exploitable' be removed from the 2GP definition because the act of prospecting in itself may determine whether a resource is exploitable.
267. She recommended that the definition is amended as follows:
- "Any activity undertaken for the purpose of identifying land likely to contain ~~exploitable~~ mineral deposits or occurrences. This definition includes geological, geochemical and geophysical surveys, the taking of samples by hand or hand-held equipment and aerial surveys.
- This definition excludes mineral prospecting that involves blasting, which is defined as mining."
268. The Reporting Officer noted that apart from some formatting differences, the proposed 2GP definition for 'mineral exploration' was also the same as the CMA, except that it contained an exclusion for mineral exploration involving blasting, which is part of the definition for 'mining'.
269. With regard to the submissions seeking to not exclude blasting from the definition, the Reporting Officer considered that blasting should be treated carefully due to the potential for adverse effects on amenity and public health and safety. However, in response to *Saddle Views Estate Ltd* (OS458.1), she recommended that a small scale blasting performance standard be investigated.
270. The Reporting Officer recommended that subject to a decision being made on a small scale blasting standard, that consequential amendments could then be made to the definitions of mineral exploration, mineral prospecting and mining.

3.15.4 Hearing

271. At the hearing, no parties presented evidence on these definitions, or on the potential small scale blasting performance standard.
272. During deliberations, the Panel requested that the Reporting Officer report back on options for small scale blasting. Her report was that under the operative District Plan Rule 6.5.8(ii) for scheduled permitted quarrying and aggregate processing activities, condition (iii) limits Airblast over-pressure to 115dB, and there is no limit provided for vibration. She noted that the operative Plan is silent on whether or not blasting is anticipated with exploration or prospecting.
273. The Reporting Officer also drew attention to the guidance in relation to blasting associated with mining, contained in 2GP Section 9 Public Health and Safety. Policy 9.2.2.6 is to "Only allow mining where there would be no significant effects from air blast and vibration on people's health and safety or on surrounding properties". Under

Rule 9.6.3.1 (assessment of discretionary activities – mining) potential circumstances that may support a consent application include:

- "d. Blasting will be carried out in accordance with appropriate industry standards
- e. Blast noise (air blast) measured at the notional boundary on adjoining properties will not exceed a peak overall sound pressure level of 128 dBZ.
- f. Vibration – the limit of peak particle velocity of vibration from blasting measured on the foundation or any suitable location on or adjacent to residential buildings on adjoining properties will not exceed 10mm/sec."

- 274. She noted that these were the parameters recommended by Malcolm Hunt and Associates in the Noise and Vibration Review prepared for the 2GP in 2014, and are also the air blast noise guidance in accordance with Appendix J of Part 2 of Australian Standard AS 2187.2 1993. We note *Saddle Views Estate Ltd* (OS458.38 and OS458.39 respectively) submitted in support of Policy 9.2.2.6 and Rule 9.6.3.1.
- 275. The Reporting Officer further noted that other district plans provide performance standards for blasting in line with the guidance provided by AS 2187.2 1993 or 2006. She provided an example of a specific blasting standard for exploration in the proposed Thames Coromandel District Plan (TCDP).
- 276. As a result of those investigations, the Reporting Officer recommended that if the Panel were of a mind to provide for blasting in association with mineral exploration as a permitted activity, a new blasting standard could be added to the land use performance standards in Rule 16.5, alongside hours of operation and site restoration performance standards. She proposed the following standard, which she noted was in line with overpressure and vibration parameters provided by AS2187.2 2006, and with frequency and hours of operation based on the proposed TCDP rule and Hauraki District Plan Rule 8.3.2.3(2)(b):

16.5.3 Blasting

Mineral exploration that involves blasting must comply with the following standards:

- 1. There are no more than 3 blast events per site per day, and no more than 21 in a calendar year.
 - 2. Blasts may only occur between 8am and 6pm Monday to Saturday (excluding public holidays);
 - 3. The peak amplitude (Vmax) may not exceed 5 mm/second, measured on any foundation or suitable adjacent location of an adjoining residential property; Overpressure (Pmax) may not exceed 120 dBL, measured at the boundary of the receiving property, or the notional boundary of noise sensitive activities in a rural, rural residential or Ashburn Clinic zone.
{CP458.1 and others}
- 277. The Reporting Officer recommended that mineral exploration and prospecting be separated out in the activity status table to allow for blasting in association with exploration, subject to the blasting performance standard.
 - 278. She further recommended that a contravention of the blasting performance standard should result in the activity defaulting to (full) discretionary, with guidance on the assessment of discretionary performance standard contraventions linking back to the Public Health and Safety section, in particular to Objective 9.2.2 (land use, development and subdivision activities maintain or enhance people's health and safety).
 - 279. As a consequence, she also recommended an amendment to Policy 9.2.2.6 to add mineral exploration to the policy, as follows:

"Only allow mining or mineral exploration where there would be no significant effects from air blast and vibration on people's health and safety or on surrounding properties".

280. The Reporting Officer also recommended a consequential amendment to Rule 9.3.6 Noise to add an exclusion for blasting as part of mineral exploration.
281. Finally, she recommended consequential changes to the definitions of mineral prospecting and exploration, together with mining. She recommended that the reference to blasting being excluded or included in each of the activities be removed in order to align the definitions of mineral exploration and mineral prospecting with the corresponding CMA definitions, and to allow for blasting to occur in association with exploration.

3.15.5 Decision and reasons

282. We accept in part the submissions of *Saddle Views Estate Ltd* (OS458.1/OS458.34), *Blackhead Quarries Ltd* (OS874.25/OS874.26) and *Tussock Top Farm Ltd* (OS901.20/OS901.45) with regard to aligning the definitions of mineral exploration and mineral prospecting with their definitions in the Crown Mineral Act 1991 and not excluding blasting from the definition of exploration, for the same reasons provided by the Reporting Officer as summarised above.
283. However, we also agree with the Reporting Officer's recommended amendments to the definitions of mineral exploration and mineral prospecting and the consequential amendment to the definition of mining to remove the reference to blasting, with regard to addition of a standard for blasting, to allow for mineral exploration involving blasting to be a permitted activity in the rural zones. We consider that the standard recommended by the Reporting Officer appropriately reflects the previous guidance provided by Malcolm Hunt and Associates based on the Australian standards and as used in two other district plans that were identified, in particular as concerns the suggested parameters for overpressure and vibration and frequency and hours of operation.
284. In addition to the clauses recommended by the Reporting Officer, our decision is to add a fourth clause to clarify that the amount of earth moved by blasting must meet the earthworks – small scale standards, so that the performance standard reads as follows:

16.5.14 Blasting

1. Mineral exploration that involves blasting must comply with the following standards:
 - a. There must be no more than 3 blast events per site per day, and no more than 21 blasts in a calendar year.
 - b. Blasts may only occur between 8.00am and 6.00pm Monday to Saturday (excluding public holidays);
 - c. The peak amplitude (Vmax) must not exceed 5 mm/second, measured on any foundation or suitable adjacent location of an adjoining residential property; Overpressure (Pmax) must not exceed 120 dBL, measured at the boundary of the receiving property, or the notional boundary of noise sensitive activities in a rural, rural residential or Ashburn Clinic zone.
 - d. The quantum of earth moved must not exceed the earthworks – small scale standards.
 2. Mineral exploration that contravenes the performance standard for blasting is a discretionary activity {CP458.1 and others}.
{CP458.1 and others}
285. The consequential amendments required as a result of this decision include (see Appendix 1):
- amendments to the Rural Land Use Activity Status Table 16.3.3 to differentiate between mineral exploration involving blasting, mineral exploration not involving blasting and prospecting. We consider that these should be separate

activities to allow for mineral exploration not involving blasting and mineral prospecting to remain as permitted activities in Significant Natural Landscape, Natural Coastal Character and Outstanding Natural Landscape overlay zones. In line with the activity status of mining, we agree with the Reporting Officer that mineral exploration involving blasting should be a discretionary activity for SNL and NCC overlay zones but, in response to submissions heard in the Natural Environment Hearing seeking higher protection for overlay zones, we agree with the recommendation of the Reporting Officer that a non-complying activity status for exploration involving blasting is appropriate in Outstanding Natural Landscapes.

- amendment to the definition of mining to remove the reference to mineral exploration and prospecting not involving mining.
- amendment to Policy 9.2.2.6 to add mineral exploration so that the policy reads as follows (incorporating a PHS amendment):

Only allow mining or mineral exploration {CP 458.1 and others} where any adverse effects ~~there would be no significant effects~~ from air blast and vibration on people's health and safety or on surrounding properties are avoided or, if avoidance is not practicable, no more than minor {PHS308.477}.

- amendment to Rule 16.11.3 and Rule 9.6.4 to add blasting to the assessment of discretionary performance standard contraventions in the Rural and Public Health and Safety sections.
- amendment to Rule 9.3.6 Noise to add an exclusion for blasting as part of mineral exploration.
- amendment to Policy 16.2.2.4 to add reference to blasting in relation to mineral exploration. The policy (incorporating a Plan Overview change) now reads as follows:

"Require rural ancillary retail, rural tourism - small scale, {RU cl.16} working from home, mineral exploration, and mineral prospecting to operate in a way (including hours of operation or, for mineral exploration, use of blasting {CP 458.1 and others}) that avoids or, if avoidance is not ~~possible~~ practicable {PO 908.3 and others}, adequately mitigates noise or adverse effects on the amenity of sensitive activities on surrounding properties."

3.16 Definition of Rural industry

3.16.1 Background

286. The 2GP defines 'rural industry' as:

"An industrial activity that processes or transports the raw materials of farming, factory farming, forestry or mining activities. Examples are: sawmills timber treatment plants firewood operations, which process timber grown on a separate property; stock sale yards rural transport depots agricultural contractors depots primary processing and packaging of farm produce; and the processing of minerals and quarry products. This definition includes any ancillary retail carried out on the site".

3.16.2 Submissions

287. *Saddle Views Estate Ltd* (OS458.3), *Blackhead Quarries Ltd* (OS874.28) and *Tussock Top Farm Ltd* (OS901.22) sought that the definition of rural industry be amended to ensure that "activities subject to the definition of mining are not also included in the definition of rural industry".

288. *Oceana Gold Ltd* (OS1088.7) also requested that the definition of rural industry be amended to clarify "the processing of mineral and quarry products where it is separate from mining."

3.16.3 Section 42A

289. The Reporting Officer considered it appropriate to amend the definition of rural industry to clarify that it includes the processing of minerals and quarry products but only where it is separate from a mining (or quarrying) operation. She recommended amending the definition of rural industry as follows:

"An industrial activity that processes or transports the raw materials of farming, factory farming, forestry or mining activities.

Examples are:

...

- primary processing and packaging of farm produce; and
- the processing of minerals and quarry products where it is separate from mining."

290. There was no evidence heard on this matter at the hearing.

3.16.4 Decision and reasons

291. We accept the submissions of *Saddle Views Estate Ltd* (OS458.3), *Blackhead Quarries Ltd* (OS874.28) and *Tussock Top Farm Ltd* (OS901.22) and accept in part the *Oceana Gold Ltd* (OS1088.7) submission to amend the definition of rural industry.

292. Our decision is to amend the definition to read:

"An industrial activity that processes or transports the raw materials of farming, factory farming, forestry or mining activities.

Examples are:

- primary processing and packaging of farm produce; and
- the processing of minerals and quarry products where not part of a mining activity on the same site. {458.3 and others}

293. Our reasons are that we agree with the need to amend the definition of 'rural industry' for reasons advanced in the submissions and by the Reporting Officer, i.e. the activities of rural industry and mining activities are distinct in the 2GP, but that a rural industry may include processing of minerals and quarry products (e.g. a remote screening plant). However, we prefer to change the wording recommended by the Reporting Officer, to make it clearer that the definition refers to processing on a different site rather than being part of a mine on the same location.

3.17 Activity status for mining in industrial zones

294. *Saddle Views Estate Ltd* (OS458.52), *Blackhead Quarries Ltd* (OS874.3) and *Tussock Top Farm Ltd* (OS901.3) sought to add new rules for mining in industrial zones. They sought that the establishment of new mining activity on an industrial zoned site be a restricted discretionary activity, provided it is not located in a landscape or a natural coastal character overlay zone.

295. The Reporting Officer considered that mining may be an appropriate activity in some industrial areas, and noted an example of an existing quarry operation currently located in the Industrial Zone (Logan Point Quarry). However, she disagreed that restricted discretionary activity status would be an appropriate status as there will potentially be a wide range of effects that would need to be considered.

296. Accordingly, the Reporting Officer recommended that mining be changed from non-complying to discretionary as this would recognise that in some instances an industrial

zone may provide an appropriate site for mining activities, while allowing for a full range of effects to be assessed. In order to have a consistent activity status, she also recommended a change in activity status for mineral exploration and mineral prospecting to be amended to discretionary from the proposed 2GP status of non-complying. She also noted that consequential changes would need to be made to industrial zone policies and assessment rules, to reflect these changes.

- 297. The Addendum to the Section 42A Report included a draft new policy under Objective 19.2.1 to provide for mining, mineral prospecting and mineral exploration in industrial zones. A new proposed assessment rule was also drafted.
- 298. There was no evidence heard on this matter at the hearing.

3.17.1 Decision and reasons

- 299. We reject the submission by *Saddle Views Estate Ltd* (OS458.52), *Blackhead Quarries Ltd* (OS874.3) and *Tussock Top Farm Ltd* (OS901.3) to change the activity status for new mining activity in the Industrial Zone to restricted discretionary.
- 300. We do not agree with the Reporting Officer with respect to changing the activity status for mining to discretionary in the Industrial Zone.
- 301. The reasons for our decision is that, as discussed in the Industry Decision Report, we accept industrial land is a limited resource and it needs to be retained mainly for industrial activities. We also consider that mining in some urban locations may have potential adverse effects on the amenity of the zone and on adjacent zones in an urban context. Accordingly, we consider that mining activity should retain its non-complying status in this zone. While we acknowledge that there is one quarrying site in the industrial zone, we are advised that this has resource consent, and we do not consider it necessary to change the activity status for mining for the whole zone on the basis of that example.

3.18 Site management and emergency response plans

3.18.1 Background

- 302. Rule 9.8.1 Site management and emergency response plans in the 2GP states: "Council may require a site management plan and an emergency response plan to be provided with an application for resource consent for the following activities:
 - 1. rural industry;
 - 2. landfills;
 - 3. mining;
 - 4. any activity that contravenes the Hazardous Substances Quantity Limits and Storage Requirements performance standard 9.3.4"

3.18.2 Submissions

- 303. *Saddle Views Estate Ltd* (OS458.40) sought to amend Rule 9.8.1 because the submitter considered that it is more appropriate for matters such as this to be addressed by way of a quarry management plan. The submitter requested that Rule 9.8.1 be replaced with a requirement for a specific quarry management plan.

3.18.3 Section 42A Report

- 304. The Reporting Officer noted that, the 2GP only proposes that quarry management plans 'may' be required as a condition under Rule 16.11 (assessment of discretionary land use activities). In addition, Rule 9.8.1 states that a site management and emergency

response plan 'may' be required so neither type of plan is compulsory. Instead such matters will be considered as part of a resource consent application.

305. The Reporting Officer recommended that Rule 9.8.1 be amended to allow for a site response and emergency plan to form part of a quarry management plan where appropriate.
306. There was no evidence heard on this matter at the hearing.

3.18.4 Decision and reasons

307. We accept in part the submission by *Saddle Views Estate Ltd* (458.40) and agree with the Reporting Officer's recommended addition of the note that the site management and emergency response plan may form part of a Quarry Management Plan as shown in Appendix 1.
308. The reason for our decision is that we agree with the Reporting Officer's comment that Rule 9.8.1 places no mandatory requirement for a site management and emergency response plan, and there is no need to amend the rule other than to make specific acknowledgement that for mining, a site management and emergency response plan may form part of a quarry management plan.

4.0 Future plan change reviews and other suggestions

309. In considering this topic, and as highlighted in this decision, we consider that it is appropriate that a future plan change be undertaken in consultation with the Waitaki District Council in order to provide specific zoning for the Macraes Gold Project. This will allow for alignment with the Waitaki District Plan provisions (see section 3.3).

5.0 Minor and inconsequential amendments

310. 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.
311. 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". These amendments generally 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

312. 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 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 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		Industry	Amend definition to add "depots for the storage and dispatch of vehicles, equipment, and/or materials, and the administration and dispatch of workers using these in the field"	CP 354.3	3.4	3
1. Plan Overview and Introduction	Definition	1.5		Community Activities	Retain the provision as notified		3.4	3
1. Plan Overview and Introduction	Definition	1.5		Community Corrections Facility (proposed New)	Do not add new definition, retain Plan as notified		3.4	3
18. Commercial Mixed Use Zones	Activity Status	18.3.3.22, 18.3.4.32 and 18.3.5.29	18.3.3.23, 18.3.4.32 and 18.3.5.32	All other activities in the major facility activities category	Retain the provisions as notified		3.4	3
19. Industrial Zones	Activity Status	19.3.3.8	19.3.3.7	All other activities in the major facility activities	Retain the provisions as notified		3.4	3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
				category				
2. Strategic Directions	Policy	2.4.1.6			Do not amend as requested		3.4	4.1
18. Commercial Mixed Use Zones	Activity Status	18.3.3.4		Commercial Advertising	Do not amend as requested		3.3	4.1
18. Commercial Mixed Use Zones	Activity Status	18.3.4.5		Commercial Advertising	Do not amend as requested		3.3	4.1
18. Commercial Mixed Use Zones	Activity Status	18.3.5.5		Commercial Advertising	Do not amend as requested		3.3	4.1
19. Industrial Zones	Activity Status	19.3.3.15	19.3.3.15	Commercial Advertising	Do not amend as requested		3.3	4.1
24. Dunedin International Airport	Policy	24.2.2.4			Do not amend as requested		3.2	5.7.7 (MF s42A)
24. Dunedin International Airport	Policy	24.2.2.6			Do not amend as requested		3.2	5.7.8 (MF s42A)
24. Dunedin International Airport	Activity Status	24.3.3.11		All other activities in the commercial activities category	Do not amend as requested		3.2	4.1 (CP - Com advert)

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
24. Dunedin International Airport	Policy	24.5.9		Number and Location of Tourism Signs	Do not amend as requested		3.2	5.7.12 (MF s42A)
24. Dunedin International Airport	Development Performance Standard	24.6.9	24.6.6	Number, Location and Design of Ancillary Signs	Do not delete rule as requested		3.2	5.7.14 (MF s42A)
24. Dunedin International Airport	Assessment of Restricted Discretionary Performance Standard Contraventions	24.8.3.4	24.7.3.4	Number and Location of Tourism Signs	Do not amend as requested		3.2	5.7.15 (MF s42A)
24. Dunedin International Airport	Assessment of Restricted Discretionary Performance Standard Contraventions	24.8.4.11	24.7.4.6	Number, location and design of ancillary signs	Do not amend as requested		3.2	5.7.17 (MF s42A)
24. Dunedin International Airport	Assessment of Non-complying Activities	24.11.3	N/A deleted		Do not delete rule as requested		3.2	5.7.23(MF s42A)
1.4. Plan Overview and Introduction	Definition	1.5		Emergency Services	Do not amend as requested		3.1	4.1
1.4. Plan Overview and Introduction	Definition	1.5		Major Facility Activities	Do not amend as requested		3.1	4.1
2. Strategic Directions	Policy	2.3			Do not amend as requested		3.2.1	PHS 5.2.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
6. Transportation	Assessment of Restricted Discretionary Activities	6.10.2.6	6.11.2.6	Emergency services (residential zones, Taieri Aerodrome)	Amend assessment guidance to reflect change to activity status of emergency services in residential zones (add reference), CMU zones (remove reference) and Industrial zones (remove reference)	CP 945.30, 945.36, and 945.49	3.2.1	4.2
15. Residential Zones	Policy	15.2.1.2			Amend policy to include major facility activities	CP 945.58	3.2.1	Res 5.3.2
15. Residential Zones	Objective	15.2.1			Amend the objective by replacing 'major facilities' with 'major facility activities'	CP 945.29	3.2.3	4.2
15. Residential Zones	Policy	15.2.3.4			Amend policy to add reference emergency services, linked to change in activity status	CP 945.30	3.2.1	4.2
15. Residential Zones	Policy	15.2.4.7			Amend policy to add reference emergency services, linked to change in activity status	CP 945.30	3.2.1	4.2
15. Residential Zones	Activity Status	15.3.3.Y (New)	15.3.3.25	Emergency Services	Amend activity status from NC to RD and add subject to Minimum Car Parking performance standard	CP 945.30	3.2.1	4.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
15. Residential Zones	Land Use Performance Standard	15.5.9		Minimum car parking	Amend performance standard by adding a new minimum car parking standard for emergency services	CP 945.30	3.2.2	4.2
15. Residential Zones	Assessment of Restricted Discretionary Activities	15.10.2.X	15.11.2.3		Amend guidance for assessment of emergency services to add general assessment guidance that Council will consider "the functional requirements and operational needs of the emergency service when considering the above matters."	CP 945.41	3.2.1	4.2
15. Residential Zones	Assessment of Restricted Discretionary Activities	15.10.2.X	15.11.2.3	Emergency services	Add assessment rule and guidance for Emergency Services as an RD activity subject to: a. Effects on the safety and efficiency of the transport network and b. Effects on surrounding sites' residential amenity	CP 945.30	3.2.1	4.2
15. Residential Zones	Assessment of Non-complying Activities	15.12.3.5	15.13.3.4		Amend guidance linked to change to activity status for emergency services	CP 945.30	3.2.1	4.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					(remove reference)			
16. Rural Zones	Policy	16.2.1.2			Amend policy to add reference emergency services, linked to change in activity status	CP 945.39	3.2.1	4.2
16. Rural Zones	Policy	16.2.1.2			Do not amend as requested		3.1	Ru 5.4.2.3
16. Rural Zones	Activity Status	16.3.3.AC	16.3.3.49	Emergency Services	Amend activity status from NC to P (except in overlay zones) and add subject to Minimum Car Parking standard	CP 945.39	3.2.1	4.2
16. Rural Zones	Land Use Performance Standard	16.5.7	16.5.8	Minimum car parking	Amend performance standard by adding a new minimum car parking standard for emergency services	CP 945.39	3.2.2	4.2
16. Rural Zones	Assessment of Non-complying Activities	16.12.3.2		All major facility, rural and industrial activities	Amend assessment guidance to reflect change to activity status of emergency services (remove reference)	CP 945.39	3.2.1	4.2
17. Rural Residential Zones	Policy	17.2.1.4			Amend policy to add reference emergency services, linked to change in activity status	CP 945.40	3.2.1	4.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
17. Rural Residential Zones	Activity Status	17.3.3.X	17.3.3.26	Emergency Services	Amend activity status from NC to P (except in overlay zones) and add subject to Minimum Car Parking standard	CP 945.40	3.2.1	4.2
17. Rural Residential Zones	Land Use Performance Standard	17.5.8		Minimum car parking	Amend performance standard by adding a new minimum car parking standard for emergency services	CP 945.40	3.2.2	4.2
17. Rural Residential Zones	Assessment of Non-complying Activities	17.12.3.3		ONF or HNCC overlay zones	Amend assessment guidance to add emergency services to list of activities managed in ONFs and HNCCs as the activity status remains NC in these overlays	CP 945.40	3.2.1	4.2
18. Commercial and Mixed Use Zones	Policy	18.2			Do not amend as requested		3.2.1	PHS 5.2.2
18. Commercial Mixed Use Zones	Activity Status	18.3.3.21	18.3.3.22	Emergency Services	Amend activity status from RD to P and add subject to Minimum Car Parking standard	CP 945.49	3.2.1	4.2
18. Commercial Mixed Use Zones	Activity Status	18.3.4.31		Emergency Services	Amend activity status from RD to P and add subject to Minimum Car Parking standard	CP 945.49	3.2.1	4.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial Mixed Use Zones	Activity Status	18.3.5.28	18.3.5.30	Emergency Services	Amend activity status from RD to P and add subject to Minimum Car Parking standard	CP 945.49	3.2.1	4.2
18. Commercial Mixed Use Zones	Land Use Performance Standard	18.5.6		Minimum car parking	Amend performance standard by adding a new minimum car parking standard for emergency services	CP 945.49	3.2.2	4.2
. Industrial Zones	Activity Status	19.3.3.6	19.3.3.5	Emergency Services	Amend activity status from RD to P and add subject to Minimum Car Parking performance standard	CP 945.36	3.2.1	4.2
19. Industrial Zones	Land Use Performance Standard	19.5.6		Minimum car parking	Amend performance standard by adding a new minimum car parking standard for emergency services	CP 945.36	3.2.2	4.2
19. Industrial Zones	Assessment of Restricted Discretionary Activities	19.10.3		Land use activities	Amend assessment guidance to reflect change to activity status of emergency services (remove reference)	CP 945.36	3.2.1	4.2
1. Plan Overview and Introduction	Definition	1.5		Mineral exploration	Amend definition of mineral exploration to align with definition in Crown Minerals Act 1991, and not exclude blasting, to reflect creation of new	CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					activity 'mineral exploration that involves blasting'			
1. Plan Overview and Introduction	Definition	1.5		Mining	Amend definition of mining as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
1. Plan Overview and Introduction	Definition	1.5		Rural Industry	Amend definition of rural industry to clarify that rural industry may include the processing of minerals and quarry products where not part of a mining activity on the same site.	CP 458.3 and others	3.16	4.3.5
1. Plan Overview and Introduction	Definition	1.5		Mineral prospecting	Amend definition of mineral prospecting to align with definition in Crown Minerals Act 1991. Amend definition of mineral prospecting as a consequence of creating new activity 'mineral exploration that involves	CP 458.34 and others CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					blasting'			
1. Plan Overview and Introduction	Definition	1.5		Scheduled mining activity	Add a new definition for scheduled mining activity	CP 874.2 and others	3.1	4.3.1
1. Plan Overview and Introduction	Definition	1.5		Rural activities	Add 'scheduled mining activity' to rural activities definition	CP 874.2 and others	3.1	4.3.1
1. Plan Overview and Introduction	Definition	1.5		Natural Hazard Potentially Sensitive Activities	Add 'scheduled mining activity' to list of activities	CP 874.2 and others	3.1	4.3.1
1. Plan Overview and Introduction	Definition	1.5		Mining	Do not amend as requested		3.14	4.3.5
1. Plan Overview and Introduction	Nested Tables	1.6	1.3	Rural activities category	Add 'scheduled mining activity' to rural activities category nested table	CP 874.2 and others	3.1	4.3.1
2. Strategic Directions	Policy	2.3.1.2			Do not amend as requested		3.4	4.3.2
2. Strategic Directions	Policy	2.3.1.8 (New)			Add a new strategic direction policy related to mining under Objective 2.3.1	CP1088.17 and others	3.4	4.3.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
2. Strategic Directions	Policy	2.4.6.2			Add reference to mining in Policy 2.4.6.2	CP 1088.22	3.5	4.3.2
9. Public Health and Safety	Policy	9.2.2.6			Amend policy to add mineral exploration as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
9. Public Health and Safety	City Wide Performance Standard	9.3.6.6	9.3.6.7	Noise	Amend Rule 9.3.6.6 to add an exemption for noise generated by blasting in rural zones as part of mineral exploration as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
9. Public Health and Safety	Assessment of Discretionary Performance Standard Contraventions	9.6.4.6 (New)	9.7.4.6	Blasting (mineral exploration)	Amend Rule 9.6.4.6 to add blasting to the assessment of discretionary performance standard contraventions as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
9. Public Health and Safety	Special Information Requirement	9.8.1	9.9.1	Site management and emergency response plans	Amend Rule 9.8.1.3 to clarify that a site response and emergency plan may form part of a quarry management plan	CP 458.40	3.18	4.3.7
11. Natural Hazards	Introduction	11.1.3		Hazard provisions sensitivity classification	Add 'scheduled mining activity' to list of activities	CP 874.2 and others	3.1	4.3.1
15. Residential Zones	Activity Status	15.3.3.AA (New) , 15.3.3.26		Mining	Split off from all other activities in the rural activities category 'mining'.	CP 874.2 and others	3.1	4.3.1
15. Residential Zones	Activity Status	15.3.3.Z (New), 15.3.3.26		Scheduled mining activity	Split off from all other activities in the rural activities category a new activity: 'scheduled mining activity' and change activity status from NC to P and add reference to new performance standard	CP 874.2 and others	3.1	4.3.1
15. Residential Zones	Land Use Performance Standard	15.5.16 (New)		Scheduled mining activity	Add a new performance standard 'scheduled mining activity' linked to change to activity status of 'scheduled mining activity'	CP 874.2 and others	3.1	4.3.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
15. Residential Zones	Assessment of NC Activities	15.12.3.5	15.13.3.4		Amend guidance as a consequence of change to activity status of 'scheduled mining activity' (clarify does not apply to scheduled mining activity)	CP 874.2 and others	3.2	4.3.1
16. Rural Zones	Introduction	16.1		Introduction	Add reference to mining in the rural introduction	CP 458.59	3.4	4.3.2
16. Rural Zones	Policy	16.2.1.2			Do not amend as requested		3.6	4.3.3.1
16. Rural Zones	Objective	16.2.1			Amend objective wording	CP 1088.60 and others	3.12	4.3.3.8
16. Rural Zones	Policy	16.2.2.4			Amend policy to add reference to blasting in relation to mineral exploration as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Policy	16.2.2.5			Do not amend as requested		3.7	4.3.3.3
16. Rural Zones	Policy	16.2.2.6	NA deleted		Delete Policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Policy	16.2.3.4			Amend policy wording	CP 458.24 and others	3.9	4.3.3.5
16. Rural Zones	Policy	16.2.3.5			Amend policy wording	CP 458.25 and others	3.10	4.3.3.6

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	Activity Status	16.3.3.12 (New), 16.3.3.12	16.3.3.13	Mineral exploration that does not involve blasting	Add new row to activity status table for mineral exploration that does not involve blasting as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Activity Status	16.3.3.AD (New), 16.3.3.13	16.3.3.17, 16.3.3.15	Scheduled mining activity	Split off from mining a new activity: 'scheduled mining activity' and change activity status from D to P in the rural zone and overlays and add reference to new performance standard	CP 874.2 and others	3.1	4.3.1
16. Rural Zones	Activity Status	16.3.3.X	16.3.3.12	Mineral prospecting	Add new row to activity status table for mineral prospecting as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Activity Status	16.3.3.Y (New), 16.3.3.12	16.3.3.14, 16.3.3.13	Mineral exploration that involves blasting	Split off from mining a new activity 'mineral exploration that involves blasting', change	CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					activity status from D to P and add reference to a new blasting performance standard			
. Rural Zones	Land Use Performance Standard	16.5.9.2	16.5.10.2	Separation distances	Amend to clarify the measurement of separation distances	CP 458.43 and others	3.11	4.3.3.7
16. Rural Zones	Land Use Performance Standard	16.5.9	16.5.10	Separation distances	Amend 16.5.9 so that mining not involving blasting and mining involving blasting is differentiated, with the separation distance from mining not involving blasting being increased to 200m and the separation distance from mining involving blasting being increased to 500m.	CP 458.43 and others	3.11	4.3.3.7
16. Rural Zones	Land Use Performance Standard	16.5.14 (New)	16.5.15	Blasting	Add new blasting standard to Rule 16.5 as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5
16. Rural Zones	Land Use Performance Standard	16.5.15 (New)	16.5.16	Scheduled mining activity	Add new performance standard 'scheduled mining activity'	CP 874.2 and others	3.1	4.3.1

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		Land use performance standards	Do not amend as requested		3.11	4.3.3.7
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.2	16.10.2.4		Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.3	16.10.2.5		Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.5	16.10.2.1		Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.6
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.2			Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4		Mining, landfills	Amend guidance by adding guidance about rehabilitation and restoration (CP 1088.57) and locational constraints and logistical or	CP 1088.57 CP 901.24 and others	3.12	4.3.3.8

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					technical requirements (901.24 and others)			
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect deletion of policy 16.2.2.6	CP 458.23 and others	3.8	4.3.3.4
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect change in Policy 16.2.3.4	CP 458.24 and others	3.9	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect change in Policy 16.2.3.5	CP 458.25 and others	3.10	4.3.3.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance for mining to add reference to new mining policy 2.3.1.8	CP1088.17 and others	3.12	4.3.2
16. Rural Zones	Assessment of Discretionary Performance Standard Contraventions	16.11.3.4 (New)		Blasting (mineral exploration)	Amend Rule 16.11.3 to add blasting to the assessment of discretionary performance standard contraventions as a consequence of creating new activity 'mineral exploration that involves blasting'	CP 458.1 and others	3.15	4.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
17. Rural Residential Zones	Land Use Performance Standard	17.5.10.2		Separation distances	Amend to clarify the measurement of separation distances	CP 458.43 and others	3.11	4.3.3.7
17. Rural Residential Zones	Land Use Performance Standard	17.5.10		Separation distances	Amend 17.5.10 so that mining not involving blasting and mining involving blasting is differentiated, with the separation distance from mining not involving blasting being increased to 200m and the separation distance from mining involving blasting being increased to 500m.	CP 458.43 and others	3.11	4.3.3.7
19. Industrial Zones	Activity Status	19.3.3		Activity status table - land use activities	Do not amend as requested		3.17	4.3.6
20. Recreation Zone	Policy	20.2.2.9			Amend policy wording	CP 458.24 and others	3.9	4.3.3.5
20. Recreation Zone	Activity Status	20.3.3.X (New), 20.3.3.18	20.3.3.19, 20.3.3.18	Scheduled mining activity	Split off from mining a new activity: 'scheduled mining activity' and change activity status from D to P in the rural zone and NCC and add reference to new performance standard	CP 874.2 and others	3.1	4.3.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
20. Recreation Zone	Land Use Performance Standard	20.5.10 (New)	delete	Scheduled mining activity	Add a new performance standard 'scheduled mining activity' linked to change to activity status of 'scheduled mining activity'	CP 874.2 and others	3.1	4.3.1
20. Recreation Zone	Assessment of Discretionary Activities	20.11.2.3			Amend guidance to reflect change in Policy 20.2.2.9	CP 458.24 and others	3.9	4.3.3.5
20. Recreation Zone	Assessment of Discretionary Activities	20.11.2.3			Amend guidance to reflect change in Policy 20.2.2.9	CP 458.24 and others	3.9	4.3.3.5
20. Recreation Zone	Assessment of Discretionary Activities	20.11.2.3			Amend guidance to reflect change in Policy 20.2.2.9	CP 458.24 and others	3.9	4.3.3.5
20. Recreation Zone	Assessment of NC Activities	20.12.3.2			Amend guidance as a consequence of change to activity status of 'scheduled mining activity' (clarify does not apply to scheduled mining activity)	CP 874.2 and others	3.1	4.3.1
16. Rural Zones	Appendix	A1.5 (New)		Schedules	Add a new schedule for the scheduled mining activities	CP 874.2 and others	3.1	4.3.1
A7. Rural Character Values	Appendix	A7.1		High Country Rural Zone	Amend appendix description	CP 1088.61	3.13	4.3.4

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	Activity Status	N/A		New provisions associated with a new zone for MPGOZ (permitted or controlled activity status for mining)	Do not add new provisions associated with proposed MPGOZ or new assessment rule that any land use activity needing consent be assessed with regard to likely future mining.		3.3	4.3.1
1. Plan Overview and Introduction	Definition	1.5		Self-service fuel stations (New)	Add new definition for self-service fuel stations as a consequence of creating new sub-activity 'self-service fuel stations' and change activity status from RD to P	CP 634.32	3.4.3	4.3
. Plan Overview and Introduction	Nested Tables	1.5		Self-service fuel stations (New)	Add new sub-activity of service stations called 'self-service fuel stations' in nested table	CP 634.32	3.4.3	4.3
. Plan Overview and Introduction	Nested Tables	1.5		Service stations	Add reference to self-service fuel stations as a sub-activity of service stations	CP 634.32	3.4.3	4.3
1. Plan Overview and Introduction	Definition	1.5		Service Station	Amend the definition to include "café-style takeaways"	CP 634.5	3.2	4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
6. Transportation	Assessment of Discretionary Activities	6.11.2.2	6.12.2.1	All discretionary activities that are linked to Section 6.11	Amend guidance to reflect change to activity status for service stations on a strategic road or arterial road (add additional guidance)	CP 634.39	3.4.1	4.3
15. Residential Zones	Policy	15.2.1.7 (New)			Add a new policy to reflect change in activity status of service stations 'on a strategic road or arterial road'	CP 634.39	3.4.1	4.3
15. Residential Zones	Policy	15.2.3.4			Amend policy to reflect change in activity status for service stations (add reference to service stations)	CP 634.39	3.4.1	4.3
15. Residential Zones	Policy	15.2.4.7			Amend policy to reflect change in activity status for service stations (add reference to service stations)	CP 634.39	3.4.1	4.3
15. Residential Zones	Activity Status	15.3.3.X, 15.3.3.21 15.3.3.AB		All other activities in the commercial activities category	Amend the activity status of service stations where they are "on a strategic or arterial road" from NC to D. Service stations, other than on a strategic road or arterial road remain	CP 634.39	3.4.1	4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					as N/C			
15. Residential Zones	Assessment of Discretionary Activities	15.11.2.7 (New)	15.12.2.7		Amend guidance to reflect change to activity status for service stations on a strategic road or arterial road (add New row and additional guidance)	CP 634.39	3.4.1	4.3
16. Rural Zones	Policy	16.2.1.11 (New)			Add a new policy to reflect change in activity status of service stations 'on a strategic road or arterial road'	CP 634.40	3.4.1	4.3
16. Rural Zones	Policy	16.2.2.5			Amend policy to reflect change in activity status for service stations (add reference)	CP 634.40	3.4.1	4.3
16. Rural Zones	Policy	16.2.3.6			Amend policy to reflect change in activity status for service stations (add reference)	CP 634.40	3.4.1	4.3

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	Activity Status	16.3.3.AB (New) 16.3.3.AF (New)	16.3.3.40, 16.3.3.41	Service stations on a strategic road or arterial road	Amend the activity status of service stations where they are "on a strategic or arterial road" from NC to D. Service stations, other than on a strategic road or arterial road remain as N/C	CP 634.40	3.4.1	4.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.9 (New)	16.11.2.7	Service stations on a strategic road or arterial road	Amend guidance to reflect change to activity status for service stations on a strategic road or arterial road (add New row and additional guidance)	CP 634.40	3.4.1	4.3
17. Rural Residential Zones	Activity Status	17.3.3.22	17.3.3.24	All other activities in the commercial activities category	Do not amend as requested		3.4.1	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.3.11.b and c	18.3.3.12.b and c	Service stations	Amend the activity status of service stations from D to RD in the centres zones	CP 634.109	3.4.2	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.3.11.a	18.3.3.12.a	Service stations	Do not amend as requested		3.4.2	4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.18.b		Service stations	Amend the activity status of service stations from D to RD in the PPH zone	CP 634.38	3.4.2	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.4.18.a		Service stations	Retain activity status of service stations in CBD zone		3.4.2	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.4.18.c		Service stations	Retain activity status of service stations in SSYP zone		3.4.2	4.3
18. Commercial Mixed Use Zones	Activity Status	18.3.4.18.d		Service stations	Retain activity status of service stations in HE zone		3.4.2	
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.2.x	18.10.2.2		Amend guidance to reflect change to activity status for service stations in Centres and PPH (add reference), with effects on residential amenity and effects on safety and efficiency of the transportation network as matters of discretion	CP 634.38 and CP 634.109	3.4.2	4.3
18. Commercial and Mixed Use Zones	Assessment of Discretionary Activities	18.11.3.4			Amend guidance to reflect change to activity status for service stations (remove reference)	CP 634.38 and CP 634.109	3.4.2	4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
19. Industrial Zones	Activity Status	19.3.3.12	19.3.3.11	Service stations other than self-service fuel stations	Amend activity name to reflect creation of sub-activity of self-service fuel stations	CP 634.32	3.4.3	4.3
19. Industrial Zones	Activity Status	19.3.3.13	19.3.3.12	Self-service fuel stations	Split off from service stations a new sub-activity 'self-service fuel stations' and change activity status from RD to P and retain same performance standard as these that apply to other service stations	CP 634.32	3.4.3	4.3
19. Industrial Zones	Development Performance Standard	19.6.1		Boundary Treatments	Do not amend as requested		3.5	4.3
19. Industrial Zones	Development Performance Standard	19.6.11.1	19.6.9.1	Boundary Setbacks	Do not amend as requested		3.5	4.3
19. Industrial Zones	Assessment of Discretionary Activities	19.10.3.1	19.10.3.2	Service stations (except Self-service Fuel Stations)	Amend guidance to reflect change to activity status for self-service fuel stations (remove reference)	CP 634.32	3.4.3	4.3