



SECOND GENERATION DISTRICT PLAN

Rural Zones Hearing 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

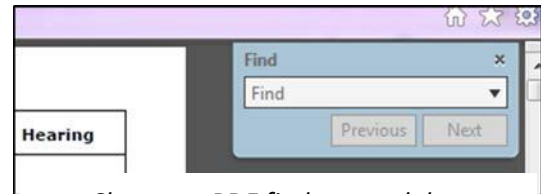
Hearing topic	Code
Commercial Advertising (cross plan hearing topic)	CP
Commercial and Mixed Use Zones	CMU
Community Correction Facilities (cross plan hearing topic)	CP
Defence Facilities and Emergency Services (cross plan hearing topic)	CP
Designations	Des
Earthworks	EW
Heritage	Her
Industrial Zones	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

Table of Contents

1.0	Introduction	15
1.1	Scope of decision	15
1.1.1	Section 42A Report	16
1.1.2	Structure of Report	16
1.2	Section 32AA Evaluation	16
1.3	Statutory Considerations	17
2.0	Hearing Appearances and evidence presented	19
3.0	Key topics discussed at the hearing or covered in tabled evidence OR Discussion on provisions sought to be amended	24
3.1	Context	24
3.2	Subdivision and density provisions	24
3.2.1	Introduction	24
3.2.2	Strategic Directions Policy 2.2.4.3.c	24
3.2.2.1	Background	24
3.2.2.2	Submissions	24
3.2.2.3	Section 42A Report	25
3.2.2.4	Hearing	25
3.2.2.5	Revised recommendations	25
3.2.2.6	Decision and reasons	26
3.2.3	Policy 2.3.1.3	26
3.2.3.1	Background	26
3.2.3.2	Submissions	26
3.2.3.3	Section 42A Report	27
3.2.3.4	Hearing	27
3.2.3.5	Revised recommendations	27
3.2.3.6	Decision and reasons	27
3.2.4	Rule 16.7.4 (subdivision minimum site size standard)	28
3.2.4.1	Background	28
3.2.4.2	Submissions in support of Rule 16.7.4	28
3.2.4.3	Submissions to review minimum site size standard	29
3.2.4.4	Submissions to reduce minimum site sizes for subdivision	29
3.2.4.5	Submissions to increase minimum site sizes for subdivision	31
3.2.4.6	Section 42A Report	31
3.2.4.7	Hearing	32
3.2.4.8	Revised recommendations	33
3.2.4.9	Decision and reasons	34
3.2.5	Activity status for subdivision activities not meeting minimum site size performance standard (Rule 16.7.4.3)	35
3.2.5.1	Background	35
3.2.5.2	Submissions to specify non-complying activity status	35

3.2.5.3	Requests for default status of discretionary rather than non-complying where Minimum Site Size not met	35
3.2.5.4	Request for additional exceptions for contravention of Minimum Site Size to be treated as restricted discretionary	36
3.2.5.5	Section 42A Report	37
3.2.5.6	Hearing	38
3.2.5.7	Revised recommendations	38
3.2.5.8	Decision and reasons	40
3.2.6	Rule 16.7.4.2 Sites exempt from subdivision minimum site size	40
3.2.6.1	Background	40
3.2.6.2	Submissions	40
3.2.6.3	Section 42A Report	41
3.2.6.4	Hearing	41
3.2.6.5	Decision and reasons	41
3.2.7	Rule 16.7.5 Shape Subdivision Performance Standard	42
3.2.7.1	Background	42
3.2.7.2	Submissions	42
3.2.7.3	Section 42A	42
3.2.7.4	Decision and reasons	43
3.2.8	Policy 16.2.1.10 and Rule 16.7.4.3 surplus dwelling subdivisions	43
3.2.8.1	Background	43
3.2.8.2	Submissions in support	44
3.2.8.3	Submission to remove Policy 16.2.1.10	44
3.2.8.4	Submissions to expand circumstances where land containing a surplus dwelling may be subdivided	44
3.2.8.5	Request for use of a consent notice rather than a covenant	45
3.2.8.6	Section 42A Report	45
3.2.8.7	Hearing	46
3.2.8.8	Revised recommendations	46
3.2.8.9	Decision and reasons	47
3.2.9	Objective 16.2.1	49
3.2.9.1	Background	49
3.2.9.2	Submissions in support	50
3.2.9.1	Submissions to amend	50
3.2.9.2	Section 42A Report	52
3.2.9.3	Hearing	52
3.2.9.4	Revised recommendations	53
3.2.9.5	Decision and reasons	53
3.2.10	Policy 16.2.1.5	54
3.2.10.1	Background	54
3.2.10.2	Submissions	54
3.2.10.3	Section 42A Report	54
3.2.10.4	Hearing	55

3.2.10.5	Decision and reasons	55
3.2.11	Policy 16.2.1.7	55
3.2.11.1	Background	55
3.2.11.2	Submissions	55
3.2.11.3	Section 42A Report	57
3.2.11.4	Hearing	58
3.2.11.5	Decision and reasons	58
3.2.12	Rule 16.5.2 Residential density performance standard	59
3.2.12.1	Background	59
3.2.12.2	Submissions in support of Rule 16.5.2	60
3.2.12.3	Submission to clarify Rule 16.5.2 with respect to sleep outs	60
3.2.12.4	Submissions on 16.5.2.1 -minimum site size	60
3.2.12.5	Submissions on Rule 16.5.2.2 (Family Flats)	63
3.2.12.6	Submissions on Rule 16.5.2.3 (Performance standard contravention)	63
3.2.12.7	Section 42A report	64
3.2.12.7.1	Submissions in support	64
3.2.12.7.2	Clarification with respect to sleep outs	64
3.2.12.7.3	Minimum site sizes	64
3.2.12.7.4	Submissions to allow residential activity on existing sites	66
3.2.12.7.5	Submissions on performance standard contraventions	66
3.2.12.8	Hearing	67
3.2.12.9	Revised recommendations	68
3.2.12.10	Decisions and reasons	69
3.2.13	Policy 16.2.1.9 and Rule 16.3.5.2 (cross lease, company lease and unit title subdivision)	70
3.2.13.1	Background	70
3.2.13.2	Submissions	70
3.2.13.3	Section 42A Report	70
3.2.13.4	Hearing	71
3.2.13.5	Revised Recommendations	71
3.2.13.6	Decision and reasons	71
3.2.14	Policy 16.2.3.8	72
3.2.14.1	Background	72
3.2.14.2	Submissions	72
3.2.14.3	Section 42A Report	72
3.2.14.4	Hearing	73
3.2.14.5	Revised recommendations	73
3.2.14.6	Decision and reasons	73
3.2.15	Policy 16.2.4.3	73
3.2.15.1	Background	73
3.2.15.2	Submissions in support	73
3.2.15.3	Submissions to allow subdivision in a broader range of circumstances	74

3.2.15.4	Submissions to enable conservation and protection of new species	74
3.2.15.5	Submission to expand scope of Policy 16.2.4.3	74
3.2.15.6	Submission to remove Policy 16.2.4.3	74
3.2.15.7	Section 42A Report	75
3.2.15.8	Decision and reasons	75
3.2.16	Policy 16.2.4.4	76
3.2.16.1	Background	76
3.2.16.2	Submissions	76
3.2.16.3	Section 42A report	76
3.2.16.4	Hearing	77
3.2.16.5	Decision and reasons	77
3.3	Rural Productivity	77
3.3.1	Introduction	77
3.3.2	High class soils and productive land	78
3.3.2.1	Background	78
3.3.2.2	Submissions	78
3.3.2.3	Section 42A Report	79
3.3.2.4	Hearing	81
3.3.2.5	Revised Recommendations	81
3.3.2.6	Decision and reasons	82
3.3.3	Policy 2.2.2.1	84
3.3.3.1	Background	84
3.3.3.2	Submissions	84
3.3.3.3	Section 42A Report	84
3.3.3.4	Hearing	85
3.3.3.5	Revised recommendations	86
3.3.3.6	Decisions and reasons	86
3.3.4	Objective 2.3.1	87
3.3.4.1	Background	87
3.3.4.2	Submissions	87
3.3.4.3	Section 42A Report	88
3.3.4.4	Hearing	88
3.3.4.5	Revised recommendations	89
3.3.4.6	Decisions and reasons	89
3.3.5	Policy 2.3.1.2	89
3.3.5.1	Background	89
3.3.5.2	Submissions	89
3.3.5.3	Section 42A Report	90
3.3.5.4	Hearing	90
3.3.5.5	Revised recommendations	91
3.3.5.6	Decisions and reasons	91
3.3.6	Policy 2.3.1.3	92

3.3.6.1	Background	92
3.3.6.2	Submissions	92
3.3.6.3	Section 42A Report	92
3.3.6.4	Hearing	92
3.3.6.5	Revised recommendations	92
3.3.6.6	Decision and reasons	93
3.3.7	Objective 16.2.4	93
3.3.7.1	Background	93
3.3.7.2	Submissions	93
3.3.7.3	Section 42A Report	94
3.3.7.4	Hearing	94
3.3.7.5	Decision and reasons	94
3.3.8	Policy 16.2.4.1	94
3.3.8.1	Background	94
3.3.8.2	Submissions	94
3.3.8.3	Section 42A Report	95
3.3.8.4	Decision and reasons	95
3.3.9	Policy 16.2.4.2	95
3.3.9.1	Background	95
3.3.9.2	Submissions	95
3.3.9.3	Section 42A Report	96
3.3.9.4	Hearing	97
3.3.9.5	Revised recommendations	97
3.3.9.6	Decision and reasons	98
3.4	Management of Rural activities	99
3.4.1	Introduction	99
3.4.2	Factory Farming	99
3.4.2.1	Introduction	99
3.4.2.2	Submission in support	100
3.4.2.3	Submissions to rename factory farming	100
3.4.2.4	Submissions to amend the definition of factory farming	100
3.4.2.5	Submissions to add new definitions of poultry farming	100
3.4.2.6	Section 42A Report	101
3.4.2.6.1	Submissions to rename factory farming	101
3.4.2.6.2	Submissions to amend the definition of factory farming	101
3.4.2.6.3	Submissions to add new definitions for poultry farming	102
3.4.2.6.4	Recommended amendment	102
3.4.2.7	Hearing	103
3.4.2.8	Revised recommendations	104
3.4.2.9	Decision and reasons	104
3.4.3	Farming	106
3.4.3.1	Background	106

3.4.3.2	Submissions	106
3.4.3.3	Section 42A Report	106
3.4.3.4	Hearing	106
3.4.3.5	Decision and reasons	107
3.4.4	Forestry and Tree Planting	107
3.4.4.1	Introduction	107
3.4.4.2	Submissions	108
3.4.4.3	Section 42A Report	109
3.4.4.4	Hearing	110
3.4.4.5	Decision and Reasons	110
3.4.5	Landfills	111
3.4.5.1	Background	111
3.4.5.2	Submissions	112
3.4.5.3	Section 42A Report	112
3.4.5.4	Decision and Reasons	113
3.4.6	Rural Industry	113
3.4.6.1	Background	113
3.4.6.2	Submission in support	114
3.4.6.3	Requests relating to offal rendering plant	114
3.4.6.4	Request to add new definition of rural contractor depots	114
3.4.6.5	Section 42A Report	115
3.4.6.6	Hearing	116
3.4.6.7	Decision and Reasons	116
3.4.7	Policy 16.2.1.1	119
3.4.7.1	Background	119
3.4.7.2	Submissions	119
3.4.7.3	Section 42A Report	119
3.4.7.4	Hearing	119
3.4.7.5	Decision and reasons	120
3.4.8	Policy 16.2.1.2	120
3.4.8.1	Background	120
3.4.8.2	Submissions	120
3.4.8.3	Section 42A Report	120
3.4.8.4	Hearing	121
3.4.8.5	Decision and reasons	121
3.4.9	16.3.3 Activity status – land use activities	122
3.4.9.1	Submissions	122
3.4.9.2	Section 42A Report	122
3.4.9.3	Decision and reasons	122
3.4.10	Rule 16.3.3.24 Supported living facilities	122
3.4.10.1	Background	122
3.4.10.2	Submissions	122

3.4.10.3	Section 42A Report	122
3.4.10.4	Hearing	123
3.4.10.5	Revised recommendations	123
3.4.10.6	Decision and reasons	123
3.4.11	Rule 16.3.3.35 Visitor accommodation	123
3.4.11.1	Background	123
3.4.11.2	Submissions	124
3.4.11.3	Section 42A Report	124
3.4.11.4	Hearing	124
3.4.11.5	Decision and reasons	124
3.4.12	Rule 16.3.3.37 All other activities in the commercial activities category	125
3.4.12.1	Background	125
3.4.12.2	Submissions	125
3.4.12.3	Section 42A Report	126
3.4.12.4	Hearing	126
3.4.12.5	Decision and reasons	126
3.4.13	Activity status table – land use activities – new suggested land use rules	126
3.4.13.1	Submissions	126
3.4.13.2	Section 42A Report	127
3.4.13.3	Decision and reasons	127
3.4.14	Rule 16.3.4.14 Development activities on scheduled heritage sites	127
3.4.14.1	Background	127
3.4.14.2	Submissions	127
3.4.14.3	Section 42A Report	128
3.4.14.4	Hearing	128
3.4.14.5	Decision and reasons	128
3.4.15	Rule 16.11.2.4 mining and landfill assessment rule	128
3.4.15.1	Submissions	128
3.4.15.2	Section 42A Report	128
3.4.15.3	Decision and reasons	128
3.4.16	Rule 16.9.2.1 and 16.9.4.10 (assessment of performance standard contraventions)	129
3.4.16.1	Background	129
3.4.16.2	Submission	129
3.4.16.3	Section 42A	129
3.4.16.4	Hearing	130
3.4.16.5	Decision and reasons	130
3.5	Bulk and location provisions (Landscape Amenity)	131
3.5.1	Introduction	131
3.5.2	Strategic Direction 2.4	131
3.5.2.1	Background	131
3.5.2.2	Submissions	131

3.5.2.3	Section 42A Report	131
3.5.2.4	Hearing	131
3.5.2.5	Revised recommendations	132
3.5.2.6	Decision and Reasons	132
3.5.3	Objective 2.4.6 and Policy 2.4.6.2 (Character of Rural Environment)	133
3.5.3.1	Background	133
3.5.3.2	Submissions	133
3.5.3.3	Section 42A Report	134
3.5.3.4	Hearing	135
3.5.3.5	Revised recommendations	135
3.5.3.6	Decision and Reasons	135
3.5.4	Objective 16.2.3	136
3.5.4.1	Background	136
3.5.4.2	Submissions	137
3.5.4.3	Section 42A Report	138
3.5.4.4	Hearing	138
3.5.4.5	Revised recommendations	138
3.5.4.6	Decision and Reasons	139
3.5.5	Ridgeline Mapped Area and Related Provisions	139
3.5.5.1	Background	139
3.5.5.2	Submissions to remove Rule 16.6.11.4	140
3.5.5.3	Request to remove 20m vertical setback and amend Policy 16.2.3.1 and mapping	140
3.5.5.4	Submission to amend Ridgeline Mapped Area	140
3.5.5.5	Submissions on Policy 10.2.5.10 (relating to ridgelines provisions)	140
3.5.5.6	Section 42A Report	141
3.5.5.7	Decision and Reasons	142
3.5.6	Policy 16.2.3.1	143
3.5.6.1	Background	143
3.5.6.2	Submissions	143
3.5.6.3	Section 42A Report	143
3.5.6.4	Hearing	143
3.5.6.5	Revised recommendations	144
3.5.6.6	Decision and Reasons	144
3.5.7	Policy 16.2.2.5	144
3.5.7.1	Background	144
3.5.7.2	Submissions	144
3.5.7.3	Section 42A Report	145
3.5.7.4	Decision and Reasons	145
3.5.8	Policy 16.2.2.6	146
3.5.8.1	Background	146
3.5.8.2	Submissions	146

3.5.8.3	Section 42A Report	146
3.5.8.4	Hearing	146
3.5.8.5	Decision and Reasons	147
3.5.9	Policy 16.2.3.2	147
3.5.9.1	Background	147
3.5.9.2	Submission	147
3.5.9.3	Section 42A Report	147
3.5.9.4	Hearing	147
3.5.9.5	Decision and Reasons	147
3.5.10	Policy 16.2.3.4	148
3.5.10.1	Background	148
3.5.10.2	Submissions	148
3.5.10.3	Section 42A Report	148
3.5.10.4	Hearing	148
3.5.10.5	Decision and Reasons	148
3.5.11	Policy 16.2.3.5	149
3.5.11.1	Background	149
3.5.11.2	Submissions	149
3.5.11.3	Section 42A Report	149
3.5.11.4	Decision and Reasons	150
3.5.12	Policy 16.2.3.6	150
3.5.12.1	Background	150
3.5.12.2	Submissions	150
3.5.12.3	Section 42A Report	150
3.5.12.4	Decision and reasons	151
3.5.13	Policy 16.2.3.8	152
3.5.13.1	Background	152
3.5.13.2	Submissions	152
3.5.13.3	Section 42A Report	152
3.5.13.4	Hearing	152
3.5.13.5	Revised recommendations	152
3.5.13.6	Decision and Reasons	153
3.5.14	Policy 16.2.3.9	153
3.5.14.1	Background	153
3.5.14.2	Submissions	153
3.5.14.3	Section 42A Report	153
3.5.14.4	Decision and Reasons	153
3.5.15	Objective 16.2.2	154
3.5.15.1	Background	154
3.5.15.2	Submissions	154
3.5.15.3	Section 42A Report	154
3.5.15.4	Hearing	155

3.5.15.5	Revised recommendations	155
3.5.15.6	Decision and reasons	155
3.5.16	Policy 16.2.2.1	156
3.5.16.1	Background	156
3.5.16.2	Submissions	156
3.5.16.3	Section 42A Report	156
3.5.16.4	Hearing	156
3.5.16.5	Revised recommendations	156
3.5.16.6	Decision and Reasons	157
3.5.17	Rule 16.5.9 Separation distance performance standard	158
3.5.17.1	Background	158
3.5.17.2	Requests that additional land use activities be subject to the separation distances in Rule 16.5.9	158
3.5.17.3	Requests for increase of separation distance	158
3.5.17.4	Request for cross-referencing	159
3.5.17.5	Request that separation distances also apply from industrial and rural industrial activities	159
3.5.17.6	Section 42A Report	159
3.5.17.7	Hearing	161
3.5.17.8	Decision and reasons	162
3.5.18	Rule 16.6.8 Number, location and design of ancillary signs performance standard	163
3.5.18.1	Background	163
3.5.18.2	Submissions	164
3.5.18.3	Section 42A Report	164
3.5.18.4	Decision and reasons	164
3.5.19	Rule 16.6.11.1 Boundary setbacks	164
3.5.19.1	Background	164
3.5.19.2	Submissions in support	164
3.5.19.3	Submissions for boundary setbacks to be less restrictive, including for small sites	164
3.5.19.4	Submission to increase boundary setback for large farm sheds	165
3.5.19.5	Submission to amend exception for existing building within setback	165
3.5.19.6	Section 42A Report	165
3.5.19.7	Hearing	167
3.5.19.8	Decision and Reasons	169
3.5.20	Maximum Height Performance Standard Rule 16.6.6	171
3.5.20.1	Background	171
3.5.20.2	Submissions	171
3.5.20.3	Section 42A Report	171
3.5.20.4	Decision and Reasons	171
3.5.21	New suggested development performance standard for buildings and structures	171

3.5.21.1	Submissions	171
3.5.21.2	Section 42A Report	172
3.5.21.3	Hearing	172
3.5.21.4	Decision and Reasons	173
3.5.22	Hours of Operation Performance Standard	173
3.5.22.1	Background	173
3.5.22.2	Submissions	174
3.5.22.3	Section 42A Report	174
3.5.22.4	Hearing	175
3.5.22.5	Revised recommendations	175
3.5.22.6	Decision and reasons	175
3.5.23	Appendix A7	176
3.5.23.1	Request to insert references to Appendix A7 values to certain assessment rules	176
3.5.23.2	Request to amend term 'watercourse' to 'water body' in A7.3 Taieri Plains Rural Zone	177
3.5.23.3	Request to amend appendices to better recognise Manawhenua values	177
3.5.23.4	Request to amend A7.3 values to acknowledge horticultural production	177
3.5.23.5	Summary of amendments	177
3.6	Notification Rule	178
3.6.1	Background	178
3.6.2	Submissions	178
3.6.3	Section 42A Report	180
3.6.4	Hearing	181
3.6.5	Revised recommendations	181
3.6.6	Decision and reasons	182
3.7	Rural Section and Introduction	183
3.7.1	Rural Section	183
3.7.1.1	Submissions	183
3.7.1.2	Section 42A Report	184
3.7.1.3	Decision and reasons	185
3.7.2	Rural Introduction	185
3.7.2.1	Background	185
3.7.2.2	Submissions	185
3.7.2.3	Section 42A	186
3.7.2.4	Hearing	187
3.7.2.5	Revised recommendations	187
3.7.2.6	Decision and reasons	188
3.7.3	Broad submissions	189
3.7.3.1	Submissions to amend all objectives and policies to replace 'minor' with 'insignificant' and 'insignificant' with 'very insignificant, meaning bordering on unidentifiable'	189
3.7.3.2	Submissions to add new provisions to manage land use in dry catchments	189

3.7.3.3	Section 42A Report	189
3.7.3.4	Hearing	190
3.7.3.5	Decision and reasons	191
3.7.4	Request for new provisions for Huriawa and Māpoutahi	191
3.7.4.1	Background	191
3.7.4.2	Submissions	191
3.7.4.3	Section 42A Report	192
3.7.4.4	Hearing	193
3.7.4.5	Revised recommendations	193
3.7.4.6	Decision and reasons	194
3.8	Zoning and mapping submissions	194
3.8.1	Introduction	194
3.8.2	High class soils mapped area	194
3.8.2.1	Background	194
3.8.2.2	Submission in support	194
3.8.2.3	60 Mount Grand Rd	194
3.8.2.4	171 Pigeon Flat Rd	195
3.8.2.5	121 Hall Rd	195
3.8.2.6	712 Kaikorai Valley Rd	195
3.8.2.7	Middlemarch Basin Rural Zone	195
3.8.2.8	Area of Ridge, Sandymount and Hoopers Inlet roads, Otago Peninsula	195
3.8.2.9	55 Otokia Road East	195
3.8.2.10	14 Polwarth Road	195
3.8.2.11	155 and 252 Scroggs Hill Road	196
3.8.2.12	Section 42A	196
3.8.2.13	Hearing	197
3.8.2.14	Revised recommendations	197
3.8.2.15	Panel minute to submitters	198
3.8.2.16	Memo and Reconvened hearing - review of Middlemarch Basin HCS mapped area	198
3.8.2.17	Decision and reasons	198
3.8.3	Rural zones – general	200
3.8.3.1	Submissions	200
3.8.3.2	Section 42A Report	200
3.8.3.3	Decision and reasons	201
3.8.4	Middlemarch Basin Rural Zone	202
3.8.4.1	Submission	202
3.8.4.2	Section 42A Report	202
3.8.4.3	Decision and reasons	203
3.8.5	Hill Slopes Rural Zone	203
3.8.5.1	Submissions	203
3.8.5.2	Section 42A	204

3.8.5.3	Hearing	206
3.8.5.4	Decision and reasons	206
3.8.6	Coastal Rural Zone	207
3.8.6.1	Submissions	207
3.8.6.2	Section 42A	207
3.8.6.3	Hearing	209
3.8.6.4	Decision and reasons	209
3.8.7	Peninsula Coast Rural Zone	209
3.8.7.1	Submissions	209
3.8.7.2	Section 42A Report	210
3.8.7.3	Hearing	211
3.8.7.4	Decision and reasons	211
4.0	Future plan change reviews and other suggestions	211
5.0	Minor and inconsequential amendments	212
Appendix 1 – Amendments to the Notified 2gP (2015)		213
Appendix 2 – Figures		214
Appendix 3 – Summary of Decisions		

1.0 Introduction

1. This document details the decisions of the Proposed Dunedin City District Plan Hearings Panel/Te Paepae Kaiwawao Motuhake O Te 2GP with regard to the submissions and evidence considered at the Rural Hearing, held on 16 February – 3 March 2017 at the 2GP Hearings Centre and reconvened on 8 December 2017 at the Municipal Chambers.

1.1 Scope of decision

2. This Decision Report addresses the original and further submission points addressed in the Rural Section 42A Report, except:
 - *Fonterra NZ Limited* (OS807.27-28, OS807.32) relating to Rule 16.5.1, Rule 15.9, Objective and Policy 16.2.2.1 in relation to reverse sensitivity and acoustic insulation, which we address in the Public Health and Safety Decision Report.
 - *Radio NZ's* (OS918.42) submission in respect of reverse sensitivity which is addressed in the Plan Overview Decision Report.
 - *NZ Institute of Surveyors - Coastal Otago Branch* (OS490.33) relating to a new performance standard for productive capacity to apply to the new subdivision activity boundary adjustments, which we address in the Plan Overview Decision Report.
 - *Horticulture NZ* (OS1090.4, in part) and *Geoff Scurr Contracting Limited* (OS794.5) relating to inclusions in the definition of farming, which are addressed in the Earthworks Decision Report.
 - *Marlene Du Toit Parks* (OS62.2), *Shane Johnson and Sharee Watts* (OS1067.4) and *Harbourside and Peninsula Preservation Coalition* (OS447.89) in relation to family flats, which are addressed in the Plan Overview Decision Report.
 - *Forest and Bird NZ* (OS958.111) requesting the addition of a new policy to Section 16 Rural Zones to require all activities to maintain indigenous biodiversity and protect significant areas of indigenous vegetation and habitats for indigenous fauna; and *Horticulture NZ* (OS1090.11) requesting the addition of a new objective and policy under Strategic Direction 2.2, to manage biosecurity risk. These submission points are both addressed in the Natural Environment Decision Report.
 - *Howard Saunders'* (OS33.2) submission on the definition of factory farming which is addressed in the Rural Residential Decision Report.
 - *New Zealand Defence Force* (OS583.18) relating to providing for defence activities in the rural zones which is addressed in the Cross Plan-Emergency Services and Defence Facilities Decision Report.
3. The decision also addresses a number of submission points transferred from other topics, as follows (note that when an original submission point is transferred between topics, all associated further submission points are transferred with it).
 - *Graham and Nothburga Prime* (OS399.2) and *Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")* (OS717.27) relating to rural zoning in Flagstaff-Mt Cargill SNL. These submissions points were deferred to the Natural Environment Section 42A from the Rural Section 42A Report.
 - *Saddle Views Estate Limited* (OS458.13), *Blackhead Quarries Ltd* (874.17), *Tussock Top Farm Ltd* (OS901.12) and *Save The Otago Peninsula (STOP) Inc Soc* (OS900.60) relating to provisions for identified ridgelines, in particular

Policy 10.5.2.10. These submission points were included in the Natural Environment Section 42A Report.

1.1.1 Section 42A Report

4. The Rural s42A Report deals primarily with plan provisions included in the Rural Zones section of the 2GP. The Rural Zone contains provisions which link to most other parts of the 2GP; of particular relevance are Natural Environment (Section 10), Rural Residential (Section 17), Industrial (Section 19), and Public Health and Safety (Section 9). The decisions on those topics should be read in conjunction with this decision.

1.1.2 Structure of Report

5. The Decision Report is structured by topic. The report does not necessarily discuss every individual submitter or submission point; instead it discusses the matters raised in submissions and records our decisions and reasons on the provisions relevant to each topic¹. Appendix 3 at the end of the report summarises our decision on each provision where there was a request for an amendment. The table in Appendix 3 includes provisions changed as a consequence to other decisions.
6. 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).
7. 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.
8. This decision includes some minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments are summarised in Section 5.

1.2 Section 32AA Evaluation

9. 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.
10. 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.
11. A section 32AA evaluation has been undertaken for all amendments to the notified plan. The evaluation is incorporated within the decision reasons in section 3.0 of this decision.

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

1.3 Statutory Considerations

12. 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.
13. 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 the following NPS or NES are directly relevant to this particular topic:
 - The New Zealand Coastal Policy Statement 2010 (NZCPS) contains a number of objectives and policies directly relevant to those parts of the rural zones that are 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.
 - The National Environmental Standards for Plantation Forestry were enacted on 31st of July 2017 and came into force on the 1st May 2018. Earlier draft standards consulted on in 2011 and 2015 were incorporated in some provisions of the notified 2GP. Now that the standards are finalised they have been incorporated into the 2GP as far as is practical in the time available, but this is a complex exercise where the National Standards allow for more stringent requirements to recognise local circumstances, for example where areas with significant natural values have been identified. Further work is required to fully incorporate and integrate all the NES provisions into the 2GP. This does not require a public consultation process.
 - The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the National Environmental Standard and/or might require resource consent. All district and city councils are required to observe and enforce the requirements of the NESCS. The NESCS is managed outside of the 2GP: s43B of the RMA applies to the relationship between NES and rules or consents.
 - 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.

14. 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

15. 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
AgResearch Limited (OS924, FS2398)	Graeme Mathieson, planning consultant, Mitchell Daysh Limited	Pre-circulated evidence; did not attend hearing	3.4.2 Factory farming; 3.2.2 Policy 2.2.4.3.c; 3.2.9 Objective 16.2.1; 3.3.9 Policy 16.2.4.2; 3.2.12 Rule 16.5.2; 3.5.19 Boundary setback Rule 16.6.11.1; 3.8.2 High class soils mapped area; 3.2.12 Rule 16.5.2; 3.2.4 Rule 16.7.4
Allan Douglas McLeary, Sylvia Violet McLeary and Farry & Co Trustees Limited (on behalf of McLeary Family Trust) (OS832)	Allan McLeary, Michael Nidd, counsel, and Nigel Pitts, surveyor	Tabled evidence from Allan McLeary and legal submissions from Michael Nidd. All spoke at hearing	3.2.5 Rule 16.7.4.3 3.2.12 Rule 16.5.2
Anthony Parata (OS248)	Anthony Parata	Tabled statement and spoke at hearing	3.8.6 Coastal Rural Zone
Bloemfarm (OS687)	Pieter Bloem	Spoke at hearing	3.8.7 Peninsula Coast Rural Zone
Blueskin Projects Ltd (OS739)	Allan Cubitt (resource management consultant), Cubitt Consulting	Spoke at hearing	3.2.9 Objective 16.2.1; 3.4.8 Policy 16.2.1.2; 3.2.4 Rule 16.7.4 subdivision minimum site size; 3.2.12 Rule 16.5.2 residential density
Bruce Wayne Taylor (OS664)	Bruce Taylor	Spoke at hearing	3.2.12 Rule 16.5.2 residential density
Cameron John Macaulay (OS562)	Cameron Macaulay	Spoke at hearing	3.2.12 Rule 16.5.2 residential density

Christopher Dean Valentine (OS464)	Christopher Dean	Spoke at hearing	3.5.19 Rule 16.6.11.1 Boundary setbacks rule
Construction Industry and Developers Association (OS997)	Emma Peters (resource management consultant), Sweep Consultancy Limited	Tabled statement and spoke at hearing	3.2.4 Rule 16.7.4 subdivision minimum site size 3.2.5 activity status performance standard contravention; 3.4.12 Rule 16.3.3.37 all other activities in the commercial activities category
Craig Horne Surveyors Limited (OS704)	Craig Horne, surveyor	Spoke at hearing	3.2.4 Rule 16.7.4 subdivision minimum site size 3.2.8 Policy 16.2.1.10 and Rule 16.7.4.3 surplus dwelling subdivision 3.2.12 Rule 16.5.2 Residential density performance standard
CTW Holdings Limited (OS742)	Allan Cubitt, resource management consultant, Cubitt Consulting	Spoke at hearing	3.2.9 Objective 16.2.1; 3.4.8 Policy 16.2.1.2; 3.2.4 Rule 16.7.4; 3.2.12 Rule 16.5.2
Dianne Reid (OS592, FS2200)	Campbell Hodgson, Lawyer, Gallaway Cook Allan	Tabled statement and spoke at hearing	3.2.2 Policy 2.2.4.3c; 3.8.5 Hill Slopes Rural Zone
Douglas Hall (OS1068)	Ciaran Keogh, resource management consultant, Environmental Consultants Otago Ltd	Evidence pre-circulated and attended hearing	3.2.12 Rule 16.5.2 residential density
Dunedin Rural Development Inc. (OS853)	Murray Harris, Chair of Dunedin Rural Development Inc	Statement tabled and evidence presented at hearing	3.3.2 High class soils and productive land;
Egg Producers Federation of New Zealand (OS702, FS2437)	Poul Israelson, planning consultant, Harrison Grierson Consultants Limited	Evidence pre-circulated and attended hearing	3.3.2 High class soils and productive 3.4.2 factory farming; 3.5.17 rule 16.5.9 separation distances;
Federated Farmers of New Zealand (OS919, FS2449)	David Cooper, Senior Policy Advisor, Federated Farmers of New	Pre-circulated evidence, tabled statement and spoke	3.4.2 Factory farming; 3.3.4 Objective 2.3.1; 3.3.5 Policy 2.3.1.2; 3.2.3 Policy 2.3.1.3;

	Zealand	at hearing	3.2.8 Policy 16.2.1.10; 3.5.15 Objective 16.2.2; 3.5.4 Objective 16.2.3; 3.5.6 Policy 16.2.3.1; 3.2.16 Policy 16.2.4.4; 3.4.14 16.3.4.14; 3.2.5 16.7.4.3;
Forest and Bird NZ (OS958, FS2482)	Susan Maturin, Regional Manager Conservation Otago/Southland, Royal Forest and Bird Protection Society	Tabled statement and spoke at hearing	3.4.7 Policy 16.2.1.1; 3.5.4 Objective 16.2.3; 3.6 Notification rule 3.7.3 Broad submissions
G & J Sommers Edgar (OS889)	Allan Cubitt, resource management consultant, Cubitt Consulting	Spoke at hearing	3.2.9 Objective 16.2.1; 3.4.8 Policy 16.2.1.2; 3.2.4 Rule 16.7.4; 3.2.12 Rule 16.5.2
Gladstone Family Trust (OS249)	Emma Peters, resource management consultant and Rennie Logan, engineer	Pre-circulated evidence, tabled statement and spoke at hearing	3.2.4 Rule 16.7.4.1
Glenelg Gospel Trust (OS350)	Allan Cubitt, resource management consultant, Cubitt Consulting	Pre-circulated evidence, tabled statement and spoke at hearing	3.2.9 Objective 16.2.1; 3.4.8 Policy 16.2.1.2; 3.2.4 Rule 16.7.4; 3.2.12 Rule 16.5.2
Harboursides and Peninsula Preservation Coalition (OS447, FS2267)	Craig Werner, representative	Tabled statement and spoke at hearing	3.2.4 Rule 16.7.4; 3.2.9 Objective 16.2.1; 3.2.12 Rule 16.5.2; 3.4.16 Rule 16.9.2.1 and 16.9.4.10; 3.5.2 Strategic direction 2.4; 3.5.21 New suggested development performance standard for buildings and structures; 3.6.4 Notification rule
Helen Skinner and Joseph O'Neill (OS312)	Tony Devereux, representative	Tabled statement and spoke at hearing	3.5.19 Rule 16.6.11.1 Boundary setbacks;
Horticulture New Zealand (OS1090, FS2452)	Lynette Wharfe, resource management consultant, The Agribusiness Group	Pre-circulated evidence and spoke at hearing	3.2.14 Policy 16.2.3.8; 3.3.2 High class soils and productive land; 3.3.5 Policy 2.3.1.2; 3.5.3 Objective 2.4.6 and Policy 2.4.6.2;

			3.5.4 Objective 16.2.3 3.5.6 Policy 16.2.3.1; 3.5.15 Objective 16.2.2; 3.5.19 Rule 16.6.11.1 boundary setbacks; 3.7.2 Rural introduction
Irene Mosley (OS994)	Irene Mosley	Pre-circulated statement; did not attend hearing	3.8.6 Coastal Rural Zone
James Fraser (OS93)	James Fraser	Tabled evidence and spoke at hearing	3.8.2 High class soils mapped area
John Heydon and Sue Heydon (FS2210)	John Heydon	Tabled statement and spoke at hearing	3.2.4 Rule 16.7.4
Murray Soal (OS291)	Murray Soal	Pre-circulated statement and spoke at hearing	3.2.4 Rule 16.7.4 3.4.6 Rural Industry
New Zealand Defence Force (OS583)	Rob Owen (Director Environmental Services, NZDF)	Pre-circulated evidence; did not attend hearing	3.5.17 Rule 16.5.9
NZ Institute of Surveyors - Coastal Otago Branch (OS490)	Geoff Bates, Director of Terramark Ltd and Nigel Pitts, Director of Nigel Pitts & Associates Ltd	Tabled statement and spoke at hearing	3.2.13 Policy 16.2.1.9; 3.2.8 Policy 16.2.1.10 and Rule 16.7.4.3
Otago Regional Council (OS908, FS2381)	Fraser McRae and Warren Hanley	Attended hearing	3.3.2 High class soils and productive land 3.7.3 Broad submissions
Penguin Place Limited (FS2339)	Nicola McGrouther		3.5.22 Hours of operation performance standard
Robert Francis Wyber (OS394, FS2059)	Robert Wyber	Tabled statement of evidence and spoke at hearing	3.4.10 Rule 16.3.3.24 supported living facilities
Robert George & Sharron Margaret Morris (OS355)	Bob Morris, Tim Morris	Spoke at hearing	3.2.12 Rule 16.5.2; 3.2.4 Rule 16.7.4.1
Robin John Shaw Thomas (OS366)	Robin Thomas	Tabled statement and spoke at hearing	3.4.11 Rule 16.3.3.35; 3.2.6 Rule 16.7.4.2
Salisbury Park Ltd (OS488)	Allan Cubitt, resource management consultant, Cubitt Consulting	Pre-circulated evidence and spoke at the hearing	3.2.9 Objective 16.2.1; 3.4.8 Policy 16.2.1.2; 3.2.4 Rule 16.7.4; 3.2.12 Rule 16.5.2

Save The Otago Peninsula (STOP) Inc Soc (OS900)	Lala Frazer, representative	Tabled statement and spoke at hearing	3.2.12 Rule 16.5.2 3.5.2 Strategic direction 2.4
Te Rūnanga o Ngāi Tahu (OS790)	Robert Penter (consultant)	Tabled evidence; did not attend hearing	3.7.4 Request for new provisions for Huriawa and Māpoutahi
Timothy George Morris (OS951)	Tim Morris	Pre-circulated evidence and spoke at hearing	3.2.12 Rule 16.5.2; 3.2.4 Rule 16.7.4; 3.8.2 High class soils mapped area
Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054)	Tim Morris	Refer Timothy Morris	Refer Timothy Morris
Tussock Top Farm Ltd (OS901)	Allan Cubitt, resource management consultant, Cubitt Consulting	Spoke at hearing	3.2.9 Objective 16.2.1

16. Appearances for the Dunedin City Council were:

- Michael Bathgate, Reporting Officer
- Jane Macleod, Reporting Officer
- Katie James, Reporting Officer
- Mike Moore, Consultant Landscape Architect for DCC

17. Evidence provided by the Reporting Officers included:

- Section 42A Report
- Addendum to Section 42A Report
- Opening statement (tabled and verbal)
- Evidence of Mike Moore for Rural zones
- Revised recommendations summary (tabled and verbal)

18. Planning assistance to the Hearing was provided by:

- Paul Freeland, Senior Planner

3.0 Key topics discussed at the hearing or covered in tabled evidence OR Discussion on provisions sought to be amended

3.1 Context

19. There were three main overlapping themes discussed at the Rural hearing: subdivision and residential density provisions for managing undersized rural properties and land fragmentation; maintaining rural productivity; and maintaining the amenity and character of rural zones.
20. This decision report discusses the Rural Hearing Panel's decisions, grouped into themes, beginning with the provisions which attracted the most submissions: the subdivision and density objectives, policies and rules.

3.2 Subdivision and density provisions

3.2.1 Introduction

21. This section of the report responds to submissions on provisions relating to the management of residential activity including minimum site size rules and subdivision performance standards.

3.2.2 Strategic Directions Policy 2.2.4.3.c

3.2.2.1 Background

22. Policy 2.2.4.3.c reads "Ensure expansion of urban and rural residential areas occurs in the most appropriate locations and only when required by:
... c. encouraging applications for any subdivision that fundamentally changes rural land to-rural residential land or residential land to be processed as a plan change; and..."

3.2.2.2 Submissions

23. There were several submissions in support of Policy 2.2.4.3.c including:
 - *University of Otago* (OS308.493) because it "supports and encourages a compact urban environment";
 - *New Zealand Transport Agency* (NZTA) (OS881.175) because it considered that it encourages a long term view of infrastructure so that expansion can occur sustainably;
 - *Radio New Zealand* (OS918.67) supported the whole of Objective 2.2.4 because focusing development in existing urban areas can help mitigate the risk of reverse sensitivity on its operations;
 - *Federated Farmers of New Zealand* (OS919.174) supported Policy 2.2.4.3, agreeing that urban or rural residential expansion should be appropriately controlled, and was supportive of the zone-based approach.

24. *Dianne Reid* (OS592.30) and *Pigeon Flat Road Group* (OS717.28) generally sought a more flexible and enabling approach to subdivision, and associated residential use, of undersized sites in the Rural Zones. As part of this approach they sought to amend Policy 2.2.4.3.c to specifically enable the residential use of undersized sites as follows:

... (c) enable the use of existing undersized rural sites for residential activity ~~encouraging applications for any subdivision that fundamentally changes rural land to rural residential land or residential land to be processed as a plan change;~~
25. The submitters considered that the Plan should recognise and allow for alternative development options within rural zones that enable the majority of a site to remain available for rural production or provide for other features to be enhanced such as landscape, indigenous vegetation or social prosperity. The same submitters also sought other changes to Policy 2.2.4.3 - to clause (b) to clarify what is considered a 'rural residential' subdivision and the deletion of clause (d). Submissions on clause (b) are discussed in the Rural Residential Decision Report and submissions on clause (d) are discussed in the Urban Land Supply Decision Report.
26. *Dianne Reid* (OS592.30) and *Pigeon Flat Road Group* (OS717.28) were opposed by *AgResearch Limited* (FS2398.1 and FS2398.2) and *Rural Contractors New Zealand Incorporated* (FS2450.1 and FS2450.2) who were concerned, in relation to the overall extent of these submissions on Policy 2.2.4.3, that they would encourage rural residential subdivisions of nine lots or less, and have potential adverse effects on rural activities, including loss of high class soils through fragmentation and reverse sensitivity. *David Hiom and Kerry Hiom* (FS2473.28) opposed the submission of *Dianne Reid* with the submitter's reasons relating to opposition to more intensive zoning and a higher intensity of use in the vicinity of Saddle Hill Road.

3.2.2.3 Section 42A Report

27. In response to the submissions seeking that residential activity should be enabled on all undersized rural properties the Reporting Officer, Mr Michael Bathgate, noted the large number of undersized rural sites (Section 42A Report, Section 5.2.1.3, pp. 80-81). He explained how rural lifestyle blocks and hobby farming are provided for in the 2GP by rural residential zoning. The Rural Residential 2 Zone was created in response to the issue of undersized sites, and recognises many groups of existing undersized lots. He maintained his opinion that the use of zoning and a rural density standard was the most appropriate way of achieving 2GP objectives and therefore did not recommend any amendments to Policy 2.2.4.3.c.

3.2.2.4 Hearing

28. At the hearing, *AgResearch* supported the s42A Report recommendation. The provision was not specifically discussed in the evidence of *Federated Farmers*.
29. Mr Campbell Hodgson (legal counsel) appeared on behalf of *Dianne Reid* and tabled a copy of the resource consent application, prepared for the submitter to subdivide 505 Saddle Hill Road as an example of what a more flexible and enabling approach to rural subdivision and development could result in. Although not part of the original submission, Mr Hodgson requested that if the subdivision application for 505 Saddle Hill Road heard in the previous week was granted, then the four new small sites should be rezoned as Rural Residential.

3.2.2.5 Revised recommendations

30. In response to *Dianne Reid*, the Reporting Officer noted that there had been no rezoning request for Rural Residential sites in her original submission. However, it was also noted that there were associated requests to change the zoning of CFR OT10C/237 (except Lot 2 DP 19043) from Coastal to Hill Slopes Rural Zone considered in the Rural Section 42A Report, for which the recommendation to reject

was unchanged, as well as a request (OS592.28) to change Lot 2 DP 19043, which contains the 4 smaller sites sought through the subdivision application, from Coastal Rural Zone to Large Lot Residential 2 Zone, with the latter submission being considered in the Urban Land Supply Hearing.

3.2.2.6 Decision and reasons

31. We reject the submissions of *Dianne Reid* (OS592.30) and *Pigeon Flat Road Group* (OS717.28) to amend Policy 2.2.4.3.c to provide a more flexible and enabling approach to rural subdivision and associated residential development². Aside from the example of the subdivision consent for 505 Saddle Hill Road, we did not receive any additional evidence on this matter through the hearing. We note the Reporting Officer's evidence on the large number of existing undersized properties in the rural zones. We can appreciate the concern of the further submitters that allowing a dwelling on each of these would cumulatively undermine other rural objectives and policies, as discussed in section 3.2.3. As discussed in the Rural Residential Decision, we consider that lifestyle farming is best provided for by way of rural residential zoning, as this aligns better with the 2GP's strategic objectives (particularly those relating to rural productivity). Specifically, we consider that allowing residential activity on under-sized rural sites would exacerbate the fragmentation of the rural zones with attendant reverse sensitivity issues and adverse effects on rural productivity, and would limit Council's ability to manage other potential adverse effects (such as those on landscape or natural character values).

3.2.3 Policy 2.3.1.3

3.2.3.1 Background

32. Policy 2.3.1.3 reads:

"In order to avoid cumulative effects on rural productivity and rural character values, set and strictly enforce a minimum site size standard for subdivision in the rural zones. Determine the minimum site size standard considering:

- a. the median size land holding associated with and necessary to support farming activity in each rural zone;*
- b. the existing pattern of settlement and land use in each rural zone; and*
- c. the character and amenity values that exist in each rural zone."*

3.2.3.2 Submissions

33. *Pigeon Flat Road Group* (OS717.1) submitted in opposition to Policy 2.3.1.3. The submitter considered that it was maintaining the status quo and was arbitrary, and it was unclear as to how the median land size had been selected for each zone, or whether existing settlement patterns were in fact appropriate. The submitter considered the Plan should provide rural living opportunities in areas that are less productive to reduce pressure on more productive areas. This submission was accompanied by the two proposed new policies under Objective 2.3.1 (see section 3.3.4).
34. *Horticulture New Zealand* (OS1090.14) submitted in support of the use of minimum site size and sought amendment to the policy in relation to rural character values (discussed in Bulk and Location provisions, section 3.3.6).
35. *Federated Farmers of New Zealand* (OS919.11) sought to amend Policy 2.3.1.3 to provide site performance standards for each zone, rather than through restrictions

² Note that Policy 2.2.4.3 has been amended to remove the words 'rural residential land or' as set out in the Urban Land Supply Decision Report. Instead, Policies 2.6.1.4, 2.6.1.4 and 2.6.1.5 now address rural residential expansion and list criteria that allow expansion.

around subdivision. The submitter considered that "subdivision can take place in rural areas for a number of reasons, including succession, and we consider Council can better address concerns around land use change, development and new buildings through rules associated with those specific activities, not through controlling subdivision". The submission was opposed by *HPPC* (FS2267.5) who considered that subdivision restrictions were appropriate.

3.2.3.3 Section 42A Report

36. The Reporting Officer (Mr Bathgate) did not agree with *Pigeon Flat Road Group* (OS717.1) that Policy 2.3.1.3 was arbitrary or that it was unclear how the site size had been selected for each zone (s42A Report, Section 5.2.2.3, p. 90). He explained that the Section 32 Report, 'Minimum Site Size in Dunedin's Rural Zones' (April 2014), set out in detail the process used to arrive at the minimum site size for each zone.
37. Further, he did not agree with the submitter that Policy 2.3.1.3 sought to maintain the status quo, which implied that any further subdivision would be non-complying. Instead, it was explained that it was used for determining the minimum site size standard for future subdivision of land, taking into account how land is utilised within each zone. Given that fragmentation of rural land has been identified as a key resource management issue for Dunedin, the Reporting Officer considered that the approach set out in Policy 2.3.1.3 for managing rural subdivision was an appropriate means of achieving Objective 2.3.1 in relation to the protection of rural land for economic productivity.
38. In response to the submission of *Federated Farmers* (OS919.11), the Reporting Officer was of the opinion that the 2GP needed to manage subdivision to prevent further fragmentation of rural land (s42A Report, Section 5.2.2.2, p. 91). The Reporting Officer considered that not setting minimum site sizes for subdivision in the rural zones would greatly exacerbate land fragmentation and would not be an efficient and effective approach for the 2GP. In response to the *Federated Farmers'* comment about farm succession, the s42A Report notes that an exception has been created in the Minimum Site Size performance standard (Rule 16.7.4.3) for subdivision of a surplus dwelling below minimum site size to be processed as a restricted discretionary activity. The Reporting Officer considered that providing any further flexibility beyond this exception in order to guarantee the economic viability of a rural property was beyond the scope of the 2GP.

3.2.3.4 Hearing

39. David Cooper, for *Federated Farmers* submitted that, in line with the proposed change to the activity status for subdivision below minimum site size to discretionary (discussed below in section 3.2.5), Policy 2.3.1.3 should be amended to remove the words "and strictly enforce".

3.2.3.5 Revised recommendations

40. As he did not recommend a change to the activity status for subdivision below minimum site size to discretionary, the Reporting Officer considered that this wording should remain to signal that it is considered a critical performance standard in respect of the 2GP.

3.2.3.6 Decision and reasons

41. We reject the submissions against or seeking amendment to Policy 2.3.1.3 for the reasons outlined by the Reporting Officer. We accept the method is appropriate to manage land fragmentation (and associated adverse effects on rural productivity and rural character) and consider this particularly appropriate when land fragmentation has been identified as a key resource management issue for the city, as evidenced by

the large number of existing undersized rural sites. We further accept that the minimum lot size for subdivision is based on a thorough assessment of the area of land currently supporting efficient use of land in the various rural zones. As discussed in the Rural Residential Decision Report, we consider the 2GP appropriately provides for lifestyle farming activities through Rural Residential 2 zoning (created by applying rural residential zoning to clusters of existing undersized sites). We consider this represents more efficient use of existing land, in line with s7(b) of the RMA, and aligns better with the 2GP's strategic objectives (particularly those relating to rural productivity), than permitting further fragmentation. In terms of providing for succession, we note that there is provision for multiple residential activities on sites in the rural zones, under Rule 16.5.2.

3.2.4 Rule 16.7.4 (subdivision minimum site size standard)

3.2.4.1 Background

42. The Minimum Site Size performance standard (Rule 16.7.4.1) for subdivision activity in the Rural Zones sets out the respective minimum site sizes for the seven Rural Zones. The 2GP requires consent for all subdivisions, with contravention of this performance standard resulting in a non-complying activity status except when the subdivision is of land containing an existing dwelling and meets certain requirements. Rule 16.7.4.1 states that:

- The minimum site size for new resultant sites is:

Rural Zone		Minimum site size
a.	Coastal	40 ha
b.	High Country	100 ha
c.	Hill Country	100 ha
d.	Hill Slopes	25 ha
e.	Middlemarch Basin	80 ha
f.	Peninsula Coast	40 ha
g.	Taieri Plain	40 ha

3.2.4.2 Submissions in support of Rule 16.7.4

43. There were multiple submissions in support of the subdivision minimum site size standard. Reasons for support included³:
- minimum site sizes will assist in preserving the character of the peninsula (*Burkhard and Marita Eisenlohr* (OS844.2))
 - rural land should be used for production rather than speculation via subdivision (*Mike Geraghty* (OS873.1))

³ *Federated Farmers* (OS919.158) submitted in support of 16.7.4 but as long as the status of contravention of standards was discretionary, discussed below in 3.2.5

- opposition to any reduction that could lead to an increase in subdivision, in particular supporting the minimum site size in the Peninsula Coast and Hill Slopes zones (*Radio New Zealand* (OS918.54))
 - preventing the fragmentation of rural land (*Otago Fish and Game Council* (OS1016.1))
 - it will reduce the potential for excessive residential intensification (*Fonterra* (OS807.33))
 - in relation to the Coastal Rural Zone, because subdivision of rural coastal land is not appropriate and a threat to the natural coastal environment (*Purakaunui Environment Group Inc* (OS349.1))
 - opposition to allowing 'good Taieri land' to be made into small farms (*Christopher Ryalls* (OS1051.5)).
44. Further submissions from *AgResearch* (FS2398.38, FS2398.39) and *Rural Contractors New Zealand* (FS2450.38, FS2450.39) supported *Fish and Game* and *Fonterra* respectively because "retaining the minimum lot sizes would reduce: the loss of high class soils for primary production through fragmentation; and the potential for residential intensification and associated reverse sensitivity effects on rural production activities and activities that have a functional need to locate in rural areas".

3.2.4.3 Submissions to review minimum site size standard

45. *Murray Soal* (OS291.3) submitted that the subdivision rule is complex and would not achieve the spirit of the RMA, and there needed to be flexibility in relation to rural land use. *The Marrafin Trust* (OS581.2) also submitted that the rural subdivision sizes needed to be revisited.
46. *Dunedin Rural Development* (OS853.7) stated that "it appears some very good work has resulted in the splitting up of the Rural Zone into seven distinct areas all with different minimum site size for subdivision", but wanted the minimum site sizes of some of the rural zones reconsidered as it was unsure of the impacts. The submitter gave the Hill Country, High Country and Hill Slopes zones as examples.

3.2.4.4 Submissions to reduce minimum site sizes for subdivision

47. Multiple submitters, sought to either keep the 15ha minimum site size for subdivision used in the operative Plan or to reduce the minimum site size from that notified, for various zones (Rural Section 42A Report, pp. 284-288), as follows, with reasons where provided:
- *Kim and Diane Rapley* (OS641.3)
 - *Ivan Court* (OS55.1), because the proposed changes are 'directly opposite' to policies of other councils and government to free up land;
 - *Ray Kean* (OS791.2), because proposed minimum sizes are too large, allowing no scope for 'suitable rural uses';
 - *Pigeon Flat Road Group* (OS717.24);
 - *Lindsay Dempster and others* (OS1081.2);
 - *John Thom* (OS828.1), because 40ha minimum site size will potentially create more land and sustainability issues;
 - *Lynnore Templeton* (OS735.6, OS735.7), because there is little demand for rural residential subdivisions in Middlesmarch and proposed minimum site sizes are not enough to farm productively;
 - *David Graham* (OS926.3), because of the need for flexibility, efficiency and there has not been 'a proliferation' of subdivisions that create a need for a stricter rule;
 - *Christopher Kilpatrick* (OS505.5⁴), as the size now is fine;

⁴ Supported by Pigeon Flat Road Group (FS2416.47)

- *Mr & Mrs D Allen* (OS795.3), because of their recent land purchase and intention to subdivide;
 - *Lawrence Taylor* (OS800.1), because it is unfair to remove subdivision rights;
 - *Peninsula Holdings Trust* (OS771.2), because of historic nature of Peninsula properties and property rights;
 - *Ross Roy* (OS759.2), because the minimum had increased twice since buying his land and he did not consider his land to be fertile;
 - *Greg and Glenise Hyslop* (OS964.2), because it affects their ability to sell their properties which they consider would no longer be viable units;
 - *Peter Wilson* (OS954.1), because of difficulties people have with incorrectly zoned properties;
 - *Meats of New Zealand* (OS804.1), because the new 40ha minimum is too large, not in keeping with the Spatial Plan objectives or demand for smaller sections;
 - *Tony McFadgen* (OS1086.1) because the new minimum site size does not represent a productive agricultural unit and in relation to Blackhead Road area where there is a history of Rural Residential activity and a 'distinct absence' of Rural activity;
 - *Colin Weatherall* (OS194.6), because a significant number of properties could become non-compliant in the Strath Taieri area;
 - *Greg and Denise Powell* (OS80.2), because the lower harbour area hill slopes of the Otago Peninsula are not productive or economically viable and allowing for smaller blocks would allow for better weed control and preservation of native bush;
 - *Graham and Nothburga Prime* (OS399.4, OS399.5), because the Coastal Rural Zone land in their area was surrounded on three sides by Hill Slopes Rural Zone land, the submitter stating "There is no logical reason why similar properties in an area, carrying out similar agricultural activities, should have significantly different development restrictions of site size because of somewhat arbitrary zone boundaries."
48. *Craig Horne Surveyors Limited* (OS704.24), *Blueskin Projects Ltd* (OS739.24), *CTW Holdings Limited* (OS742.24) and *G & J Sommers Edgar* (OS889.18) sought a 15ha minimum for all rural zones because in the submitters' opinion, the proposed minimum site sizes would inhibit productive use of rural land and did not recognise a number of locations within the City "where land is already fragmented to well below the minimum lot sizes of either the current or proposed District Plan" (s42a Report, p. 284).
49. *Salisbury Park Ltd* (OS488.6) also sought amendment of the 40ha minimum site size to 15ha as it considered that the proposed minimum lot sizes would inhibit productive use of the rural land where more intensive land use is possible. This submission was opposed by *Horticulture NZ* (FS2452.58), who sought adequate site sizes to ensure that potential for reverse sensitivity is appropriately managed.
50. The *Gladstone Family Trust* (OS249.1) sought amendment from 25 to 15ha as a minimum size for subdivision. The submitter's reasons were that "The land subject of this submission could best be described as marginal low productive farmland. The productivity of which will not be improved by a larger area. The smaller blocks would present a greater opportunity for capital introduction for farm improvements."
51. *Robert George & Sharron Margaret Morris* (OS355.14) opposed the 40ha minimum site size and sought its amendment to 15ha, or the most appropriate for a particular area or title. They noted that the 40ha minimum site size is not consistent with the history of the Peninsula as 40ha is far too large for peninsula sites and that 40ha is not different from 15ha in terms of the economic sustainability in modern farming practices.
52. *Timothy George Morris* (OS951.36) and the *Morris Family Trust* (OS1054.36) sought to reduce the minimum site sizes, and include an absolute maximum of 15ha for the Peninsula Coast Rural Zone. They also thought there should be an opportunity to provide for sites less than 15ha, "for example as where may apply to area associated

with a historical farm when the early settlers first moved to the Otago Peninsula in the 1860s". The submitters stated that "the proposed 40ha size will not constitute an economic unit and does absolutely nothing whatsoever to address many of the DCC criticisms associated with the present 15ha limit".

53. *Bruce Wayne Taylor* (OS664.4) sought to retain the current 15ha for the Peninsula Coast Rural Zone. He considered that the previous subdivision rules worked well and should be reinstated and that 40ha was not suitable for an economic farming venture and land would still be purchased for lifestyle purposes.
54. *The Construction Industry and Developers Association* (OS997.33) sought a minimum site size for subdivision of 6ha across all rural zones, with no specific reason given for this request. This submission was opposed by *Horticulture NZ* (FS2452.57) who sought "adequate lot sizes to ensure that potential for reverse sensitivity is appropriately managed".
55. *Jason Cockerill* (OS184.1) sought to be able to divide 15ha sites down to smaller sites in his vicinity of Big Stone Road, Brighton. The submitter stated that "Land holdings to the north of us have had this option passed by council already. This leaves only three sites lost in no man's land, left between larger coastal farmland or larger forestry blocks well in excess of the current 15ha min". This submission was opposed by *John and Sue Heydon* (FS2210.4) who own one of the three 15ha blocks referred to by Jason Cockerill. *John and Sue Heydon* supported the stated goals behind the DCC's proposals with regard to rural land, and felt that land in their vicinity has been subdivided in a rather unstructured way. *John and Sue Heydon* (FS2210.2) also opposed the submission by *Kim and Diane Rapley* (OS641.3) to reduce minimum site sizes to 15ha, and stated their preference for the 40ha minimum site size for Rural Coastal zone. The submitters were concerned that a reduction in the minimum site size would lead to pressure for further subdivision along the coast and pressure for even smaller blocks.
56. *Dianne Reid* (OS592.25) submitted that there did not appear to be any justification for differentiation between the Coastal Rural Zone (outside of the coastal environment) and the Hill Slopes Rural Zone. This related to her submission pertaining to proposed differences between the residential density standards for these two zones, along with questioning the difference between residential density and subdivision standards in each zone. This submission was opposed by *David and Kerry Hiom* (FS2473.23), with the reasons relating to their opposition to more intensive zoning and a higher intensity of use in the vicinity of Saddle Hill Road.

3.2.4.5 Submissions to increase minimum site sizes for subdivision

57. *Scroggs Hill Farm* (OS1052.4) considered the minimum subdivision size of 40ha for the Coastal Rural Zone an improvement, but considered it should be much larger as 40ha is still uneconomic for farming.
58. *HPPC* (OS447.93) and *STOP* (OS900.126) sought to increase the minimum site size in the Hill Slopes Rural Zone from 25 to 40ha (Rule 16.7.4.1.d), because of the visual prominence of the zone. *STOP's* submission was opposed by *Pigeon Flat Road Group* (FS2416.52), who considered that 40ha is not an efficient use of land.

3.2.4.6 Section 42A Report

59. The Reporting Officer, Michael Bathgate, recommended all submissions be rejected. He referred to the adverse effects of fragmentation and the loss of productive land as well as the focus of the 2GP objectives and policies that protect productive land, maintain productivity and maintain or enhance the character and amenity of the rural environment (Section 42A Report, p. 288).
60. The Reporting Officer explained that the minimum site size for subdivision standard seeks to achieve the strategic objectives and that the methodology for deriving the proposed minimum site sizes for each Rural Zone was set out on pages 16-20 of the Section 32 report *Minimum Site Size in Dunedin's Rural Zones, April 2014*. In setting

the minimum site size for subdivision, existing property sizes were used rather than sites (certificates of title) reflecting that rural landholdings are often comprised of a number of sites held and used together. The average size of a property in a rural use (as opposed to another category of use such as residential or lifestyle) was given greater weight.

61. Mr Bathgate described how in any zone, there will naturally be sites and properties in rural use that are smaller than the average. This may be viewed as a disadvantage of using an average figure. However, many farm entities are comprised of multiple titles and there are also many small properties that are used productively without dwellings. Further, the Reporting Officer did not consider the proposed site sizes in Rule 16.7.4.1 are excessive in terms of the size of landholding required to undertake farming or another productive activity, as confirmed by comments from a number of submitters.
62. He then discussed the approach to setting the subdivision standard and detailed the alternatives that were considered, which included consideration of advantages and disadvantages over the various rural zones of the 2GP. The Reporting Officer concluded that the minimum site sizes for subdivision as notified in the 2GP were the most appropriate way to achieve the objectives of the rural zones in relation to providing for productive rural activities (Objective 16.2.1), maintaining and enhancing rural character and amenity (Objective 16.2.3) and rural productivity (Objective 16.2.4).
63. Further, he stated that Rule 16.7.4 was based on an evidence-based approach that provided a differentiated minimum site size standard that reflects land use, rural property sizes and rural character across different parts of Dunedin's rural environment. None of the alternatives suggested by submitters were considered to have better evidence or rationale to suggest that they would contribute to the achievement of rural objectives more appropriately or effectively.

3.2.4.7 Hearing

64. *AgResearch* tabled a statement at the hearing, supporting the s42A Report recommendation for Rule 16.7.4.4
65. Mr Craig Werner, appearing for *HPPC*, tabled a statement and spoke at the hearing. With regard to the Minimum Site Size performance standard for the Hill Slopes Rural Zone (Rule 16.7.4.1.d) he considered that there were other factors more important in setting minimum site size than the average site size, including rural character and amenity and visual impact and that the argument about Hill Slopes Rural Zone being fragmented was not valid if most fragmented sites are vacant.
66. Mr Allan Cubitt (resource management consultant), called by *Salisbury Park Ltd* and the seven other submitters listed above, pre-circulated resource management evidence. With regard to the Minimum Site Size performance standard for the Taieri Plain Rural Zone (Rule 16.7.4.1.g), he stated that a preferred approach would be not to have a minimum site size for subdivision, rather to have some form of density control and have all residential activity as discretionary.
67. Emma Peters (resource management consultant) was called by *Construction Industry and Developers Association (CIDA)* and the *Gladstone Family Trust* and tabled statements for both. For *CIDA*, Ms Peters sought a 6ha minimum site size for rural zones and wished to see flexibility in minimum site sizes to support farming as per Policy 2.3.1.3.a (the median size land holding associated with and necessary to support farming activity in each Rural Zone). In the submitter's view there is a lot of marginal land in the Hill Slopes Rural Zone in terms of economic sustainability of productive rural activities and that it would be more sustainable to have a minimum site size of 6ha for both subdivision and residential activity.
68. For *Gladstone Family Trust*, Ms Peters focused on the minimum site size standards for the Hill Slopes Rural Zone and outlined the submitter's submission that their property would be more productively used in lifestyle blocks which would allow better land

management. Rennie Logan appeared on behalf of *Gladstone Family Trust*, tabled a statement and spoke at the hearing. The submitter considered that the Gladstone Family Trust property would be more productively used in lifestyle blocks, providing a potential road linkage between Chain Hills and Mosgiel, and should be more appropriately zoned. In the view of the submitter, smaller blocks would allow better land management, while 25ha would be uneconomic and would revert to gorse and the property seemed a logical place for urban and lifestyle infill between Mosgiel and Fairfield. The submitter sought that the minimum site size for subdivision in the Hill Slopes Rural Zone should be 15ha and considered objectives and policies may be better served by 15ha than 25ha minimum site size. The evidence provided by Ms Peters and Mr Logan contended that the Hill Slopes Rural Zone presented the opportunity to relieve pressure for lifestyle living on more productive areas and that smaller lot sizes would lead to better land management and better amenity. No difference was seen between 15 and 25ha with respect to the ability to support farming, cumulative effects on amenity, character and loss of productivity and that amenity and landscape values of the zone were protected by large amounts of land in public ownership. Ms Peter's evidence suggested that fragmentation and lifestyle living would occur within the Hill Slopes Rural Zone, whether the minimum site size stayed as notified or was reduced to 15ha.

69. Mr Craig Horne appeared for *Craig Horne Surveyors Ltd* and spoke at the hearing but did not table a statement. Mr Horne considered the minimum site size standard to be too restrictive and inflexible and requested that there be more flexibility in the site sizes. He did not see any negative impact of having 15ha sites as is the case near Outram.
70. John Heydon for *John Heydon and Sue Heydon* tabled a statement, with Mr Heydon speaking at the hearing in support of 16.7.4 minimum site size performance standard including for the Coastal Rural Zone.
71. *Murray Soal* pre-circulated a statement and spoke at the hearing. He supported retention of the 15ha subdivision rule as he was concerned about effects on productive use of small blocks of land. Mr Soal also expressed concern that many farming activities were captured by the rural industry definition.
72. Mr Bob Morris and Mr Tim Morris on behalf of *Timothy Morris (on behalf of RG and SM Morris Family Trust)* and *Robert George & Sharron Margaret Morris* spoke at the hearing. The submitters strongly objected to Rule 16.7.4.1.g, stating the existing character of Peninsula is 15-20ha sites. In their opinion, only 10 farms on the Peninsula could be subdivided to 40ha. They also suggested that 15ha sites have improved the Peninsula through planting and restoring wetlands, preserving heritage, better security and bringing more people to communities, and that minimum site size should be reduced to 15ha to allow residential activity on existing sites. Mr Tim Morris also considered that there was a significant loss in value from the density performance standard as well as the subdivision rule change and that the density performance standard for the first residential activity per site for the Peninsula Coast Rural Zone (Rule 16.5.2.1.f) should also be reduced from 20ha down to 15ha (see 3.3.12 for discussion of Rule 16.5.2).

3.2.4.8 Revised recommendations

73. The Reporting Officer gave an overview response to the minimum site size for subdivision rule and noted that there were different opinions around the desirability of the operative Plan 15ha standard. It was also pointed out that the minimum site size is intended to reflect the minimum size that a rural site should be to achieve the relevant 2GP objectives rather than a target for resulting sites. While having sympathy for landowners who may be struggling to make a return from their land, the Reporting Officer did not consider the resource management grounds for decreasing minimum site size were compelling. Again, it was reiterated that increased lifestyle development risks exacerbating the already fragmented nature of Dunedin's rural land resource.

74. In response to *HPPC*, the Reporting Officer noted that the Hill Slopes Rural Zone is a highly fragmented zone, with many residential developments on smaller sites (Section 42A Report Table A, p. 256). It was noted that character and amenity were contributing factors in setting the minimum site size, recognising the diverse landforms and land uses in this relatively intensively settled zone.
75. In response to Mr Soal's questioning of a number of rural policies and rules in his statement, the Reporting Officer noted that as they were outside the scope of the original submission, he would not be addressing them. However, with regard to his question about the definition of rural industry, although also not within scope Mr Bathgate proposed a minor clause 16 amendment to the definition to improve clarity, as discussed in section 3.4.6 below.

3.2.4.9 Decision and reasons

76. We accept the submissions that supported Rule 16.7.4: *Burkhard and Marita Eisenlohr* (OS844.2), *Mike Geraghty* (OS873.1), *Radio New Zealand* (OS918.54), *Otago Fish and Game Council* (OS1016.1) (supported by *AgResearch* (FS2398.38, FS2398.39), *Fonterra* (OS807.33) (supported by *Rural Contractors New Zealand* (FS2450.38, FS2450.39), *Purakaunui Environment Group Inc* (OS349.1), and *Christopher Ryalls* (OS1051.5).
77. *Murray Soal* (OS291.3), *Marrafin Trust* (OS581.2) and *Dunedin Rural Development* (OS853.7) submitted that the rural subdivision sizes needed to be revisited. These submitters made no specific requests so no decision can be made, but we can assure them that as discussed above, we heard extensive evidence and submissions about this issue and we have carefully considered it.
78. We reject the submissions seeking increases in the minimum lot sizes for rural subdivisions: *Scroggs Hill Farm* (OS1052.4), *HPPC* (OS447.93), and *STOP* (OS900.126) (opposed by *Pigeon Flat Road Group* (FS2416.52).
79. We reject the submissions seeking decreases in the minimum lot sizes for rural subdivisions: *Kim and Diane Rapley* (OS641.3) (opposed by *John and Sue Heydon* (FS2210.2)), *Ivan Court* (OS55.1), *Ray Kean* (OS791.2), *Pigeon Flat Road Group* (OS717.24), *Lindsay Dempster and others* (OS1081.2), *John Thom* (OS828.1), *Lynnore Templeton* (OS735.6, OS735.7), *David Graham* (OS926.3), *Christopher Kilpatrick* (OS505.5), *Mr & Mrs D Allen* (OS795.3), *Lawrence Taylor* (OS800.1), *Peninsula Holdings Trust* (OS771.2), *Ross Roy* (OS759.2), *Greg and Glenise Hyslop* (OS964.2), *Peter Wilson* (OS954.1), *Meats of New Zealand* (OS804.1), *Tony McFadgen* (OS1086.1), *Colin Weatherall* (OS194.6), *Greg and Denise Powell* (OS80.2), *Graham and Nothburga Prime* (OS399.4, OS399.5), *Craig Horne Surveyors Limited* (OS704.24), *Blueskin Projects Ltd* (OS739.24), *CTW Holdings Limited* (OS742.24), *G & J Sommers Edgar* (OS889.18), *Salisbury Park Ltd* (OS488.6) (opposed by *Horticulture NZ* (FS2452.58)), *Gladstone Family Trust* (OS249.1), *Robert George & Sharron Margaret Morris* (OS355.14), *Timothy George Morris* (OS951.36) and the *Morris Family Trust* (OS1054.36), *Bruce Wayne Taylor* (OS664.4), *The Construction Industry and Developers Association* (OS997.33) (opposed by *Horticulture NZ* (FS2452.57)), *Jason Cockerill* (OS184.1) (opposed by *John and Sue Heydon* (FS2210.4)) and *Dianne Reid* (OS592.25) (opposed by *David and Kerry Hiom* (FS2473.23)).
80. The objectives, policies and rules relating to minimum site sizes for subdivision and the construction of new dwellings are a package designed to promote the purpose and principles of the Act, set out in Part 2 of the Act, having regard to the particular circumstances of each rural zone in Dunedin City. We accept that controlling subdivision and housing will inhibit the ability of some people to develop their land as they wish as explained by submitters seeking reduction in the minimum lot size, but the Council evidence included a detailed analysis showing that large parts of the rural area are already fragmented into lots that are too small to sustain farming on their own. The demand for lifestyle farming and intensive farming requiring only small areas is amply catered for with existing rural residential zoning (as discussed in the

Rural Residential Decision Report). In our assessment, further fragmentation would be in conflict with the Plan's strategic objectives, particularly Objective 2.3.1 related to rural productivity, and several Part 2 of the Act matters relating to landscape, rural amenity, and the efficient use of natural and physical resources.

81. We are satisfied from the Reporting Officer's evidence that the approach that has been taken to identifying minimum site sizes in each rural zone has been thorough. We have visited most of the areas discussed in submissions. We conclude that the minimum site size for subdivision rules are necessary to achieve the relevant objectives and policies in the Plan, which are in turn founded on recognition of Part 2 matters, and therefore reject the submissions opposing or seeking amendment to the subdivision minimum site size rule (Rule 16.7.4.1)

3.2.5 Activity status for subdivision activities not meeting minimum site size performance standard (Rule 16.7.4.3)

3.2.5.1 Background

82. Rule 16.7.4.3 reads:

General subdivision that does not comply with the standard for minimum site size is non-complying, except in the following circumstances where the subdivision is restricted discretionary:

- a. The subdivision involves the subdivision of one site into two sites, where one resultant site is below the minimum site size and contains an existing residential building greater than 100m² that was built before 26 September 2015; and
- b. the second resultant site is:
 - i. at least the minimum site size; and
 - ii. is less than twice the minimum site size, **or** will include a covenant registered against the title, that restricts further subdivision in terms of the total number of sites that can be used for residential activity to a level that is no greater than would have otherwise been allowed had this minimum site size standard been met for both sites.

3.2.5.2 Submissions to specify non-complying activity status

83. *STOP* (OS900.127) and *HPPC* (OS447.94) sought amendment of the Minimum Site Size performance standard for Rural Zones (Rule 16.7.4.1) by adding "4. A subdivision that does not comply with 16.7.4.1 or 2 or 3 becomes a non-complying activity". They considered that a standard for minimum site size is the most basic of land use controls and if that standard is not met, the full scrutiny of RMA 104D is justified to provide comprehensive public examination.

3.2.5.3 Requests for default status of discretionary rather than non-complying where Minimum Site Size not met

84. A number of submitters sought to amend the activity status for general subdivision not complying with the Minimum Site Size performance standard (Rule 16.7.4.3) to discretionary, rather than non-complying.
85. *NZ Institute of Surveyors - Coastal Otago Branch* (OS490.30) submitted that an application could be free of any physical adverse effects but still fail on the basis of setting a precedent.
86. *Federated Farmers NZ* (OS919.63) submitted that although ad hoc and inappropriate or incompatible subdivision is not ideal for Dunedin or farming, the economic viability of farming and the ability to provide for farm succession long term often relies on the ability to subdivide a property as changing circumstances dictate. *Federated Farmers*

(OS919.159) supported the minimum site sizes in Rule 16.7.4, as long as status for subdivision below these standards is discretionary rather than non-complying, and supported the additional flexibility provided under Rule 16.7.4.3. *Construction Industry and Developers Association* (OS997.34) asked for the same amendment.

87. *L Dempster and others* (OS1081.3) submitted that if the existing 15ha sites were able to be subdivided further it could alleviate further fragmentation of larger viable farming land holdings.
88. *McLeary Family Trust* (OS832.18) submitted that there should be a balance between retention for rural productivity and the economic viability of doing so.
89. *Dianne Reid* (OS592.26) and *Pigeon Flat Road Group* (OS717.25) also sought that contravention of the performance standard for minimum site size is a discretionary rather than non-complying activity. The submitters also made a request in relation to the use of consent notices, covered in section 3.2.8.

3.2.5.4 Request for additional exceptions for contravention of Minimum Site Size to be treated as restricted discretionary

90. *Glenelg Gospel Trust* (OS350.20), *Salisbury Park* (OS488.16), *Craig Horne Surveyors* (OS704.21), *CTW Holdings* (OS742.21), *Blueskin Projects* (OS739.21) and *G & J Sommers Edgar* (OS889.19) sought to amend Rule 16.7.4.3 to provide a greater list of exceptions where subdivision that does not comply with minimum site size will be treated as restricted discretionary, as follows:

- as provided for in their requested amendment to Policy 16.2.1.7 (see section 3.2.11)
- to provide for activities contemplated by Policies 16.2.2.5 and 16.2.2.6
- to provide for activities contemplated by Policies 16.2.3.5 and 16.2.3.6.

91. The submitters also asked for a new rule to allow the subdivision of an existing residential building, greater than 100m² and built prior to 26 September 2015, which does not meet the other requirements of Rule 16.7.4.3 to be treated as a discretionary activity.
92. The submitters considered that the proposed District Plan does not provide for the range of rural living options that are sought after by the community, or the many other uses that are appropriate and necessary in the rural environment that contribute to the sustainable management of natural and physical resources. Stating that there are a number of locations within the City where land is already fragmented to well below the minimum site sizes of either the current or proposed District Plan, they considered that the sustainable management purpose of the Act is best served by allowing these areas to be developed further. In their opinion this would provide for both the rural living options sought after by the community and the other facilities that contribute to community wellbeing, while protecting the productive parts of the rural environment from lifestyle development pressure.
93. *New Zealand Fire Service Commission* (FS2323.18) supported the submission of *Craig Horne Surveyors* in part, but was concerned that undersized sites should only be allowed if there is adequate water for firefighting and adequate access.
94. The submissions of *Glenelg Gospel Trust* and *Salisbury Park* were opposed by *Rural Contractors New Zealand Incorporated* (FS2450.40,41) and *AgResearch Limited* (FS2398.40,41) who were concerned that the relief sought would encourage residential or rural residential development in rural areas resulting in potential adverse environmental effects on rural activities, including reverse sensitivity effects on rural production activities and activities that have a functional need to locate in rural areas.

3.2.5.5 Section 42A Report

95. With regard to the submissions from *STOP* and *HPPC* seeking a new clause to be added to the Minimum Site Size performance standard (Rule 16.7.4) to specify a non-complying activity status, the Reporting Officer did not consider it necessary because the non-complying activity status in effect only applies to a contravention of the standards in Rule 16.7.4.1 (Section 5.9.3, p. 342). Rule 16.7.4.2 provides a list of sites exempt from the standard. This provides a definitive 'in' or 'out' list - either sites fall within this list or they do not and are bound by Rule 16.7.4.1. Rule 16.7.4.3 sets the non-complying activity status sought by the submitters for contravention of Rule 16.7.4.1, but allows an exception in the case of a surplus dwelling subdivision. Any application will either meet the criteria to be regarded as an exception and treated as restricted discretionary, or will not and will be considered under Rule 16.7.4.1.
96. The Reporting Officer did not recommend that any contravention of Rule 16.7.4 should be a discretionary activity and noted "I consider the non-complying activity status signals that, in general, subdivision below the minimum site size is not anticipated in the rural zones and should only be considered for true exceptions that will not create precedent that could lead to cumulative adverse effects. The non-complying status requires a stringent examination of any proposed undersized subdivision activity in terms of section 104D of the RMA. That examination requires the subdivision activity to pass one of the 'gateway' tests, either the adverse effects of allowing the activity will be no more than minor or because the activity is not contrary to the objectives and policies of the plan." (s42A Report Section 5.9.3, pp. 339-340).
97. Mr Bathgate noted that the amendments to Rule 16.7.4.3 sought by *Glenelg Gospel Trust* and others would encourage residential development and may result in adverse effects on rural activities and productive rural land. The following recommendations on their proposed amendments to Rule 16.7.4.3 (Section 5.9.3, pages 341-342) were made:

Proposed clause 3(c) – do not accept (linked with recommended rejection of submitters' amended version of Policy 16.2.1.7, which sought to include criteria for additional rural living opportunities or further subdivision in already fragmented rural areas).

Proposed clauses 3(d), (e) to provide for activities contemplated by policies 16.2.2.5, 16.2.2.6, 16.2.3.5 and 16.2.3.6 – While these include some activities that may be considered productive rural activities they include others such as community and leisure, sport and recreation and other non-rural activities not always necessarily anticipated in the rural zones. The Reporting Officer then detailed advantages and disadvantages of the proposed amendment to the Rule, and while acknowledging these activities may not require a site that meets minimum site size, the lease of surplus land to other farmers is a common practice in the rural environment.

Proposed Rule 16.7.4.4 – this rule would provide for a subdivision of an existing (pre-2GP) dwelling greater than 100m², without the qualifiers provided by Rule 16.7.4.3.b in relation to the second resultant site. The Reporting Officer noted that in effect, this appears to be the same as requesting a deletion to Rule 16.7.4.3.b and noted "This part of the rule was drafted to ensure that a second site resulting from the subdivision was not an undersized site in itself and therefore difficult to put to use; and the subdivision of a surplus dwelling did not result in a mechanism to increase the overall potential for residential activity. The intent of these is to provide for only one undersized site that may contain residential activity, and to not provide a mechanism that could be used to achieve a net increase in residential activity". The Reporting Officer considered that these were necessary qualifiers to this rule, and did not recommend accepting the proposed addition of a new clause (4) to Rule 16.7.4.

3.2.5.6 Hearing

98. Mr David Cooper (Senior Policy Advisor) appeared at the hearing and provided resource management evidence on behalf of *Federated Farmers of New Zealand*. He supported the minimum site sizes in Rule 16.7.4 and considered that the need to set minimum site sizes remains important, particularly to avoid fragmentation, however, on the basis that status for subdivision below these standards is discretionary rather than non-complying. He noted that the ability to subdivide (and develop complementary alternative land uses) can underpin economic viability. He agreed that subdivision below minimum site size is not anticipated in the rural zones and should only be considered for true exceptions that will not create precedent or cumulative effects. However, he considered that this was signalled through site size standards and along with open ended and costly discretionary status would dissuade marginal or unrequired development.
99. Mr Bates and Mr Pitts for *New Zealand Institute of Surveyors* tabled a statement and spoke at the hearing. They did not challenge the minimum site size for subdivision as they could not think of a more rational way of deriving it but did seek more flexibility for applying a discretionary status – such as for a small amount of non-compliance with minimum site size or supporting a productive rural activity such as a quarry. The submitter requested a return of a provision such as operative rule 18.5.1(A) which allows an averaging approach when special features or circumstances are present, each site is at least 75% of minimum site size and the average of new sites is not less than minimum site size.
100. Ms Emma Peters (resource management consultant) was called by *Construction Industry and Developers Association (CIDA)* and the *Gladstone Family Trust* and tabled statements for both. Ms Peters considered that the non-complying status did not allow for any flexibility through gateway tests and the requirement under case law to be a true exception. In her opinion, a discretionary status would provide flexibility to consider subdivision for matters such as boundary adjustments to reflect land uses or topography.
101. Mr Michael Nidd (counsel), Mr Nigel Pitts (surveyor) and Mr Alan McLeary appeared for *Allan Douglas McLeary, Sylvia Violet McLeary and Farry & Co Trustees Limited (on behalf of McLeary Family Trust)* and tabled statements and a map relating to the McLeary Family Trust property. The submitter presented evidence relating to the difficulty of farming their property and suggested that the only economic return possible was from subdivision and rural residential development. The submitter sought the rezoning of the property and removal of the 40ha minimum size rule or more flexibility with building rights as discretionary activity for sites less than 40ha.
102. The Panel requested consideration from the Reporting Officer of whether the use of non-complying or discretionary activity status could be used to send different signals in different rural zones.

3.2.5.7 Revised recommendations

103. In response to the submitters seeking a discretionary activity status for contravention of the Minimum Site Size performance standard for subdivision (Rule 16.7.4) or more flexibility in applying the minimum site size, and our requested consideration of whether the use of non-complying or discretionary activity status could be used to send different signals in different rural zones, the Reporting Officer explored the following different options:
 - making all contraventions a discretionary activity
 - making contravention a discretionary activity in specific rural zones, or
 - applying a discretionary averaging rule (as requested by NZIS).
104. With respect to making all contraventions a discretionary activity, the Reporting Officer noted that it would necessitate redrafting assessment rules to provide for

those situations when discretionary status is envisaged. It was noted that the set of non-complying criteria in Rule 16.12.6.6 may provide a starting point for this, relying heavily on the policy suite. The Reporting Officer also noted that the relevant policies for subdivision in the Rural section tended to be 'only allow' rather than "avoid" policies so may already lend themselves to a discretionary assessment, while the policies at the Strategic Directions level tended to be more restrictive of subdivision.

105. The Reporting Officer suggested that this may be considered more appropriate in the case of subdivisions that sought to create sub-minimum site sized sites for productive rural activities such as mining, or where a small amount of non-compliance results from a land transfer between two properties in a rural use such as farming. However, a number of disadvantages from this option were also considered by the Reporting Officer:
 - some submitters sought discretionary status so that subdivision can support the productivity of existing farming operations, raising questions as to how the associated assessment rules would be drafted, how would an assessment be made as to whether a farming operation is viable or otherwise, and is it the role of the 2GP to be undertaking this site-level economic assessment?
 - if the assessment did not require such a site-level assessment it risked becoming very broad and difficult to link back to supporting the productivity of an individual farm (or other rural land use)
 - if the assessment rules could not be drafted in a sufficiently tight manner it was likely that, increases in minimum site size notwithstanding, a more enabling subdivision regime would result
 - this may serve to increase rural land fragmentation, pressure for rural residential activity and non-rural land uses, and consequential impacts such as increasing rural land prices.
106. The Reporting Officer did not agree with *Federated Farmers'* contention that having a minimum site size standard with discretionary status for undersized subdivision signalled that subdivision below minimum site size was not anticipated and should only be for true exceptions. Rather, the Reporting Officer considered that a discretionary consent generally signals an expectation that an activity is anticipated in a zone (although it may not always be appropriate at any scale or in any location).
107. The second and third options (to make contravention a discretionary activity only in specific zones or apply an averaging rule) were also not favoured by the Reporting Officer who considered that either would result in a more enabling subdivision regime. With regard to the third option, the Reporting Officer considered that it reinforced a 'target' attitude towards the minimum site size standard, where all sites should be at or below minimum site size. Overall, while recognising the concerns of submitters around flexibility the Reporting Officer considered that the risk of increased 'lifestyle' subdivision and further land fragmentation outweighed any advantages in contributing to 2GP productivity objectives. It was explained that the 2GP provides some measure of flexibility to provide for rural subdivision and land use through the surplus dwelling mechanism, differential minimum site size for subdivision by zone, different minimum site size for residential activity as opposed to subdivision and enabling provisions for family flats, and second and third residential dwellings.
108. Therefore, the Reporting Officer maintained a preference for retaining the non-complying activity status for contraventions (with the exception of the restricted discretionary status for surplus dwelling subdivision). The Section 42A Report set out that the non-complying activity status signals that, in general, subdivision below the minimum site size is not anticipated in the rural zones and should only be considered for true exceptions that will not create precedent that could lead to cumulative adverse effects (Section 42A Report, p. 300). For instance, the Reporting Officer considered that the non-complying mechanism could be used to satisfy at least one of the cases cited by submitters, being that of a site required below minimum site size to establish a quarry. Such a case is likely to meet the second s104D test of not being

contrary to objectives and policies, is unlikely to create any precedent, and is likely to be viewed as a true exception.

109. The Reporting Officer considered that the fragmentation of rural land was such an ongoing and incremental process that cumulative effects were difficult to assess on a case by case basis, and a non-complying activity status sent a more appropriate signal in this regard in relation to the 2GP objectives for rural productivity, character and amenity.
110. In response to a question by us over whether having assessment rules associated with non-complying activities may in fact signal that these activities are anticipated, the Reporting Officer did not consider this a risk as these were not exhaustive, did not generally form limiting considerations or provide specific conditions to be achieved, but were more in the way of general policy guidance for assessment. In the case of assessment of contravention of Rule 16.7.4, nearly all of the matters referred back to objectives and policies which are directive in intent.
111. With regard to *Allan Douglas McLeary, Sylvia Violet McLeary and Farry & Co Trustees Limited (on behalf of McLeary Family Trust)*, the Reporting Officer noted that as well as seeking to amend rules, the tabled statements requested rezoning of the property. However, there was no original submission on the zoning of the property so it was considered that this was likely to be outside scope.

3.2.5.8 Decision and reasons

112. We reject all of the submissions requesting exemption or relaxation of the non-complying status for contravention of Rule 16.7.4.3, for the reasons set out by the Reporting Officer. We note that some flexibility is built into Rule 16.7.4.3 through provision for subdivision of "surplus" dwellings. We understand that this was included to assist in farm planning decisions while ensuring rural land is retained for productive purposes. With that exception (and those discussed in the next section below), our conclusion is that non-complying status for proposals that contravene the standards is necessary. We reject the submissions of *Glenelg Gospel Trust* and others to add a third clause to Rule 16.7.4.3 to provide for additional exceptions to the contravention of minimum site size to be treated as restricted discretionary. However, we note that we accept in part the submission of *Craig Horne Surveyors* {OS704.21} in relation to situations of more than one surplus dwelling, as discussed in Section 3.2.8.

3.2.6 Rule 16.7.4.2 Sites exempt from subdivision minimum site size

3.2.6.1 Background

113. Rule 16.7.4.2 specifies that sites created and used solely for the following purposes are exempt from the minimum site size standard for subdivision:
 - a. scheduled ASCV or QEII covenant
 - b. reserve
 - c. access
 - d. network utilities; or
 - e. road.

3.2.6.2 Submissions

114. *R J S Thomas* (OS366.2) sought to extend the provisions to consider a wider range of exemptions to enable smaller blocks of land be subdivided from properties where net conservation or environmental gains are to be achieved. He noted that his 17ha block had been retired from standard stock grazing to enable recovery of native plant species and to protect the rare and endangered fauna. The submitter suggested that the opportunity to extend this approach through acquisition of adjoining suitable small blocks of land - rock tor and tussock with very low farming potential but exceptionally

high conservation value was effectively eliminated by the minimum site sizes set by the 2GP. He noted that exemptions for QEII covenants or reserve status for the land existed, but that these were permanent protective mechanisms, while flexible protective mechanisms such as Protected Land Agreements were available but were not covered by the exemption. *Mr Thomas* considered that an easing of the proposed provision would be an 'enabling' approach and would encourage a greater focus on protecting and enhancing biodiversity.

115. *Lynnore Templeton* (OS735.5) sought amendment to the rule so that provision was made for the subdivision of heritage buildings and or any historic structure that may need to be protected. The submitter stated "for example an old stone set of yards could be subdivided off to allow someone to buy it and repair them".

3.2.6.3 Section 42A Report

116. The Reporting Officer, Mr Michael Bathgate, agreed with *R J S Thomas* that there may be situations where subdivision of land for conservation activity is desirable, and this could contribute positively to the 2GP objectives for biodiversity without detracting from the 2GP objectives for rural productivity (Section 42A Report, Section 5.9.2, page 332). He considered that the exemptions in Rule 16.7.4.2 could be expanded to include other forms of protected land used for conservation activity, but favoured allowing subdivision below minimum site size where a more binding form of agreement is involved, as he considered that this would avoid the potential for abuse of the subdivision rule.
117. In response to *Lynnore Templeton*, Mr Bathgate agreed that there may be circumstances where subdivision of a heritage item on a smaller site may contribute to the maintenance and enhancement of that item, as this may enable acquisition of a site and maintenance and/or re-use of an item by another person or agency (Section 42A Report, Section 5.9.2, p. 333). Again, it was considered that any exemption to the subdivision rule should only be contemplated where there is some level of legal certainty as to the future of the heritage item.
118. The Reporting Officer noted that a conservation covenant or protected private land agreement, as discussed above, may also be used for heritage purposes. He considered that the amendment proposed in response to the submission by *Mr Thomas* would go some way to meeting the relief requested by *Ms Templeton*. He also noted that there was another type of covenant, heritage covenants, which are agreements under the Heritage New Zealand Pouhere Taonga Act 2014 and are permanently registered against the land title. It was considered that these could be added to the list of exemptions under Rule 16.7.4.2.
119. It was also noted that the 2GP contains a schedule of heritage items (heritage sites, buildings and structures) in Appendix A1.1. Those relevant to the rural zones are the 'Scheduled Items not in a Heritage Precinct'. The Reporting Officer recommended amending Rule 16.7.4.2 to allow an exemption for scheduled heritage items.

3.2.6.4 Hearing

120. *Robin Thomas* spoke at the hearing and supported the recommendation of the Reporting Officer.

3.2.6.5 Decision and reasons

121. We accept the submissions of *R J S Thomas* (OS366.2) and *Lynnore Templeton* (OS735.5) and have amended Rule 16.7.4.2 to allow an exemption for scheduled heritage items and conservation covenants, as recommended by the Reporting Officer. We have made the following amendments as a result of this decision (see Appendix 1, attributed to RU 366.2 and RU 735.5):

- "2. Resultant sites created and used solely for the following purposes are exempt from the minimum site size standard:

- a. Scheduled AS~~E~~BV {*NatEnv* 958.60} or QEII covenant;
 - b. conservation covenant with the Department of Conservation or a local government agency; {RU366.2}
 - c. protected private land agreement under the Reserves Act 1977; {RU366.2}
 - d. a heritage covenant with Heritage New Zealand Pouhere Taonga; {RU735.5}
 - e. protection of a scheduled heritage site, building or structure listed in Appendix A1.1 - Schedule of Protected Heritage Items and Sites; {RU735.5}
 - f. reserve;
 - g. access;
 - h. network utility; or
 - i. road.
- made a consequential change to Rule 16.7.5 (subdivision shape performance standard) to exempt scheduled heritage items, heritage covenants, protected private land agreements and conservation covenants from the shape performance standard.

3.2.7 Rule 16.7.5 Shape Subdivision Performance Standard

3.2.7.1 Background

122. Rule 16.7.5 Subdivision Performance Standard (Shape) reads as follows:

1. Each resultant site that is intended to be developed must be of a size and shape that is large enough to contain a building platform of at least 8m by 15m that meets the performance standards of this Plan including, but not limited to:
 - a. all setbacks from boundaries, water bodies, scheduled trees and national grid.
2. Building platforms must have a slope of 12 (1:4.7 or 21%) or less and must not contain:
 - a. esplanade reserves or strips;
 - b. scheduled heritage buildings or structures; and c. right-of-way easements.
3. For un-reticulated areas, resultant sites must provide for a waste disposal area to be located at least 50m from any water body.
4. Sites created and used solely for the following purposes are exempt from the shape standard:
 - a. Scheduled ASCV or QEII covenant;
 - b. reserve;
 - c. access;
 - d. network utility; or
 - e. road.

3.2.7.2 Submissions

123. *Aurora Energy* (OS457.93), *Radio New Zealand* (FS2332.54) and the *McLeary Family Trust* (OS832.4) sought that Rule 16.7.5 be retained as notified.
124. *Timothy Morris* and the *Morris Family Trust* (OS951.72, OS1054.72) considered that it is unnecessary to impose restrictions on building platform slope, as matters associated with slope may be addressed by specific engineering design, and are also captured by the Building Act. Therefore, they considered that Rule 16.7.5.2 unnecessarily duplicates other controls, and adds unnecessary expense.

3.2.7.3 Section 42A

125. The Reporting Officer noted that this performance standard applies to all subdivision activities in the 2GP, and is aligned with earthworks performance standards, which have stricter limits on permitted volumes of cut and fill on slopes greater than 12°. He noted that in the 2GP, subdivision activities always require consent, and have an

activity status of restricted discretionary or stricter. Therefore, if this performance standard were breached by a proposed subdivision activity, the activity status would not be affected. The resource consent application would be assessed, under Rule 16.9.5.4, to determine whether it complied with relevant earthworks standards, for example relating to sediment control. While the building consent application process focuses on assessing the safety and stability of the building work, the subdivision consent process would look at other factors such as the likelihood of sediment from works on the platform entering waterways. Therefore, the Reporting Officer did not agree with the submitter that the proposed rule is duplicative or adds unnecessary expense.

3.2.7.4 Decision and reasons

126. We reject the submissions of *Timothy Morris* and the *Morris Family Trust* (OS951.72 and OS1054.72) to remove restrictions on building platform slope in Rule 16.7.5.2 for the reasons outlined by the Reporting Officer. We accept the submitters' point that slopes greater than the 12 degree standard can be suitable with careful engineering, but we see the standard as a useful trigger for more detailed earthworks assessment, encouraging people to try to find sites that do not need major excavation and ensures consideration is given to effects of earthworks at an early planning stage.

3.2.8 Policy 16.2.1.10 and Rule 16.7.4.3 surplus dwelling subdivisions

3.2.8.1 Background

127. Along with setting a non-complying activity status for subdivision that contravenes the subdivision minimum site size standards, Rule 16.7.4.3 provides for surplus dwelling subdivisions. It is linked to Policy 16.2.1.10 which sets out when surplus dwelling subdivisions are allowed.
128. The definition of surplus dwelling subdivision is:
- "The subdivision of land from a rural property where the land contains a building used for residential activity that was built before 1 January 2015 and where the subdivision will not result in any additional residential development potential."
129. Policy 16.2.1.10 states: "Only allow the subdivision of a surplus dwelling where:
- a. the subdivision meets Policies 16.2.3.8 and 16.2.4.3.a, b and d;
 - b. the dwelling is habitable and in good condition; and
 - c. the subdivision will not result in any additional development potential for residential activity across resultant sites than would otherwise be provided for by the minimum site size standard."
130. This policy is linked to Rule 16.7.4.3, which is as follows:

"General subdivision that does not comply with the standard for minimum site size is non-complying, except in the following circumstances where the subdivision is restricted discretionary:

- a. the subdivision involves the subdivision of one site into two sites, where one resultant site is below the minimum site size and contains an existing residential building greater than 100m² that was built before 26 September 2015; and
- b. the second resultant site is:
 - i. at least the minimum site size; and
 - ii. is less than twice the minimum site size, or will include a covenant registered against the title, that restricts further subdivision in terms of the total number of sites that can be used for residential activity to a level

that is no greater than would have otherwise been allowed had this minimum site size standard been met for both sites.”

131. Rule 16.9.5.5 provides for the assessment of applications for surplus dwelling subdivisions.

3.2.8.2 Submissions in support

132. There were several submissions supporting either Policy 16.2.1.10 or Rule 16.7.4.3, or opposing their amendment.
133. *Fonterra Ltd* (OS807.26) sought to retain Policy 16.2.1.10 because it "seeks to reduce the potential for excessive residential intensification". It also supported the non-complying activity status for breaching the standard for the same reasons (OS807.34).
134. *Lynnore Templeton* (OS735.4) supported the ability to sell off surplus farm housing as it meant that unwanted houses are not left to deteriorate and it allows the opportunity for people to move into the area and buy a property.
135. *Federated Farmers* (OS919.159) also supported the additional flexibility provided under Rule 16.7.4.3.

3.2.8.3 Submission to remove Policy 16.2.1.10

136. *Timothy George Morris* OS951.28 and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* (OS1054.28) sought to remove Policy 16.2.1.10 because the submitter considered the policy to be “overly complex” and “unnecessary”. *HPPC* (FS2267.45) opposed OS958.28, stating that “a degree of control over surplus dwelling subdivisions is required”.

3.2.8.4 Submissions to expand circumstances where land containing a surplus dwelling may be subdivided

137. Several submitters sought to expand the circumstances where land containing a surplus dwelling may be subdivided.
138. *Ray Kean* (OS791.3) considered that the surplus dwelling rule (Rule 16.7.4.3) should have a wider scope and also apply to all dwellings that existed prior to notification. The submitter considered that “there will be numerous genuine cases for surplus dwellings that do not strictly comply with the proposed rule. Provided the surplus dwelling existed on 26 September 2015 and the balance land requirements are met, regardless of the number of titles, that should be sufficient. The maximum area for a surplus dwelling should be put at 2ha.”
139. *Dianne Reid* (OS592.12) and *Pigeon Flat Road Group* (OS717.14) sought to amend Policy 16.2.1.10 to expand circumstances where land containing a surplus dwelling may be subdivided. They submitted that 'only' should be removed from the front of the policy as they considered that the policy should not apply only to “surplus dwellings”, because subdivision of non-surplus dwellings could equally achieve the aims of paragraph a. of the policy. The submitters considered the controls on subdivision to be 'draconian' and that “in some instances such subdivision will actually enable people to maintain the productivity of rural land”. The submitters stated that the policy, in conjunction with other rural policies, will “serve to alienate some families from their land when small subdivision would enable them to remain on the land and for younger generations to continue farming it. It may also serve to discourage landowners from protecting other features of their land such as indigenous biodiversity or heritage values in favour of productivity”.
140. The submitters also noted that it is unclear how Policy 16.2.1.10.c is reconciled with Rule 16.7.4.3, which provides for the subdivision of one site into two sites, where the one resultant site is below the minimum site size and contains an existing residential

building, and where the second resultant site is greater than the minimum site size but less than twice the minimum site size.

141. In line with their submissions on Policy 16.2.1.10, *Dianne Reid* (OS592.27) and the *Pigeon Flat Road Group* (OS717.26) also requested that Rule 16.9.5.5, which provides for the assessment of applications for surplus dwelling subdivisions, be amended so that it does not refer to 'surplus dwellings'.
142. *David Hiom and Kerry Hiom* (FS2473.12 and FS2473.25) opposed both of *Dianne Reid's* submissions on this matter for reasons relating to their opposition to more intensive zoning and a higher intensity of use in their vicinity of Saddle Hill Road.

3.2.8.5 Request for use of a consent notice rather than a covenant

143. *Dianne Reid* (OS592.26) and *Pigeon Flat Road Group* (OS717.25) sought to amend Rule 16.7.4.3.b.ii to require a consent notice rather than a covenant registered against the title, to restrict further subdivision on the second resultant site resulting from a surplus dwelling subdivision. The submitters stated that "a consent notice is a more appropriate mechanism for securing ongoing compliance with resource consent conditions...". The submission of *Dianne Reid* was opposed by *David Hiom and Kerry Hiom* (FS2473.24) in relation to their opposition to the entire submission of *Dianne Reid* and any potential intensification of development in the vicinity of Saddle Hill.
144. *Dianne Reid* (OS592.26) sought a consent notice rather than a covenant for the surplus dwelling exception (Rule 16.7.4.3.b.ii), stating that "non-complying activity status adds little to the matters for assessment and creates unnecessary friction regarding 'plan integrity.'"

3.2.8.6 Section 42A Report

145. The Reporting Officer, Mr Michael Bathgate, did not agree with the submissions of *Timothy Morris* and the *Morris Family Trust* to remove Policy 16.2.1.10 as the policy was necessary to spell out the circumstances where subdivision of a surplus dwelling, on a site that does not meet the minimum site size standards for a Rural Zone, may be acceptable. He did not consider the policy to be overly complex and recommended that it be retained without amendment.
146. With regard to the submission of *Ray Kean*, the Reporting Officer assumed that the submitter's objection was to the size threshold in clause a. The Reporting Officer explained that the 100m² was included so that the rule would apply to 'dwellings' and not smaller residential buildings and considered the threshold was appropriate to capture the intent of the rule. In response to the suggestion of a 2ha maximum for a site containing a surplus dwelling, the Reporting Officer referred to the assessment contained in the s32A Report and did not recommend the amendment was accepted.
147. Mr Bathgate did not agree with the submissions of *Dianne Reid* and the *Pigeon Flat Road Group* that the word 'only' should be removed from the start of Policy 16.2.1.10 as this would allow a permitted activity status.
148. With regard to the submitters' objection to the use of the term "surplus" in Policy 16.2.1.10 and Rule 16.9.5.5, the Reporting Officer noted that the term was used because these dwellings are surplus to the requirements of the farm from which they are being subdivided. However, the Reporting Officer acknowledged that the reason why this term has been used is not readily apparent in the 2GP as notified.
149. With regard to the other part of the *Dianne Reid* and the *Pigeon Flat Road Group* submissions seeking a change to clause c of Policy 16.2.1.10, the Reporting Officer did not consider it appropriate or necessary to make the change requested. However, it was noted that, as pointed out by the submitters, there was a discrepancy between Rule 16.7.4.3 and Policy 16.2.1.10.c and that Rule 16.7.4.3 was inconsistent with the definition of 'surplus dwelling subdivision'.
150. The Reporting Officer considered that the submissions by *Dianne Reid* and the *Pigeon Flat Road Group* and other submissions relating to the surplus dwelling subdivision

provisions highlighted the potential for confusion over these provisions and, therefore, indicated the need to explain the purpose of these provisions more clearly.

151. In the view of the Reporting Officer, both the terminology used ('surplus' dwelling subdivision) and the content of the definition and the policy indicated that the intent of the surplus dwelling provisions is not to provide for subdivisions where they would exceed the residential development potential provided for by the minimum site size standard under Rule 16.7.4.1. Therefore, rather than amending Policy 16.2.1.10 and Rule 16.9.5.5 to align with Rule 16.7.4.3 (as requested by *Dianne Reid* and the *Pigeon Flat Road Group*) it was recommended as discussed above, that Rule 16.7.4.3 should be amended to align it with the notified policy and definition. The Reporting Officer also recommended that an explanatory paragraph be added to 16.1 Introduction, and that a further 'potential circumstance that may support a consent application' be added to Rule 16.9.5.5, with the amendments attributed to *Fonterra's* (OS807.26) submission in support of Policy 16.2.1.10 because he considered the changes necessary to clarify the implementation of the policy.
152. In relation to *Dianne Reid* (OS592.26) and the *Pigeon Flat Road Group's* (OS717.25) submission on Rule 16.7.4.3, the Reporting Officer did not recommend accepting the request for a discretionary activity status for contravention of the minimum site size standard. However, having obtained legal advice, the Reporting Officer agreed with the submitters that Rule 16.7.4.2.b.ii should be amended to refer to a consent notice rather than a covenant (see Anderson Lloyd letter dated 18 January 2017). The Reporting Officer later changed the recommended amendment after further discussion with the DCC legal counsel, Anderson Lloyd, to clarify that the mechanism of a consent notice is tied to a consent condition, as set out in the Rural Section 42A Addendum.

3.2.8.7 Hearing

153. *Federated Farmers* supported the s42A recommendation on the surplus dwelling provisions.
154. Mr Craig Horne for *Craig Horne Surveyors Limited* spoke at the hearing and considered that the surplus dwelling subdivision provisions should be opened up. He suggested there could be a provision for where there are two existing dwellings on a title and minimum site size is not part of the consideration.
155. The Panel questioned why the figure of 100m² had been used as the lower threshold for an existing dwelling to be considered a 'surplus dwelling', and were of the view that this figure may be too high, given the smaller size of some older farmhouses.

3.2.8.8 Revised recommendations

156. The Reporting Officer acknowledged the point raised at the hearing by *Craig Horne* that the surplus dwelling subdivision provisions as notified did not adequately provide for situations of multiple existing dwellings on a site, where subdivision of those dwellings would result in more than one new site breaching the minimum site size performance standard.
157. In response to the submitter, he considered that Rule 16.7.4.3 should be amended so that general subdivision that does not comply with the minimum site size is a restricted discretionary activity where there is already a dwelling established on each new site, and where consent notices will, if necessary, restrict further subdivision or residential development beyond the level provided for by the minimum site size.
158. He noted that if the rule was redrafted in this way it would still align with Policy 16.2.1.10.c; the subdivision would not result in any 'additional development potential for residential activity across resultant sites'.
159. The Reporting Officer also noted that, during the hearing, the Panel questioned why the figure of 100m² had been used as the lower threshold for an existing dwelling to be considered a 'surplus dwelling'. It was noted that the 100m² was included so that

the rule would apply to 'dwellings' and not smaller residential buildings such as sleep outs or small residential units such as family flats, baches or huts. However, after giving the matter further thought, the Reporting Officer considered that it would be appropriate to replace 100m² with 60m², in recognition that some historic rural dwellings are small, and also to align with the upper area threshold for family flats, with the submission of *Ray Kean* (OS791.3) providing scope to amend the 100m² area threshold.

160. The Reporting Officer's revised recommendation for Rule 16.7.4.3 was as follows (Addendum single line, Revised Recommendations double line):

"General subdivision that does not comply with the standard for minimum site size is non-complying, except in either of the following sets of circumstances where the subdivision is restricted discretionary:

- a. The first set of circumstances is as follows:
 - i. the subdivision involves the subdivision of one site into two sites, where one resultant site is below the minimum site size and contains an existing residential building greater than ~~100~~60m² that was built before 26 September 2015; and
 - ii. the second resultant site is:
 1. at least the minimum site size; and
 2. ~~is less than twice the minimum site size, or {RU807.26} will include a covenant registered against the title, a condition is offered (to be secured by a consent notice) to that~~ restricts {RU592.26, RU717.25} further subdivision in terms of the total number of sites that can be used for residential activity, and further residential activity on the second resultant site, {RU807.26} to a level that is no greater than would have otherwise been allowed had this minimum site size standard been met for both sites."
- b. The second set of circumstances is as follows:
 - i. every new site that will be created by the subdivision contains an existing residential building greater than 60m² that was built before 26 September 2015.
 - ii. if any of these new sites is equal to, or greater than, twice the minimum site size, a condition is offered (to be secured by consent notice), if necessary, to restrict:
 1. further subdivision of that site, in terms of the total number of sites that can be used for residential activity, and
 2. further residential activity on that site, to a level that is no greater than would have otherwise been allowed had the minimum site size standard been met for all sites.

3.2.8.9 Decision and reasons

161. We accept the submission from *Fonterra* (OS807.26) to retain Policy 16.2.1.10.
162. We accept in part the submission of *Craig Horne Surveyors* (OS704.21) in relation to the submitter's point raised at the hearing regarding situations of multiple existing dwellings on a site, where subdivision of those dwellings would result in more than one new site breaching the minimum site size performance standard. We agree with the Reporting Officer's recommended addition of the second set of circumstances where subdivision is restricted discretionary, and have amended Rule 16.7.4.3, and attributed this to RU704.21.
163. We accept in part the submission of *Ray Kean* (OS791.3) with regard to broadening the scope of the surplus dwelling provisions to situations of multiple existing dwellings but we agree with the Reporting Officer's recommendation that there should not be a 2ha maximum site size. The intention of the exception is to allow farmers to be able to subdivide off a dwelling which is surplus to the requirements of the property (for example, due to farm amalgamation or in a case where a dwelling previously used by

a farm manager is no longer required) which promotes efficient use of land and housing stock without adversely affecting productivity or rural character. We do not agree with the Reporting Officer's revised recommendation to reduce the existing residential building requirement in Rule 16.7.4.3 to 60m² and have retained the 100m² requirement. We have the impression, from site visits around the rural zones, that many of the buildings in the 60m² to 100m² range are old and not in a suitable condition for occupation. In our view the notified 100m² minimum size is more appropriate as it ensures that the rule applies to dwellings and does not capture smaller residential units such as baches or huts.

164. We accept in part the submission from *Dianne Reid* (OS592.26) and the *Pigeon Flat Road Group* (OS717.25) regarding securing a condition through consent notice, and the relief suggested by the Reporting Officer in the Revised Recommendations and have amended Rule 16.7.4.3 and Rule 16.9.5.5. as shown in Appendix 1, attributed to RU 592.26 and RU 717.25.
165. We do not accept the submissions of *Timothy George Morris* OS951.28 and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* (OS1054.28) to remove Policy 16.2.1.10 or the submissions of *Dianne Reid* (OS592.12) and *Pigeon Flat Road Group* (OS717.14) to amend Policy 16.2.1.10 to expand circumstances where land containing a surplus dwelling may be subdivided.
166. We also note that we have made clause 16 amendments to both the definition of 'surplus dwelling subdivisions' and Rule 16.7.4.3 to aid in plan clarity:

Surplus dwelling subdivision

The subdivision of land containing an existing surplus dwelling {RU cl.16} from a rural property ~~where the land contains a building used for residential activity that was built before 1 January 2015 and~~ where the subdivision will not result in any additional residential development potential.

~~Additional residential development potential refers to a net increase in the number of residential units (excluding family flats) that exist and/or may be lawfully established on the land that comprises the original site or sites that make up the property. This includes the residential activity that can be established on all resultant sites created as a result of the surplus dwelling subdivision. {RU cl.16¹}~~

167. Rule 16.7.4.3 now reads as follows:
 3. General subdivision that contravenes does not comply with {Trans cl.16} the standard for minimum site size is non-complying, except for surplus dwelling subdivision which is restricted discretionary {RU cl.16} in either of {RU 704.21} the following sets of {RU 704.21} circumstances ~~where the subdivision is restricted discretionary~~ {RU cl.16}:
 - a. The first set of circumstances is as follows: {RU 704.21}
 - i. ~~the subdivision involves~~ {RU cl.16} the subdivision of one site into two sites, where one resultant site is below the minimum site size and contains an existing residential building greater than 100m² gross floor area {PO cl.16¹} that was built before 26 September 2015; and
 - ii. the second resultant site is:
 1. at least the minimum site size; and
 2. ~~is less than twice the minimum site size, or {RU cl.16 and 807.26} will include a covenant registered against the title, a condition is offered (to be secured by consent notice) to that~~ restricts {RU 592.26 and 717.25} further subdivision in terms of the total number of sites that can be used for residential activity, and further

residential activity on the second resultant site, {RU cl.16 and 807.26} to a level that is no greater than would have otherwise been allowed had the minimum site size standard been met for both sites.

b. The second set of circumstances is as follows: {RU 704.21}

- i. every new site that will be created by the subdivision contains an existing residential building greater than 100m² {RU 704.21} gross floor area {PO cl.16¹} that was built before 26 September 2015. {RU 704.21}
- ii. if any of these new sites is equal to, or greater than, twice the minimum site size, a condition is offered (to be secured by consent notice), if necessary, to restrict: {RU 704.21}
 1. further subdivision of that site, in terms of the total number of sites that can be used for residential activity, and {RU 704.21}
 2. further residential activity on that site, {RU 704.21} to a level that is no greater than would have otherwise been allowed had the minimum site size standard been met for all sites. {RU 704.21}

168. We also agree with the intent of the relief suggested by the Reporting Officer to amend 16.1 Introduction for clarification purposes and have added the following sentence after paragraph 8 which reads as follows:

- "a limited degree of flexibility has been incorporated into the subdivision rules that apply in the rural zones, via provision for 'surplus dwelling subdivisions'"

(See Appendix 1 amendment attributed to submission point reference RU807.26.)

169. We also accept the intent of the Reporting Officer's recommended amendment to Rule 16.9.5.5, but have modified the wording for brevity so the new clause reads as "the dwelling is surplus to the requirements of the property", as follows:

Potential circumstances that may support a consent application include:

v. A legal mechanism such as a covenant consent notice {RU592.26, RU717.25} on the title of the ~~parent property~~ second resultant site {RU cl. 16} will ensure that there will be no increase in the potential for residential activity as a result of the subdivision.

vi. The dwelling can be shown to be in a suitable condition for occupation, with recent history of use for residential activity.

vii. The resultant site on which the surplus dwelling will be located is large enough to support on-site disposal of effluent.

viii. The dwelling is surplus to the requirements of the property {RU807.26}

3.2.9 Objective 16.2.1

3.2.9.1 Background

170. Objective 16.2.1 reads:

"Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of rural communities where these activities are most appropriately located in a rural rather than an urban environment. Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika."

3.2.9.2 Submissions in support

171. There were a number of submissions received in support of Objective 16.2.1 including:

- *Egg Producers Federation of NZ* (OS702.1) supported the objective because it sought to enable rural activities and prevent further subdivision.
- *Fonterra Limited* (OS807.24) supported the objective because it sought to limit residential activities to those that directly supported farming which limited the potential for excessive residential intensification in rural zones. This submission was supported by *AgResearch Limited* (FS2398.12) and *Rural Contractors New Zealand Incorporated* (FS2450.12).
- *Rural Contractors New Zealand* (OS911.8) supported the objective because it provides for rural activities supporting the wellbeing of rural communities.
- *Radio New Zealand Limited* (OS918.40) supported limiting residential activity in the rural zones and that certain (non-productive rural) activities may be appropriately located in the rural environment.
- *Federated Farmers of New Zealand* (OS919.128) agreed with the intent for activities provided for in the zones set out in the objective. This submission was supported by *AgResearch Limited* (FS2398.13), *Rural Contractors New Zealand Incorporated* (FS2450.13) and *Horticulture New Zealand* (FS2452.42), with *Horticulture NZ* stating that "the proposed plan provides a policy framework to ensure that rural production land is retained for rural activities".
- *Timothy George Morris* (OS951.24) and the *Morris Family Trust* (OS1054.24) supported the objective but stated that there were many other aspects of the plan at odds with the objective. The latter submission was supported by *Geoff Scurr Contracting Limited* (FS2391.27).
- *Oceana Gold (New Zealand) Limited* (OS1088.53) supported the objective on the basis that mining is a highly productive rural activity.

172. *Horticulture New Zealand* (OS1090.29) supported rural zones being reserved for productive rural activities.

3.2.9.1 Submissions to amend

173. *HPPC* (OS447.72) and *STOP* (OS900.104) sought to amend Objective 16.2.1 to specify that the outcomes are sought for all current and future Dunedin residents, stating that "the rural environment also 'contributes significantly' to the broader environment of our citizen's lives and their cultural well-being". These submissions are opposed by *Geoff Scurr Contracting Limited* (FS2391.3, FS2391.48) because "Private rural landowners should not have this objective apply to them. It would be nearly impossible to achieve and is contrary to the requirements of the RMA"; and *Federated Farmers of New Zealand* (FS2449.291, FS2449.292) because the Rural Zone is predominantly in private ownership and "such ownership does not specifically require activities for the benefit of all current and future Dunedin residents, just as private land in the urban zone is not required to be protected and enhanced for all

current and future residents". *STOP* (OS900.104) was opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.48), although this may have been in error as the reason provided was that that the submitter is requesting deletion of references to papakaika from the objective, which *STOP* were not asking for.

174. *NZ Institute of Surveyors* (OS490.26) sought to amend Objective 16.2.1 to allow for Residential activity that directly supported the wellbeing of the local community. The submitter considered that the objective overlooks "the potential for supporting the wellbeing of the local community through involvement in ways which will not always be immediately apparent", with fishing activity given as an example.
175. *Glenelg Gospel Trust* (OS350.9), *Salisbury Park Ltd* (OS488.4), *Craig Horne Surveyors Limited* (OS704.6), *Blueskin Projects Ltd* (OS739.6), *CTW Holdings Limited* (OS742.6), *Blackhead Quarries Ltd* (OS874.18), *G & J Sommers Edgar* (OS889.4) and *Tussock Top Farm Ltd* (OS901.13) sought to amend Objective 16.2.1 to widen the consideration of non-rural activities to those that support wellbeing to the community as a whole where adverse effects can be adequately managed; and to remove the limitation on Residential activity. The submitters stated that the 2GP does not provide for the range of rural productivity and living options that are sought by the community.
176. *Glenelg Gospel Trust* (OS350.9) was opposed by *AgResearch Limited* (FS2398.7) and *Rural Contractors New Zealand Incorporated* (FS2450.7) because they were concerned that the wording change would no longer discourage Residential activity and would result in potential adverse effects on Rural activities including loss of high class soils and reverse sensitivity effects.
177. *Salisbury Park* (OS488.4) was supported by *Jane Mcleod* (FS2169.1) who asked for a consistent approach to all undersized sites. It was opposed by *AgResearch Limited* (FS2398.8) and *Rural Contractors New Zealand Incorporated* (FS2450.8) for the same reasons as given for *Glenelg Gospel Trust* above; *Horticulture New Zealand* (FS2452.40) who disagreed with extending the policy framework to a wider range of activities than Rural; and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.41) who were concerned that "The requested amendments do not support the aspirations of Manawhenua for the development of papakaika in the Rural zone". *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.42, FS2456.44-47, FS2456.49) also opposed *Craig Horne Surveyors, Blueskin Projects Ltd, CTW Holdings Limited, Blackhead Quarries, G and J Sommers Edgar and Tussock Top Farm Ltd* for the same reasons.
178. *Dianne Reid* (OS592.9) sought to amend Objective 16.2.1 by replacing the last sentence limiting Residential activity. She stated "...the limit on residential activity directly related to farming is arbitrary" and the Plan "should recognise that rural living opportunities are sought after and provide some scope for this". Further, the submitter explained that allowing further subdivision of their land would provide an opportunity to protect indigenous vegetation. *Pigeon Flat Road Group* (OS717.11) also sought to amend Objective 16.2.1 in the same way, except this submission did not include the last reference to enabling "other objectives such as indigenous biodiversity protection". These submissions were opposed by *AgResearch Limited* (FS2398.10, FS2398.11) and *Rural Contractors New Zealand Incorporated* (FS2450.10, FS2450.11) because the change to the objective would no longer discourage Residential activity and would result in potential adverse effects on Rural activities; *Horticulture New Zealand* (FS2452.41) who disagreed with extending the policy framework to a wider range of activities than rural; *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.50, FS2456.43) who stated that "The requested amendments do not support the aspirations of Manawhenua for the development of papakaika in the Rural zone"; and *David Hiom and Kerry Hiom* (FS2473.9) in relation to their opposition to the submission of *Dianne Reid* (OS592) in its entirety, due to their opposition to any intensification of residential activity in the Saddle Hill area.

179. *Dianne Reid* (OS592.10) and *Pigeon Flat Road Group* (OS717.12) also sought to add a new policy under Objective 16.2.1 to provide for Residential activity beyond that required purely to support Rural activities. The submitters stated that “a flexible approach to subdivision size should be taken to encourage more creative solutions rather... (than) slavish adherence to the minimum lot size for the relevant zone. In some instances small subdivision will allow productive capacity to be maintained or for alternative objectives to be achieved”. This was opposed by *AgResearch Limited* (FS2398.30) and others because the policy would encourage residential and rural residential subdivision within rural zones resulting in potential adverse environmental effects on Rural activities.

3.2.9.2 Section 42A Report

180. The Reporting Officer, Mr Bathgate, considered that the 2GP provides sufficient capacity in the proposed rural residential zones for lifestyle or hobby farming activities for the duration of the Plan and the zoning approach was the most appropriate method of providing for 'rural living opportunities', rather than risk undermining the function of the rural zones through allowing Residential activity at a smaller-scale. He also did not support the amendment of the objective to more generally provide for rural living opportunities in the rural zones.
181. Mr Bathgate did not support adding the phrase “for all current and future Dunedin residents” into the objective as requested by *HPPC* and *STOP* as he considered this was a restatement of section 5 of the RMA which is implicit, in a high-level and general sense, in the 2GP objectives as a whole. For this reason, he did not see that it added anything to the objective, and could cause confusion by being specified in Objective 16.2.1. He agreed with the further submitters that specifying this in Objective 16.2.1 would imply a higher onus on rural landowners as compared to landowners elsewhere.
182. With regard to the amendment to Objective 16.2.1 proposed by *NZ Institute of Surveyors*, the Reporting Officer considered that the last sentence of the objective provided a high level of certainty around 2GP expectations with regard to provision for Residential activity in the rural zones. While the first sentence of the objective provided for certain activities that support the well-being of communities, this is stated in a more general sense to encompass a range of Rural and community activities that may be anticipated. Where the objective specifies its desired outcome for Residential activity, he considered that a greater level of certainty is required as to the types of Residential activity, which the proposed phrase does not provide.
183. The Reporting Officer recommended rejecting the request of *Salisbury Park Ltd* and others because use of 'enable' in Objective 16.2.1 would conflict with the drafting protocol in that not all Rural activities are permitted; the use of the plural 'communities' (as recommended in the Mining s42A report) was preferred to 'the community'; that the submitters' proposed removal of the reference to urban environment would risk the objective becoming too enabling of non-rural activities in the rural environment; and the request to remove reference to limiting Residential activity would no longer discourage general Residential activities from locating in rural areas. The Reporting Officer also agreed with the further submission of *Te Rūnanga* that the deletion of reference to papakaika would not appropriately support Manawhenua aspirations.

3.2.9.3 Hearing

184. Mr Craig Werner for *HPPC* noted that there was no reference to Dunedin citizenry and its relationship to rural areas in Objective 16.2.1.
185. *Horticulture NZ* and *AgResearch Ltd* supported the recommendation in the 42A Report.
186. Mr Allan Cubitt (resource management consultant) called by *Salisbury Park* and others considered that the policy framework was too restrictive and too inflexible and

advocated for more flexibility to be able to consider issues through the consent process rather than the more cumbersome Plan change process. In his view, land that was already fragmented should be considered for rural living options sought by community, while protecting productive parts of rural environment.

3.2.9.4 Revised recommendations

187. The Reporting Officer made no change to his recommendation in response to *HPPC*, although noting that the recommended change to 16.1 Introduction may grant some relief.

3.2.9.5 Decision and reasons

188. We accept the submissions requesting that Objective 16.2.1 is retained: *Egg Producers Federation of NZ* (OS702.1), *Fonterra Limited* (OS807.24) (supported by *AgResearch Limited* (FS2398.12) and *Rural Contractors New Zealand Incorporated* (FS2450.12)), *Rural Contractors New Zealand* (OS911.8), *Radio New Zealand Limited* (OS918.40), *Federated Farmers of New Zealand* (OS919.128) (supported by *AgResearch Limited* (FS2398.13), *Rural Contractors New Zealand Incorporated* (FS2450.13) and *Horticulture New Zealand* (FS2452.42)), *Timothy George Morris* (OS951.24), *Morris Family Trust* (OS1054.24) (supported by *Geoff Scurr Contracting Limited* (FS2391.27)) and *Oceana Gold (New Zealand) Limited* (OS1088.53) and *Horticulture New Zealand* (OS1090.29).
189. We reject the amendments to Objective 16.2.1 proposed by *NZ Institute of Surveyors* (OS490.26) and *Salisbury Park Ltd* (OS488.4) (both opposed by *Geoff Scurr Contracting Limited* (FS2391.3, FS2391.48) and *Federated Farmers of New Zealand* (FS2449.291, FS2449.292)), *HPPC* (OS447.72), *STOP* (OS900.104) (opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.48)), *NZ Institute of Surveyors* (OS490.26), *Glenelg Gospel Trust* (OS350.9) (opposed by *AgResearch Limited* (FS2398.7) and *Rural Contractors New Zealand Incorporated* (FS2450.7)), *Salisbury Park Ltd* (OS488.4) (supported by *Jane Mcleod* (FS2169.1) and opposed by *AgResearch Limited* (FS2398.8), *Rural Contractors New Zealand Incorporated* (FS2450.8), *Horticulture New Zealand* (FS2452.40) and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.41)), *Craig Horne Surveyors Limited* (OS704.6) (opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.42, FS2456.44-47, FS2456.49)), *Blueskin Projects Ltd* (OS739.6) (opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.42, FS2456.44-47, FS2456.49) , *CTW Holdings Limited* (OS742.6) (opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.42, FS2456.44-47, FS2456.49)), *Blackhead Quarries Ltd* (OS874.18) (opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.42, FS2456.44-47, FS2456.49)) , *G & J Sommers Edgar* (OS889.4) and *Tussock Top Farm Ltd* (OS901.13) (opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.42, FS2456.44-47, FS2456.49), *Dianne Reid* (OS592.9) (opposed by *AgResearch Limited* (FS2398.10, FS2398.11), *Rural Contractors New Zealand Incorporated* (FS2450.10, FS2450.11), *Horticulture New Zealand* (FS2452.41), *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.50, FS2456.43) and *David Hiom and Kerry Hiom* (FS2473.9)), and *Pigeon Flat Road Group* (OS717.11) (opposed by *AgResearch Limited* (FS2398.10, FS2398.11) and *Rural Contractors New Zealand Incorporated* (FS2450.10, FS2450.11), *Horticulture New Zealand* (FS2452.41), *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.50, FS2456.43) and *David Hiom and Kerry Hiom* (FS2473.9)).
190. We accept the Reporting Officer's assessment as outlined above. We note the support of many submitters for the objective, which in our assessment sets the appropriate overall intention. The concerns of the submitters wanting more flexibility are better addressed (if they should be addressed) in the policies and assessment matters. In other words, if there is a need to provide for more flexibility, it should be done by providing specific exceptions, rather than undermining the overall objective.

191. We note that as a result of a recommendation by the Cross Plan - Mining Reporting Officer we have amended Objective 16.2.1 to remove the word 'rural'. See Cross Plan - Mining Decision report).

3.2.10 Policy 16.2.1.5

3.2.10.1 Background

192. Policy 16.2.1.5 reads: "Limit residential activity, with the exception of papakāika, in the rural zones to a level (density) that supports farming activity and achieves Objectives 2.2.2, 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies."

3.2.10.2 Submissions

193. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (OS1071.62) supported Policy 16.2.1.5, as Manawhenua aspire to develop papakāika in the rural zones. *Federated Farmers of New Zealand* (OS919.133) also supported Policy 16.2.1.5, agreeing that the primary purpose should be for residential activity complementary to farming. The *Federated Farmers* submission was supported by *AgResearch Limited* (FS2398.14) and *Rural Contractors New Zealand Incorporated* (FS2450.14) for the same reasons.
194. *Glenelg Gospel Trust* (OS350.11), *Salisbury Park Ltd* (OS488.8), *Craig Horne Surveyors Limited* (OS704.8), *Blueskin Projects Ltd* (OS739.8), *CTW Holdings Limited* (OS742.8) and *G & J Sommers Edgar* (OS889.6) sought that Policy 16.2.1.5 be amended to 'enable' rather than 'limit' Residential activity and also proposed an amendment to remove the requirement to achieve strategic and rural objectives. The proposed amendments were in line with the submitters' desire to sustainably manage existing undersized rural properties and "provide for the range of rural productivity and living options that are sought after by the community". The submissions were opposed by *Radio New Zealand Limited* (FS2332.23, FS2332.24, FS2332.25, FS2332.28, FS2332.27 and FS2332.26), which was concerned about the risk of adverse reverse sensitivity effects on its operations, and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.59, FS2456.60, FS2456.61, FS2456.62, FS2456.63 and FS2456.64) who were concerned that the amendment would remove the provision for papakāika.
195. *Timothy George Morris* (OS951.26) and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* (OS1054.26) sought to remove Policy 16.2.1.5, stating that it is "overly complex and unnecessary" (s42A Report, p. 135). This was opposed by *HPPC* (FS2267.42), who stated that farming activity should be the primary activity in the rural zone; and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.65 and FS2456.66) as removal of the policy would remove the provision for papakāika.

3.2.10.3 Section 42A Report

196. The Reporting Officer, Michael Bathgate, did not agree with the submissions requesting Policy 16.2.1.5 should begin with the word 'enable' explaining that, along with Policies 16.2.3.2 and 16.2.4.4, the policy set up the performance standard for density of residential activities and should start with a more restrictive term. It was however noted that the use of the word 'limit' was not consistent with the 2GP drafting protocol and therefore the Reporting Officer recommended that the policy should be amended to start with 'require'.
197. The Reporting Officer also recommended rejecting the submissions resulting in the removal of papakāika and those seeking the removal of the linkage to strategic objectives and policies, or the removal of the policy in its entirety.

3.2.10.4 Hearing

198. There were no comments raised at the hearing about the policy aside from those discussing the policy framework as a whole.

3.2.10.5 Decision and reasons

199. We reject all submissions seeking substantive amendment to Policy 16.2.1.5 for the reasons outlined by the Reporting Officer. The policy is about restricting residential activities in the rural zones, so changing it to only describe what is enabled would leave a policy gap. The evidence from the farming organizations was that residential activities unrelated to serious farming make farming more difficult. In our view this policy clearly supports the objectives.
200. However, we accept the Reporting Officer's point about consistency in the use of "limit" and "require" and have made the following amendment (see Appendix 1 amendment attributed to RU350.11):

Policy 16.2.1.5: "~~Limit~~Require {RU350.11 and others} residential activity, with the exception of papakāika, in the rural zones to be at {RU350.11 and others} a level (density) that supports farming activity and achieves Objectives 2.2.2, 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies."

3.2.11 Policy 16.2.1.7

3.2.11.1 Background

201. Policy 16.2.1.7 reads: "Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless it is the result of a surplus dwelling subdivision".

3.2.11.2 Submissions

202. *Fonterra Ltd* (OS807.25) sought to retain the policy because the company considered that it reduced the potential for "excessive residential intensification". The submission was supported by *AgResearch Limited* (FS2398.17) and *Rural Contractors New Zealand Incorporated* (FS2450.17).
203. *Glenelg Gospel Trust* (OS350.12), *Salisbury Park Ltd* (OS488.9), *Craig Horne Surveyors Limited* (OS704.9), *Blueskin Projects Ltd* (OS739.9), *CTW Holdings Limited* (OS742.9) and *G & J Sommers Edgar* (OS889.7) sought to amend Policy 16.2.1.7 to provide for rural residential living on existing undersized titles in certain circumstances and further subdivision for rural residential living in areas that are already fragmented. The submitters contended that the 2GP does not sustainably manage existing undersized rural properties, or provide for the range of rural living options sought by the community. *Glenelg Gospel Trust* (OS350.12) also sought to provide for further subdivision for certain other activities in areas where land is already fragmented, specifically community and leisure – large scale, sport and recreation, veterinary services, and visitor accommodation.
204. *Salisbury Park Ltd* (OS488.10), *Glenelg Gospel Trust* (OS350.13), *Craig Horne Surveyors* (OS704.13), *Blueskin Projects Ltd* (OS739.13), *CTW Holdings* (OS742.13) and *G & J Sommers Edgar* (OS889.12) also sought the addition of "or meets the criteria of policy 16.2.1.7" to Policy 16.2.3.8 (which relates to the situations in which subdivision is provided for in the rural zones), so that subdivision would be provided for in accordance with Policy 16.2.1.7 as amended by their submissions.
205. There were a number of further submissions on the submissions to provide for rural residential living including:
- *Glenelg Gospel Trust* (OS350.12) was opposed by *HPPC* (FS2267.43) because "deviation from density standards should be avoided"; and *AgResearch*

Limited (FS2398.15) and *Rural Contractors New Zealand Incorporated* (FS2450.15) because it would no longer discourage Residential activity unrelated to Rural activities with the potential for adverse effects including reverse sensitivity on rural activities.

- *Salisbury Park Ltd* (OS488.9) was supported by *Jane Mcleod* (FS2169.2) who asked for a consistent approach to zoning of fragmented sites and opposed by *AgResearch Limited* (FS2398.16) and *Rural Contractors New Zealand Incorporated* (FS2450.16).
 - *Glenelg Gospel Trust* (OS350.13) and *Salisbury Park* (OS488.10) were opposed by *AgResearch* (FS2398.18, 19) and *Rural Contractors New Zealand Incorporated* (FS2450.18, 19) because in the view of the further submitters the relief sought would encourage residential development in rural areas resulting in potential adverse effects on Rural activities, including loss of high class soils for primary production through fragmentation, and reverse sensitivity effects on rural production activities and activities that have a functional need to locate in rural areas.
 - *Craig Horne Surveyors Limited* (OS704.9), *Blueskin Projects Ltd* (OS739.9) and *CTW Holdings Limited* (OS742.9) were supported in part by *New Zealand Fire Service Commission* (FS2323.17) who requested that the submissions be allowed only if "appropriate onsite water supply and access for firefighting can be provided".
 - *Blueskin Projects Ltd* (OS739.13) was opposed by HPPC (FS2267.53), who stated that the proposed amendment was "incompatible with the associated overall Objective 16.2.3, which focuses not on density but on maintaining and enhancing rural character and amenity".
206. *NZ Institute of Surveyors – Coastal Otago Branch* (OS490.27) sought to amend Policy 16.2.1.7 to expand the circumstances where Residential activity can occur on an undersized site (the factors in the policy after "avoid...unless"). The reasons related to the submitter's request to amend Objective 16.2.1 to allow for Residential activity that directly supports the wellbeing of the local community. The submission was supported by *Federated Farmers of New Zealand* (FS2449.297) who considered that "there will be occasions for which it is appropriate for the wellbeing of the local community to provide an exception to restrictions on Residential activity" (s42A Report, p. 144).
207. *Dianne Reid* (OS592.11) and *Pigeon Flat Road Group* (OS717.13) sought to amend Policy 16.2.1.7 because they considered the policy to be 'unnecessarily restrictive' on existing sites and 'inconsistent' with Policy 2.2.4.3. *Dianne Reid* was opposed by *David Hiom and Kerry Hiom* (FS2473.11) in relation to their opposition to more intensive zoning and a higher intensity of use in the vicinity of Saddle Hill Road.
208. *Allan Douglas McLeary, Sylvia Violet McLeary and Farry & Co Trustees Limited (on behalf of McLeary Family Trust)* (OS832.1, OS832.2 and OS832.3) sought to amend Policy 16.2.1.7 to allow Residential activity on undersized sites that are proven to be incapable of economic rural production. Related to this submission, the submitter also sought (in OS832.1, OS832.3 and OS832.9, respectively) changes to Objective 16.2.1, Rule 16.7.4.1.a Minimum Site Size in the Rural Coastal Zone and Rule 16.5.2.1.a (density in Coastal Rural Zone to achieve the same outcome). The submitter considered that the owners of small rural holdings that can prove that their site is incapable of economic rural production should be able to seek consent, as a discretionary activity, to establish rural-residential activities on sites of not less than 2ha, provided that rural amenity and performance standards are not compromised." (s42A Report, p. 145).
209. *Timothy George Morris* (OS951.27) and the *Morris Family Trust* (OS1054.27) sought to remove Policy 16.2.1.7 stating the policy was overly complex and unnecessary.

3.2.11.3 Section 42A Report

210. With regard to the proposed amendments to Policy 16.2.1.7 sought by *Glenelg Gospel Trust* and other original submitters listed above, the Reporting Officer (Mr Bathgate) reiterated the position already discussed in response to submissions on Objective 16.2.1, that a zoning approach is best for providing for Rural Residential activity. He also noted that amendments proposed by some submitters to policies 16.2.1.5 and 16.2.1.7 would transform it from a limiting to an enabling policy with respect to residential activity on smaller rural sites. It was noted that the 2GP places strong emphasis at a strategic level on managing residential activity in the Rural zones and limiting it to that which supports productive rural activities. A zoning approach was considered to be the best way of effectively managing Rural Residential activity and that the 2GP retains sufficient capacity in the proposed rural residential zones for rural living opportunities.
211. The Reporting Officer also agreed with the concerns of the further submitters that the amendment proposed for Policy 16.2.3.8 by the same submitters would encourage residential development and may result in adverse effects on rural activities and productive rural land.
212. He recommended accepting the first part of the submission from the *New Zealand Institute of Surveyors* regarding Residential activity which supports farming on a site that does not comply with density standards and considered that Policy 16.2.1.7 and associated assessment Rule 16.12.6.1, should be amended to assist consideration of a non-complying application for Residential activity that contributes towards the achievement of rural productivity objectives.
213. The Reporting Officer drafted an assessment rule using wording to avoid the establishment of any Residential activity without the accompanying investment in a productive Rural activity. However, he recommended that the second part of the proposed amendment to Policy 16.2.1.7 from *NZIS* ("well-being of the local community") be rejected, because it did not provide sufficient detail or certainty about an appropriate 'exceptional circumstance' to support the non-complying status.
214. In response to *Morris Family Trust* (OS1054.26), the Reporting Officer considered that Policy 16.2.1.7 was necessary and appropriate to assist in the achievement of Objective 16.2.1. Neither is it, in his view, the role of a district plan to assess economic viability at a property level (in response to *Mr McLeary* (OS832.2)).
215. The following amendments (including a consequential amendment to assessment rules) were recommended by the Reporting Officer:

Policy 16.2.1.7

"Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless: a. it is the result of a surplus dwelling subdivision; or b. there will be significant positive effects for rural productivity in line with Objective 16.2.4." {RU490.27}

Rule 16.12.6.1

"Potential circumstances that may support a consent application include: e. The residential activity is required to support horticulture or other commercial farming at an intensive scale, that involves significant investment in farm buildings (such as glass houses) or other farm assets {RU490.27}" Conditions that may be imposed include, but are not limited to: f. Investment in farm buildings and other farm assets to be completed or underway to a large extent, prior to the establishment of residential activity {RU490.27}"

3.2.11.4 Hearing

216. Mr David Cooper, for *Federated Farmers*, supported the s42A Recommendation but sought further amendment to provide for farm succession and to 'manage' the effects of residential activity rather than 'avoid' residential activity.

3.2.11.5 Decision and reasons

217. We reject the submissions of *Salisbury Park Ltd* (OS488.9) and others to provide for rural residential living on existing undersized titles in certain circumstances and further subdivision for rural residential living in areas that are already fragmented and the associated proposed amendment to Policy 16.2.3.8 to refer to the criteria in Policy 16.2.1.7, for the reasons outlined by the Reporting Officer
218. We also reject the submissions of *Dianne Reid* (OS592.11) and *Pigeon Flat Rd Group* (OS717.13) to manage rather than avoid residential activity; *Allan Douglas McLeary, Sylvia Violet McLeary and Farry & Co Trustees Limited* (on behalf of McLeary Family Trust) (OS832.1, OS832.2 and OS832.3) to allow residential activity on undersized sites based on economic viability; the *NZ Institute of Surveyors – Coastal Otago Branch* (OS490.27) to expand the circumstances where residential activity can occur on an undersized site and *Timothy George Morris* (OS951.27) and the *Morris Family Trust* (OS1054.27) who considered the policy to be overly complex and unnecessary.
219. Policy 16.2.1.7 is part of a package of objectives and policies and has to be assessed as such. In turn these have been drafted within the framework set by Part 2 of the Act, as noted at the beginning of this decision. Although not framed in this way, the submitters seeking liberalisation of this policy were asserting that making more provision for building on existing small areas of land would enable them, and other future owners of these titles, to meet their needs, in accordance with section 5 of the Act. We accept that, but the statements and very limited evidence provided by these submitters did not address the provisos in section 5, which require that the needs of people and communities must be met while (among other things) "...avoiding, remedying, or mitigating any adverse effects on the environment."
220. The evidence from submitters and further submitters opposing liberalisation of the policy, and from the Reporting Officers (including landscape architects called by the Council) was that residential use of scattered small lots in farming areas does have adverse effects on the environment. Some of these adverse effects relate to the "Matters of national importance" listed in s6 and the "Other matters" listed in s7 of the Act, relating to landscape, amenity, the efficient use of natural and physical resources, and the efficient use of energy.
221. Another important factor is the potential for residential and rural residential activities to inhibit rural activities, because of the unavoidable effects of some productive rural activities on amenity through noise, odour, heavy vehicle movement etc. Submitters *AgResearch* and the *Rural Contractors Federation* raised this "reverse sensitivity" effect in relation to Policy 16.2.1.7, and we also heard evidence and argument about this from other rural producer organisations and individuals in relation to other provisions in the Plan, such as separation distances from boundaries.
222. In our assessment the evidence clearly favours the approach taken by the 2GP of providing for dwellings associated with productive use of land to properties of a size that typically support farming in each zone. The acknowledged demand for rural "lifestyle" living is a separate issue and is best provided for through the provision of rural residential zones, as discussed in our Rural Residential topic decision. We do not accept the assertion by some submitters that an inability to build houses on undersized lots renders those lots incapable of rural use. As we see it, the potential for consent for those lots to be used for lifestyle properties is what inhibits their amalgamation with adjoining farms (if they are not already in the same ownership), and in any case many small lots are managed productively without dwellings.

223. The recommendation from the Reporting Officer at the hearing to add a further exception to Policy 16.2.1.7 to provide for new dwellings where there would be productive use of the land would in our assessment fundamentally undermine the policy. It appears to have been based on a concern that, following the Supreme Court's stringent interpretation of the word "avoid" in RMA documents, without this exception the policy would make proposals for dwellings on undersized lots effectively a prohibited activity. That is not our understanding. It is well established law that for the purposes of the "gateway tests" for non-complying activities in s104D of the Act, the relevant objectives and policies are to be considered overall and not as a series of hurdles, each of which has to be cleared. In any case, the other gateway test of adverse effects being no more than minor may be available in particular cases. We are also mindful of the difficulties many councils have experienced with economic use types of criteria in policies and rules managing dwellings in rural zones.

3.2.12 Rule 16.5.2 Residential density performance standard

3.2.12.1 Background

224. Rule 16.5.2 is:

"1. The maximum density of standard residential activities is as follows:

Rural Zone		i. Minimum site size - first residential activity per site	ii. Minimum site size - second residential activity per site	iii. Minimum site size - third residential activity per site
a.	Coastal	15 ha	80 ha	120 ha
b.	High Country	100 ha	200 ha	300 ha
c.	Hill Country	100 ha	200 ha	300 ha
d.	Hill Slopes	15 ha	50 ha	75 ha
e.	Middlemarch Basin	40 ha	160 ha	240 ha
f.	Peninsula Coast	20 ha	80 ha	120 ha
g.	Taieri Plains	25 ha	80 ha	120 ha

- h. Except, papakāika may be developed at a density of:
- 6 residential units, or
 - 15 habitable rooms per site, whichever is the lesser.
- i. Multiple standard residential activities (additional primary residential buildings (houses)) are only allowed on a single site where they are located no closer than 80m from other residential buildings on the same site (family flats or sleepouts are considered part of the same residential activity), except:
- multiple residential units developed as part of papakāika may be located closer than 80m to each other."
2. One family flat is allowed per site in association with a standard residential activity that meets this performance standard for density, provided:
- the family flat is either attached to or located in the same residential building as the primary residential unit, or is located within 30m of the primary residential building, as measured as the closest distance between any wall of the primary residential building and any wall of the family flat; and
 - the family flat has a maximum gross floor area of 60m².
3. Standard residential activity that contravenes the performance standard for density is a non-complying activity, except:

- a. papakāika that contravenes the performance standard for density is a discretionary activity; and
- b. family flats that exceed the distance from the primary residential building (Rule 16.5.2.2.a) or maximum gross floor area (Rule 16.5.2.2.b) are a restricted discretionary activity.

3.2.12.2 Submissions in support of Rule 16.5.2

225. There were several submissions in support of the residential density performance standard including (with reasons where given) the following:

- *Maurice Prendergast* (OS451.4);
- *Fonterra Limited* (OS807.29), in particular for the Taieri Plain Rural Zone (supported by *AgResearch Limited* (FS2398.32), and *Rural Contractors New Zealand Incorporated* (FS2450.32) and *Horticulture New Zealand* (FS2452.52), because "rural production land is retained for Rural activities";
- *New Zealand Transport Agency (NZTA)* (OS881.114) because clear guidance about density enables infrastructure provision (supported by *AgResearch Limited* (FS2398.33) and *Rural Contractors New Zealand Incorporated* (FS2450.33);
- *Radio New Zealand Limited* (OS918.51);
- *Raymond and Evelyn Beardsmore* (OS429.4). The submitter also requested that there should be another map layer. The Reporting Officer assumed that this meant that the submitter wanted a visual differentiation between different rural zones on the zoning maps.⁵

3.2.12.3 Submission to clarify Rule 16.5.2 with respect to sleep outs

226. *Sally Dicey* (OS318.1) sought to amend Rule 16.5.2 (density) to clarify that sleep outs associated with existing standard residential activity (where the residential activity has existing use rights) on an undersized rural site are permitted, or otherwise exempt from the density performance standard. The submitter stated that the effects will be minimal as other buildings are permitted in rural zones and the amendment will enable those living on an existing under-sized rural site (with existing use rights) to fully utilise their land.

3.2.12.4 Submissions on 16.5.2.1 -minimum site size

- 227. Nearly 30 submissions sought a reduction to the minimum site size in Rule 16.5.2.1. Reasons for reduction in minimum site size included the wish to build houses on smaller sections of land, the difficulty of maintaining a large block and keeping noxious weeds at bay, the cost of larger blocks of land, and the side effect of depopulation of rural land. Others pointed out that many existing sites are smaller than those shown in the rule.
- 228. *Construction Industry and Developers Association* (OS997.30) sought to amend Rule 16.5.2.1 so that the minimum site size for residential activity for all rural zones is as follows: first Residential activity per site - 6 hectares; second Residential activity per site - 12 hectares; third Residential activity per site - 24 hectares. No specific reason was given for this request.
- 229. *Craig Horne Surveyors Limited* (OS704.17, OS704.18, OS704.19) *Blueskin Projects Ltd* (OS739.17- 19), *CTW Holdings Limited* (OS742.17-19) and *G & J Sommers Edgar* (OS889.16, 27, 28) sought to amend Rule 16.5.2.1(c), (f) and (g) so that the minimum site size for Residential activity in the Hill Coast, Peninsula Coast and Taieri

⁵ Note that as a clause 16 change, different shadings are now used for the different rural zones on the 2GP map.

Plains rural zones is 15ha. *Salisbury Park* (OS488.5) sought the same amendment specifically for the Taieri Plains Rural Zone⁶. The submitters stated that the "...proposed minimum lot sizes will inhibit the productive use of the rural land where more intensive land use is possible. While this will assist in maintaining the productivity of the Rural Zone for most pastoral purposes, it does not recognise that there are more intensive productive land uses (pastoral and non-pastoral)."

230. *Robert George & Sharron Margaret Morris* (OS355.8) and *Timothy George Morris* (OS951.7) and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* (OS1054.37) sought to amend Rule 16.5.2.1 so that the minimum site size for Residential activity is reduced in all areas, including 15, 30 and 45ha (for first, second and third Residential activities) for the Peninsula Coast Rural Zone, with the 15ha minimum reduced further for Residential activity on existing certificates of title. The submitters also sought to remove dispensations for papakaika. These submissions were opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.90, FS2456.91) as "the provision for papakaika housing allows Manawhenua to live on their ancestral land".
231. *HPPC* (OS447.88) sought to amend Rule 16.5.2.1.f so that the minimum site size for Residential activity in the Peninsula Coast Rural Zone is 15ha. The submitter stated that "Land MSS changes are like zoning changes and these are far more disruptive and damaging to the future of current residents than are rules regarding alterations in building and structure design, location, etc.....The site may have been intentionally subdivided originally to the 15 ha size and also may have been owned for a long time to fulfil an owner's plans." (HPPC submission, p. 29) .
232. *HPPC* (OS447.87) sought to amend Rule 16.5.2 (density) as the submitter considered that failure to meet performance standards should lead to 'full scrutiny' of RMA 104D. The submitter also sought to add a new point (j) to allow development on "legacy holdings" of at least 2ha owned by direct descendants of those that subdivided the site at least two generations previously, with the site being in continual family ownership since.
233. *STOP* (OS900.121, OS900.20) sought to amend Rule 16.5.2 'if larger'. The submitter was unclear about the minimum site size for a residential activity, but did not consider that Hill Slopes needed to go up to 20ha or for Peninsula Coast to 40ha "as long as the rules about siting, height, colour of cladding and roof, and reflectivity (including for solar panels) are stated overtly and managed tightly".
234. *Peninsula Holdings Trust* (OS771.5) also sought to amend Rule 16.5.2.1.f so that the minimum site size for Residential activity is 15ha for the Peninsula Coast Rural Zone (inferred not stated). The submitter explained that many smaller sites had houses on them in the past and that right should not be taken away by a DCC rule change.
235. *Cameron John Macaulay* (OS562.1) sought to amend Rule 16.5.2.1.e.i so that the minimum site size for Residential activity is 15ha in the Middlemarch Basin Rural Zone, as "farm ownership for young people is increasingly difficult". The submitter argued that 28ha as "a starting point for our farm ownership dream. Whilst it could be argued that 28ha is not an economic unit we farm it to be economically self-supporting." The submitter stated that the proposed 40ha minimum leaves them "unable to build our family home" and "unable to use our farm as a stepping stone to larger farm ownership". *Maurice Cook* (OS390.2) submitted younger families would be disadvantaged by the 100ha requirement in the Hyde area.
236. *Lynnore Joan Templeton* (OS735.8, 9) sought a minimum site size of 15ha for the Hill Country as well as the Middlemarch Basin zones because she considered there were not the same pressures in the area from subdivision as others (such as the Taieri) and the 40ha density rule for standard residential activities took away rights and

⁶ The submission of *Salisbury Park* was opposed by *Horticulture New Zealand* (FS2452.53) who noted that the 2GP "provides a policy framework to ensure that rural production land is retained for rural activities"

decreased land value. *Lindsay Carruthers* (OS860.8), *David Frew* (OS872.8), *John Carruthers* (OS879.8) and *Neil Grant* (OS883.8) also sought a 15ha minimum for the Middelmarsh Basin zone, expressing concern about the adverse socio-economic effects of the proposed density. *Barry James Williams* (OS886.3) and *Strath Taieri Community Board* (OS905.1) also sought to reduce the minimum site size for residential activity in the Middelmarsh Basin Rural Zone.

237. *Dianne Reid* (OS592.23) and *Pigeon Flat Road Group* OS717.21 sought to match the Coastal Rural Zone minimum site sizes with the Hill Slopes Rural Zone site sizes, by aligning with the subdivision standards, and by making residential activity on existing under-sized sites a permitted activity. The submitters were concerned that there did not appear to be "any justification for the distinction" between the Coastal and Hill Slopes zones and the Coastal Rural Zone "does not necessarily reflect the coastal environment which is a section 6 matter". The submitters stated that alignment "would strike a better balance between the need to manage the effects of residential activity and the needs of the community for living opportunities in these areas". The submitters also sought that the residential density and subdivision standards should be aligned, stating that "preventing a person from establishing a residential dwelling where subdivision has been granted is not an efficient use of land as it is almost inevitable that a person with land of the scale provided for will need to live on it to manage it effectively".
238. Other submitters seeking to reduce the minimum site size for Residential activity included:
 - *Ivan Court* (OS55.2) sought to retain the operative rule because smaller lifestyle blocks are more easily maintained
 - *Raymond Grant Tisdall* (OS862.1) sought a 15ha density in all zones because 40ha is not affordable for everyone and some already have small parcels of land they may build on in future
 - *Teresa Ann Dynes* (OS347.1) sought to reduce minimum site sizes for second and third residential activities in the Coastal Rural Zone to enable multiple homes in a greater family owned property
 - *Ross Roy* (OS759.1) sought to amend Rule 16.5.2.1.g so that the minimum site size for Residential activity is 15ha for the Taieri Plains Rural Zone. The submitter explained that his land is not 'Taieri Plains' in character, as it is elevated and does not contain fertile soils
 - *Greg and Glenise Hyslop* (OS964.1) sought to amend Rule 16.5.2.1.g.i so that the minimum site size for Residential activity is 15ha for the Taieri Plains Rural Zone, because of concern about viability for selling their properties under an increased minimum site size.
239. In addition to submissions seeking a reduction in minimum site size, a number of submitters sought that residential development be allowed on existing sites:
 - *Ray Kean* (OS791.1) sought to amend Rule 16.5.2 so that residential activity is allowed on all existing sites of 15 ha or more, along with all existing sites of less than 15 ha that have an existing title. The submitter noted that the difference between the 2ha rural residential rule and that of the 25/40/100 ha rural zones is too large and there needs to be a "stepped approach to restricting title areas".
 - *Mike Geraghty* (OS873.2) sought to amend Rule 16.5.2 so that residential activity may be established on sites created prior to notification of the 2GP, but not established on sites created after notification until Rule 16.7.4 becomes operative (inferred not stated). The submitter considered that DCC is correct in recognising the value of land in productive, natural or historical terms, rather than as a market commodity for speculation through subdivision. Land is important for food production, water catchment, 'possible CO2 sinks' and 'values of ecological systems.'

- *Bruce Wayne Taylor* (OS664.1) sought to amend Rule 16.5.2.1.f so that the minimum site size for Residential activity for the Peninsula Coast Rural Zone is 15ha, so that Residential activity may be established on existing sites.
- *Douglas Hall* (OS1068.1) sought to allow undersized sites to be built on as of right, to address the problem of too many 'undersized' sites. This submission was opposed by *Tim Buscall* (FS2097.1) and *Bronwyn Hegarty and James Hegarty* (FS2474.1) who requested that Rule 16.5.2 was retained.
- *JWB Bradley Family Trust* (OS185.1) sought to amend Rule 16.5.2.1.d.i so that in the Hill Slopes Rural Zone a single dwelling may be erected as a permitted activity on any site of any size that existed at the date of notification of the plan. The reason for this request was to enable the submitter to efficiently use their land at 222 Cowan Road. This submission was supported by *Southern Property Investment Trust* (FS2427.1) who stated that "a land owner should be able to put a single dwelling on any separate title in this zone"
- *Alistair Hope* (OS1018.2) sought to amend Rule 16.5.2.1.e.i so that Residential activity on existing sites 15ha and over is permitted for a ten year period in the Middelmarsh Basin Rural Zone, while *Otago Peninsula Community Board* (OS588.8) sought to amend Rule 16.5.2.1.f to allow new Residential activity on 15ha sites in the Peninsula Coast Rural Zone until the year 2020 (inferred not stated).
- *Lawrence Taylor* (OS800.2) sought to amend Rule 16.5.2.1.f so that all existing titles in the Peninsula Coast Rural Zone may be used for residential activity regardless of size.
- *Christopher Ryalls* (OS1051.4) sought to amend Rule 16.5.2.1.g (inferred not stated) and considered that where land has already been divided up, people should be able to do what they want).

240. A number of the submissions seeking a reduction in minimum site size were opposed by *Radio New Zealand*⁷ who had concerns over any reduction in minimum site size that could lead to increased residential density in the vicinity of its transmitter sites.

3.2.12.5 Submissions on Rule 16.5.2.2 (Family Flats)

241. Submissions on the family flats rule were dealt with in the Reconvened Plan Overview Hearing and the decisions are discussed in the Plan Overview Decision Report.

3.2.12.6 Submissions on Rule 16.5.2.3 (Performance standard contravention)

242. *Dianne Reid* (OS592.24) and *Pigeon Flat Road Group* (OS717.22) sought to amend Rule 16.5.2.3 so that contravention of the performance standard for density is a discretionary activity. The submitters consider that a non-complying status is unnecessary, stating that "Requiring a section 104D analysis once again adds little to the process and all relevant matters can be taken into account through a discretionary activity status. This is particularly important if a discrepancy is to remain between residential density and minimum lot sizes in Rule 16.7.4." (Dianne Reid submission, p. 6). The submission of *Dianne Reid* was opposed by *David Hiom and Kerry Hiom* (FS2473.22) in relation to their opposition to the entire submission of *Dianne Reid*. *Allan Douglas McLeary, Sylvia Violet McLeary and Farry & Co Trustees Limited (on behalf of McLeary Family Trust)* (OS832.17) also sought to amend Rule 16.5.2.3 so that contravention of the density standard is a discretionary activity.

⁷ FS2332.30,31,32,33,34,35,36,37,39,40,41,42,43,45,46,50,51,52,79,80

243. *Glenelg Gospel Trust* (OS350.19), *Salisbury Park* (OS488.15), *Craig Horne Surveyors* (OS704.20), *Blueskin Projects Ltd* (OS739.20), *CTW Holdings* (OS742.20) and *G & J Sommers Edgar* (OS889.29) sought to amend Rule 16.5.2.3 to expand the circumstances where contravention of the rural density standard is not a non-complying activity including permitting Residential activity on sites of at least 15ha consented prior to notification of the 2GP; providing for Residential activity as per the submitters' amended Policy 16.2.1.7 as restricted discretionary and providing for Residential activity on sites less than 15ha consented prior to notification of the 2GP as discretionary activities. The submitters considered that the 2GP did not provide for the range of rural living options sought after by the community and the sustainable management purpose of the Act was best served by allowing these areas to be developed further.
244. The submission by *Glenelg Gospel Trust* was opposed by *AgResearch Limited* (FS2398.34) and *Rural Contractors New Zealand Incorporated* (FS2450.34) who were concerned about adverse effects on Rural activities, including loss of high class soils and reverse sensitivity. The submissions by *Craig Horne Surveyors*, *Blueskin Projects*, *CTW Holdings* and *G&J Sommers Edgar* were opposed by *Radio New Zealand Limited* (FS2332.38, FS2332.44, FS2332.48, FS2332.81) who had reverse sensitivity concerns in relation to any increase in residential density near its transmitter site at Saddle Hill. The submissions by *Craig Horne Surveyors*, *Blueskin Projects* and *CTW Holdings* were also opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.92, FS2456.93, FS2456.94) who considered that the requested amendment did not support the development of papakaika.

3.2.12.7 Section 42A report

3.2.12.7.1 Submissions in support

245. Mr Bathgate noted the submissions in support of Rule 16.5.2 and recommended that *STOP's* submission which indicated support of the retention of a 15ha minimum site size for residential activity in the Hill Slopes Rural Zone be accepted.

3.2.12.7.2 Clarification with respect to sleep outs

246. In response to the submission from *Sally Dicey* seeking clarification about sleep outs associated with existing standard residential activity, the Reporting Officer, Michael Bathgate, explained that a sleep out forms part of a standard residential activity and in most cases the density standard would not be a factor when considering a new sleep out in the rural zones. He noted the separation of land used and development activities in the 2GP intended to avoid such a situation of lawfully established land uses that do not comply with the density standard being caught out when undertaking development activities. He did not recommend accepting the submission due to the request to include reference to the existing use rights in the standard, which he considered would be problematic (s42A Report, p. 252).

3.2.12.7.3 Minimum site sizes

247. The Reporting Officer reiterated that issues associated with the spread of lifestyle blocks included loss of productive land, displacement of rural activities, reverse sensitivity effects, pressure for infrastructure expansion, and adverse effects on rural character and visual amenity (s42A Report, p. 256).
248. He discussed the rationale for the setting of minimum site sizes in the 2GP, referring to the analysis in the Rural Zones s32 Report and reiterated the following points:
- the density standard set is intended to reflect the median size of properties used for rural activities in each zone, and permit residential activity associated with this scale

- although other options for managing Residential activity were considered, having a minimum site size standard on a zone by zone basis was considered the most effective and efficient approach to meet the rural objectives relating to productivity, rural character and amenity
 - the 2GP proposes that only the Coastal and Hill Slopes Rural zones retain the 15ha minimum because of the nature of existing sites, demand for Residential activity and lower productivity
 - The Taieri Plains Rural Zone, although also fragmented, should have a higher minimum (25ha) because of the significant areas of high class soils in the area. The Reporting Officer considered that the threat of land being converted to rural residential use and taken out of productive use was considerable.
249. Therefore, while noting many submissions sought a return to the operative Plan 15ha standard for Residential activity, the Reporting Officer did not consider that the minimum density should revert to 15ha across all zones. The Reporting Officer also recommended rejecting those submissions calling for a blanket reduction in the minimum site sizes for all rural zones below 15ha, such as the 6ha suggested by *Construction Industry and Developers Association* (OS997.30) or the 10ha suggested by *Chris Stewart* (OS414.1).
250. However, with regard to the Peninsula Coast Rural Zone, the Reporting Officer recommended amending Rule 16.5.2.1.f from 20ha to 15ha because, on balance, the Reporting Officer did not consider that allowing existing 15ha sites to establish a Residential activity would detract significantly from the achievement of rural objectives. The Reporting Officer noted that the Peninsula Coast Rural Zone was not considered to be a high productivity area and that most of the zone was in an ONL so any new development would be subject to an assessment of effects on landscape values.
251. In relation to *Dianne Reid* and *Pigeon Flat Road Group's* request to align the density standards in the Coastal and Hill Slopes Rural zones, the Reporting Officer noted that the minimum site sizes for second and third residential activities are aligned with the subdivision standard and designed to equate to the size that a site would have to be if it were to be subdivided into two or three sites in future. The Reporting Officer also did not recommend that the minimum site sizes for Residential activity and subdivision were aligned within each zone because the subdivision rule was designed to reduce land fragmentation while the minimum site size for Residential activity was smaller in some zones, reflecting the large number of smaller sites already there.
252. He did not support the *Morris* submissions (OS951.37, OS1054.37) seeking removal of the provisions for papakaika in Rule 16.5.2 and agreed with the recommendation in the Manawhenua Decision Report.
253. In relation to submissions to reduce the minimum site size for second and third Residential activities, the Reporting Officer noted that these were set on the basis of the minimum site size for subdivision standard (Rule 16.7.4). The rationale for this alignment with the subdivision standard was to prevent the situation where additional Residential activity is established on a site and then at some point in the future there is pressure for subdivision to create sites that do not comply with the minimum site size standard for subdivision. The Reporting Officer considered that it was important to retain this alignment to avoid the risk of non-compliant sites being created, and did not recommend these submissions be accepted.
254. In response to the comments by *Teresa Dynes* (OS347.1) in relation to multiple homes to support family within a family owned greater property, it was noted that, although requiring a larger site size, it is easier to establish a second or third Residential activity than under the operative Plan, being a permitted rather than a controlled activity; the provision for family flats which are new under the 2GP; and the mechanism for subdivision of surplus dwellings on sites that do not have to meet minimum site size.

3.2.12.7.4 *Submissions to allow residential activity on existing sites*

255. In response to submissions seeking that residential activity should be allowed on all existing sites, the Reporting Officer's opinion was that this would be detrimental to Rural activities. He noted that the Rural Residential 2 Zone was "established to address the issue of undersized rural sites in a systematic manner".
256. However, the Reporting Officer recommended accepting *Bruce Wayne Taylor's* submission in part with respect to changing the rule to 15ha in the Peninsula Coast Zone.
257. He recognised that a difficult situation may arise where people may have already bought or created through subdivision, 15ha rural sites under the operative Plan. Data was presented showing that the greatest number of such undeveloped sites were located in the Hill Country, Taieri Plains and Middelmarsh Basin. If the Panel were of a mind that relief was granted to the submissions, the Reporting Officer favoured a grace period of five years from the date of the Plan being made operative for the establishment of Residential activity on sites of at least 15ha. The Reporting Officer suggested that if such a grace period was to be utilised, in fairness it would have to be across all rural zones where density had increased from 15ha.
258. With regard to *HPPC's* submission on legacy holdings, the Reporting Officer noted that family flat and surplus dwelling subdivisions "may be considered to contribute to similar outcomes in providing for farm succession and retaining family connections to rural land". On balance the Reporting Officer did not favour accepting the submission because it would be difficult to implement and would not contribute to achievement of the rural objectives. However, if the Panel was of a mind to grant relief to the submission, the Reporting Officer suggested that the exception to the density standard could be considered as a restricted discretionary or discretionary activity.

3.2.12.7.5 *Submissions on performance standard contraventions*

259. In relation to the submissions seeking contravention of density standard to be a discretionary activity, the Reporting Officer considered options including changing the contravention activity status to discretionary where associated with productive outcomes, where associated with conservation outcomes, or where the site is within 10% of the required site size, as set out on pages 271-274 of the Rural s42A Report.
260. Overall, the Reporting Officer considered that the disadvantages of allowing for discretionary status under each of the three scenarios outweighed the advantages and recommended that the status for contravention remain as non-complying.
261. However, the Reporting Officer considered that any extension of the discretionary activity status for non-compliance was less at odds with rural objectives when applied to the use of existing sites for Residential activity as opposed to the creation of new sites through subdivision. This is because the sites have already been created and would not be contributing to further fragmentation of rural land, although sometimes a change of use of existing sites may be viewed as a different form of fragmentation.
262. He suggested that broadening circumstances for discretionary activity status for Residential activity could be viewed as in line with rural objectives, if it can be shown that sites are and will remain in a productive rural use or associated with a conservation activity. However, the Reporting Officer noted that these positive effects were difficult to specify in a performance standard due to their subjectivity and, therefore, this approach would probably be ultra vires. To this effect, the Reporting Officer noted the recommendation that Policy 16.2.1.7 be expanded to include broader criteria after the word 'unless' that more clearly allows consideration of the potential positive effects of Residential activity on achieving rural productivity objectives, where this can be demonstrated as part of a non-complying consent application. The recommended amendment to Rule 16.7.4.2 to allow for additional circumstances where sites can be created for conservation purposes without having to meet the minimum site size standard for subdivision was also noted.

263. With regard to the submissions of *Glenelg Gospel Trust* and others, the Reporting Officer did not recommend that Residential activities be permitted on sites of at least 15ha 'consented' prior to 2GP notification because allowing Residential activity on 15ha sites was inconsistent with the scale of some rural zones and the size of property required to undertake Rural activities in these zones. However, as noted in response to submissions to amend Rule 16.5.2.1, the Reporting Officer acknowledged that this gave rise to a difficult planning issue where people may have bought 15ha sites under the operative Plan with a view to establishing Residential activity. The Reporting Officer restated that if the Hearing's Panel was of a view to grant relief to this submission, a 'grace period' of five years from when the 2GP is made operative could be used, within which the Residential activity could be established as a permitted activity on these sites.
264. The Reporting Officer did not recommend that the parts of Rule 16.5.2.3 reliant on Policy 16.2.1.7 being amended be changed as requested because the submission to amend the policy was not supported.

3.2.12.8 Hearing

265. *AgResearch* supported the section 42A recommendation.
266. *Bruce Wayne Taylor* spoke at the hearing about the Minimum Site Size performance standard for the Peninsula Coast Rural Zone (Rule 16.5.2.1.f) and explained that he owned a number of vacant 25ha sites which would have their equity wiped if they could not have a house built on them. He considered that all existing titles that have previously had a house on them should be able to be built on as of right. He considered that 40ha was neither a lifestyle block or a farm and the minimum site size rule made the 40ha worth the same as 15ha, wiping out two thirds of the equity, and that Peninsula Coast was poor farming land compared to the Taieri Plain.
267. *Cameron John Macaulay* spoke at the hearing and explained that he owns a 28ha site at Gladbrook and sought an exemption from the 15ha rule. If a grace period were used, would prefer 10 years but could make 5 years work if he had to.
268. Mr Allan Cubitt (resource management consultant), called by *Salisbury Park Ltd* and the seven other submitters listed above, pre-circulated resource management evidence and gave his view on the policy framework as a whole. He considered that the policy framework was too restrictive and too inflexible. He suggested that there needed to be more flexibility to be able to consider issues through the consent process rather than through a more cumbersome Plan change process. In his opinion, land that was already fragmented should be considered for rural living options sought by the community, while protecting the productive parts of the rural environment.
269. Mr Ciaran Keogh (resource management consultant) was called by *Douglas Hall*, and tabled evidence relating to minimum site sizes. The submitter stated that the adverse effects of allowing dwellings on undersized sites was overstated. In his opinion, many sites on the urban periphery are difficult to use and uneconomic, and allowing development through consenting process would allow for better outcomes for productivity, biodiversity etc. In his view, the 2GP seemed reactive rather than proactive in relation to this, and needed a positive vision for rural residential development. In his opinion, the 15ha rule has resulted in perverse outcomes, creating sites that are difficult to use, with adverse effects on landscape, wastage of rural land, spread of lifestyle blocks.
270. Mr Craig Horne appeared for *Craig Horne Surveyors Ltd* and spoke at the hearing but did not table a statement. In his opinion, residential density could be higher without causing any issues and size should be set by need for effluent disposal and setbacks. He also asked that a performance standard contravention (16.5.2.3) should become discretionary rather than non-complying and an averaging approach could be used to providing for density.
271. Mr Craig Werner appeared for the *Harboursides and Peninsula Preservation Coalition* and with regard to the density performance standard, acknowledged some of the

Section 42A Report concerns in relation to proposed family legacy provision, but did not consider all the Reporting Officer's concerns to be convincing. He considered that restricted discretionary status rather than permitted status would be fine.

- 272. *Robert George & Sharron Margaret Morris* spoke at the hearing, and sought to amend Rule 16.5.2.1 so that existing sites can be used. *Timothy George Morris* pre-circulated evidence and spoke at the hearing stating that Rule 16.5.2.1.f should be amended to 15ha, and to allow Residential activity on existing sites. He was concerned about the loss in value from this rule and the subdivision rule change for land owners who undertake planning based on present rules.
- 273. Ms Lala Frazer for *STOP* tabled a statement and spoke at the hearing, endorsing the Reporting Officer's recommendation on 16.5.2.1.f Peninsula Coast (although referring to subdivision rule of 40ha rather than minimum site size for residential activity).
- 274. With regard to the Hill Slopes minimum density, *STOP* considered that along with the 15ha rule for residential activity comes the need for stricter controls on cladding, reflectivity, size and ridgelines.

3.2.12.9 Revised recommendations

- 275. In response to a number of the submitters, the Reporting Officer gave an overview response on subdivision and density standards and the rationale for the 2GP framework for managing activities in the rural environment (Rural Revised Recommendations, p. 32). In this discussion, the Reporting Officer made the point that the minimum site size was intended to reflect the minimum site size a rural site should be to achieve the relevant 2GP objectives, and not an 'ideal' sized rural site, and increasing rural residential or lifestyle development was at odds with the proposed objectives of the 2GP.
- 276. With respect to the residential density standard (Rule 16.5.2.1), the Reporting Officer did not change his recommendation and referred to the evaluation carried out in the s42A Report.
- 277. With respect to contravention of the density performance standard (Rule 16.5.2.3) the Reporting Officer stood by the conclusions of the s42A Report that "an across the board change to discretionary activity status would send the wrong signal in terms of the 2GP objectives; and that relying on a trigger whereby residential activity is associated directly with productive or conservation outcomes is problematic in terms of effectiveness, efficiency and legality." While a zone-based approach was also traversed, on balance the Reporting Officer retained the recommendation set out in the s42A Report and the "strong 2GP messaging" that 'lifestyle' development is anticipated and provided for through rural residential zoning, not through treating existing small lots as house sites.
- 278. In response to *Gladstone Family Trust*, the Reporting Officer noted that while the tabled evidence focussed on the minimum site size for the Hill Slopes Rural Zone, the submitters' statement and discussion were in effect asking for a rezoning of the property. A related submission (OS294.4) was to rezone part of the property to Low Density Residential Zone, which was to be considered in the Urban Land Supply Hearing.
- 279. In response to *Douglas Hall*, the Reporting Officer noted that the original submission seeks permitted activity status for residential use of existing sites, whereas positive effects cited would rely on development being part of a consenting process. The Reporting Officer agreed that a 15ha subdivision rule had resulted in perverse outcomes, hence proposed increases to subdivision minimum site sizes. The Reporting Officer also noted that the smallest proposed minimum site size is 25ha (Hill Slopes Rural Zone only) not 20ha as suggested by the submitter, and that minimum site size subdivision was not within the scope of the submission.
- 280. In response to *STOP's* comments on the minimum site size for the Hill Slopes zone, the Reporting Officer noted that much of the Hill Slopes zone was in landscape zones

where there were additional controls and that such rules would be further considered in the Natural Environment hearing.

281. In response to *Bruce Wayne Taylor*, the Reporting Officer noted the Section 42A Report recommendation to amend residential density standard to 15ha for the Peninsula Coast Rural Zone and referred to the wider revised recommendations discussion on subdivision and residential density standards.
282. In response to *Cameron John Macaulay*, the Reporting Officer had a neutral stance as regard a grace period of five years for establishing residential activity on sites created prior to notification (Section 42A Report, pp. 259-260).

3.2.12.10 Decisions and reasons

283. We reject the submissions requesting a decrease in the minimum site size for residential activity in each of the rural zones for the reasons explained by the Reporting Officer. The evidence was that the 2GP standards are based on a rational methodology, as discussed in the s42A Report, designed primarily to reflect the median property size used for farming in each zone. We do not consider that there was compelling evidence for the proposed reductions provided by any of the submitters. The Panel visited all the areas discussed in submissions, in many cases identifying the submitters' properties. The submitters' presentations focussed mainly on the benefits for some property owners of less stringent standards (which we acknowledge), with little discussion of how this could meet the objectives and policies for the Rural Zones.
284. In alignment with our decision on the subdivision minimum site size performance standard (Rule 16.7.4), we consider that the non-complying activity status signals that residential activity on sites below the minimum site size is not anticipated in the rural zones and should only be considered for true exceptions that will not create any precedent that could lead to cumulative adverse effects. We therefore reject the submissions seeking that contravention of the performance standard is a discretionary activity.
285. We do not accept the submission of *Sally Dicey* (OS318.1) to amend 16.5.2 to clarify a permitted status for sleep outs associated with existing standard residential activity. We agree with the assessment of the Reporting Officer that the separation of land use and development activities achieves what the submitter seeks, and also agree that drafting existing use rights into a performance standard is a problematic approach.
286. Although we accept the Reporting Officer's advice that residential activity should not be allowed on all existing sites in the rural zones, we have considered the question of hardship and fairness for people who have bought existing lots meeting the existing, still operative, 15 hectare standard but have not yet built. Some of these are submitters, as discussed above, and several sought a limited 'grace period' to allow them to build. On balance we accept that there should be a sunset clause provided, as suggested by the Reporting Officer, to allow this, but only in the more remote zones: the Middlemarch Basin, Hill Country and High Country Rural Zones. These are the areas where the minimum lot size has increased the most (because it is now based on actual median areas in each zone currently supporting farming units). In our assessment there will also be less conflict with the objectives and policies in the Plan if existing sites in these areas are built on because in these more remote areas the residents are more likely to be involved in rural and rural township activities and less likely to be commuters to the city. It can be noted that there is effectively a grace period in force already, everywhere, in that the proposed more stringent residential density minimum site standards have been known since the notification of the 2GP on September 15 2015 and the operative Plan standards still apply.
287. To achieve this we have:
 - Amended Rule 16.5.2.1 to add an exception for standard residential activity, in the Middlemarch Basin, Hill Country and High Country rural zones, on a site of

at least 15ha that existed before 26 September 2015, as a permitted activity if the residential activity is established within 5 years of the rule taking effect (date of release of this Decision), as follows:

- h. Except,
 - i. papakāika may be developed at a density of 6 residential units, or 15 habitable rooms per site, whichever is the lesser {RU cl. 16}
 - ii. in the Middlemarch Basin, Hill Country and High Country rural zones, a single residential activity is permitted on any site that existed before 26 September 2015, and that is 15 ha or larger, provided the residential activity is established prior to 7 November 2023 {RU 1018.2}.

3.2.13 Policy 16.2.1.9 and Rule 16.3.5.2 (cross lease, company lease and unit title subdivision)

3.2.13.1 Background

288. Policy 16.2.1.9 states: "Avoid cross lease, company lease and unit title subdivision in the rural zones unless it does not result in an increase in development potential beyond that which might be achieved through a general subdivision." The use of the standard wording "avoid... unless" in this policy links to Rule 16.3.5.2, under which these types of subdivision are non-complying in rural zones.
289. Rule 16.3.5.2 relates to the activity status for cross-lease, company lease and unit title subdivision.

3.2.13.2 Submissions

290. *NZ Institute of Surveyors (NZIS)* (OS490.28) sought to remove Policy 16.2.1.9 because "the three listed styles of subdivision are enshrined in New Zealand's land transfer system and no clear reason has been identified in support of the proposed avoidance". *HPPC* (FS2267.44) opposed this submission because "special legal property definitions should not allow increased development potential".
291. *NZIS* (OS490.29) also sought that Rule 16.3.5 be amended so that the activity status for cross lease, company lease and unit title subdivision changed from non-complying to restricted discretionary status in the rural zones, and certain overlay zones. *NZ Fire Service* (FS2323.4) supported this in part but requested reference to the *NZFS Code of Practice*.

3.2.13.3 Section 42A Report

292. The Reporting Officer, Ms Jane Macleod, noted after consulting with DCC resource consent planners, that cross lease, company lease and unit title subdivision are rarely used in the rural environment. The s42A Report discusses how the three types of subdivision are generally used in New Zealand. She explained that non-complying activity status was proposed for these types of subdivision because "they could be used as a way of increasing the residential development potential of a site beyond that which might be achieved through a general subdivision".
293. The s42A Report noted that there may be cases where unit title subdivision and cross lease subdivision are used in a way that would not increase the potential of a site beyond that which might be achieved through a general subdivision. Further, if non-complying activity status was replaced with discretionary or restricted discretionary, Policy 16.2.1.9 could still be drafted so that consent is only granted if the residential development potential of a site were not to be increased beyond that which might be achieved through a general subdivision. The Reporting Officer also noted that there

may be cases of these types of subdivision being sought to allow land to be used at an appropriate density for Non-Residential activities that are provided for in the rural zones, for example Rural Research, Rural Industry, Rural Tourism or Early Childhood Education.

294. Therefore, Ms Macleod recommended that Policy 16.2.1.9 and Rule 16.3.5 (along with consequential changes to assessment rules) were amended so that the activity status for cross lease, company lease and unit title subdivision becomes discretionary rather than non-complying. The s42A Report outlines how discretionary status accords with the Plan Overview direction for discretionary activities as the scale and type of activities that may use cross lease, company lease and unit title subdivisions are highly variable, and for that reason the nature of effects were difficult to predict.
295. With regard to the submission of *NZFS* that the firefighting standard be applied to cross lease, company lease, and unit title subdivisions, the Reporting Officer recommended against accepting the submission because discretionary activities do not normally have associated performance standards and the DCC has scope to consider any relevant matters when processing submissions.

3.2.13.4 Hearing

296. Mr Bates and Mr Pitts (surveyors) on behalf of *New Zealand Institute of Surveyors* tabled a statement and spoke at the hearing. With regard to Policy 16.2.1.9 it was acknowledged that the s42A report recommended amending activity status of cross lease, company lease and unit title subdivision in the rural zones from non-complying to discretionary. The recommended policy would 'allow' this type of subdivision 'where it does not result in an increase in residential development potential beyond that which might be achieved through a general subdivision'. The submitter considered that the perceived threat of increasing residential development potential was unfounded and that these forms of subdivision are used so rarely in the rural zones that they should not be singled out in the activity status table.

3.2.13.5 Revised Recommendations

297. The Reporting Officer noted that the approach taken throughout the 2GP is to provide for 'general subdivision' and 'cross lease, company lease and unit title subdivision' separately. These are treated as two distinct activities within the Subdivision Activities Category, and each have their own activity definition. Although cross lease, company lease and unit title subdivision are rarely used in the rural zones, as discussed in the s42A Report the Reporting Officer considered that there is potential to use them to circumvent minimum site size provisions, and, therefore, that the inclusion of Policy 16.2.1.9 in the Plan is justified. In addition, she considered that discretionary rather than restricted discretionary activity status is justified, given that this type of subdivision is unusual in the rural zones, as opposed to general subdivision, which is common and anticipated.

3.2.13.6 Decision and reasons

298. We accept in part *NZ Institute of Surveyors*'s (RU490.29) submission to change the activity status for cross lease, company lease and unit title subdivision and agree with the Reporting Officer's recommendations with respect to amending Rule 16.3.5.2 and Policy 16.2.1.9 to reflect this. We do not accept *NZ Institute of Surveyors* request (RU490.28) to remove 16.2.1.9.
299. As explained by the Reporting Officer, and not disputed by the submitter's representatives Mr Pitts and Mr Bates, these types of subdivision are rarely used in rural zones, but could be useful for a few non-farming activities that are provided for in the rural zones, such as rural industries and rural tourism. To prevent these types of subdivision being used as a mechanism to get around the stringent rules for minimum lot sizes expected to be used for rural residential purposes, Rule 16.3.5 and Policy 16.2.1.9 can be amended in a way that distinguishes subdivisions for these

non-residential purposes. We consider that it may also be appropriate to review the activity status of these types of subdivision in rural residential and recreation zones but that this would need to be a matter for a future plan review because it is outside the scope of NZIS's submission. We adopt the recommendations of the Reporting Officer and have made the following changes to implement our decision (as shown in Appendix 1, attributed to RU 490.29):

- Amended Rule 16.3.5 from non-complying to discretionary in the rural zones and overlay zones and ASBV.
- Amended Policy 16.2.1.9 to reflect this new activity status, as follows:

~~Avoid~~ Only allow cross lease, company lease and unit title subdivision in the rural zones ~~unless where~~ it does not result in an increase in residential development potential beyond that which might be achieved through a general subdivision. {RU490.29}

- Deleted Rule 16.12.5 Assessment of non-complying subdivision activities
- Added a new Rule 16.11.4 Assessment of discretionary subdivision activities for "Cross lease, company lease and unit title subdivision {RU 490.29} referencing Policy 16.2.1.9. as follows:

Relevant objectives and policies (priority considerations): {RU 490.29}

- a. Objective 16.2.1 {RU 490.29}
- b. Cross lease, company lease or unit title subdivision do not result in an increase in residential development potential beyond that which might be achieved through a general subdivision (Policy 16.2.1.9). {RU 490.29}

3.2.14 Policy 16.2.3.8

3.2.14.1 Background

300. Policy 16.2.3.8 states: "Only allow subdivision activities where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the rural character and visual amenity of the rural zones." This policy is linked to the restricted discretionary status of general subdivision in the rural zones.

3.2.14.2 Submissions

301. *Federated Farmers of New Zealand* (OS919.54) submitted that provision should be made in Policy 16.2.3.8 for subdivision activities where these are ancillary to primary production. This submission was supported by *AgResearch Limited* (FS2398.20) and *Rural Contractors New Zealand Incorporated* (FS2450.20) for the same reasons as the original submission, and *Horticulture New Zealand* (FS2452.45) who stated that "the change ensures that needs of primary production are recognised".
302. *Timothy George Morris* (OS951.34) and *RG and SM Morris Family Trust* (OS1054.34) sought that Policy 16.2.3.8 is deleted or amended to be less 'unreasonable'.

3.2.14.3 Section 42A Report

303. In relation to *Federated Farmers'* submission, the Reporting Officer pointed out that the policy, under Objective 16.2.3 seeks an outcome in relation to rural character and visual amenity, whereas he considered that Policy 16.2.4.3, which sets out that subdivision should maintain or enhance the productivity of rural activities, was the appropriate place to consider and provide for subdivision contributing to productivity. He did not recommend accepting the submission.

304. The Reporting Officer also did not recommend acceptance of *Timothy Morris* and the *Morris Family Trust* to remove or amend the policy because he considered the policy to be necessary to achieve Objective 16.2.3 and ensure the effects of subdivision on rural character and amenity are considered.

3.2.14.4 Hearing

305. At the hearing, Ms Lynette Wharfe, for *Horticulture NZ*, expressed the view that rural production activities contribute to rural character so it would not be inappropriate to include wording sought in 16.2.3.8. Otherwise, she suggested 'ancillary to primary production' in Policy 16.2.4.3.

3.2.14.5 Revised recommendations

306. The Reporting Officer did not consider that Policy 16.2.4.3 requires amendment as clause (a) already specifies that subdivision will maintain or enhance productivity of rural activities. Further, he stated that "Policy 16.2.3.8 does not list land use activities associated with subdivision, but does specify that subdivision should maintain or enhance rural character and visual amenity. Rural production activities are unlikely to be at odds with this policy, and I am unclear why these (or ancillary) activities need to be spelt out in this policy."

3.2.14.6 Decision and reasons

307. We reject the submissions of both *Federated Farmers* (OS919.54) and *Timothy George Morris* (OS951.34) and *RG and SM Morris Family Trust* (OS1054.34) for the reasons given by the Reporting Officer. There may have been some apprehension on the part of the submitters that rural character and visual amenity are intended to relate only to natural landscape, vegetation etc. That is not our understanding.

3.2.15 Policy 16.2.4.3

3.2.15.1 Background

308. Policy 16.2.4.3 states: "Only allow subdivision where the subdivision is designed to ensure any future land use and development will:
- a. maintain or enhance the productivity of rural activities;
 - b. maintain high class soils for farming activity, or ensure any loss is no more than minor;
 - c. maintain land in a rural rather than rural residential land use; and
 - d. not increase the potential for reverse sensitivity from residential activities in the rural zones."
309. The policy is used with the restricted discretionary assessment of general subdivision and is also used as guidance for assessment of applications that do not comply with the minimum site size for subdivision standard. It is also a consideration in the assessment of a surplus subdivision.

3.2.15.2 Submissions in support

310. *Federated Farmers of NZ* (OS919.137), supported by *AgResearch Limited* (FS2398.25) and *Rural Contractors New Zealand Incorporated* (FS2450.25) submitted in support of the policy because they considered that the policy provided "an appropriate balance for subdivision in the rural area" (s42A Report, p. 207).

311. *Dianne Reid* (OS592.13) and the *Pigeon Flat Road Group* (OS717.15) supported the policy but noted that a flexible approach to subdivision was required "as adherence to minimum lot sizes may result in inefficient land use" (*ibid*). *David Hiom and Kerry Hiom* (FS2473.13) opposed Dianne Reid's submission as they were opposed to any subdivision in the Saddle Hill area.

3.2.15.3 Submissions to allow subdivision in a broader range of circumstances

312. *Salisbury Park Ltd* (OS488.12) sought amendment to Policy 16.2.4.3 to allow subdivision to convert land to a rural residential use where the circumstances in their proposed amendment to Policy 16.2.1.7 are met, including that rural land is already fragmented (s42A Report, p. 207). The submitter also sought inclusion of the word 'significantly' in clause (d) in relation to increased potential for reverse sensitivity. This was opposed by *AgResearch Ltd* (FS2398.24), *Rural Contractors NZ Inc* (FS2450.24) and *Horticulture NZ* (FS2452.49) as they considered the relief sought would encourage residential development in rural areas resulting in potential adverse effects on rural activities, including loss of high class soils for primary production through fragmentation, and reverse sensitivity effects on Rural Production activities and activities that have a functional need to locate in rural areas. *Horticulture New Zealand* also opposed the amendment as it considered that reverse sensitivity effects on Rural Production activities should be avoided.
313. *Glenelg Gospel Trust* (OS350.15), *Craig Horne Surveyors* (OS704.15), *Blueskin Projects* (OS739.15), *CTW Holdings* (OS742.15) and *G & J Sommers Edgar* (OS889.14) sought the same amendment to clause (c) of Policy 16.2.4.3 to reference (an amended) Policy 16.2.1.7 as that sought by *Salisbury Park*. They also sought a new clause (e), distinguished from other clauses by an "or", which would allow subdivision where it enables those restricted discretionary and discretionary land uses set out in the policies specified in their submission – these activities include a number of different rural, community, commercial and major facilities activities. *Glenelg Gospel Trust* was opposed by *AgResearch Limited* (FS2398.23) and *Rural Contractors New Zealand Incorporated* (FS2450.23) for the same reasons as given for the *Salisbury Park* (OS488.12) submission. *Egg Producers Federation of New Zealand* (FS2437.2) opposed the submission of *G & J Sommers Edgar* as the amendments weaken the intention of the policy to maintain rural land use; seek to be more enabling for subdivision, which may result in potential reverse sensitivity effects; and does not achieve the objectives and policies of the rural zone which prioritise rural production activities.

3.2.15.4 Submissions to enable conservation and protection of new species

314. *STOP* (OS900.106) sought the addition of a new clause (e) to allow for subdivision where conservation and restoration of the natural environment will be enabled, and protection for indigenous species enhanced. The amendment was supported by *Dianne Reid* (FS2200.3) and *HPPC* (FS2267.57) and opposed by *Federated Farmers* (FS2449.300) who considered it to be inconsistent with the purpose and intent of the objective and the 2GP in general.

3.2.15.5 Submission to expand scope of Policy 16.2.4.3

315. *Horticulture NZ* (OS1090.36) sought to amend Policy 16.2.4.3 to focus on all productive rural land, not necessarily limited to certain soil classes.

3.2.15.6 Submission to remove Policy 16.2.4.3

316. *Robert and Sharron Morris* (OS355.5) requested the removal of Policy 16.2.4.3, as they considered that it is unreasonable, as historically the Otago Peninsula was comprised entirely of small 15ha titles and that subdivision has the potential to increase productivity.

3.2.15.7 Section 42A Report

- 317. The Reporting Officer, Mr Michael Bathgate, noted the support of some submitters for Policy 16.2.4.3 and also noted that amendments proposed by other submitters for Policy 16.2.4.3 could lead to adverse effects on productive rural activities. Increased tolerance of a less than 'significant' increase in potential for reverse sensitivity effects caused by Residential activities in rural zones was at odds with the 2GP approach toward tolerance of reverse sensitivity effects within the rural zones.
- 318. Mr Bathgate considered the amendments sought by *STOP* (OS900.106) would detract from plan clarity as they are not related to Objective 16.2 and so are inappropriate.
- 319. He did not support the amendment proposed by *Horticulture New Zealand*, considering that the requirement for subdivision design to 'maintain and enhance the productivity of rural activities' applied to effects on rural productivity in a wider sense.
- 320. He also did not recommend accepting the submission of *Robert and Sharon Morris* to remove Policy 16.2.4.3. Although the submitters contended that subdivision has the potential to increase productivity, the Reporting Officer noted that this was already covered in clause a. of the policy and considered that the policy should remain.

3.2.15.8 Decision and reasons

- 321. We do not accept the amendments to Policy 16.2.4.3 to allow subdivision to convert land to a rural residential use proposed by *Salisbury Park Ltd* (OS488.12) and others or the inclusion of the word 'significantly' for all the reasons discussed above in relation to the policies and rules relating to minimum lot sizes for subdivision and the erection of new dwellings in the rural zones.
- 322. We do not agree with the addition of the new clause to Policy 16.2.4.3 proposed by *Glenelg Gospel Trust* (OS350.15) and others in order to allow subdivision that would enable restricted discretionary and discretionary land use activities for the reasons outlined by the Reporting Officer.
- 323. We do not accept the new clause to Policy 16.2.4.3 sought by *STOP* to allow for subdivision where conservation/restoration would be enabled because it would not relate to Objective 16.2. We also see a danger of such a clause being used to argue for subdivision for some form of rural residential use with a conservation/restoration element. It can also be noted that Policy 10.2.1.11 in the Natural Environment chapter addresses the matter of potential effects of subdivision on biodiversity values.
- 324. We do not accept the submission of *Robert & Sharon Morris* (OS355.5) to delete the policy because it supports Objectives 16.2.1, 16.2.2, 16.2.3 and 16.2.4.
- 325. We accept in part *Horticulture New Zealand's* (OS1090.36) submission to focus on all productive land and note that we have made a consequential amendment to reflect this as a result of our decisions under Rural Productivity amendments (see section 3.3).
- 326. We also note that we have amended this policy (and consequential amendments) as a consequence of the Plan Overview decision to clarify reverse sensitivity as follows:

16.2.4.3.d "not increase the potential for reverse sensitivity from residential activities in the rural zones {PO 1046.5}".

3.2.16 Policy 16.2.4.4

3.2.16.1 Background

327. Policy 16.2.4.4 states "Avoid residential activity in the rural zones at a density that may, over time and cumulatively, reduce rural productivity by displacing rural activities."

3.2.16.2 Submissions

328. *Federated Farmers of NZ* (OS 919.138) submitted in support of Policy 16.2.4.4 as they considered that it appropriately manages the risks posed by residential subdivision to rural production. This submission was supported by *AgResearch* (FS2398.29) and *Rural Contractors* (FS2450.29) for the same reasons as provided by the original submitter.
329. *Glenelg Gospel Trust* (OS350.16), *Salisbury Park* (OS488.13), *Craig Horne Surveyors* (OS704.16), *Blueskin Projects* (OS739.16), *CTW Holdings* (OS742.16) and *G & J Sommers Edgar* (OS889.15) sought amendment to Policy 16.2.4.4 to recognise the need to enable appropriate development of undersized rural sites, including for rural residential development. *Salisbury Park* was supported by *Jane Mcleod* (FS2169.4) who asked for a consistent approach to the zoning of fragmented rural sites. The submissions of *Glenelg Gospel Trust* and *Salisbury Park* were opposed by *AgResearch* (FS2398.26 & 27) and *Rural Contractors New Zealand* (FS2450.26 & 27) as they considered the relief sought would encourage residential development in rural areas. *Horticulture New Zealand* (FS2452.50) opposed the submission of *Salisbury Park* as it considered the proposed Plan provides a policy framework to ensure that rural production land is retained for Rural activities, and was concerned about potential for reverse sensitivity effects from non-rural development. *Egg Producers Federation* (FS2437.6) opposed the submission of *Craig Horne Surveyors* as "it enables residential development in the rural zone resulting in the potential for adverse effects to arise.
330. *The Pigeon Flat Road Group* (OS717.16) and *Dianne Reid* (OS592.14) sought the redrafting of Policy 16.2.4.4 as it was directed at district-wide issues rather than site specific analysis, and the submitters considered that it was more appropriate to "manage" rather than "avoid" Residential activity. *Dianne Reid's* submission was opposed by *AgResearch* (FS2398.28) and *Rural Contractors New Zealand* (FS2450.28) as they considered the relief sought would encourage residential development in rural areas resulting in potential adverse effects on rural activities, including loss of high class soils for primary production through fragmentation, and reverse sensitivity effects on rural production activities and activities that have a functional need to locate in rural areas. *Dianne Reid's* submission was also opposed by *David and Kerry Hiom* (FS2473.14), with the reasons related to their opposition to more intensive zoning and a higher intensity of use in their vicinity of Saddle Hill Road.
331. *STOP* (OS900.107) sought addition of conservation activities in the policy as it considered where farming is marginal that conservation, restoration and subsequent eco-tourism may in fact be the way of the future. This submission was supported by *HPPC* (FS2267.58) as "the amendment highlights the important value of conservation".

3.2.16.3 Section 42A report

332. In relation to the submissions of *Glenelg Gospel Trust* and others, as discussed in relation to submissions on Objective 16.2.1 and Policy 16.2.1.7, the Reporting Officer, Mr Michael Bathgate, reiterated that zoning was the best approach to providing for Rural Residential activity and did not favour amendment to the policy as it may encourage Rural Residential activity.

333. In relation to the submissions of *Pigeon Flat Road Group* (OS717.16) and *Dianne Reid* (OS592.14), the Reporting Officer agreed that the policy was directed towards managing effects of residential activity at a wider level and recommended that the more directive term 'require' was used instead of avoid:
- ~~"Avoid~~ Require residential activity in the rural zones to be at a density that ~~may~~will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities." {RU592.14, RU717.16}
334. With regard to including conservation activities in the policy as sought by STOP, the he considered that this would detract from Plan clarity.

3.2.16.4 Hearing

335. Mr David Cooper, for *Federated Farmers NZ*, agreed with the recommended amendment to Policy 16.2.4.4.

3.2.16.5 Decision and reasons

336. We reject the submissions from *Glenelg Gospel Trust* (OS350.16) and others to amend Policy 16.2.4.4 because, as discussed above in relation to other elements of the Trust's submission, the evidence was that residential and rural residential use of land in rural areas can be in conflict with farming and other rural values such as landscape so is best provided for with specific Rural Residential zones.
337. We reject the submission from *STOP* (OS900.107) to add conservation to Policy 16.2.4.4, for the reasons outlined by the Reporting Officer.
338. We accept in part the submissions from *Dianne Reid* (OS592.14) and *Pigeon Flat Road Group* (RU717.16) and have amended Policy 16.2.4.4 to use 'require' at the start of the policy along with slight wording changes to clarify that the policy applies in the future tense. We agree with the reasons for these amendments set out by the Reporting Officer in the Section 42A Report.

3.3 Rural Productivity

3.3.1 Introduction

339. This section of the Decision Report responds to submissions on provisions relating to high class soils and rural productivity.
340. Part 2 of the RMA requires the safeguarding of the life supporting capacity of soil (s5(b)) and that particular regard should be had to any finite characteristics of natural and physical resources (s7(g)).
341. The 2GP addresses this requirement through two mechanisms:
- Provisions related to high class soils
 - Provisions related to 'rural productive values' and 'productive rural land'.
342. The notified provisions related to high class soils include:
- Identification of high class soils in a 'mapped area' overlay (set up by Policy 2.2.2.1.d and 2.3.1.2.f)

- Provisions that restrict the removal of high class soils (Rule 16.6.1.8) under Policy 16.2.4.1, supported by associated assessment rule 16.9.6.11.
- Consideration of the presence of high class soils in the case of applications for restricted discretionary or discretionary land use activities (Policy 16.2.4.2 and assessment rules 16.10.2 and 16.11.2) and subdivision activities (Policy 16.2.4.3 and assessment rules).

3.3.2 High class soils and productive land

3.3.2.1 Background

343. Although not defined within the 2GP, the operative District Plan definition for high class soils "means soils that are capable of being used intensively to produce a wide variety of plants including horticultural crops. This requires good soil and other resource features, including land and climatic factors, soil physical factors, soil water factors and soil chemical factors that in combination are capable of producing a wide range of crops."

3.3.2.2 Submissions

344. *Dunedin City Council* (OS360.161) sought to add a new definition of high class soils because a definition was omitted from the proposed 2GP in error.
345. *Egg Producers Federation of New Zealand* (OS702.11) sought to replace the term 'high class soils' with 'high class land' along with consequential changes to Plan terminology because it considered that the productive capacity of land also includes other characteristics such as soil structure, water availability, topography and climate as defined in the Land Use Capability Survey Handbook (Lynn et al., 2009). The submitter noted that some rural production activities (e.g. poultry farming) may use sheds which need well-drained, flat rural land and proposed a new definition as follows:
- "High Class Land –
Land valued for its significance, including:
- a. Versatility for primary production, such as highly versatile land;
 - b. Pollutant buffering or filtering services;
 - c. Providing water storage or flow retention services;
 - d. Rarity."
346. *Otago Regional Council* (FS2381.13) opposed the submission of the *Egg Producers Federation of New Zealand* as it was 'inconsistent' with the definition of high class soils in the proposed Otago Regional Policy Statement. *Pigeon Flat Road Group* (FS2416.37) also opposed the submission of the *Egg Producers Federation of New Zealand* as it was 'uncertain' and in the submitter's view, likely to capture large areas of land.
347. *Dunedin Rural Development Inc.* (OS853.1) sought to add a new definition of high class soils, and wished to see it aligned with the Otago Regional Council definition contained in the Regional Policy Statement (also noting that ORC has a 'High Value' soils category). The submission was supported by *Robert Francis Wyber* (FS2059.6) "to the extent that an agreed definition can be found".
348. *AgResearch Limited* (OS924.8) sought to include a definition for high class soils "to provide greater clarity and certainty with respect to the soil resource that is being protected". The new definition would use the New Zealand Land Resource Inventory

Land Use Capability (LUC) classes 1 or 2. *AgResearch Limited* (OS924.22) also sought a review of the zoning maps to ensure that the high class soils mapped areas were consistent with the definition.

349. *Rural Contractors New Zealand Incorporated* (OS911.3) also sought to add a new definition of high class soils: "Land classified as Land Use Capability I or II in the New Zealand Land Resource Inventory" and to review the high class soils mapped area to ensure that the area of high class soils was consistent with the proposed definition "to provide greater clarity and certainty with respect to the soil resource that is being protected". The submitter also sought alignment with the definition of 'versatile soils' in the proposed Otago Regional Policy Statement. *Robert Francis Wyber* (FS2059.5) supported the *Rural Contractors Ltd* submission to add a new definition of high class soils in part because "if high class soils are to be avoided then first they need to be defined" (s42A Report, p. 59).
350. *Horticulture New Zealand* (FS2452.32) supported the submission of the *Egg Producers Federation of New Zealand* (OS702.11) to replace the term 'high class soils' with 'high class land' in part because it would be consistent with changes sought by *Horticulture New Zealand* (OS1090.13) to broaden the scope of Policy 2.3.1.2 (discussed in section 3.3.5 below). However, *Horticulture NZ* opposed the *Rural Contractors Ltd* proposed new definition of high class soils because it did not wish to see 'high class land' limited to land use capability classes (FS2452.69) and opposed the *AgResearch Limited* submission for similar reasons (FS2452.33). It also opposed in part the *Dunedin City Council* submission because it was 'unclear' what the new definition would be and sought that the name instead be amended to 'high class land' (FS2452.68).

3.3.2.3 Section 42A Report

351. The Reporting Officer, Katie James, explained that the high class soils mapped areas in the 2GP were carried over from the operative District Plan and included soils that were originally identified and mapped by Landcare Research, which investigated high class soils in Otago for the Otago Regional Council. Dr James noted that the criteria used to classify soils as high class included water availability, adequate drainage, soils not being subject to severe winds, and slopes no more than 'rolling', among other factors (see McIntosh, 1993).
352. In making recommendations on the submissions to define high class soils or land, Dr James agreed with the submitters that a definition for high class soils was necessary to provide clarity and enable consistent interpretation of related provisions as well as alignment with the pORPS-dv (s42A Report, p.60).
353. In the introduction to the high class soils discussion (s42A Report, p. 58), the Reporting Officer noted that the proposed pORPS-dv set out a policy for 'significant soils', and a policy containing a list of criteria for identifying significant soils as follows:

Policy 3.2.17

Identify areas of soil that are significant according to one or more of the following criteria:

- (a) Land classified as land use capability I, II and IIIe in accordance with the New Zealand Land Resource Inventory;
 - (b) Degree of significance for primary production;
 - (c) Significance for providing contaminant buffering or filtering services;
 - (d) Significance for providing water storage or flow retention services;
 - (e) Degree of rarity.
354. With regard to land use capability (LUC) classes, Dr James explained that this is a classification system derived from the New Zealand Land Resource Inventory, which

rates the ability of land in terms of its long term capability to sustain one or more productive uses, as set out in the Land Use Capability Survey Handbook 3rd Edition (Lynn et al., 2009). LUC classes 1-3 refer to arable land suitable for horticulture as well as pastoral farming and forestry, where class 1 has the most versatility in terms of arable use. Dr James explained that the 2GP high class soil areas are not equivalent to LUC class 1-3 areas as they were measured at a different scale and with different criteria, although in some cases there is overlap.

355. In response to submissions requesting that LUC classes be used to define or map high class soils, Dr James did not consider it to be appropriate because the high class soils and LUC classifications measure different factors at different scales. As discussed in the s42A Report, the high class soils mapped area was introduced to provide a more detailed picture of soils at a local scale and in the opinion of the Reporting Officer it was appropriate that this approach was retained within the 2GP to protect soils that are important for primary production, but which are finite and limited in location.
356. Dr James did not recommend accepting the definition proposed by the *Egg Producers Federation of New Zealand* as it lacked clarity and it "was likely to capture far greater areas of land" (s42A Report, p. 60). In response to the submitter's comment about some rural activities needing well drained, flat land, she noted that the high class soils background information indicated that similar factors were considered as criteria in the original identification of the high class soils mapped area.
357. The Reporting Officer recommended adding a definition for high class soils reflecting the definition used in the operative District Plan, but which provided clarification in terms of the data used to identify areas of high class soils, as follows:

High Class Soils

Soils that are capable of being used intensively to produce a wide variety of plants including horticultural crops. This requires good soil and other resource features, including land and climatic factors, soil physical factors, soil water factors and soil chemical factors that in combination are capable of producing a wide range of crops.

For the purposes of the provisions of this Plan 'High Class Soils' specifically refers to those areas identified in the High Class Soils Mapped Area which maps soils based on original criteria contained in the report High Class Soils of Otago (McIntosh, 1993, Landcare Research Contract Report: LC9293/85), with further refinements based on Soils of the Strath Taieri Basin and their Attributes (Lynn and Carrick, 2003, Landcare Research Contract Report: LC0304/10) and Soils of the Taieri Plain and their Attributes (Carrick, and Lynn, 2003, Landcare Research Contract Report LC0304/045.) {RU360.161, RU853.1}.

358. With regard to alignment with the pORPS, as requested by *Rural Contractors Ltd*, Dr James noted that the pORPS-dv did not use the term 'versatile soils'. In addition, the Reporting Officer considered that the scope of the soils provisions in the 2GP was focused on primary production rather than on the broader interests and responsibilities of the ORC with respect to soil (see s42A Report, p. 61 for discussion). She considered that alignment with the pORPS-dv could be achieved by providing for high class soils as well as by taking a broader focus on LUC classes.
359. Dr James considered that it may be appropriate to more broadly consider the importance of areas of land for primary production as there may be areas of particular value for production that are not mapped as high class soils, particularly on the Taieri Plain and in the Middlemarch Basin.
360. The s42A Report notes that LUC classes 1-3 were used in the Plan's development as criteria for excluding undersized rural sites being zoned Rural Residential 2, as well as in identifying future residential land. In the Reporting Officer's opinion, the use of LUC classes could provide a broader view of the productive potential of land, complementing the specific protection afforded to high class soils in the rural and

rural residential zones. She recommended that LUC classes 1-3 were added as a consideration in assessment rules 16.10 and 16.11 which relate to the assessment of applications for uses other than farming. To assist this she recommended that a layer showing LUC classes 1-3 be added to the 2GP data map. She considered the data map to be a more appropriate location for the map as LUC classes would not be linked to a performance standard in the same way as the high class soils provisions.

361. Dr James considered that the use of LUCs would align with Strategic Policy 2.2.2.1, which seeks to identify areas important for food production, as well as aligning with the proposed pORPS-dv policy on significant soils. With regard to the pORPS policy on significant soils, the Reporting Officer noted that ORC's further submission objected on the basis of the notified version of the pORPS rather than the pORPS-dv.

3.3.2.4 Hearing

362. At the hearing, *AgResearch Limited* tabled evidence supporting the Section 42A Report recommendation for high class soils. *Rural Contractors New Zealand* did not appear or provide a tabled statement.
363. The *Egg Producers Federation of New Zealand* called Mr Israelson to provide expert planning evidence. In response to the s42A Report, he accepted that the definition of high class land proposed by the submitter lacked clarity and would have wider reaching effects than intended. He considered that the 2GP "provides an acceptable level of direction", while reiterating that poultry farms need to be established in large, generally flat blocks of rural land (Evidence of Poul Israelson, para 5.10).
364. In his evidence for the hearing, Mr Harris, a soil expert and Chair of Dunedin Rural Development Inc., called by *Dunedin Rural Development Inc.*, noted that there are a number of other different terms used to describe high class soils including 'high quality', 'elite', 'versatile', 'high value' and 'productive'. Mr Harris submitted that "it is important that it is clear to all landholders and developers involved in the 2GP plan that the same terminology/definitions be used by the DCC and ORC..."
365. Lynette Wharfe, was called by *Horticulture New Zealand* to provide resource management evidence. She reiterated the submitter's position that it did not wish to see provision for productive land limited to high class soils and LUC 1-3 land. She suggested that high class soils could be replaced by the term 'high class land' because it encompassed wider factors. Noting that the pORPS-dv took a broader view of 'significant soils' she suggested that Council needed to consider how the wider description fits into the 2GP framework. In terms of not limiting the focus, Ms Wharfe stated that "it is appropriate that the district plan seeks to ensure the life supporting capacity of all soils are safeguarded" (Evidence of Lynette Wharfe, p. 10, para 6.26).
366. The ORC was called by the Panel to answer some general questions but did not provide a tabled statement.

3.3.2.5 Revised Recommendations

367. After hearing the evidence, Dr James reiterated her view that her proposed relief would be the most appropriate to address the concerns of the submitters. In response to the evidence presented by Ms Wharfe, she did not consider that it was appropriate to label the currently identified areas of high class soils as 'high class land' as this would not improve clarity. This was because, if the 2GP was to provide additional provisions for land values in a wider sense, it would not be appropriate, in her opinion to equate the presently identified areas more broadly as 'high class land'. In addition, it was also noted that, given the need to align with the pORPS-dv, that it was appropriate to retain the 'soils' term to provide for Dunedin's most valuable soils (Revised Recommendations Summary, p. 20).
368. With respect to *Horticulture New Zealand's* opposition to the use of LUC classes, Dr James stated that the intent of the recommendation to use LUC 1-3 was to broaden the consideration from high class soils to land more generally, as well as aligning with one of the criteria of the pORPS-dv.

369. The Reporting Officer considered that the scope could be broadened further to other areas outside of HCS mapped areas and LUC 1-3 areas that are of significance for primary production, subject to further information being provided by the submitter or ORC. If there was further information provided identifying other areas of high value production land, it was suggested that such areas could potentially be provided for through a later plan change.
370. The Reporting Officer noted *Horticulture New Zealand's* point regarding the need to give effect to the pORPS's significant soils policy once operative and that this would include a wider set of values than productivity. While she did not consider it necessarily appropriate to use the term 'significant soils', it was also noted that the protection of other values of soil (such as providing a contaminant buffer) are provided for in the 2GP through earthworks standards which seek to minimise soil disturbance (Revised Recommendations Summary, p. 20).
371. With respect to Mr Harris' suggestion that the DCC and ORC should use the same terminology as each other, Dr James agreed that it would be useful for the same terminology to be used by both the ORC and the DCC soils provisions. While noting the uncertainty around the final shape of the ORC's significant soils policy, she considered that the high class soils provisions along with the addition of LUC 1-3 classes to assessment criteria would give effect to clause a and b of the significant soils policy, relating to LUC1-3e and 'degree of significance for primary production' respectively.

3.3.2.6 Decision and reasons

372. We accept in part the submissions by *Dunedin City Council* (OS360.161), *Dunedin Rural Development Inc.* (OS853.1) and *Egg Producers Federation of New Zealand* (OS702.11) with respect to clarifying the basis of the identification of the high class soils mapped area.
373. However, rather than adding a definition of high class soils as recommended by the Reporting Officer, our decision is to add a new strategic policy under Objective 2.3.1: 'Protection of land important for economic productivity', to set up the high class soils provisions and explain the criteria that were used to determine high class soils. This is similar to the way in which Policy 2.2.3.1 sets up provisions for Areas of Significant Biodiversity Value in the Natural Environment section.
374. The new strategic policy reads as follows:

Policy 2.3.1.9

Identify areas of high class soils and promote the protection of these through a high class soils mapped area. Identify areas which have all of the following criteria:

- a. slope at most rolling (15° or less);
- b. at most, moderate erosion susceptibility;
- c. water available;
- d. mean annual temperature greater than 8°C;
- e. not subject to severe winds;
- f. not very gravelly horizon at surface;
- g. not peaty or fragmental;
- h. drainage adequate or readily improved;
- i. pans, if present, capable of amelioration;
- j. 25mm or more readily available water to 60cm depth;
- k. 100mm or more total available water to 1m depth; and
- l. pH greater than 4.8 and less than 7.5. {RU360.161, RU853.1}

375. We also accept in part the submission of *AgResearch Limited* (OS924.8, OS924.22) and *Rural Contractors New Zealand Incorporated* (OS911.3), which asked for LUC classes to be used to define HCS. This also gives partial relief to *Horticulture New*

Zealand's submissions on Policy 2.3.1.2 and Policy 16.2.4.2 {OS1090.13 and OS1090.35} discussed below in sections 3.3.5 and 3.3.9.

376. This relief is given through our decision to add a definition of 'highly productive land', amend relevant policies to refer to 'highly productive land' and to provide guidance to assist in determining whether land is 'highly productive' in assessment rules.
377. We note that these amendments are based on the Reporting Officer's recommendation to broaden the consideration of land important for productivity beyond the high class soil mapped area, and in part on amendments recommended by her, with some minor variations.
378. We accept the evidence of the submitters with respect to broadening the consideration of productive areas of land and consider that the use of 'highly productive land' will more appropriately allow for the consideration of not only HCS mapped areas and the LUC of any given area of land, but also any other evidence related to productive values.
379. Specific amendments that have been made as a result of this decision are as follows.
- A new definition of highly productive land has been added which reads:

"Highly Productive Land

Land that has the ability to sustain the production of a wide variety of plants including horticultural crops, through a combination of land, soil and climate attributes {RU 1090.13}

Rules 16.9.5.5, 16.10.2.1, 16.10.4.1, 16.11.2.2, 16.11.2.3, 16.11.2.4, 16.11.2.5, and 16.12.6.6 have been amended to add new general assessment guidance as follows:

"In determining whether land is 'highly productive land', Council will consider its land use capability (LUC) classification, the high class soils mapped area (HCS), as well as any other evidence related to productive values. The expectation is that land in the HCS mapped area and/or that has a LUC 1-3 classification will be considered 'highly productive land'. Note that information about the LUC classification is provided on the Landcare Research website (<https://www.landcareresearch.co.nz>) and LUC 1-3 areas are shown on the Data Map (<https://apps.dunedin.govt.nz/webmaps/secondgenerationplandata/>) {RU 1090.13}

The following policies have been amended to refer more broadly to 'highly productive land':

- Policy 2.2.2.1 (consideration in terms of identifying appropriate areas for urban expansion)
- Policy 2.3.1.2 (consideration in terms of zoning and rules limiting subdivision and residential activity)
- Policy 16.2.4.2 (consideration in terms of applications for RD and D activities in the rural zone)
- Policy 16.2.4.3 (consideration in terms of applications for subdivision)

These policy changes are discussed further in sections 3.3.3, 3.3.5 and 3.3.9 below.

3.3.3 Policy 2.2.2.1

3.3.3.1 Background

380. 'Rural productive values' (which include, but are not limited to soils) are considered when evaluating appropriate areas for future urban expansion through Policy 2.2.2.1, which reads:

"Identify areas important for food production and protect them from activities or subdivision (such as conversion to residential-oriented development) that may diminish food production capacity through:

- a. use of zoning and rules that limit subdivision and residential activity, based on the nature and scale of productive rural activities in different parts of the rural environment;
- b. consideration of rural productive values in identifying appropriate areas for urban expansion; and
- c. identification of areas where high class soils are present (high class soils mapped area); and
- d. use rules that require these soils to be retained on site."

3.3.3.2 Submissions

381. *Federated Farmers of New Zealand* (OS919.7) sought to amend Policy 2.2.2.1 because of concern about how areas important for food production would be identified and protected and, although supportive of the intent of the policy, suggested that it needed to be more specific. The submitter stated that "food production is not simply reliant on one input and attempting to define 'productive areas' (e.g. through soil type) can both unnecessarily exclude areas which may be productive irrespective of that factor, and unreasonably control land use activities which do not fundamentally or significantly impact that production" (s42A Report, p. 76). The submitter also requested deletion of clause (d) requiring high class soils to be retained on site.

382. *Federated Farmers of New Zealand* requested that the policy be amended as follows:

'Identify areas important for food production and protect them from inappropriate or incompatible activities or subdivision (such as conversion to residential use ~~oriented development~~) that may diminish food production capacity through:

- a. use of zoning and rules that limit inappropriate subdivision and residential activity, based on the nature and scale of productive rural activities in different parts of the rural environment;...and ~~d. use rules that require these soils to be retained on site.'~~

383. *Horticulture New Zealand* (FS2452.34) supported the submission by *Federated Farmers of New Zealand* to amend Policy 2.2.2.1, because it provided "a more robust policy framework" (s42A Report, p. 76).

384. *HPPC* (FS2267.1) opposed the submission by *Federated Farmers of New Zealand* to amend Policy 2.2.2.1 because the submitter considered that the use of 'inappropriate' and 'incompatible' were vague and undermined the policy; and the deletion of clause (d) would "allow top soils to be 'mined' and shipped out of the district". Similarly, *Forest and Bird NZ* (FS2482.9) opposed the submission because 'inappropriate' and 'incompatible' were not defined and because clause (d) "is consistent with protection and maintenance of biodiversity" (s42A Report, pp. 76-77).

3.3.3.3 Section 42A Report

385. The Reporting Officer, Michael Bathgate, agreed with the submission by *Federated Farmers of New Zealand* (OS919.7) to include the words "inappropriate or

incompatible" in the first sentence of Policy 2.2.2.1. Mr Bathgate considered that this added clarity and meaning to the policy that it is certain types of activities or forms of subdivision that are of concern, not an unspecified aversion to any activity or subdivision. However, the Reporting Officer did not recommend that the word 'inappropriate' be added into clause (a), because the "rules limit all subdivision in the rural zones, not just inappropriate subdivision."

386. Mr Bathgate did not agree with the further submissions of *HPPC* and *Forest and Bird New Zealand* that the terms 'inappropriate' and 'incompatible' are vague and should not be used because they are not defined. He considered these terms to be 'plain English' and appropriate wording for objectives and policies, "with their meaning becoming evident through the underlying activity status rules and performance standards which set out the types and level of activities that are both appropriate and compatible" He noted that the terms are already used in strategic objectives and policies, for example Objective 2.3.1 and policies 2.3.1.4, 2.3.1.5 and 2.6.3.1. He also noted that assessment rules in the 2GP are used to expand on the meaning and interpretation of policies (s42A Report, p. 77).
387. With respect to the request to amend 'residential-oriented development' to 'residential use', Mr Bathgate explained that 'residential-oriented development' was aimed at being broad enough to include the transformation of land through subdivision as well as land use activities that eventuate in residential activity. It was also intended to be broad enough to be inclusive of conversion of farmland to residential activity at a rural residential scale. However, he considered that the submitter's proposed wording was clearer and achieved a similar meaning. Noting that the phrase in parenthesis is provided as an example only, it was recommended that the amendment be accepted.
388. The Reporting Officer (Dr James) did not agree with the *Federated Farmers of New Zealand* request to delete clause (d) and considered that the requirement for high class soils to be retained on site was an appropriate method toward achieving Objective 2.2.2. She also noted that there are potential circumstances which may support a consent application where high class soils are disturbed, including that the development will involve a productive rural activity, the site design will minimise the effect of the activity on the high class soils or that the soils are being removed to enhance the productivity of another site (Rule 16.9.6.11).
389. However, Dr James agreed with *Federated Farmers of New Zealand* that productivity is a factor of more than soil type alone and, as recommended with respect of the wider discussion about high class soils, recommended that the approach should be broadened. Along with the other amendments discussed, the Reporting Officer recommended amending Policy 2.2.2.1 to refer to LUC classes 1-3 so that the policy would read:

"Identify areas important for food production and protect them from inappropriate or incompatible {RU919.7} activities or subdivision (such a conversion to residential use-oriented development) {RU919.7} that may diminish food production capacity through:

... b. consideration of land use capability and high class soils classifications ~~rural productive values~~ {RU919.7} in identifying appropriate areas for urban expansion; ..."

390. The Reporting Officer also recommended consequential changes to Policy 16.2.4.2 and Policy 16.2.4.3 and assessment matters to include consideration of LUC classes.

3.3.3.4 Hearing

391. At the hearing, Ms Wharfe, for *Horticulture NZ*, expressed concern that the recommended change to Policy 2.2.2.1 would remove the wider focus on rural productive values and no submitter had sought the changes.

3.3.3.5 Revised recommendations

392. With regard to the concern raised by Ms Wharfe, Dr James explained that the proposed amendment from 'rural productive values' to referring to land use capability and high class soil classifications was to provide a specific linkage through to rural provisions requiring consideration of mapped HCS and LUC areas in identifying whether areas are appropriate for urban expansion. In her opinion, it was appropriate that more specific wording was used as the policy relates directly to food production capacity and not rural productivity in a broader sense, which could include any number of different rural activities. With regard to the submitter's concern that no submitter had directly sought the changes to clause b., Dr James noted that the change would be in line with her recommendation to widen the consideration of productive land.
393. *Federated Farmers* did not discuss its submission on 2.2.2.1 at the hearing.

3.3.3.6 Decisions and reasons

394. We accept in part the submission of *Federated Farmers of New Zealand* (OS919.7) with respect to referring to 'residential use' rather than 'residential oriented development' as we consider that this makes the intended meaning clearer.
395. We have also accepted the submitter's request to be more specific about how areas important for food production are to be identified and have addressed this by amending clause b of the policy to refer to 'highly productive land' as recommended by the Reporting Officer. This addition is consistent with our overall decision on identification of productive soils and land, which addressed the submitter's concerns by not only considering soil type but allowing consideration of "land, soil and climate attributes".
396. However, we do not accept the other changes requested in this submission point as we do not consider that the words 'inappropriate or incompatible' add any clarity to the policy. An activity or subdivision may be appropriate or compatible at a certain scale, design or location but may not be in a different form or location. The addition of these words would suggest a level of certainty around the exclusion of particular activities that we do not consider should be stated so directly in this strategic policy. We prefer to leave the remainder of the policy to provide direction on how areas important for food production will be protected from activities or subdivision that may in some circumstances be inappropriate or incompatible.
397. With regard to the submitter's request for the second insertion of the word 'inappropriate', we agree with the Reporting Officer that all subdivision is intended to be limited to some extent by 2GP rules, regardless of whether or not it may be considered appropriate, and do not accept this part of the *Federated Farmers* submission.
398. We also reject *Federated Farmers'* request to delete the clause requiring the retention of high class soils on site for the reasons outlined by the Reporting Officer as summarised above.
399. We note we have also made a clause 16 change to combine c and d of this policy, which were incorrectly split into two clauses.
400. To implement these decisions, we have amended Policy 2.2.2.1 as follows:
- Identify areas important for food production and protect them from activities or subdivision (such as conversion to residential use ~~oriented development~~) {RU 919.7} that may diminish food production capacity through:
- a. use of zoning and rules that limit subdivision and residential activity, based on the nature and scale of productive rural activities in different parts of the rural environment;

- b. consideration of rural productive values, including the location of highly productive land {RU 1090.13, RU 919.7} in identifying appropriate areas for urban expansion; and
- c. identification of areas where high class soils are present (high class soils mapped area) and use rules that require these soils to be retained on site.⁷
and
- ~~d. use rules that require these soils to be retained on site. {RU cl.16}~~

3.3.4 Objective 2.3.1

3.3.4.1 Background

401. Objective 2.3.1 reads:

"Objective 2.3.1: Protection of land important for economic productivity

Land that is important for economic and social prosperity, including industrial areas, major facilities, key transportation routes and productive rural land, is protected from less productive competing uses or incompatible uses."

3.3.4.2 Submissions

- 402. *Joel A Vanderburg* (OS189.3) sought to retain Objective 2.3.1 (implied) and supported "the emphasis on supporting the agricultural/food growing sector". The objective was also supported by *Oceana Gold (New Zealand) Limited* (OS1088.16) because "mining is a highly productive use of land" and *Horticulture New Zealand* (OS1090.12) because it included provisions providing protection for productive rural land.
- 403. *Federated Farmers of New Zealand* (OS919.102) also submitted in support of the intention of the Objective 2.3.1 but considered that primary production was reliant on a range of factors other than land use and the objective should be "reworded to provide for these broader aspects contributing to primary productive capacity", as follows:

'Objective 2.3.1: Protection of ~~land important for economic productivity~~
primary production capacity...'
- 404. *HPPC* (FS2267.4) and *Forest and Bird New Zealand* (FS2482.12) opposed the request by *Federated Farmers of New Zealand* to amend Objective 2.3.1 to refer to 'primary production capacity', the former because it considered that the District Plan "is about land use only and is not related to protection of farming capacity" and the latter because of concern that specifying primary production capacity "appears to limit the consideration of other uses described in the policies" (s42A Report, p. 84).
- 405. *Pigeon Flat Road Group* (OS717.2, alongside *Dianne Reid* (OS592.1), sought to add new policies under Objective 2.3.1 to allow for alternative development opportunities that achieve economic and social prosperity, and to allow rural living in low productivity areas. These submissions were opposed by *AgResearch Limited* (FS2398.3, FS2398.4) and *Rural Contractors New Zealand Incorporated* (FS2450.3, FS2450.4) because they were concerned that it would encourage residential and rural residential subdivision and result in potentially adverse effects on rural activities, including "loss of high class soils for primary production through fragmentation; and reverse sensitivity effects on rural production activities and activities that have a functional need to locate in rural areas". In addition, *Horticulture New Zealand* (FS2452.35) opposed OS592.1 because the 2GP as proposed "provides a policy framework to ensure that rural production land is retained for rural activities". *David Hiom and Kerry Hiom* (FS2473.1) also opposed OS592.1 with the reasons relating to their opposition to more intensive zoning and a higher intensity of use in the vicinity of Saddle Hill Road.

3.3.4.3 Section 42A Report

406. The Reporting Officer, Michael Bathgate, did not agree with the submission of *Federated Farmers of New Zealand* that the title should be changed to "Protection of primary production capacity" as this strategic objective covers a broader range of economic land, *activities* and facilities, such as industrial land and major facilities. He agreed with the submission of *Forest and Bird New Zealand* that specifying primary production capacity would limit the consideration of other uses described in the policies under Objective 2.3.1.
407. However, Mr Bathgate agreed with *Federated Farmers of New Zealand* that the objective should be reworded to provide for broader aspects of economic productivity than just land. He noted that amendments to the objective were recommended, via the Industrial and Network Utilities Section 42A Reports, which broadened the objective beyond 'land' to also refer to the protection of 'land use activities' and 'facilities'. Mr Bathgate considered that this amendment addressed the submission by *Federated Farmers of New Zealand* regarding the broader aspects that contribute to primary production capacity. However, he noted that the amended version of the title was now confusing as it specified 'land and facilities', whereas the body of the objective included 'land, and land use activities and facilities'. Therefore, he proposed another amendment to clarify this which, while it shortened the title of the objective, resulted in a title more in keeping with the drafting of other titles of objectives throughout the Strategic Directions section:
- "Objective 2.3.1: Protection of ~~land and facilities~~ {~~NU 457.12 and others~~} ~~important for~~ economic productivity..." {RU919.102}
408. Mr Bathgate noted that this provided a different version of the title to that recommended in the Network Utilities s42A Report, but considered that the move away from solely specifying 'land' in the title, combined with recommended amendments within the body of the objective, would still provide an adequate response to the submissions considered in the Network Utilities s42A Report.
409. Mr Bathgate did not agree with the submissions of *Dianne Reid* or the *Pigeon Flat Road Group* that two new policies were needed under Objective 2.3.1 to provide for alternate development opportunities or opportunities for rural living. In his view, the intent of Objective 2.3.1 was to identify and protect land and other resources that are important for economic productivity and protect them from competing or incompatible uses.
410. Mr Bathgate considered that the policies proposed by the submitters would operate in conflict with Objective 2.3.1 and its policies, in effect seeking to open a gateway to ignore or override the other policies that seek to achieve the objective. He recognised the intent of the submitters to offer alternate economic opportunities where land is considered of low productivity, but he considered that both residential activity, and the subdivision of rural land specifically to achieve this, do not fall within the ambit of the economic productivity outcomes the strategic objective and its policies are trying to achieve. Mr Bathgate agreed with the further submitters that the new policies would encourage residential and rural residential subdivision and result in potentially adverse effects on rural activities, and recommended against adding the two new policies under Objective 2.3.1.

3.3.4.4 Hearing

411. At the hearing, *Federated Farmers of New Zealand* supported the Section 42A Report recommendation in terms of Objective 2.3.1. The submitter discussed different concepts of productivity, raising the difference between the farmers' perspective versus the wider planning perspective of trying to protect physical resources.

3.3.4.5 Revised recommendations

412. With regard to the different concepts of productivity discussed at the hearing, Mr Bathgate considered that the title of the objective could be clarified to indicate that it is the capacity for productivity that the 2GP seeks to protect rather than productivity per se. Noting that this was in line with the original submission by *Federated Farmers of New Zealand*, he revised his recommendation as follows:

“Objective 2.3.1: Protection of ~~land and facilities {NU 457.12 and others}~~
~~important~~ capacity for economic productivity...” {RU919.102}

3.3.4.6 Decisions and reasons

413. We reject the submission of *Federated Farmers of New Zealand* (OS919.102). We did not accept the reasons outlined by the submitter nor agree with the proposed change to the title of the objective drafted by the Reporting Officer because, in our view, the objective is focussed on land and strategically important facilities and it is unhelpful to refer to extraneous matters. We consider that the term “capacity for economic productivity” does not provide enough clarity to plan users as to those matters that are the subject of this strategic objective.
414. We also reject the submissions of *Pigeon Flat Road Group* (OS717.2) and *Dianne Reid* (OS592.1) to insert two new policies under Objective 2.3.1 to provide for alternate development opportunities or opportunities for rural living, for the reasons outlined by the Reporting Officer as summarised above.
415. We have made no changes to Objective 2.3.1 as a result of this decision. However, we note that we have made other changes to this objective as a result of our consideration of submissions on the Network Utilities provisions of the 2GP, as discussed in the Network Utilities Decision Report.

3.3.5 Policy 2.3.1.2

3.3.5.1 Background

416. Policy 2.3.1.2 reads:

Maintain or enhance the productivity of farming and other activities that support the rural economy through:

- a. rules that enable productive rural activities;
- b. rules that provide for rural industry and other activities that support the rural economy;
- c. zoning and rules that limit subdivision and residential activity based on the nature and scale of productive rural activities in different parts of the rural environment;
- d. rules that restrict residential activity within the rural environment to that which supports productive rural activities or that which is associated with papakāika;
- e. rules that restrict subdivision that may lead to land fragmentation and create pressure for residential-oriented development;
- f. rules that prevent the loss of high class soils; and
- g. rules that restrict commercial and community activities in the rural zones to those activities that need a rural location and support rural activity.

3.3.5.2 Submissions

417. *Federated Farmers of New Zealand* (OS919.103) sought to retain Policy 2.3.1.2 and in particular supported clause (a) which promoted rules that enable productive rural activities.

418. *Horticulture New Zealand* (OS1090.13) sought to expand the scope of Policy 2.3.1.2 to retain high quality land rather than a focus on soils alone, stating that there are a range of attributes needed for a production system and that focussing only on LUC classes 1 and 2 may leave out a range of higher value land and uses. The submitter noted that certain types of horticulture and viticulture may occur on Class 3, 4 or 5 soils. The submitter also sought clarity on the criteria used to determine higher value soils.
419. *Otago Regional Council* (OS908.71) sought to amend Policy 2.3.1.2 to recognise the importance of water supply reliability in rural zones to complement Policy 2.6.3.1(b)(ii) (relating to identifying areas for new residential zoning and the need to avoid conflict with rural water requirements). The submitter stated that "the outcome of such policy provision may be to better provide for water storage and increased resilience against climate change". This was supported by the *New Zealand Fire Service Commission* (FS2323.1) because of the importance of providing for adequate water supply in non-reticulated areas in case of fire.

3.3.5.3 Section 42A Report

420. In relation to *Horticulture New Zealand Ltd's* (OS1090.13) submission on Policy 2.3.1.2 to focus on high quality land rather than a focus on soils, the Reporting Officer, Katie James, agreed that there were a number of features of the rural environment that contribute to productivity. However, in her view a focus on land rather than soil could potentially lead to the entire rural zone being included in an additional new rule, depending on how 'high class land' was defined (s42A Report, p. 87). She noted that there are already objectives, policies and rules that relate to protecting productive rural land from inappropriate land uses such as rural residential activities and subdivision while providing for farming and other rural activities.
421. Dr James recommended that, in line with her recommendations on adding LUC classes as an additional consideration in assessing applications for uses other than farming, a further clause relating to LUC classes be added to Policy 2.3.1.2. In response to the submitter's concern about the use of LUC classes excluding land that may be of value to viticulture or certain types of horticulture, Dr James did not consider it necessary to specifically provide for all potential productive land uses. In relation to the submitters request to clarify the criteria for mapping for high class soils, she referred to the discussion of the definition, as referred to in section 3.3.2 above.
422. As a consequential change to the recommendation to add LUC classes 1-3 as assessment matters in applications for use other than farming, the Reporting Officer recommended adding reference to the consideration of land use capability 1-3 areas to Policy 2.3.1.2.c.
423. In relation to *Otago Regional Council* (OS908.71) request to amend Policy 2.3.1.2 to recognise the importance of water supply reliability, Dr James noted that Policy 2.3.1.2 contributes to Objective 2.3.1 by setting up zoning and rules designed to maintain or enhance the productivity of rural activities and the rural economy. She also noted that Policy 2.6.3.1.ii lists as one of the criteria for identifying areas for future residential development, avoiding areas that may conflict with rural water resource requirements. Dr James also considered that it would be appropriate to refer to water supply in Policy 2.3.1.2.c, in recognition that adequate water supply is critical to many, if not all, rural activities.

3.3.5.4 Hearing

424. At the hearing, David Cooper, for *Federated Farmers of New Zealand* supported the Reporting Officer's recommendations for Policy 2.3.1.2.
425. Ms Wharfe, for *Horticulture NZ*, noted that *Horticulture New Zealand* did not seek changes to clause c of Policy 2.3.1.2 or inclusion of LUC 1-3 and in her view the changes recommended in the Section 42A Report did not achieve the outcome sought

by the submitter. Instead, she stated that her understanding of *Horticulture New Zealand's* submission was that it did not seek all land in the rural zone to be considered as high class land but rather a greater focus to be placed on 'high value production land' "based on the range of components or attributes needed for such a high value production system" (Evidence of Lynette Wharfe, p. 12, para 6.44). She further stated that "it appears that LUC 1-3 is being taken as a proxy for high value production land" (*ibid*, para 6.45). Ms Wharfe noted that *Horticulture New Zealand* sought clause f of Policy 2.3.1.2 to be amended to "rules that prevent the loss of high value production land, including high class soils" (*ibid*, para 6.41). Ms Wharfe suggested it may be more appropriate that the term 'significant soils' is used so that there was a clear linkage to the pORPS-dv.

3.3.5.5 Revised recommendations

426. Dr James acknowledged that *Horticulture New Zealand* did not seek the proposed changes to clause c of Policy 2.3.1.2, and the inclusion of LUC was not what was sought by the submitter. However, without further information as to how the submitter wished to broaden the scope of the policy further to identify land for primary production, she maintained that adding LUC 1-3 in addition to high class soils was appropriate.
427. The Reporting Officer did not agree with Ms Wharfe that Policy 2.3.1.2. f should be amended, explaining it referred directly to rules that prevented the removal off site of high class soils, whereas the broader consideration of land valued for food production or rural productivity was implemented through other provisions, and it was more appropriate to include any changes in clause c.

3.3.5.6 Decisions and reasons

428. We accept in part the submission of *Horticulture New Zealand* (OS1090.13) with respect to broadening the consideration of productive land wider than high class soils in Policy 2.3.1.2, as discussed in the decision on high class soils and productive land above in section 3.3.2. However, we do not agree with the amendments proposed by the Reporting Officer to add consideration of LUC 1-3 land to clause c of Policy 2.3.1.2. Instead, we have amended Policy 2.3.1.2 to add 'highly productive land' (noting that the intention is that this will include both high class soils and LUC 1-3 as well as potentially other areas based on evidence).
429. We accept in part the submission of *Otago Regional Council* (OS908.71) with respect to recognising the importance of water supply reliability in rural zones in Policy 2.3.1.2 and have amended this policy based on the relief recommended by the Reporting Officer.
430. The amendments that have been made to implement this decision are:

Policy 2.3.1.2

Maintain or enhance the productivity of farming and other activities that support the rural economy through:

- a. rules that enable productive rural activities;
- b. rules that provide for rural industry and other activities that support the rural economy;
- c. zoning and rules that limit subdivision and residential activity based on
 - i. the nature and scale of productive rural activities in different parts of the rural environment;
 - ii. the location of highly productive land; and {RU 1090.13}
- iii. potential conflict with rural water resource requirements {RU 908.71};
...

3.3.6 Policy 2.3.1.3

3.3.6.1 Background

431. Policy 2.3.1.3 reads:

In order to avoid cumulative effects on rural productivity and rural character values, set and strictly enforce a minimum site size standard for subdivision in the rural zones. Determine the minimum site size standard considering:

- a. the median size land holding associated with and necessary to support farming activity in each rural zone;
- b. the existing pattern of settlement and land use in each rural zone; and
- c. the character and amenity values that exist in each rural zone.

3.3.6.2 Submissions

432. *Horticulture New Zealand* (OS1090.14) sought to amend Policy 2.3.1.3 to refer to a requirement for setting and enforcing large setbacks for residential buildings from boundaries with rural production activities, alongside minimum site size standards.

3.3.6.3 Section 42A Report

433. The Reporting Officer, Michael Bathgate, made the assumption that the submission sought to include setbacks for residential buildings in Policy 2.3.1.3 to address effects of the location of residential buildings on rural productivity. Mr Bathgate did not consider that Policy 2.3.1.3 should be amended to broaden its scope to include building setbacks. While noting that the policy provided a relative 'one-stop-shop' as a strategic policy that establishes how the rural minimum site size rule is determined, it was acknowledged that this was slightly confusing. This was because the policy sits under Objective 2.3.1 which focuses on productivity, but Policy 2.3.1.3 also discusses effects on rural character values. The Reporting Officer explained that the character of the rural environment at the strategic level is dealt with under Objective 2.4.6. Therefore, to correct this confusion, he recommended that the first part of Policy 2.3.1.3 should be amended to remove the reference to cumulative effects on rural character values.

434. Mr Bathgate noted that Policy 2.3.1.2 discusses the maintenance of rural productivity through the use of a number of different rules, and suggested that if the Panel considered that there was scope, then Policy 2.3.1.2 could be amended to specify that setback rules for residential buildings are used to manage the potential for reverse sensitivity effects in relation to productive rural activities.

3.3.6.4 Hearing

435. In relation to *Horticulture NZ's* submission on Policy 2.3.1.3, Ms Wharfe questioned the scope for deleting 'rural character values'. She instead suggested a change to Policy 2.3.1.2.d to include "including large setbacks for dwellings".

3.3.6.5 Revised recommendations

436. In response, Mr Bathgate considered that there was scope to amend Policy 2.3.1.3 to remove 'character' as character values were mentioned in the original submission. The Reporting Officer noted the submitter's comment that this creates a disjunct as clause (c) remains in the policy, which refers to character and amenity values. He explained that clause (c) remains in the policy for clarity in terms of methodology for determining minimum site size. Mr Bathgate also stated that it could be argued that the maintenance of character and amenity do contribute to productivity, through

contributing to rural tourism and other activities that may benefit from a certain level of quality in rural character and amenity.

437. Mr Bathgate agreed with the submitter that boundary setbacks are an important consideration in managing reverse sensitivity and hence giving effect to productivity objectives. He considered that the introduction of this consideration into the strategic policies would signal this importance.
438. The Reporting Officer suggested rather than amending clause (d) as Ms Wharfe suggested, which refers to the nature and scale of residential activity, the Reporting Officer favoured the insertion of a new clause (e) as follows:
- "...e. rules that require residential buildings to be set back from boundaries to minimise the potential for reverse sensitivity effects {RU1090.14}.

3.3.6.6 Decision and reasons

439. We accept in part the submission of *Horticulture New Zealand* (OS1090.14) to add reference to requirements for setbacks from residential activities to avoid potential adverse effects on rural productivity. We note that rather than amending Policy 2.3.1.3 as originally requested by the submitter, both the Reporting Officer and Ms Wharfe agreed that Policy 2.3.1.2 is a more appropriate location because it lists a number of different rules contributing to rural productivity.
440. Of the options suggested we favour the approach suggested in the Reporting Officer's revised recommendation to insert a new clause (e) to Policy 2.3.1.2, which refers to rules requiring residential buildings to be set back from boundaries to minimise the potential for reverse sensitivity effects.
441. We do not agree with the recommendation of the Reporting Officer to amend Policy 2.3.1.3 to remove 'rural character values' as we do not consider that there is any scope from the submission by *Horticulture New Zealand* to do this, as highlighted by Ms Wharfe. In addition, the reference to 'rural character values', as acknowledged by the Reporting Officer is referred to in the policy due to this being part of the rationale for setting a minimum site size standard.
442. To implement this decision we have amended Policy 2.3.1.2 as follows (noting that we have not included the recommended word 'effects' after 'reverse sensitivity', in line with our Plan Overview decision on reverse sensitivity terminology):
- Policy 2.3.1.2 Maintain or enhance the productivity of farming and other activities that support the rural economy through
...e. rules that require residential buildings to be set back from boundaries to minimise the potential for reverse sensitivity;
{RU 1090.14}

3.3.7 Objective 16.2.4

3.3.7.1 Background

443. Objective 16.2.4 states: "The productivity of rural activities in the rural zones is maintained or enhanced."

3.3.7.2 Submissions

444. *Radio New Zealand* (OS918.46) supported Objective 16.2.4 and its policies, as some of the submitter's facilities are located in high class soils, which are leased for farming purposes. The submitter noted that the objective and its policies have "the ancillary benefit of making it less likely that (potentially sensitive) residential activities may seek to be located near RNZ's Facilities". This submission was supported by *Egg Producers Federation* (FS2437.1).

445. The *McLeary Family Trust* (OS832.7) sought to retain Objective 16.2.4 in principle, with appropriate amendments to accommodate the basic tenets of their submission. The submitters considered that the owners of smallholdings could not contribute to food production on an economically viable basis and that subdivision is a legitimate planning issue for such small holdings.
446. *Horticulture New Zealand* (OS1090.34) also supported Objective 16.2.4, with no specific reasons given for this support
447. *Federated Farmers* (OS919.56) supported Objective 16.4.2 in part but still sought that it was retained. The reasons for only partial support were related to their opposition to Policy 16.2.4.1, discussed below in section 3.3.8

3.3.7.3 Section 42A Report

448. With regard to the *McLeary Family Trust* submission, the Reporting Officer, Michael Bathgate, noted the submitter had sought amendments to Objective 16.2.1, Policy 16.2.1.7, and Rules 16.5.2 (density of residential activity) and 16.7.4 (minimum site size). However, he did not consider the desirability of maintaining or enhancing the productivity of rural activities within rural zones was in question as a result of the submission and did not consider it necessary to amend Objective 16.2.4 in response to the wider submission of the *McLeary Family Trust*.

3.3.7.4 Hearing

449. *Federated Farmers* and *Horticulture NZ* supported the Section 42A recommendation.

3.3.7.5 Decision and reasons

450. For the reasons outlined by the Reporting Officer we accept the submissions supporting Objective 16.2.4: *Radio New Zealand* (OS918.46) (supported by *Egg Producers Federation* (FS2437.1)), *Horticulture New Zealand* (OS1090.34), and *Federated Farmers* (OS919.56).
451. We reject the submission of the *McLeary Family Trust* (OS832.7) to amend Objective 16.2.4 for the reasons outlined by the Reporting Officer.

3.3.8 Policy 16.2.4.1

3.3.8.1 Background

452. Policy 16.2.4.1 states:

“Require earthworks in a high class soils mapped area to retain soils on the site.”

3.3.8.2 Submissions

453. *Federated Farmers* (OS919.57) sought to remove Policy 16.2.4.1 because it opposed the DCC seeking to provide for greater productivity through planning regulations and considered the soil resource was already valued by landowners as it was reflected in the valuation of their land and that there had to be a good reason for a landowner to remove the soil resource (and subsequently devalue the property). *HPPC* (FS2267.55) opposed the deletion of the policy because it considered that soil retention would enhance a high class soil area.
454. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (OS 1071.63) supported Policy 16.2.4.1 as Manawhenua are supportive of the requirement to require earthworks to retain high class soils on-site, and did not want to see a policy that impeded the development of papakāika housing due to the presence of high class soils within Native Reserves.

3.3.8.3 Section 42A Report

455. The Reporting Officer, Michael Bathgate, noted the support of *Kāti Huirapa Rūnaka ki Puketeraki* and *Te Rūnanga o Otakou* for this policy, although noting that any application for papakāika housing in a high class soils mapped area would still be subject to this policy and Rule 16.6.1.8.
456. In relation to the *Federated Farmers* submission to remove the policy, Mr Bathgate considered that the sustainable management of physical resources such as rural land and high class soils to protect them from competing uses and sustain their potential for future generations is a core function of councils under the RMA. It was also noted that the Regional Policy Statement for Otago sets out a requirement to protect areas of significant soils and requires district plans to manage urban growth and development and the subdivision of land to protect significant soils. He did not accept the contention of *Federated Farmers* that the economic value of the soils resource to landowners will protect them in every instance, "as alternate and competing uses may place a higher value on the use of the land irrespective of the presence of high class soils and this may or may not involve productive use or the maintenance of the soils resource" (s42A Report, p. 197). For these reasons, he recommended that the submission to remove Policy 16.2.4.1 was rejected.

3.3.8.4 Decision and reasons

457. We reject the submission of *Federated Farmers* (OS919.57) to remove Policy 16.2.4.1 for the reasons outlined by the Reporting Officer.

3.3.9 Policy 16.2.4.2

3.3.9.1 Background

458. Policy 16.2.4.2 reads as follows:

Avoid activities other than farming in a high class soils mapped area, unless:

- a. the scale, size and nature of the activity on the high class soils mapped area means that any loss of current or potential future rural productivity would be insignificant; or
- b. for mining, the activity must locate on the part of the site with high class soils due to operational requirements and there are no practicable alternative locations.

459. This policy is noted as relevant in assessment rules 16.10.2 and 16.11.2 when considering applications for restricted discretionary or discretionary land use activities (although it may be also be a consideration in any application for non-complying activities).

3.3.9.2 Submissions

460. *Horticulture New Zealand* (OS1090.35) sought expansion of the scope of Policy 16.2.4.2 to cover all productive land, not necessarily limited to certain soil classes.
461. *Waste Management (NZ) Limited* (OS796.27) submitted that as a landfill and buffer footprint is often large, a small portion of a landfill may be in an area of high class soil and it considered that this should not prevent overall location of the rest of the activity. The submitter was concerned that the word 'avoid' inferred a form of prohibition and sought addition of "as far as practicable" to Policy 16.2.4.2.
462. *Rural Contractors New Zealand Inc* (OS911.12) and *AgResearch Limited* (OS924.11), sought for the words 'or there is a functional need for the activity to locate in rural areas...' to be added after 'insignificant'. The submitters considered that the policy

could potentially restrict rural contractor depots or agricultural research activities from establishing over 'high class soils', even though there is a functional need to do so due to their close association with rural resources and primary production activities. This was supported in part by *Horticulture New Zealand* (FS2452.47) as long as there were criteria for assessing the appropriateness of such activities. *AgResearch Limited* (OS924.16) also requested a consequential amendment to Rule 16.11.2.2.f (where this rule paraphrases Policy 16.2.4.2.a) to reflect the change the submitter requested to the policy.

463. *Federated Farmers of New Zealand* (OS919.58) sought explicit recognition of allowing activities ancillary to farming as it considered that while it is captured to an extent under clause a, it could be made more explicit. This was supported in part by *HPPC* (FS2267.56) who considered that the amendment sought was fine for "standard" rural zones but that for landscape, character, features and ASCV overlays farming should be the prime activity. The *Federated Farmers* submission was supported by *Horticulture New Zealand* (FS2452.48) who considered the change would ensure that needs of primary production are recognised.
464. *Glenelg Gospel Trust* (OS350.14), *Salisbury Park Ltd* (OS488.11), *Craig Horne Surveyors* (OS704.14), *Blueskin Projects* (OS739.14), *CTW Holdings* (OS742.14) and *G & J Sommers Edgar* (OS889.13) sought to add an additional clause to Policy 16.2.4.2, in recognition that there are locations where land is already fragmented to well below the minimum lot sizes of either the current plan or 2GP. They considered this would provide for the rural living options sought by the community while protecting the productive parts of the rural environment from lifestyle development pressure. *Salisbury Park* was supported by *Jane McLeod* (FS2169.3) who considered that the 2GP recognises there are locations where land is already fragmented to well below the minimum lot sizes of the current district plan and it had changed the zoning of these locations to reflect the reality of the situation. She noted that these submissions simply ask for a consistent approach to all such sites.
465. The submissions of *Glenelg Gospel Trust* and *Salisbury Park* were opposed by *AgResearch Limited* (FS2398.21 & 22) and *Rural Contractors New Zealand Incorporated* (FS2450.21 & 22) who considered that the relief sought would encourage residential development in rural areas resulting in potential adverse effects on rural activities, including loss of high class soils for primary production through fragmentation, and reverse sensitivity effects on rural production. *Horticulture New Zealand* (FS2452.46) opposed the submission of *Salisbury Park* as it considered that even small areas of high class land can be used for horticultural production.

3.3.9.3 Section 42A Report

466. With regard to *Horticulture New Zealand's* {RU 1090.35} submission to expand the scope of the Policy 16.2.4.2 to focus on all productive rural land, the Reporting Officer, Katie James, referred to her recommendation to amend assessment rules to add LUC 1-3 land as a consideration in assessment matters for resource consents (see Section 3.3.2). She explained that because Policy 16.2.4.2 supports policies 2.2.2.1 and 2.3.1.2 in the Strategic Directions, which she had recommended to be broadened to include reference to LUC classes, she also recommended that Policy 16.2.4.2 be amended to refer to LUC classes. In addition, because of her recommendation to broaden the focus on productivity, she also recommended that the policy wording be amended from the strictest test of 'insignificant' to the medium-high test of 'minimised as far as practicable'. Dr James also recommended that consequential changes be made to Rule 16.10 (Assessment of Restricted Discretionary Activities) and Rule 16.11.2 (Assessment of Discretionary Landuse Activities) to add consideration of LUC 1-3 areas.
467. With regard to the concern of *Waste Management New Zealand Ltd* about the use of the word 'avoid', the s42A Report notes that the 'unless' qualifier in the policy is used to emphasise this does not imply a prohibited activity status. However, the Reporting Officer (Michael Bathgate) agreed with the submitter that the policy seemed to indicate a non-complying status in terms of the 2GP drafting protocol, therefore, he

recommended adding the phrase 'only allow' at the start of the policy so that it was more in line with the drafting protocol for a discretionary activity, as this policy is referenced as relevant for several restricted discretionary and discretionary activities.

468. Mr Bathgate did not recommend accepting the proposed amendment by *Rural Contractors New Zealand Inc* and *AgResearch Ltd* because "a functional need to locate in rural areas should not necessarily lead to a qualification to locate on high class soils". In addition, noting that the policy considers the loss of current or potential future productivity, he clarified that the assessment of an activity establishing on high class soils would consider the extent to which the soils would still be available for future use (s42A Report, p. 202).
469. With regard to the submission of *Federated Farmers* to include a new clause for activities ancillary to farming, Mr Bathgate considered that the proposed amendment was redundant as the policy already allowed for farming and its ancillary activities, in so far as the definition of farming includes a number of activities that are ancillary to farming.
470. Mr Bathgate did not recommend that the amendment proposed by *Glenelg Gospel Trust* and others to add a new clause (c) be accepted. He concurred with the further submitters that even small areas of high class soils can be used for productive rural activities, and that the amendment is likely to be seen as encouraging other uses such as residential or rural residential development. As discussed in his response to submissions on Policy 2.2.2.1 he considered that high class soils were a valuable and finite physical resource that required a precautionary and protective approach. This included protection from competing uses that could remove such soils from both current and future productive use, regardless of whether an area of rural land containing high class soils is already fragmented. He also noted that there are a number of areas containing fragmented rural sites that are not on high class soils, which would be better considered for "rural living opportunities" – although he also noted that he favoured a zoning approach to such a consideration.
471. As a result of the submissions, the recommended amendment (incorporating the amendment in response to *Horticulture NZ's* submission discussed in Section 3.3.2 above to expand the scope on productive land) was as follows:

~~"Avoid~~Only allow {RU796.27} activities other than farming on productive rural land, as indicated by a high class soils mapped area or land use capability class 1-3 area in, unless where: {RU796.27} a. the scale, size and nature of the activity ~~on the high class soils mapped area~~ means that any loss of current or potential future rural productivity would be ~~insignificant~~ minimised as far as practicable {RU1090.3};...

3.3.9.4 Hearing

472. *AgResearch* tabled evidence stating support for the s42A Report recommendation on Policy 16.2.4.2.
473. *Waste Management New Zealand Ltd* and *Rural Contractors New Zealand Inc* did not appear at the hearing or table evidence.
474. Ms Wharfe, for *Horticulture NZ*, suggested that the amended wording proposed by the Reporting Officer implied that only HCS and LUC class 1-3 is 'productive rural land' and that in her opinion this was inaccurate, as it is limited.

3.3.9.5 Revised recommendations

475. In response the Reporting Officer noted that the proposed wording relates directly to the rules to be used to protect productive land values and therefore it was appropriate that the wording accurately described the set of values that the 2GP provides for.

3.3.9.6 Decision and reasons

476. We accept in part the submission of *Horticulture New Zealand* (OS1090.35) with respect to broadening the consideration of Policy 16.2.4.2 to cover all productive land not necessarily limited to certain soil classes. We do not agree with the recommended addition of land use capability classes, with our reasons being the same as those discussed in Section 3.3.2, with respect to defining productive soils and land. Our decision is to use the term 'highly productive land', which generally includes high class soils mapped areas as well as LUC classes 1-3 and potentially other areas as well, based on evidence related to productive values.
477. We do not agree with the recommendation of the Reporting Officer to replace the word 'insignificant' with 'minimised as far as practicable' because in our view this would send the wrong signal in terms of the level of protection expected for high class soils and would not align with the Policy 16.2.4.1 requirement to retain high class soils on site. Instead we chose to retain the policy test that required that effects on a high class soils mapped area be 'insignificant', but amend the policy such that effects are only required to be 'no more than minor' on other areas of highly productive land. Our reasons for having a two-tier test is that, while we consider that it is appropriate that high class soils should have the strictest test applied, we agree with the Reporting Officer that the test for other areas (including LUC 1-3 areas) should instead be of medium-high strictness. In the case of high class soils, we believe the test of "minimised as far as practicable" would be too open to interpretation, providing insufficient protection for other areas of productive land.
478. We accept the submission of *Waste Management New Zealand Ltd* (OS 796.27) in part but prefer the solution suggested by the Reporting Officer to replace the word 'avoid' with 'only allow' in Policy 16.2.4.2. We agree that this better reflects the drafting protocol given that the policy covers a mix of activities (including activities such as landfills.)
479. We reject the requests of *Rural Contractors New Zealand Ltd* (OS911.12) and *AgResearch Ltd* (OS924.11, OS924.16) to add reference to there being a 'functional need for the activity to locate in rural areas...'. We acknowledge that in the case of mining we have accepted a clause similar to that suggested by these submitters because we received evidence on that issue that persuaded us. The evidence we received in this hearing did not convince us that alternative locations could not be more suitable for the activities suggested. We agree with the assessment of the Reporting Officer that this should not necessarily lead to an activity being able to locate on areas of highly productive land, particularly in a manner that constrains the productive potential of that land.
480. We reject the submission of *Federated Farmers of New Zealand* (OS919.58) seeking explicit recognition of allowing activities ancillary to farming, as we consider that the policy already provides appropriately for a number of activities associated with farming (as included in the definition of farming) as permitted activities.
481. We reject the submissions of *Glenelg Gospel Trust* (OS350.14), *Salisbury Park Ltd* (OS488.11), *Craig Horne Surveyors* (OS704.14), *Blueskin Projects* (OS739.14), *CTW Holdings* (OS742.14) and *G & J Sommers Edgar* (OS889.13) to add an additional clause that recognises fragmented rural land for the reasons outlined by the Reporting Officer and in keeping with decisions made earlier in this decision.
482. To implement our decision, we have amended Policy 16.2.4.2 as follows:
"Avoid Only allow {RU 796.27} activities other than farming in a high class soils mapped area unless on highly productive land where: {RU 1090.13, RU 1090.35},
a. the scale, size and nature of the activity ~~on the high class soils mapped area~~ means that any loss of current or potential future rural productivity would be insignificant, or:
i. insignificant in any high class soils mapped area; and
ii. no more than minor in other areas of highly productive land {RU 1090.13, RU 1090.35}; unless {cl 16}

- b. for mining, the activity must locate on ~~the part of the site with high class soils~~ highly productive land {RU 1090.13, RU 1090.35} due to operational requirements and there are no practicable alternative locations."
483. In response to the *Horticulture NZ* submissions (including OS1090.36, which sought the same broader focus on productive rural land, as discussed in section 3.2.15) we have amended Policy 16.2.4.3 relating to subdivision to reflect the same two tiered test, as follows:
- "Only allow subdivision where the subdivision is designed to ensure any future land use and development will:
- a. maintain or enhance the productivity of rural activities;
 - b. maintain ~~high class soils~~ highly productive land {RU 1090.13; RU 1090.35} for farming activity, or ensure the effects of any loss change in land use are {RU 1090.35} is no more than minor:
 1. insignificant on any high class soils mapped area; and {RU 1090.13; RU 1090.35}
 2. no more than minor on other areas of highly productive land;..."{ RU 1090.13, RU 1090.35}
484. We determined this was within scope as this policy is designed to mirror the tests in Policy 16.2.4.2, and therefore is within the intent of the submissions on Policy 16.2.4.2 and submission point RU 1090.13 which is discussed in section 3.3.5.
485. As a consequential change we have also amended the assessment rules that paraphrase these policies to reflect these amendments as follows:
- Rule 16.9.5.5 (assessment of subdivision performance standard contravention)
 - Rule 16.10.2.1.c (cemeteries and crematoriums):
 - Rule 16.10.4.1 (general subdivision)
 - Rules 16.11.2.2.f (rural tourism), 16.11.2.3.e (rural industry and rural contractor and transport depots – large scale), 16.11.2.5.f (community and leisure – large scale)
 - Rule 16.11.2.4.f (mining and landfills)
 - Rule 16.12.6.6.h (minimum site size)
 - Rule 16.9.5.5 Minimum site size (surplus dwelling subdivision Rule 16.7.4.3):

3.4 Management of Rural activities

3.4.1 Introduction

486. This section of the Decision Report responds to submissions on provisions relating to the management of rural activities, including definitions and activity status of rural activities.

3.4.2 Factory Farming

3.4.2.1 Introduction

487. The definition of factory farming is:

"The use of land and/or buildings for the production of livestock or fungi at a commercial scale, where the regular feed source is substantially provided other than from grazing the property concerned.

Examples are:

- intensive pig farming
- poultry farming
- animal feedlots
- wintering barns
- mushroom farming.

This definition excludes the temporary use of buildings for the housing of stock (including for temporary wintering of stock and calf-rearing), which are included as part of the definition of farming."

488. Factory farming is managed as a restricted discretionary activity in the rural zones.

3.4.2.2 Submission in support

489. *Federated Farmers of New Zealand* (OS919.71) sought to retain the definition of Factory Farming because it "...accurately distinguishes between factory farming and general farming activities or practices". The submitter also supported the exclusion of temporary use of buildings for the housing of stock from the definition as it is included as part of the definition of 'farming'.

3.4.2.3 Submissions to rename factory farming

490. *Egg Producers Federation of New Zealand* (OS702.8) sought to rename 'Factory Farming' as 'Commercial Farming' throughout the Plan because it did not consider that 'factory' best defined the list of activities included in the definition which the submitter considered all had commercial characteristics in common. *Horticulture New Zealand* (FS2452.31) opposed the submission by the *Egg Producers Federation* as it considered that as most farming is commercial in nature, renaming the activity as 'Commercial Farming' would be confusing.

491. *Horticulture New Zealand* (OS1090.3) sought that 'Factory Farming' be renamed 'Intensive Farming' throughout the Plan.

3.4.2.4 Submissions to amend the definition of factory farming

492. *AgResearch Limited* (OS924.2) sought to amend the definition of "Factory Farming" because it considered that the definition was contradictory because it excluded the temporary use of buildings to house stock including temporary wintering of stock but included wintering barns and animal feedlots. The submitter also considered that greater clarity was needed in the definition "regarding the test of whether there is a regular feed source other than grazing the property concerned" to avoid capturing 'free range farming' within the definition. Thirdly, *AgResearch Limited* also wished to exclude the housing of stock associated with Invermay/Hercus and Rural Research activities from the definition.

3.4.2.5 Submissions to add new definitions of poultry farming

493. *Egg Producers Federation of New Zealand* (OS702.9 and OS702.10) sought to add new definitions for poultry farming and free range poultry farming respectively. The submitter considered that there should be an explicit, quantified definition of 'poultry farming' in the 2GP, as follows:

"The keeping, raising, or breeding of more than 10,000 birds for human consumption or egg production purposes."

494. In the submitter's view, poultry operations smaller than this should not be treated as a type of factory farming, because their effects are minimal and do not need to be regulated. The *Egg Producer's Federation of New Zealand* also sought to add a new definition of 'free range poultry farming' because it considered the effects to be less than that of standard poultry farming. The submitter suggested free range poultry farming be defined as follows:

"Places where poultry are housed in stationary, permanent or moveable structures or buildings, which enable them to have free access to the outdoors."

495. The *Egg Producers Federation* requested that free range poultry farming be a permitted activity in the rural zones, under Rule 16.3.3. To achieve this, free range poultry farming would also need to be excluded from the definition of factory farming.

3.4.2.6 Section 42A Report

3.4.2.6.1 *Submissions to rename factory farming*

496. In response to the submission of *Egg Producers Federation* to change the name to 'commercial farming', the Reporting Officer, Katie James, agreed with the further submitter, *Horticulture New Zealand*, that the requested name change would be confusing, because farming, whether it is classified as 'factory'/'intensive' or not, is 'commercial' in nature and this was reflected in the definition of farming in the 2GP. As such, she considered that it may appropriate to use another term that may better encompass the nature of the activity than the term 'factory'.
497. In response to the submission by *Horticulture New Zealand* seeking that the term 'intensive farming' be used rather than 'factory farming', Dr James reviewed the terminology used for the activity in the definitions sections of other district plans in New Zealand. She found, 'intensive' and 'factory' farming are both commonly used terms in New Zealand district plans.
498. However, with regard to the comment by *Horticulture New Zealand* that the term 'factory' is outdated, she considered that 'intensive' may better sum up the activity than 'factory' because the word 'factory' is usually defined as a building or buildings where something is produced (s42A Report, p. 35), as 'factory farming' activity is more broadly defined in the 2GP to include the use of land and/or buildings for the activity, in the opinion of the Reporting Officer it was the intensive nature of the activity which set it apart from conventional farming with regard to potential environmental effects. She noted that a key characteristic of the activity related to the regular feed source not being derived from the property and buildings were not always part of the activity. Therefore, the Reporting Officer recommended accepting the submissions of *Horticulture New Zealand* (OS1090.3) to change the name of the activity from 'Factory Farming' to 'Intensive Farming'.

3.4.2.6.2 *Submissions to amend the definition of factory farming*

499. Dr James agreed with *AgResearch* that it was contradictory to include wintering barns as examples of factory farming, given that the list of activities excluded from the definition included "the temporary use of buildings for the housing of stock (including for the temporary wintering of stock...)", and that wintering barns also could be described as the temporary sheltering of stock over winter months. Dr James also recommended that wintering barns were removed as an example of intensive farming and the definition be amended to clarify what was meant by 'temporary' housing of stock. However, she recommended that animal feedlots remain as an example because of their association with large scale commercial intensive farming operations and that an exclusion be made for feedlots used less than three months.
500. With regard to the reference in the definition to "a regular feed source other than grazing", Dr James agreed that to avoid confusion it was appropriate to remove the word 'grazing' from the definition and instead focus the definition on the feed source

being obtained from outside of the property. She also considered that the addition suggested by *AgResearch* that the 'regular feed source' applied 'over a 12 month period' provided a useful clarification.

501. With regard to avoiding capturing free range farming within the definition, Dr James considered that a distinction be made between intensive and low intensity forms, with it being appropriate that intensive free range farming be included in the definition. This was further addressed in response to a submission from *Egg Producers Federation* seeking a definition for free range poultry, discussed below.
502. Finally, Dr James did not consider it necessary to specifically exclude Invermay/Hercus from the definition because Invermay/Hercus has its own dedicated major facility zone. She explained that the description of the zone sets out clearly that its own research activities are permitted and she considered it to be unlikely that there would be any confusion around this. Nor did she consider it necessary to specifically exclude rural research because, by definition, this activity was linked to the rural activities which occur on site.

3.4.2.6.3 *Submissions to add new definitions for poultry farming*

503. With regard to free range or small scale poultry farming, Dr James noted that the 2GP definition of factory farming referred to 'poultry farming' as an example of factory farming, and did not make exceptions for small scale or free range poultry farming (Section 5.1.2.1, p. 37). She agreed with the *Egg Producers Federation* that it was not appropriate to treat all poultry farming as factory farming, given that smaller scale poultry farming operations were unlikely to generate effects "at a level that necessitates management via the plan's factory farming provisions" (s42A Report, p. 37). However, Dr James did not agree with the submitter that all poultry farming involving 10,000 birds or less, or all free range poultry farming, should be excluded from the factory (or 'intensive') farming definition, or that all free range poultry farming should be a permitted activity under Rule 16.3.3. In her view, "the criterion for excluding certain types of farming from the definition of factory farming should be the likelihood that the activity will result in adverse effects on the amenity of surrounding properties that need to be managed through a resource consent process to ensure appropriate mitigation" (s42A Report, p. 37).
504. Dr James noted that the definition suggested by the submitter lacked certainty because it did not account for the scale of the free range farming activity. She did not agree with the *Egg Producers Federation* that effects of free range poultry farming were necessarily less than that of standard poultry farming as both could have significant effects on amenity. In addition, it was noted that free range operations could result in the loss of significant areas of vegetative cover (s42A Report, p. 37).
505. The Reporting Officer recommended that an exclusion should be made for the keeping of a smaller number of birds within the definition of intensive farming, to allow for small scale operations. In reaching a recommendation, she undertook a review of definitions of 'factory farming' and 'intensive farming' used in other district plans (s42A Report, pp. 37-38).
506. Based on this practice review, the Reporting Officer considered that 40 was an appropriate upper limit for small scale standard or free range poultry farming and recommended making an exclusion based on this number; she also recommended that an amendment was made in the list of examples for intensive farming to clarify that it referred to intensive poultry farming only.

3.4.2.6.4 *Recommended amendment*

507. In response to the submitters, the Reporting Officer recommended the following amendments to the definition:

Factory Intensive Farming {RU1090.3}

"The use of land and/or buildings for the production of livestock or fungi at a commercial scale, where the regular feed source over a 12 month period {RU924.2} is substantially provided other than from the property grazing the property concerned. {RU924.2}

Examples are:

- intensive pig and poultry farming {RU702.9}
- ~~poultry farming~~ {RU702.9}
- animal feedlots
- ~~wintering barns~~ {RU924.2}
- mushroom farming.

This definition excludes the following activities, which are considered to be part of farming:

- ~~The temporary use of buildings for the housing of stock (including for temporary wintering of stock and calf-rearing), which are included as part of the definition of farming for up to three months over a 12 month period~~ {RU924.2}
- Animal feedlots where stock are confined for up to three months over a 12 month period, {RU924.2} and
- Poultry farming, where the number of birds does not exceed 40. {RU702.9}

3.4.2.7 Hearing

508. The *Egg Producers Federation of New Zealand* called Mr Poul Israelson, to provide expert planning evidence at the hearing. The *Egg Producers Federation* supported the s42A recommendation to change name to 'intensive farming'.
509. With regard to the recommendation around low intensity poultry farming, Mr Israelson was concerned that capping the numbers of birds for exclusion from intensive farming would "capture genuine hobby farmers" (Evidence of Poul Israelson, para 5.5). It was suggested that a commercial component could be added to the definition as follows: "poultry farming for the purpose of sale of poultry products". In discussion at the hearing, Mr Israelson noted that a figure of 40 birds had not been tested and that 10,000 birds is a small operation. In his opinion, a commercially viable option would need to include at least 5000 birds in two sheds.
510. *AgResearch Limited* tabled evidence at the hearing that noted that the recommended amendments for the definition of factory farming are 'generally consistent' with the relief sought in *AgResearch Limited's* submission. However, the submitter considered, that for 'full certainty', it would be preferable to specifically exclude Invermay/Hercus activities from the recommended definition of 'intensive farming'.
511. *Federated Farmers of NZ* called David Cooper, Senior Policy Adviser for *Federated Farmers* who tabled a statement and spoke at the hearing. Mr Cooper noted *Federated Farmers'* initial support for the definition of factory farming and that the submitter had no issue with change of activity name from 'factory' to 'intensive'. With regard to the amendments to the definition recommended by the Reporting Officer, Mr Cooper noted that *Federated Farmers* did not consider the three month time frame to be enough "to address reasonable use for what we would consider to be non-intensive farming" (Statement of Evidence, Federated Farmers of New Zealand, p. 8). Mr Cooper noted that in wetter seasons sheds may be used for up to four months, and he requested that the exclusion recommended in the definition was increased from three months to four. He considered that this would not risk intensive farming being unintentionally provided for.
512. Ms Wharfe, called by *Horticulture New Zealand*, supported the change of the name of the activity to 'intensive farming'

3.4.2.8 Revised recommendations

513. In response to *AgResearch Ltd*, Dr James reiterated her view from the s42A Report, that it was unnecessary to create additional exclusions in the definition for Invermay/Hercus activity.
514. In response to the *Egg Producers Federation*, Dr James did not agree that it was appropriate to include the 'sale of poultry products' within the intensive farming definition because the latter could potentially capture activities with very few birds if any products relating to the activity were sold. However, on further review of the definition, she considered that the use of an upper limit of birds to indicate low intensity poultry farming was not the best way of clarifying what is or is not considered to be intensive. In response to the evidence provided by *Egg Producers Federation of New Zealand* at the hearing as well as the further discussion noted above, the revised recommendation was that definition should be amended to provide an exclusion for non-commercial accessory poultry keeping but that no limit should be specified, with the 'regular feed source being provided other than from the property' distinguishing intensive farming from farming.
515. In response to *Federated Farmers of NZ*, Dr James noted that three months has been used in other district plans as an upper time limit for 'temporary' use of buildings to house animals, although acknowledging the point made by the submitter that in wetter winters temporary wintering may be necessary for longer. She suggested that the Panel may wish to consider two options, the first being to specify four instead of three months and the second to instead remove the time limit and rely on the term 'temporary' to differentiate wintering barns from intensive farming. As a consequence, the Reporting Officer also recommended that the specific exclusion relating to animal feedlots recommended in the section 42A report be removed and temporary feedlots would become part of the general exclusion so that it would read: "This definition excludes the temporary use of buildings for the housing of stock (including for temporary wintering of stock and calf-rearing), or the temporary use of feedlots, which are ~~included as part of the definition~~ considered to be part of farming".

3.4.2.9 Decision and reasons

516. We accept the submission of *Horticulture New Zealand* (OS1090.3) to rename 'factory farming' as 'intensive farming' throughout the plan for the reasons outlined by the Reporting Officer.
517. We reject the submission of *Egg Producers Federation* (OS702.8) to rename 'factory farming' as 'commercial farming' for the reasons provided by the Reporting Officer.
518. With regard to the submissions of the *Egg Producers Federation* (OS702.9 and OS702.10) to add separate new definitions of poultry and free range poultry farming and to provide for free range poultry farming to be permitted in the rural zone, we agree with the Reporting Officer's assessment that allowing for up to 10,000 birds does not account for scale of effects and whether the activity is free range or not. We therefore reject *Egg Producer's Federation's* request (OS702.10) to add a definition for 'free range poultry farming'.
519. With regard to the original s42A recommendation of the Reporting Officer allowing for up to 40 birds to be considered as a low intensity form of poultry farming, we note the evidence provided by Poul Israelson - that a commercially viable operation would require at least 10,000 birds - and his concern that capping the numbers of birds below this would "capture genuine hobby farmers", seems unlikely. However, given the disparity of the numbers between the experts and the Reporting Officer's revised view that a number may not be helpful, we have decided we do not have adequate evidence to set a threshold for the reasonable number of birds.

520. We also do not think it is useful, however, to add 'for the sale of' to the definition of intensive farming because as noted by the Reporting Officer, this would also capture low intensity operations if such activities ever sold produce.
521. With respect to the Reporting Officer's revised recommendation to add an exclusion for non-commercial accessory keeping of poultry, we understand the intent of the recommendation was to address the concern that poultry keeping in general may be captured in the definition of intensive farming. However, we note the keeping and breeding of chickens, and sale of eggs from the farm gate can be a normal part of a diverse farming activity at a small (non-intensive) scale.
522. We have therefore determined simply to clarify that 'intensive' poultry farming is a type of intensive farming. This gives partial relief to the submission by the *Egg Producers Federation's* (OS702.9), which sought to differentiate (intensive) poultry farming by way of a definition. We note, however, that this definition is potentially subjective and could create uncertainty in interpretation and that the plan should be reviewed to consider its effectiveness in future.
523. We accept in part the submission of *AgResearch Ltd* (OS924.2) to provide additional clarity in the definition of intensive farming. We agree that 'wintering barn' should be removed as an example of intensive farming, given that it is associated with temporary housing of stock. However, with regard to the revised recommendation of the Reporting Officer, rather than specifying set periods of time in both the definition and exclusions, we consider that the use of 'temporary', in relation to wintering and stock rearing, is well understood and allows for some flexibility, for instance if there is an unseasonal severe weather event. We also agree with the Reporting Officer that feedlots should remain as an example of intensive farming because of their association with large scale commercial intensive farming operations, but do not agree with the recommendation to add an exclusion for animal feedlots used for up to three months over 12. We do not accept that part of the submission by *AgResearch Ltd* (OS924.2) to specifically exclude Invermay/Hercus or rural research from the definition for the reasons outlined by the Reporting Officer.
524. The following amendments have been made to implement these decisions, including consequential amendments, and amendments after the Plan Overview Hearing, as follows:

- Definition of Factory Farming:

~~"Factory~~ Intensive Farming {RU1090.3}

"The use of land and/or buildings for the production of livestock or fungi at a commercial scale, where the regular feed source is substantially provided other than from the property {RU924.2} ~~grazing the property~~ concerned.

Examples are:

- intensive pig and poultry farming {RU702.9}
- ~~poultry farming~~ {RU702.9}
- animal feedlots
- ~~wintering barns; and~~ {RU924.2}
- mushroom farming.

This definition excludes the temporary use of buildings for the housing of stock (including for ~~temporary~~ wintering of stock and calf-rearing which are considered to be part of farming){PO cl.16}.

Intensive farming is an activity in the rural activities category. {PO cl.16}"

- Consequential amendments to change all instances of 'Factory Farming' to 'Intensive Farming', plan-wide.

3.4.3 Farming

3.4.3.1 Background

525. The definition of farming reads:

The use of land and buildings for the purpose of the commercial production of vegetative matter or livestock.

For the sake of clarity, this also includes:

- On-farm extraction and processing of aggregate for the sole purpose of constructing and maintaining access within the property;
- The processing of animals or plants, or the produce of animals or plants, that are grown on the property; and
- Farm landfills, offal pits, silage pits and silage stacks.

This definition excludes factory farming, domestic animal boarding and breeding, rural ancillary retail, forestry, and activities defined as earthworks.

3.4.3.2 Submissions

526. *Federated Farmers of New Zealand* (OS919.72) sought to retain the definition of farming because it "...accurately captures farming activities and we support the specific inclusions proposed for the definition."

527. *Horticulture New Zealand* (OS1090.4) requested that rural airstrips and landing areas be included in the definition of farming. Another part of the same submission, to add cultivation, harvesting and tilling is covered in the Earthworks Decision Report.

3.4.3.3 Section 42A Report

528. With regard to *Horticulture New Zealand's* (OS1090.4) request to add rural airstrips and landing areas to the definition Dr James recommended the submission be accepted, noting that some district plans included reference to airstrips either as a separate activity or within the definition of farming. She also noted that "the use of aircraft for agricultural purposes is an anticipated activity in rural areas and the landing of these aircraft on rural airstrips are a necessary part of normal farming operations". While noting that there may be associated amenity effects (in particular noise) she noted that this was only an RMA matter when the aircraft was on the ground. As the use of a rural airstrip is intermittent and ancillary to a rural activity she considered that it would be appropriate to include the operations of rural airstrips and landing areas within the definition of farming.

529. The Reporting Officer recommended the following amendment be made to the definition of farming:

"the landing of aircraft undertaking operations as part of farming on rural airstrips and landing areas" {RU1090.4} as shown in s42A Report (p. 44).

3.4.3.4 Hearing

530. *Horticulture NZ* supported adding the reference to rural airstrips to the Definition of farming.

3.4.3.5 Decision and reasons

531. We accept *Horticulture NZ's* (OS1090.4) request to add the landing of aircraft for farming operations in the definition of farming and have also added 'take-off or' before 'landing', 'fixed wing' before 'aircraft' and an exclusion for 'helicopter movements' for consistency with the Temporary Activities decision (see Temporary Activities decision for discussion relating to helicopter movements).
532. Note that we have also accepted *Horticulture New Zealand's* request, addressed in the Earthworks Decision Report, to add earthworks associated with cultivation, harvesting and tilling in the definition of farming.
533. To implement this decision we have made the following amendments:

Farming

"The use of land and buildings for the purpose of the commercial production of vegetative matter or livestock.

For the sake of clarity, this ~~also~~ {PO cl.16} includes:

- on-farm extraction and processing of aggregate for the sole purpose of constructing and maintaining access within the property
- earthworks associated with cultivation, harvesting and tilling {EW 1090.2}
- the processing of animals or plants, or the produce of animals or plants, that are grown on the property; and
- farm landfills, offal pits, silage pits and silage stacks (note these are still subject to earthworks - small scale thresholds); and {RU cl.16}.
- the take-off or landing of fixed-wing aircraft undertaking operations as part of farming on rural airstrips and landing areas. {RU 1090.4}

This definition excludes activities which otherwise meet the definition of {PO cl.16} ~~factory farming intensive farming~~ {RU 1090.3}, domestic animal boarding and breeding, rural ancillary retail, forestry, helicopter movements {RU 1090.4} ~~or and activities defined as~~ {PO cl.16} earthworks.

Farming is an activity in the rural activities category. {PO cl.16}

3.4.4 Forestry and Tree Planting

3.4.4.1 Introduction

534. The definition of Forestry is as follows:

The use of land and buildings for the purpose of growing trees for commercial timber, wood pulp, wood products, or for use as a carbon sink.

Examples of component activities are:

- preparation of land for planting of trees
- planting of trees
- tending of trees
- harvesting of trees

- the use of portable sawmills
- the sale of firewood produced from the property
- replanting of trees
- necessary infrastructure including roads and forestry landings (i.e. skid sites); and
- on-site extraction and processing of aggregate for the sole purpose of constructing and maintaining access within the property.

This definition excludes the milling and processing of trees, other than with the use of portable sawmills; and excludes small woodlots where the timber is to be used on the same property, either as firewood or other timber products.

535. Forestry is a permitted land use activity in the rural zones and is restricted discretionary in ONL, SNL and NCC overlays and non-complying in ONF/ONCC/HNCC and ASCVs.

536. Tree planting is defined as:

"The planting of tree species in a group or row for the purpose of shelter, screening, stability or erosion control or for timber use on the same property as which it is grown.

This definition excludes activities defined as forestry or conservation."

537. Tree planting is a permitted site development activity in the rural zones, as well as in the ONL, SNL and NCC overlay zones and ASCVs, but is a restricted discretionary activity in ONF, ONCC and HNCC overlay zones.

538. We note the NES for Plantation Forestry came into force after our deliberations on this matter and so was not considered. However, we note that changes to the Plan under section 44 of the Act are being assessed by the DCC at the time of completion of this decision and so some decisions given here may be overridden by those changes.

3.4.4.2 Submissions

539. *Federated Farmers of New Zealand* (OS919.74) sought to retain the definition of Forestry and supported specifically excluding small woodlots where the timber is to be used on the same property. *Helen Skinner and Joseph O'Neill* (OS312.6) also sought to retain the definition of Forestry, alongside their support for the activity status for forestry in the Hazard 1 and 2 (land instability) overlay zones

540. *Denise von Hardenbroek* (OS858.2) sought an amendment to the definition of Forestry to provide for small harvestable woodlots of "high value timber varieties" (Rural s42A, p. 47). The assumption was made that the submitter wanted small scale woodlots to be exempt from the definition. The submitter was concerned that resource consent would be needed for harvesting small areas of trees in the part of the property which lies within the Maungatua SNL. It was also noted that the submitter requested that small scale forestry be permitted in the Significant Natural Landscape Zone (inferred). The latter matter was addressed in the Natural Environment Section 42A report.

541. *Dunedin Rural Development Inc.* (OS853.6) sought that the definition of tree planting be amended to allow tree planting in wide shelterbelts, for erosion control, and for the purpose of carbon sequestration (i.e. to act as carbon sinks).

3.4.4.3 Section 42A Report

542. With regard to the submission by *Denise von Hardenbroek*, the Reporting Officer, Jane Macleod, noted that the definition of Forestry excluded small woodlots where the timber was to be used on the same property (such as firewood). However, it did not exclude small woodlots where the timber is intended to be used off site, which falls within the definition of Forestry. The Reporting Officer did not consider it appropriate to exclude forestry where the timber is intended to be used off site because it may constitute a more significant activity than small woodlots used on site and it may not be appropriate to make this exclusion in all zones or overlays. Forestry, including harvesting, is a permitted activity in rural areas that are not in a General Residential 1 Transition Overlay Zone or within a landscape overlay. However, the submitter's concern about consent being needed for small scale forestry (harvesting) was noted and considered in the Natural Environment Section 42A report (section 5.12.2).
543. With regard to the submission of *Dunedin Rural Development Inc*, the Reporting Officer considered that the notified definition of tree planting already achieved the outcomes sought in that tree planting "in a group or row for the purpose of shelter" covers wide shelterbelts, and tree planting "in a group or row for the purpose of ... erosion control" covers erosion control. (s42A Report, Section 5.1.2, page 51)
544. In relation to the request to include carbon sequestration in the definition of tree planting, the Reporting Officer agreed that it would be appropriate to include tree planting for the purpose of carbon sequestration in the definition. The s42A Report notes that the definition of Forestry included "The use of land and buildings for the purpose of growing trees ... for use as a carbon sink". The Reporting Officer considered that it would not be justified to treat planting of small groups of trees as a Forestry activity, when their purpose is to act as a carbon sink. It was noted that the definition of Forestry specifically excludes small woodlots where the timber is to be used on the same property; these small woodlots would be treated as a tree planting activity. Therefore, the Reporting Officer considered that it would be appropriate to treat small areas of trees planted for the purpose of carbon sequestration in the same way.
545. In the case of "small woodlots where the timber is to be used on the same property", the Reporting Officer noted that the requirement for timber to be used on site limited the potential size of the "small woodlot". This did not apply in the case of trees planted as a carbon sink. It was considered necessary to include a maximum area for groups of trees in the expanded definition. The Reporting Officer recommended a limit of one hectare, in line with the draft NES for Plantation Forestry and the Emissions Trading Scheme. Finally, the Reporting Officer recommended minor consequential amendments to the definition of Tree Planting and its exclusion from the definition of Forestry to make it read more clearly given the recommended expanded scope.
546. The Reporting Officer noted the support of *Helen Skinner and Joseph O'Neill* (OS312.6) and *Federated Farmers of New Zealand* (OS919.74) and recommended retaining the definition of Forestry subject to the amendment recommended in relation to the definition of Tree Planting.
547. The recommended changes to the definition of Tree Planting and Forestry were as follows:

Tree planting

The planting of tree species ~~in~~ as a shelter belt or small woodlot (less than one hectare) for the purpose of shelter, screening, stability or erosion control, as a carbon sink {RU853.6}, or for timber use on the same property as which it is grown. This definition excludes activities defined as forestry or conservation...

Forestry

The use of land and buildings for the purpose of growing trees for commercial timber, wood pulp, wood products, or for use as a carbon sink.

Examples of component activities are...

This definition excludes:

- the milling and processing of trees, other than with the use of portable sawmills; ~~and excludes~~
- ~~small woodlots where the timber is to be used on the same property, either as firewood or other timber products,~~ activities that meet the definition of tree planting {RU853.6}.

548. The Addendum to the Section 42A Report contained a minor correction to the recommended amendment to the definition of Tree Planting to clarify the changes and clarify that Tree Planting is an activity in the development activities category as per submission PO 576.76 and others.

3.4.4.4 Hearing

549. *Denise von Hardenbroek* (OS858.2) did not appear or table evidence at the hearing.
550. *Dunedin Rural Development Inc.* did not table any evidence or speak to the submission on tree planting at the hearing.
551. During the hearing we questioned the Reporting Officer about the relationship between the Forestry and Tree Planting definitions, in particular how they nest, which exclusions apply and why there were separate definitions. We thought the name 'Tree Planting' was confusing as it implied a sub activity of Forestry.
552. The Reporting Officer noted that these activities are mutually exclusive and that Tree Planting was a site development activity, while Forestry was a land use activity. The Revised Recommendations summary explains that Tree Planting is commonly associated with Farming or Residential activity and refers to growing of trees and as a shelterbelt or a woodlot of less than one hectare "to be used for a range of purposes other than commercial forestry" (Rural Revised Recommendations Summary, p. 36).
553. The Reporting Officer explained that the Tree Planting activity was used in the plan to recognise that there is a scale of tree planting between the planting of individual trees and forestry needing to be managed because of potential adverse effects.
554. The Reporting Officer accepted that the term 'tree planting' was potentially confusing and that a more appropriate term could be 'shelterbelts and small woodlots'. However, the Reporting Officer did not consider that there was scope in the submission to make this change.

3.4.4.5 Decision and Reasons

555. We accept in part the submission of *Dunedin Rural Development Inc.* (OS853.6) to add planting as a carbon sink as an additional motivation for non-forestry tree planting. We also agree that this reason for tree planting is not as naturally constrained in scale as, for example, planting for timber use on the same property. Therefore, we agree with the recommendation of the Reporting Officer that a 1 ha limit should be placed on this type of tree planting. However, we note that the drafting suggested by the Reporting Officer would apply this to all types of tree planting (not just for use of a carbon sink) so is outside the scope of the submission. We have therefore amended the definition for this only to apply to planting as a carbon sink.
556. In addition, to provide greater clarity and more distinction between the definitions of Forestry and Tree Planting we agree with the suggestion of the Reporting Officer to change the name of the latter activity to 'Shelterbelts and Small Woodlots'. We agree there is no scope from any of the submissions to make this change, however, in our view this change can be made under clause 16.
557. We reject the submission of *Denise von Hardenbroek* (OS858.2) to exclude small scale woodlots from the definition of forestry, where they are grown for commercial

purposes, noting however, that we have included 'small woodlots' in the new name of the development activity to clarify that the activity can include small woodlots as well as shelterbelts for shelter, screening, stability, erosion control or as a carbon sink as long as it is used on the same property as it is grown.

558. The following amendments have been made to implement this decision, (incorporating amendments from the Plan Overview and Natural Environment Hearings):

- Amended definition of 'tree planting' as follows:

"Shelterbelts and Small Woodlots Tree Planting {RU cl.16}"

The planting of tree species ~~in as a shelter belt or small woodlot a group or row~~ {RU cl. 16} for the purpose of shelter, screening, stability, erosion control, or as a carbon sink, where this planting is not greater than 1 hectare in size {RU 853.6} or for timber use on the same property as which it is grown.

This definition excludes activities defined as forestry or conservation.

Shelterbelts and Small Woodlots is an activity in the development activities category." {PO cl.16}

- Amended definition of Forestry as follows:

"Forestry

The use of land and buildings for the purpose of growing trees for commercial timber, wood pulp, wood products, or for use as a carbon sink.

For the sake of clarity, this includes all of the following ~~Examples of component activities are:~~ {PO cl.16}

- preparation of land for planting of trees...
- This definition excludes:
 - the milling and processing of trees, other than with the use of portable sawmills (which are provided for under the definition of rural industry); and {PO cl.16} ~~and excludes small woodlots where the timber is to be used on the same property, either as firewood or other timber products.~~ {RU 853.6}
 - activities that otherwise meet the definition of shelterbelts and small woodlots RU 853.6}

...

559. Consequently, we have changed all instances of 'Tree Planting' to 'Shelterbelts and Small Woodlots' plan-wide and attributed this to RU cl. 16.

3.4.5 Landfills

3.4.5.1 Background

560. The notified definition of Landfills is:

"The use of land and buildings for the primary purpose of providing a disposal facility for the controlled deposit of solid wastes, household wastes and green waste onto or into land. This definition excludes farm landfills, offal pits, silage pits and silage stacks, which are part of farming activity.

Landfills are a discretionary activity in the rural zones.

3.4.5.2 Submissions

561. *Helen Skinner and Joseph O'Neill* (OS312.20), supported by *Waste Management (NZ) Limited* (FS2444.9), and *Federated Farmers of New Zealand* (OS919.78) sought to retain the definition of Landfill.
562. *Waste Management (NZ) Limited* (OS796.13) sought to add a new definition for Closed Landfill as follows: "A landfill which is no longer accepting solid waste for disposal." The submitter explained that there is an important difference between an active landfill and one that is closed but where site restoration may be occurring. Related to this *Waste Management (NZ) Limited* (OS796.7) also sought to add an activity status for closed landfills, and to permit activities and discharges that do not perforate or penetrate the cap of the landfill. The submitter stated that this approach is common in other district plans, and that there is an aftercare period of up to 30 years following landfill closure, during which time activities and their effects may be different to when the landfill is operating.
563. *Waste Management (NZ) Limited* was opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (FS2456.84) who submitted that a precautionary approach was required to activities on closed landfills, and permitted activity status would not provide for consideration of Kāi Tahu values.

3.4.5.3 Section 42A Report

564. The Reporting Officer considered that rather than providing a separate definition, the management of closed landfills would be better included as part of the overall definition of Landfills. While *Waste Management (NZ) Ltd* (OS796.7) requested that activities on closed landfills that do not perforate or penetrate the cap of the landfill are specifically permitted in the rural zones, Dr James was concerned that this could potentially involve a range of activities and without more certainty about what would be included did not consider it appropriate to apply a permitted status. In addition, she clarified that the matters of discretion associated with resource consent for a landfill should provide for aftercare through conditions specifying rehabilitation measures (see MfE Guide to Landfill Consent Conditions 2001, p. 28). To this end, Dr James noted that Rule 16.11 Assessment of Discretionary Activities provides for a site rehabilitation plan as a condition that may be imposed.
565. With regard to the submitter's request to allow for discharges, Dr James noted that separate discharge consents for contaminants into air, land or water are required by the Otago Regional Council for closed as well as operative landfills as discretionary activities. Further, she noted that a closed landfill may also be subject to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health. Although noting the regulations do not apply to a change in land use "not reasonably likely to harm human health" or existing uses, Dr James considered that it is likely that any activity other than rehabilitation, where the cap of a landfill is disturbed, would require a new land use consent.
566. In relation to the concerns of *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* regarding activities on closed landfills being permitted, Dr James noted that under Policy 14.2.1.5 and Rule 14.5 (Assessment of Discretionary Activities), any adverse effects on Manawhenua values must be avoided or if avoidance is not possible, be no more than minor. She noted that the Manawhenua s42A report recommended that landfills 'in any location' must be assessed in relation to the effects on the cultural values of Manawhenua as a priority consideration under Rule 16.11.2 and recommended amending the definition of Landfill to add closed landfills as an included activity.
567. *Waste Management New Zealand Ltd* did not appear or table evidence and there was no discussion of the landfill or closed landfill definition at the hearing.

3.4.5.4 Decision and Reasons

568. We accept in part the submission of *Waste Management (NZ) Limited* (OS796.13) with respect to *providing* for landfills which are closed and where restoration may be occurring. However, we do not consider that it is necessary to add a separate definition for a closed landfill and we agree with the recommendation of the Reporting Officer to include 'rehabilitation activities after the landfill has closed' to the definition of Landfill as a matter of clarification in response to this submission.
569. We reject the request of *Waste Management NZ Ltd* (OS796.7) to permit activities on closed landfills that do not perforate or penetrate the cap of the landfill in the rural zones, for the reasons given by the Reporting Officer and by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou*, as summarised above.
570. We have made the following amendments to implement this decision, (incorporating amendments from the Plan Overview, Industry and Network Utilities decisions):
- Amend definition of Landfills as follows:
"Landfills

The use of land and buildings for the primary purpose of providing a disposal facility for the controlled deposit of solid wastes, household wastes and green waste onto or into land. For the sake of clarity, this definition includes: {RU 796.13 and PO cl.16}

• the generation of energy from these wastes, for example from landfill gas; and {NU 308.468}
• rehabilitation activities after landfills are closed; and {RU 796.13}
• related waste managed facilities such as recycling stations (Ind 796.30)

This definition excludes farm landfills, offal pits, silage pits and silage stacks, which are ~~part~~ provided for under the definition {PO cl.16} of farming activity.

Landfills are an activity in the rural activities category." {PO cl.16}
571. See Appendix 1 (for amendments attributed to RU796.13).

3.4.6 Rural Industry

3.4.6.1 Background

572. Rural Industry as notified is defined 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.
573. The 2GP provides for rural industry as a discretionary activity in rural zones under Rule 16.3.3.8.

3.4.6.2 Submission in support

574. *Federated Farmers of New Zealand* (OS919.80) sought to retain the definition of Rural Industry because it considers that the definition "appropriately captures activities which are compatible with and complimentary to rural activities".

3.4.6.3 Requests relating to offal rendering plant

575. *Wallace Corporation Limited* (OS343.1) sought to change the activity status of rural industry from discretionary to restricted discretionary in the rural zones. The submitter (OS343.5) also sought to amend the definition of Rural Industry to include the example 'Offal rendering plant'. The submitter's reason was to preserve the ability of an existing offal rendering plant to operate, as the activity is well suited to the rural zone. The activity status change submission was supported by *Federated Farmers of New Zealand* (FS2449.319) who considered that restricted discretionary status would better recognise that rural industry is important to the primary production sector and appropriate in the rural zones. The submission was opposed by *HPPC* (FS2267.66) who considered that while industry should be encouraged, "it is quite unlike the rural setting" and should have a status of discretionary or non-complying.

3.4.6.4 Request to add new definition of rural contractor depots

576. *Rural Contractors New Zealand Incorporated (RCNZ)* requested that rural contractor depots are provided for as either permitted or restricted discretionary activities in rural zones, depending on their scale, instead of being included under the definition of rural industry (with a discretionary status). To achieve this outcome, RCNZ sought amendments to a number of different 2GP provisions, as summarised in the s42A Report (p. 64):
- Amend the definition of Rural Industry to remove reference to 'agricultural contractors depots' (OS911.2)
 - Add a new definition of 'Rural Contractor Depots', along with definitions for Small Scale and Large Scale Rural Contractor Depots, with the scale threshold based on the number of employees (OS911.5)
 - Provide for 'rural contractor depots - small scale' as a permitted activity in the rural zones (OS911.5)
 - Provide for 'rural contractor depots - large scale' as a restricted discretionary activity in the rural zones, with effects on the safety and efficiency of the transport network and reverse sensitivity effects to be considered as assessment matters under Rule 16.10.2 (OS911.5)
 - Amend Policy 16.2.1.2 to include reference to rural contractor depots (OS911.9)
 - Amend Policies 16.2.2.5, 16.2.2.6 and 16.2.3.5 to include reference to rural contractor depots – large scale (OS911.10, OS911.13 and OS911.11)
577. *RCNZ* considered that it was not appropriate to classify 'agricultural contractors depots' as a rural industry. The submitter reasoned that the associated environmental effects are significantly less than other activities included as examples in the definition with rural contractor services being an essential part of the farming sector. *RCNZ* explained that the rural contractor depots can vary in scale from relatively small-scale seasonal operators, some of whom have established the business as a logical extension of an existing farming operation, to larger-scale businesses operating solely as a rural contractor depot.
578. *Harboursides and Peninsula Preservation Coalition* (FS2267.76) opposed the *RCNZ's* submission OS911.5, in relation to the proposed use of number of employees as a means of distinguishing between small-scale and large-scale rural contractor depots, because "the impacts associated with a material depot are not related to site employment".

3.4.6.5 Section 42A Report

579. With regard to the submission of *Wallace Corporation Ltd* (OS343.1) to amend Rule 16.3.3.38.a to make Rural Industry restricted discretionary, the Reporting Officer stated that in her opinion, the discretionary activity status is the most appropriate as it recognises that rural industry activities are wide ranging in nature. The discretionary activity status "recognises that these activities are anticipated in the rural zones, but different activities may or not be appropriate on different sites depending on their scale and nature of their effects. It also recognises that it is difficult to define and restrict the matters that the Council may wish to assess in considering any application". Therefore, she did not recommend accepting this submission.
580. The Reporting Officer considered that although offal rendering plants were not provided as a specific example in the definition of rural industry, they easily fell within the definition of an Industrial activity that 'processes the raw materials of farming or factory farming'. While she did not consider that it necessarily needed clarification, she suggested that it could be added as an example (s42A Report Section 5.1.2, p. 50).
581. The Reporting Officer agreed with RCNZ that it is important that the activities associated with agricultural or rural contractor depots are appropriately recognised and provided for in the rural zones. She also agreed that it would be appropriate to provide for rural contractor depots as rural activities in the 2GP (s42A Report, p. 66).
582. The Reporting Officer also agreed with the submitter that a small scale depot may be ancillary to a farm and in the range of normal farming activity and that activities associated with larger contractor and transport depots were likely to have fewer potential adverse effects than some of the other examples of rural industry specified in the plan. She recommended a number of amendments to support this change.
583. With respect to the further submission of *Harboursides and Peninsula Preservation Coalition* regarding the suitability of using employment on site to measure effects, the Reporting Officer noted that employment was used in other district plans as a way of measuring the likely scale of contractor depots. She considered numbers of employees to be a suitable proxy for scale of operation because of the relationship between staffing, number of vehicles and vehicle movements as well as onsite use of machinery.
584. The Reporting Officer, however, did not agree with the submitter's suggestion of 10 staff as the upper limit of 'small scale'. Instead, an upper limit of five employees was recommended as being appropriate for small scale depot.
585. She also considered that the effects of large scale rural contractor and transport depots could be fairly well predicted and agreed with the submitter that they could be managed as a restricted discretionary activity.
586. The Reporting Officer recommended that effects on the amenity of residential activities on surrounding properties, effects on rural character and visual amenity, and effects on the safety and efficiency of the transport network, be listed as matters of discretion.
587. The Reporting Officer also recommended the following:
- that it was not necessary to include specific reference to rural contractor and transport depots in Policy 16.2.1.2, because, given that it would be a rural activity, it would fit within the existing grouping of 'other rural activities' already provided for in the policy.
 - that Rural Contractor and Transport Depots – Large Scale be included in Policy 16.2.2.5 and 16.2.3.5 because of the recommendations that the activity be managed as restricted discretionary and effects on residential amenity and rural character and visual amenity should be matters of discretion.

- that it was not necessary to refer to Rural Contractor and Transport Depots – Large Scale in Policy 16.2.2.6 because the activity was not likely to generate significant effects beyond its own boundaries. The Reporting Officer considered that the recommended inclusion of this activity in Policy 16.2.2.5 was sufficient to manage potential amenity effects beyond site boundaries.
588. Although RCNZ did not ask for performance standards to be attached to Rural Contractor and Transport Depots – Small or Large Scale, the Reporting Officer noted that other activities provided for as permitted and restricted discretionary in the rural zones were subject to performance standards, including hours of operation, location and minimum car parking and, therefore, made recommendations around whether these should be applied. She did not recommend applying the hours of operation standard as she felt it would be impractical to require all types of transport or contractor depot to confirm to a single standard for hours of operation, because of the seasonal nature of some activities. Instead, she recommended the proposed hours of operation of a Large Scale Depot be taken into account when assessing effects on residential amenity via the resource consent process, and conditions on hours of operation (and potentially on the use of airbrakes) could be imposed on a case by case basis where it was considered necessary to mitigate amenity effects, particularly effects from noise.
589. She also considered whether it was appropriate to apply a location performance standard requiring that the activity must not be accessed directly from a state highway with a speed limit of 80 kmh or over, in order to manage potential effects on the safety and efficiency of state highways. She did not consider that this standard needed to be applied to Small Scale Depots, but that Large Scale Depots may generate significant numbers of vehicle movements and therefore should have a location standard applied.
590. The Reporting Officer considered it to be unnecessary to apply a minimum parking standard to Rural Contractor and Transport Depots – Small or Large Scale, because these activities needed to supply adequate parking areas for machinery and vehicles for operational reasons.

3.4.6.6 Hearing

591. *Wallace Corporation Limited* did not appear or table evidence at the hearing.
592. *Rural Contractors NZ Inc* did not appear or table evidence at the hearing.
593. *Murray Soal* (OS291.3) appeared at the hearing and expressed concern that many farming activities, such as stock handling or milk handling on the farm, would be captured by the Rural Industry definition. While *Mr Soal's* original submission (discussed in section 3.2.4.3 above) did not discuss Rural Industry, the Reporting Officer, Michael Bathgate, considered that a minor amendment could be made to the definition of rural industry to exclude processing activity that is part of farming. Mr Bathgate considered that this could be done as a clause 16 minor and inconsequential amendment, as it would improve the clarity of the Plan without changing the effect of the provisions.

3.4.6.7 Decision and Reasons

594. We accept the submission of *Wallace Corporation Limited* (OS343.5) to add 'offal rendering plant' as an example in the definition of Rural Industry. We do not accept the submission of *Wallace Corporation Limited* (OS343.1) to make Rural Industry a restricted discretionary activity in the rural zones for the reasons given by the Reporting Officer as summarised above.
595. We accept in part the submissions of *Rural Contractors NZ Inc* (OS911.2, 5, 9, 10, 11) for 'small scale' Rural Contractor Depots to be provided for in rural zones as a permitted activity, depending on scale and to amend definitions, policies and assessment rules and add new definitions to achieve this outcome. We note that the

Reporting Officer supported providing for Small Scale Rural Contractor Depots that employ up to five FTE staff as permitted activities. However, in our opinion this would not be appropriate to achieve the objectives around rural character and amenity, as an operation at this scale could have adverse effects that would not be adequately managed. Instead we preferred defining Small Scale as not exceeding more than two persons operating from the site (relying on equipment or vehicles stored on the site or making regular visits to the site) at any one time, other than persons living on the site as their principal place of residence, allowing for an exception of up to five people for up to 20 days for busy times of the year. This wording is based on the standard applied to working at home. We made no change to the discretionary activity status of rural contractor and transport depots over this scale. We note after considering this matter in light of other decisions we have made in the Plan, our conclusion was that these activities need to remain as a type of Industrial activity, as the definition of Industry covers Transport Depots.

596. We reject the submission of *Rural Contractors NZ Inc* (OS911.13) to amend Policy 16.2.2.6 to include reference to rural contractors because, due to our Cross Plan - Mining decision we have removed this policy from the policy suite.
597. We have also amended the definition of Rural Industry to clarify that 'activities that otherwise meet the definition of farming' including any on-property processing activity that falls within the definition of Farming activity is excluded. We note and agree with the Reporting Officer's revised recommendation that this amendment can be made under clause 16 as a minor and inconsequential amendment that will improve the clarity of the Plan.
598. The amendments that we have made as a result of this decision, including amendments from the Plan Overview decision and consequential amendments are as follows:

a) Amended the definition of 'rural industry' as follows:

"Rural Industry

~~An industrial activity~~ A type of industry (Ind cl. 16) that processes or transports {RU 911.5} the raw materials of farming, ~~factory farming~~ intensive farming {RU 1090.3}, 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~~ {RU 911.5}
- ~~agricultural contractors depots~~ {RU 911.5}
- offal rendering plants {RU 343.5}
- 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. {CP 458.3 and others}

This definition includes:

- any ancillary retail carried out on the site.
- generation of energy from the combustion of biomass waste that is the by-product of rural industry. {NU 308.468}

This definition excludes:

- activities otherwise defined as rural contractor and transport depots; and {RU 911.5}
- activities that otherwise meet the definition of farming {RU cl 16.} Rural industry is a sub-activity of industry." {PO cl.16}

- b) Added a new definition for rural contractor and transport depots as follows:

"Rural contractor and transport depots

The use of land and buildings as a depot for rural contractor and transport services. For the sake of clarity, this includes the storage, maintenance, repair and refuelling of the vehicles, machinery and other materials associated with these activities as well as the administration and dispatch of workers. {RU 911.5}

Rural contractor and transport depots are managed at two different scales - small scale and large scale." {RU 911.5}

Rural contractor and transport depots are a sub-activity of industry." {RU 911.5}

- c) Added a new definition for 'Rural contractor and transport depots - small scale' as follows:

"Rural Contractor and Transport Depots - Small Scale

Rural contractor and transport depots that do not exceed more than two persons operating from the site (relying on equipment or vehicles stored on the site or making regular visits to the site) per day, other than persons living on the site as their principal place of residence; except up to 5 people can operate from the site per day for no more than 20 days in one calendar year." {RU 911.5}

- d) Added a new definition for Rural contractor and transport depots - large scale as follows:

"Rural Contractor and Transport Depots - Large Scale

Rural contractor and transport depots that exceed the people operating on site of Rural contractor and transport depots - small scale." {RU 911.5}

- e) Amended the Industrial Activities Category nested table to add 'Rural contractor and transport depots' as a sub-activity of Industry activity.

- f) Amended Industrial Activities definition as follows:

"Industrial Activities

The category of land use activities that ~~includes~~ consists of {PO cl.16} industry, ~~including and~~ industrial ancillary tourism, ~~and~~ {PO cl. 16} rural industry ~~and rural contractor and transport depots which are sub-activities of Industry {RU 911.5} as sub-activities {PO cl. 16}.~~

- g) Amend the definition of Industry to include "rural contractor and transport depots" as one of the sub-activities of Industry.

- h) Amended Policy 16.2.1.2, 16.2.2.5 and Policy 16.2.3.5 to add rural contractor and transport depots - large scale to listed activities.

- i) Amended Rule 16.3.3 (Activity status table) by adding:

- Rural contractor and transport depots - large scale as a discretionary activity in the rural zone and ONL/SNL/NCC and non-complying in ONF/ONCC/HNCC and ASBV. Rural contractor and transport depots - small scale as a permitted activity in Rural Zone and ONL/SNL/NCC and as a non-complying activity in ONF/ONCC/HNCC and ASBVs.

- Consequently, we have also amended:
 - 16.11.2.3 (assessment of discretionary activities) to add rural contractor and transport depots – large scale alongside rural industry;

599. See Appendix 1 (for amendments attributed RU 911.5).

3.4.7 Policy 16.2.1.1

3.4.7.1 Background

600. Policy 16.2.1.1 reads "Enable farming, grazing and conservation activity in the rural zones".

3.4.7.2 Submissions

601. *Yellow-eyed Penguin Trust* (OS690.18) sought to retain Policy 16.2.1.1 in relation to conservation activities being enabled within the zone, as this is where most penguin habitat is located. *Federated Farmers of New Zealand* (OS919.129) 'strongly' supported the policy to specifically enable farming and associated activities, while *Horticulture New Zealand* (OS1090.30) supported the policy to enable farming (including horticulture). *Timothy George Morris* (OS951.25) and *Timothy Morris* (on behalf of *RG and SM Morris Family Trust*) (OS1054.25) sought to retain Policy 16.2.1.1 but sought to amend other aspects of the 2GP to "ensure consistency" with the policy. The latter submission was supported by *Geoff Scurr Contracting Limited* (FS2391.25).
602. *Forest and Bird NZ* (OS958.97) sought to amend Policy 16.2.1.1 to specify that it is 'sustainable' farming that should be enabled, because the current wording "does not meet part II RMA". This was opposed by *John Scott* (FS2140.16), *Ben Graham* (FS2279.16), *Mathew O'Connell* (FS2300.16), *Geoff Scurr Contracting Limited* (FS2391.91), and *Pigeon Flat Road Group* (FS2416.16) who each ask "who is to measure this and against what criteria?"; and *Federated Farmers of New Zealand* (FS2449.295) who stated "We've experienced a litany of Environment Court appeals lodged by Forest & Bird that make it clear that their view of what is 'sustainable farming and grazing' is not always necessarily in line with that accepted by the industry, under the RMA, case law and/or council planning processes".

3.4.7.3 Section 42A Report

603. The Reporting Officer explained that the policy sets up a permitted activity status for farming. While the purpose of the RMA is sustainable management of natural and physical resources, he agreed with the submitters in opposition that defining criteria to deem any farming activity 'sustainable' and measuring performance against any such criteria would be problematic. While considering that it was definitely a desirable outcome that farming and other activities are sustainable, he considered that to only permit farming activity in the 2GP according to criteria deemed 'sustainable' was an unwieldy, complex and inefficient approach. He therefore did not recommend that the amendment of *Forest and Bird NZ* was accepted.

3.4.7.4 Hearing

604. At the hearing, Ms Maturin, for *Forest and Bird New Zealand* reiterated her opinion that the policy should refer to 'sustainable' farming.
605. *Federated Farmers NZ* and *Horticulture NZ* supported the s42A Report recommendation.

3.4.7.5 Decision and reasons

606. We reject the submission from *Forest and Bird New Zealand* (OS958.97) to amend Policy 16.2.1.1 to specify that it is 'sustainable' farming that should be enabled. We agree with the further submitters and the assessment of the Reporting Officer that defining and measuring a 'sustainable' farming activity would be problematic and we disagree with the contention of *Forest and Bird New Zealand* that the wording of the policy does not meet Part II of the RMA.

3.4.8 Policy 16.2.1.2

3.4.8.1 Background

607. Policy 16.2.1.2 reads: "Provide for other rural activities, veterinary services, rural industry, community activities, cemeteries and crematoriums in the rural zone where the effects can be adequately managed in line with Objectives 16.2.2 and 16.2.3, 16.2.4 and their policies, and the objectives and policies of any relevant overlay zones."

3.4.8.2 Submissions

608. *Federated Farmers of New Zealand* (OS919.130) sought to retain Policy 16.2.1.2 and "strongly support" the provisions for other activities in the rural zone where they are "in alignment with the overall purpose" of the rural zones.
609. *Wallace Corporation Limited* (OS343.2) sought to amend Policy 16.2.1.2 and Rule 16.3.3 to provide for the expansion of consented industrial and ancillary activities as a restricted discretionary or discretionary activity. The submitter states that a non-complying activity status for any such expansion does not recognise the significant resources and financial investment divested by an industrial activity consent holder.
610. *Glenelg Gospel Trust* (OS350.10), *Salisbury Park Ltd* (OS488.7), *Craig Horne Surveyors Limited* (OS704.7), *Blueskin Projects Ltd* (OS739.7), *CTW Holdings Limited* (OS742.7) and *G & J Sommers Edgar* (OS889.5) sought to amend Policy 16.2.1.2 to remove the references to other objectives and policies. No specific reason was given for these requests. These submissions were opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.51, FS2456.52, FS2456.53, FS2456.54, FS2456.55 and FS2456.57) because the submitter was concerned that the removal of references to overlay zones may limit Manawhenua input.
611. Conversely, *Forest and Bird NZ* (OS958.98) sought to amend Policy 16.2.1.2 to specify all objectives and policies of the Natural Environment section in Policy 16.2.1.2, stating that effects of rural activities also need to be managed in line with the provisions in the Natural Environment chapter, and readers needed to be "acutely aware" of its relevance. *Federated Farmers of New Zealand* (FS2449.296) opposed the submission because the submitter considered it to be "unnecessary to cross reference across different aspects of the plan in the way proposed".

3.4.8.3 Section 42A Report

612. In relation to *Wallace Corporation Ltd*, the Reporting Officer noted that the 2GP proposes a new definition of Rural Industry, within which the submitter's activity would fall. He explained that:
- rural industry is a discretionary activity and any application to expand the submitter's operation would be processed as a discretionary activity;
 - rural industry is provided for by Policy 16.2.1.2, which he believed meets the concerns of the submitter in regard to potential expansion of their activity

- industrial activities that do not fit within the scope of rural industry are non-complying, in recognition that the industrial zones are considered to be the appropriate zone for industrial activities
- 613. The Reporting Officer did not recommend that *Wallace Corporation Ltd's* amendment to Rule 16.3.3 be accepted. He did not consider that other (non-rural) industrial activities should be provided for in the rural zones, so did not recommend any change to Policy 16.2.1.2 including for activities ancillary to an industrial activity.
- 614. The Reporting Officer did not support the submissions of *Glenelg Gospel Trust* and others that seek removal of the latter part of Policy 16.2.1.2. explaining that the policy provides clarity and cross-linkage at a policy level through specifying that other rural objectives and their policies are relevant, as are the objectives and policies associated with any relevant overlay zone. It was also not recommended that the submission of *Forest and Bird* to specify all objectives and policies of the Natural Environment section in Policy 16.2.1.2 should be accepted, as not all Natural Environment objectives and policies will be relevant in each circumstance. It was also noted that recommended changes to 16.1 Introduction would better highlight that certain Natural Environment provisions can apply generally throughout the rural zones.

3.4.8.4 Hearing

- 615. *Federated Farmers NZ* supported the s42A Report recommendation.
- 616. None of the other submitters directly discussed Policy 16.2.1.2 at the hearing, although Allan Cubitt, for *Salisbury Park Ltd* and others, discussed the submitters' contention that the overall policy framework was too restrictive and too inflexible.

3.4.8.5 Decision and reasons

- 617. We reject the submission of *Wallace Corporation Ltd* (OS343.2) to amend Policy 16.2.1.2 and Rule 16.3.3 to provide for the expansion of industrial and ancillary activities as restricted discretionary or discretionary activities. We consider that it is appropriate that any industrial activities that do not fall within the definitions of rural industry or rural contractor and transport depots are non-complying activities in the rural zones. However, as noted by the Reporting Officer, the policy already provides for rural industry (which the submitter's activity would be defined as) which is a discretionary activity in the rural zones.
- 618. We reject the submission of *Glenelg Gospel Trust* (OS350.10) and others to remove the references to the other objectives and policies within Policy 16.2.1.2 because we consider that the policy provides clarity and cross-linkage at a policy level through specifying that other rural objectives and their policies are relevant, and so they should not be removed.
- 619. We also reject the submission of *Forest and Bird NZ* (OS958.98) to amend Policy 16.2.1.2 to specify all objectives and policies of the Natural Environment section in Policy 16.2.1.2. Our reasons include that we accept the evidence of the further submitter that this is unnecessary and the evidence of the Reporting Officer, that not all Natural Environment policies are relevant to each circumstance. We have however made changes to the Rural Introduction to better highlight how Natural Environment provisions can apply in rural zones (see section 3.7.2 below).
- 620. However, we note that we have amended Policy 16.2.1.2 as a result of other submissions, as shown in section 3.4.6.

3.4.9 16.3.3 Activity status – land use activities

3.4.9.1 Submissions

621. *JWB Bradley Family Trust* (OS185.2) sought to amend Rule 16.3.3 so that Forestry is a permitted activity in the Hill Slopes Rural Zone. The submitter explained that they would like to be able to harvest their plantation and establish a new one. There were a number of other submissions seeking retention of activity statuses either generally (*Radio New Zealand Limited* (OS918.47) or for rural tourism small scale (*Geoff Scurr Contracting Limited* (OS794.9) and *Federated Farmers of New Zealand* (OS919.161)); rural research – small scale, rural research – large scale and rural research – large scale in the Invermay Mapped Area (*AgResearch Limited* (OS924.12, OS924.13, OS924.14); and farming (*Federated Farmers of New Zealand* (OS919.139) and *Rural Contractors New Zealand Incorporated* (FS2450.43)).

3.4.9.2 Section 42A Report

622. With regard to the submission by *JWB Bradley Family Trust* (OS185.2), the Reporting Officer, Michael Bathgate, noted that Forestry is already proposed to be a permitted activity in the Hill Slopes Rural Zone. As Forestry activity includes the harvesting of existing plantation forestry and replanting, the Reporting Officer noted that the relief sought is already provided for by the Plan. He also noted the support of the other submitters.

3.4.9.3 Decision and reasons

623. We accept the submission of *JWB Bradley Family Trust* (OS185.2) that Forestry should have a permitted activity status in the Hill Slopes Rural Zone. As noted by the Reporting Officer, this is already provided by the Plan so no amendments are required to give relief to this submission.

3.4.10 Rule 16.3.3.24 Supported living facilities

3.4.10.1 Background

624. Rule 16.3.3.24 makes supported living facilities, such as student hostels, rest homes and retirement villages, non-complying in the rural zones.

3.4.10.2 Submissions

625. *Robert Francis Wyber* (OS394.98) sought to amend the activity status rules to provide for retirement villages, co-housing and eco-villages in rural zones where close to residential zones and where the proposed site is also close to a sealed main road. This was one part of a submission requesting that a number of plan provisions be amended to provide for a holistic approach to "multi-unit residential development of all kinds".
626. *Horticulture New Zealand* (FS2452.51) opposed this submission because it was concerned about the potential for reverse sensitivity effects on rural activities.

3.4.10.3 Section 42A Report

627. The Reporting Officer, Michael Bathgate, considered retirement villages to be "fundamentally incompatible" with the purpose and function of the rural zones due to their relatively high demands on infrastructure, including water, wastewater and stormwater services (s42A Rural Report, p. 224). Further, he noted that the high number of traffic movements, the scale of buildings, structures and site development

that is typically required, as all incompatible with the amenity and character of the rural zones. The Reporting Officer also agreed with the further submission of *Horticulture New Zealand* that there may reverse sensitivity effects.

628. The Reporting Officer reviewed co-housing and eco-villages, noting that co-housing tended to be urban initiatives and he considered that the nature and scale of co-housing meant that it was more appropriate that they be considered in residential zones. He also looked at eco-villages and considered that while these may be more compatible with a rural or rural residential zone, he considered that they may be difficult to define and his opinion they were better managed within the proposed rule framework. Any proposal to develop an eco-village at a greater density would then be treated as a non-complying development and assessed against the objectives and policies of the plan or more appropriately processed as a plan change. Further, the Reporting Officer noted that in his opinion, eco-villages would be better provided for in the rural residential zone.
629. The Reporting Officer recommended no amendments in response to *Mr Wyber's* submission.

3.4.10.4 Hearing

630. *Mr Wyber* appeared at the hearing and tabled a statement. He submitted that Rule 16.3.3.24 should be amended to add a new discretionary activity of 'Retirement Villages' on large rural sites that do not contain high class soils, are hazard free, gently sloping, close to residential zone boundaries and have frontage access to a sealed main road. He also sought a delay on any zoning decision on such rural areas until the Urban Land Supply Hearing.

3.4.10.5 Revised recommendations

631. In response to *Mr Wyber's* evidence, the Reporting Officer noted the narrowing of the submission to retirement villages. He also noted the criticism of the definition of retirement villages nested under supported living facilities, but considered the non-supported examples discussed by the submitter would be defined as standard residential activity. He made no change to his recommendation in section 42A Report, noting that the rezoning of rural greenfield land was to be considered in the Urban Land Supply Hearing.

3.4.10.6 Decision and reasons

632. We reject the submission from *Robert Francis Wyber* (OS394.98) to provide for retirement villages, co-housing and eco-villages in rural areas where close to residential zones and main roads as outlined in his submission or the alternative request tabled at the hearing to add a new discretionary activity of 'Retirement Villages' on large rural sites that do not contain high class soils, are hazard free, gently sloping, close to residential zone boundaries and have frontage access to a sealed main road. We accept the further submission of *Horticulture New Zealand* that allowing for these kinds of activities may lead to reverse sensitivity. We also note the concern of the Reporting Officer that retirement villages would place additional pressure on infrastructure and roads, and that they would generally be incompatible with the amenity and character of the rural zones and that these were more appropriate in residential zones. We note that the Plan change process is available for these types of development and this is supported by Policy 2.2.4.3 in the Plan.

3.4.11 Rule 16.3.3.35 Visitor accommodation

3.4.11.1 Background

633. Visitor accommodation is a discretionary activity in the rural zones.

3.4.11.2 Submissions

634. *Robin John Shaw Thomas* (OS366.3) requested an amendment to Rule 16.3.3.35 to make it easier to undertake visitor accommodation on small rural landholdings. Mr Thomas stated that the ability to have a small accommodation unit would support a revegetation and predator trapping programme on his 17-hectare land block. The submitter described how he had been re-establishing a native tussock and grey shrubland cover on his property to support endangered fauna.

3.4.11.3 Section 42A Report

635. The Reporting Officer was unsure whether the submitter had a residential activity established on this site, noting that homestays for up to five guests are permitted as part of working from home activity where ancillary to a residential activity on the site. He did not see any compelling reason as to why visitor accommodation should be easier on a small landholding as opposed to a larger one, particularly when the intent of the relevant Policy 16.2.1.4 is to allow visitor accommodation where it supports a productive rural activity which is less likely to occur on smaller properties.
636. The Reporting Officer noted that policies 2.3.1.2 and 16.2.1.4 only refer to visitor accommodation needing to support rural activity and do not mention conservation activity. However, he considered that there may be circumstances such as those cited by the submitter, where visitor accommodation may be beneficial in supporting a conservation activity. The Reporting Officer therefore recommended that policies 2.3.1.2 and 16.2.1.4 be amended to include support for Conservation activity as a factor in providing for visitor accommodation, which would also necessitate a consequential change to assessment Rule 16.11.2.5.d. Because a Conservation activity may be undertaken at a very small scale, he considered that any amendment should refer to a 'significant' conservation activity, for instance one that is associated with an ASCV, a QEII covenant or a similarly protected site, or otherwise considered as being a Conservation activity of similar importance.

3.4.11.4 Hearing

637. At the hearing, *Robin Thomas* tabled a statement and clarified that he wanted to accommodate mostly volunteers rather than visitors but in response to a question from us, he indicated that he intended his request for an amendment to the Visitor Accommodation rule to be considered more widely than for his specific site. He supported the Reporting Officer's s42A Report recommendations to provide relief by including 'a significant conservation activity' in policies 2.3.1.2 and 16.2.1.4 and Rule 16.11.2.5.

3.4.11.5 Decision and reasons

638. We accept in part the submission of *Robin Thomas* (OS366.3), with regard to making provision for visitor accommodation where it supports a conservation activity and we agree with the proviso recommended by the Reporting Officer that it should be 'significant' conservation only that should be considered, to avoid capturing smaller scale conservation efforts. However, we have not amended Policy 2.3.1.2 as recommended by the Reporting Officer because we consider that this level of detail is not appropriate at the strategic level, would be inconsistent with how other activities that need a rural location or support rural activity are treated, and it would be impracticable to list all potential activities. Instead, we have made a more minor amendment to clarify that any commercial or community activities in the rural zones will be those that "need a rural location and/or support rural activity". We agree with the amendment proposed by the Reporting Officer to add consideration of a significant conservation activity' to Policy 16.2.1.4 and the consequential changes to assessment rule 16.11.2.5.

639. The amendments that have been made to implement this decision, including consequential amendments are as follows:

- Policy 2.3.1.2

"Maintain or enhance the productivity of farming and other activities that support the rural economy through: ... h. rules that restrict commercial and community activities in the rural zones to those activities that need a rural location and or {RU366.3} support rural activity."

- Policy 16.2.1.4

"Only allow visitor accommodation in the rural zones where it supports a productive rural ~~activity~~ activities {PO cl. 16} or a significant conservation activity {RU366.3} on the same property."

- Rule 16.11.2.5

"b. Commercial and community activities in the rural zones are restricted to those that need a rural location and or {RU366.3} support rural activity (Policy 2.3.1.2.h)

....d. Visitor accommodation supports a productive rural ~~activity~~ {PO cl. 16} activities {PO cl. 16} or a significant conservation activity {RU366.3} on the same property (Policy 16.2.1.4)..."

640. We have also added a new "Potential circumstances that may support a consent application" clause under assessment Rule 16.11.2.5 as follows (and renumbered subsequent clauses in this rule):

"i. The activity supports a conservation activity that is associated with an ASBV, QEII covenant, conservation covenant with the Department of Conservation or a local government agency, or a protected private land agreement under the Reserves Act 1977." {RU366.3}

641. See Appendix 1 (for amendments attributed to RU366.3).

3.4.12 Rule 16.3.3.37 All other activities in the commercial activities category

3.4.12.1 Background

642. Rule 16.3.3.37 makes all other commercial activities, other than those already specified in the activity status table, non-complying in the rural zones.

3.4.12.2 Submissions

643. *The Construction Industry and Developers Association (CIDA)* (OS997.89) sought to amend Rule 16.3.3 - all other activities in the commercial activities category for Rural Zones from non-complying to discretionary. No specific reasons were given for this request, with this being part of a broad request by the submitter across the Plan to amend most non-complying activities to discretionary. The submitter gave an overarching reason for all their submission points that "the 2GP does not provide enough flexibility for activities and development in a financially viable way".

644. This submission was opposed by *HPPC* (FS2267.131) who considered that it was very important to retain the non-complying status so a full RMA assessment would be applied for "unique developments or activities likely to create conflicts."

3.4.12.3 Section 42A Report

645. The Reporting Officer, Michael Bathgate, noted that as outlined in the Plan Overview Section 42A Report (pp. 19-20), a discretionary activity status is used where activities are anticipated in a zone (but may not be appropriate at any scale or in every location) while a non-complying activity status is used for activities not provided for within a zone because they are likely to have significant adverse effects, either individually or cumulatively (including consideration of precedent). The Reporting Officer explained that the primary focus of the rural zones is to provide for productive rural activities and conservation activities, along with ancillary activities and that he considered that the commercial activities currently specified in the activity status table are those that may be anticipated in rural zones, and appropriate depending on scale, location or association with other activities. He considered that commercial activities not specified, such as office or retail activities, are incompatible with the function, character and amenity of the rural zones, and better located in urban zones such as the commercial and mixed use zones. The Reporting Officer also considered it would set a problematic precedent to have a discretionary activity status for commercial activities in rural zones, as it would conflict with strategic objective 2.4.3 - vibrant CBD and centres.

3.4.12.4 Hearing

646. At the hearing, Ms Emma Peters for *CIDA* tabled and spoke to a written statement. She considered that the hierarchy of activity statuses meant that non-complying activity status was too onerous. She also stated that the plan could not anticipate all activities over a 10 year period. Further, in her opinion a discretionary status should not be viewed as meaning consent will always be granted as the applicant would still have to prove their case. In her view there would not be too much risk in having a discretionary status.

3.4.12.5 Decision and reasons

647. We reject the submission of the *Construction Industry and Developers Association* (OS997.89) to amend 16.3.3 – all other activities in the commercial activities category – from non-complying to discretionary. We accept the further submission by *HPPC* that a non-complying status is appropriate and the evidence given by the Reporting Officer that Commercial activities not specified, such as office or retail activities, are likely to be incompatible with the function, character and amenity of the rural zones, and better located in urban zones such as the commercial and mixed use zones.

3.4.13 Activity status table – land use activities – new suggested land use rules

3.4.13.1 Submissions

648. *Mainland Poultry* (OS782.3) sought, in relation to their egg production and processing facility at Waikouaiti, site specific policies and rules if their other submissions (heard in the Industrial Hearing) to change the zoning of the site to industrial and make factory farming permitted were not accepted. *Mainland Poultry* requested that 13 Matanaka Drive be rezoned to industrial, and for factory farming to be permitted in the industrial zone. The submitter considered the Coastal Rural Zone objective and policy framework places inappropriate weight on preserving the assumed “rural amenity” of the site in the assessment of future development, with inadequate recognition of the social and economic importance of the site to Waikouaiti.

3.4.13.2 Section 42A Report

649. The Reporting Officer, Michael Bathgate, did not see any need to amend the rural zone rules for this site. He noted that the facility operates under a number of resource consents and conditions which allow for the construction of additional laying and rearing sheds and that any further expansion or change in the nature of this factory farming operation would be processed as a restricted discretionary activity in the 2GP (a change from the discretionary activity status in the operative Plan). The Reporting Officer considered it to be appropriate that any other proposed expansions be considered through a consent process and that this was an appropriate activity status for their consideration.
650. The Reporting Officer noted that Policy 16.2.1.2 provides for "other rural activities", which includes factory farming in the rural zones and considered this to indicate that the 2GP anticipates factory farming may be appropriate in the rural zones while policies also seek to avoid or adequately mitigate adverse effects on the amenity of surrounding properties (Policy 16.2.2.5) and on rural character and visual amenity (Policy 16.2.3.5), which he believed to be an appropriate approach. The Reporting Officer believed other policies concerning reverse sensitivity (Policy 16.2.2.6) and productivity (Policy 16.2.4.2) to be less relevant in the case of 13 Matanaka Drive site as it is an existing operation that is not located on high class soils. He did, however, recommend that Policy 16.2.1.2 was reworded to more explicitly indicate that rural activities other than farming are provided for in the rural zones as follows:

"Policy 16.2.1.2

Provide for ~~other~~ rural activities other than farming, veterinary services..."
{OS782.3}

651. *Mainland Poultry* did not appear or table evidence at the hearing.

3.4.13.3 Decision and reasons

652. We reject the submission of *Mainland Poultry* (OS782.3) to amend rural policies and rules to better provide for the submitter's egg production and processing facility at Waikouaiti. We accept the Reporting Officer's evidence that the restricted discretionary status provides appropriately for intensive farming in the rural zones.
653. We note in considering this submission, the Reporting Officer suggested as a clause 16 change a minor inconsequential amendment to Policy 16.2.1.2 to remove the word 'other' in front of rural activities to clarify that the policy applies to all rural activities (e.g. all rural activities are provided for). We agree this change would be useful, however we did not accept that the words 'other than farming' needed to be added.

3.4.14 Rule 16.3.4.14 Development activities on scheduled heritage sites

3.4.14.1 Background

654. Rule 16.3.4.14 sets a restricted discretionary activity status for new buildings, all other structures, parking, loading and access on a scheduled heritage site where visible from an adjoining public place or public place within the heritage site.

3.4.14.2 Submissions

655. *Federated Farmers* (OS919.177) sought to amend Rule 16.3.4.14 to exclude fencing (either all fencing or non-obstructive fencing). The submitter sought this amendment

as in rural areas, fencing around a heritage site is important for stock exclusion, and should be provided for as a permitted activity.

3.4.14.3 Section 42A Report

656. The Reporting Officer agreed with the submitter that fencing should be a permitted activity to exclude stock from heritage sites. He noted that Rule 16.3.4.13 permitted structures no more than 2.5m high or of 2m² footprint on a scheduled heritage site and considered that this rule made adequate provision for fencing, allowing even for deer fencing at around 2m high. He considered that Rule 16.3.4.13 will allow for fencing on a scheduled heritage site and that there is no need to amend Rule 16.3.4.14; however, that the wording of Rule 16.3.4.13 could be slightly amended to better clarify that structures are permitted either below the 2.5m height *or* below a 2m² footprint. In the Rural Addendum he recommended amending the rule to:

"Structures that are no more than 2.5m high or that have no more than a 2m² footprint" {RU919.177}.

3.4.14.4 Hearing

657. At the hearing, Mr Cooper, for *Federated Farmers*, supported the s42A recommendation.

3.4.14.5 Decision and reasons

658. We accept the submission of *Federated Farmers* (OS919.177) but note that as clarified by the Reporting Officer, Rule 16.3.4.13 already adequately provides for fencing as a permitted activity and it is not necessary that any change is made to Rule 16.3.4.14. We do not consider that it is necessary to make the clarification recommended by the Reporting Officer, and have made no changes as a result of this decision.

3.4.15 Rule 16.11.2.4 mining and landfill assessment rule

3.4.15.1 Submissions

659. *Waste Management (NZ) Ltd* (OS796.9) sought an amendment to Rule 16.11.2.4.s so that the bond is required for restoration, noting that, as notified, the scope of the bond required is unlimited and not defined adequately.

3.4.15.2 Section 42A Report

660. The Reporting Officer agreed that the rule should be amended as requested for the reasons given by the submitter and recommended amending the rule as follows:

s. A site restoration plan or bond to provide for site restoration. {RU796.9}

661. The submitter did not appear at the hearing on this matter.

3.4.15.3 Decision and reasons

662. We accept the submission of *Waste Management (NZ) Ltd* (OS796.9) that the bond should be restricted to restoration. In line with our decision to refer to 'restored or

rehabilitated' in mining related provisions discussed in the Mining Decision Report, we have amended the rule to refer to rehabilitation as well as restoration. We also note there has been a clause 16 change made to improve the clarity of the plan.

663. To implement our decision, we have amended Rule 16.11.2.4 as follows:

“Rule 16.11.2.4

u. A site restoration or rehabilitation {CP458.24 and others} plan and/ {RU cl 16} or bond to provide for site restoration {RU796.9} or rehabilitation.”
{CP458.24 and others}

3.4.16 Rule 16.9.2.1 and 16.9.4.10 (assessment of performance standard contraventions)

3.4.16.1 Background

664. Rule 16.9.2.1 provides guidance on the assessment of all resource consents for activities in the rural zones that contravene performance standards.

665. Rule 16.9.4.10 provides guidance on the assessment of resource consents that contravene the maximum height performance standard.

3.4.16.2 Submission

666. HPPC (OS447.96) requested that Rule 16.9.2.1 be amended as follows:

“Potential circumstances that may support a consent application include:

a. The degree of non-compliance with the performance standard is minor. For overlay zones, mapped areas and scheduled items, the degree of non-compliance is less than 10% for performance standards that are quantified.

b. The need to meet other performance standards, or site specific factors including topography, make meeting the standard ~~impracticable~~ physically impossible. ...

d. 'For consideration in the general Rural Zone only, the ~~Non~~ non-compliance with a development performance standard would improve the design of the development in a way that would result in positive effects and better achieve the identified objectives and policies of the Plan.”

667. HPPC considered that a specific standard in (a) rather than just the word 'minor' was needed to protect overlay zones, 'impractical' in (b) was insufficiently stringent, and that only in the general rural zone 'a justified deviation from rules may be fitting'.

668. HPPC was opposed by *Federated Farmers of New Zealand* (FS2449.344) who considered that the amendments and additions sought go significantly beyond the sustainable management principles and overall intent and provisions within the RMA, and the terminology used was inconsistent with that commonly accepted under the RMA.

669. HPPC (OS447.98) requested that Rule 16.9.4.10.iv, which reads "*The terrain provides an adequate backdrop to the proposed building or structure and mitigates any adverse visual effects from the building or structure*" be deleted because in the view of the submitter, "No backdrop can mitigate the visual effect of building or structure height because the height is gauged by comparison with the size of fixed features such as door heights, windows, parked cars, etc. Height cannot be gauged by comparison with amorphous non-discrete landscape backdrops of any type because they lack dimensional references."

3.4.16.3 Section 42A

670. The Reporting Officer did not support the changes requested by HPPC because:

- with respect to (a) he considered it inappropriate to include an arbitrary threshold rather than making decisions on a case by case basis taking into account individual circumstances of each application;
- with respect to (b) 'physically impossible' would be too restrictive and could lead to applications being declined in cases where adverse effects would not be significant, and where the overall effect of an activity would be positive"; and
- with regard to (d) "Development performance standards relate to a range of different aspects of development, some of which have little to do with the reasons for which a site has been included in an overlay zone etc" and in the view of the Reporting Officer, it is appropriate that decision makers are able to consider these factors within overlay zones as well as outside them (s42A Report, p. 358).

671. The Reporting Officer did not agree with *HPPC* that Rule 16.9.4.10.iv be deleted because in his view, "the backdrop provided by the terrain can reduce the adverse visual effects from a building or structure – for example, in cases where the topography of a site means that a building will not breach the skyline from important viewpoints (for example, public roads)" (s42A Report, p. 359).

3.4.16.4 Hearing

672. At the hearing, Craig Werner, for *HPPC* stated that, with regard to Rule 16.9.2.1, "any deviation from submitted amendments should be handled as a plan change. A quantifiable deviation from standards by only 10% is needed as a 'bottom line'."

673. With regard to Rule 16.9.4.10.iv (OS447.98), Mr Werner considered that a building or structure will look too high relative to recognisable features such as cars, doors, windows. He did not believe landform would mitigate this.

674. The Reporting Officer did not make any revised recommendations in relation to these points.

3.4.16.5 Decision and reasons

675. We reject the submission of *HPPC* (OS447.96) to amend Rule 16.9.2.1 to provide for a specific standard for overlay zones, to make the rule more stringent by replacing 'impracticable' with 'physically impossible' and to only allow for consideration of non-compliance in the general Rural zone as summarised above. We agree with the further submission by *Federated Farmers* that the proposed amendments go beyond RMA principles and consider that decisions should be made on a case by case basis rather than attempting to quantify a degree of non-compliance, which we consider would be unworkable, or otherwise making the assessment rule more stringent.

676. We also reject the submission of *HPPC* (OS447.98) to delete 16.9.4.10.iv, because we agree with the assessment provided by the Reporting Officer that in some cases, the terrain behind a building or structure may mitigate adverse visual effects.

3.5 Bulk and location provisions (Landscape Amenity)

3.5.1 Introduction

677. This section of the Decision Report responds to submissions on provisions relating to rural amenity provisions including bulk and location, ridgeline mapped area, hours of operation and Appendix A7 values.

3.5.2 Strategic Direction 2.4

3.5.2.1 Background

678. Strategic Direction 2.4 is: "Dunedin is a Memorable City with a Distinctive Built and Natural Character".

3.5.2.2 Submissions

679. *HPPC* (OS447.10) and *STOP* (OS900.22) sought to add a new objective under Strategic Direction 2.4 to expand the reasons for protection of natural features and rural character. The reason provided by submitters was "to include support of Dunedin's tourism industry" as "the BERL study of several years ago calculated Dunedin tourism as a \$181 million enterprise". The submissions were supported in part by *Oceana Gold (New Zealand) Limited* (FS2439.56, FS2439.57), which sought that the phrase 'maintained or enhanced' was used rather than 'protected'. The submissions were opposed by *Howard Saunders* (FS2373.7, FS2373.45), *Geoff Scurr Contracting Limited* (FS2391.97, FS2391.107) and *Federated Farmers* (FS2449.284, FS2449.285).

3.5.2.3 Section 42A Report

680. The Reporting Officer agreed with *HPPC* and *STOP* that the contribution to Dunedin's tourism sector is one reason for the protection of natural features and rural character, and noted that this in turn contributed to the economic and social well-being of people and communities (s42A Report, pp. 93-94). He did not, however, consider that tourism should be given prominence over, for example, a specific objective relating to the protection of natural features and rural character for the aesthetic appreciation or the cultural well-being of Dunedin residents. He explained the relevant strategic objectives, namely 2.4.4, 2.4.5 and 2.4.6 and their policies, set out the values and criteria that are considered when identifying and assessing landscape, natural character and rural character. In the case of landscape, these values are well-defined by case law, and in the case of the natural character of the coast, the criteria stem from the New Zealand Coastal Policy Statement 2010.
681. The Reporting Officer also noted that section 16.1 Introduction contained the following text in the fourth paragraph: "Tourism is a key sector in the Dunedin economy. The rural parts of Dunedin play an important role in providing for tourism activities, not least through eco-tourism, which relies on maintaining the quality of the natural environment"; and that there was not a similar reference in the introduction to the Natural Environment section regarding the value of the natural environment to the tourism sector. He then proposed an amendment to Section 10.1 Introduction, to include explicit reference to the economic return from tourism in rural zones; he considered that this was a more appropriate means to address the submissions by *HPPC* and *STOP*, rather than inserting a new strategic objective.

3.5.2.4 Hearing

682. At the hearing *Mr Craig Werner* appeared for *HPPC* and tabled a statement that supported the s42A recommendation to amend the Introduction of Natural Environment section of the 2GP.

683. *Ms Lala Fraser* appeared for *STOP* and tabled a statement. The submitter expressed concern about the recommended amendment being in the Natural Environment section, rather than the Rural Section of the 2GP, and considered the amendment was “being relegated to a silo”, and at the very least, needed to be cross-referenced from the Rural Introduction section.

3.5.2.5 Revised recommendations

684. In response to *STOP* the Reporting Officer reiterated that the Rural Introduction already contained text, in the fourth paragraph, regarding the importance of tourism and its reliance on the natural environment.

3.5.2.6 Decision and Reasons

685. We accept in part the submissions of *HPPC* (OS447.10) and *STOP* (OS900.22) that the contribution to Dunedin’s tourism sector is one reason for the protection of natural features and rural character, and noted that this in turn contributed to the economic and social well-being of people and communities and that this should be recognised appropriately in the Plan. We do not, however, consider that this recognition is appropriate at the strategic policy level and have not added a new objective under strategic direction 2.4. Instead, we prefer the relief suggested by the Reporting Officer (to amend the Natural Environment Introduction), which we note was supported by Mr Werner. As discussed in the Natural Environment Decision Report in response to the submission of the *Otago Peninsula Community Board* (OS588.1), we consider amendments to the Natural Environment Introduction are warranted to better reflect not only the interrelatedness of tourism and the environment, but also the environment’s importance to the wider economy. We consider these amendments also provide partial relief for the submissions of *HPPC* (OS447.10) and *STOP* (OS900.22), insofar as they relate to tourism. Amendments involve:
- moving the last sentence of the second paragraph to sit at the start of the third paragraph, and reordering the wording to emphasise the close relationship between the natural environment and wellbeing, including economic wellbeing.
 - clarifying that the sentence starting “Vegetation...” constitutes an example of the natural environment providing services, and adding an additional sentence to explain the importance of services such as these to Dunedin’s economic activity, particularly in the rural environment.
 - adding two additional sentences acknowledging the particular importance of various aspects of the natural environment to tourism.
686. Amendments are therefore as follows:

~~“The natural environment in Dunedin is also important for the social, cultural and economic wellbeing of people and communities in Dunedin, and the life supporting capacity of air, water, soil and ecosystems. Dunedin’s natural environment, and the life supporting capacity of Dunedin’s air, water, soil and ecosystems are important for the social, cultural and economic wellbeing of communities. {RU 447.10} Vegetation, for example, {NatEnv cl.16} (including trees), performs a range of environmental functions such as releasing oxygen; absorbing carbon dioxide and retaining water; moderating micro-climates; giving shade and shelter from winds; providing land stability, particularly on gully and river banks; and providing habitat for wildlife, both native and exotic species. Ecosystem services and natural processes such as these underpin much of Dunedin’s economic activity, especially in the rural environment. Maintaining the quality of the environment is particularly important to the tourism sector. The city’s natural features and landscapes, natural character of the coast and other water bodies, and biodiversity values, all play an important role in contributing to the visitor experience. {RU 447.10 and 900.22, NatEnv 588.1}”~~

3.5.3 Objective 2.4.6 and Policy 2.4.6.2 (Character of Rural Environment)

3.5.3.1 Background

687. Objective 2.4.6 states "The character and visual amenity of Dunedin's rural environment is maintained or enhanced".
688. Policy 2.4.6.2 reads "Maintain the identified values within different rural environments through mapping rural zones and using rules that:
- a. limit the density of residential activities;
 - b. manage the bulk and location of buildings;
 - c. manage the form and design of development associated with large scale activities such as factory farming; and
 - d. manage the pattern, scale and design of subdivision."

3.5.3.2 Submissions

689. Objective 2.4.6 was supported by *Rosemary & Malcolm McQueen* (OS299.116), *University of Otago* (OS308.80) and *Horticulture New Zealand* (OS1090.15). It was also supported by *Waste Management (NZ) Limited* (OS796.2) which noted that the rural zone also had a role in providing for activities that could not otherwise be accommodated in other zones throughout the city. *Federated Farmers* (OS919.105) noted that while they supported the intention of the objective, they sought to ensure that both the wording and implementation of the subsequent policies provided for this balanced approach.
690. *Horticulture New Zealand* (OS1090.17) sought to retain Policy 2.4.6.2.
691. *Dianne Reid* (OS592.6) and *Pigeon Flat Road Group* (OS717.7) sought to add a new policy under Objective 2.4.6 to enable alternative types of subdivision and development, saying that an appropriate balance needed to be struck between character, the fact that these are working areas, and areas where living opportunities are sought. These submissions were opposed by *AgResearch Limited* (FS2398.5, FS2398.6) and *Rural Contractors New Zealand Incorporated* (FS2450.5, FS2450.6) because of concern that the suggested new policy would encourage residential development and result in potential adverse effects on rural activities. The *Reid* submission was opposed by *David Hiom and Kerry Hiom* (FS2473.6), with the reasons relating to their opposition to more intensive zoning and higher intensity of use in the vicinity of Saddle Hill Road.
692. A number of submissions were received to amend Policy 2.4.6.2.
693. *HPPC* (OS447.9) and *STOP* (OS900.20) sought to amend Policy 2.4.6.2 as follows: Maintain the identified values within different rural environments through mapping rural zones and using rules in conjunction with subjective councillor discretion and also objective and specific quantifiable rules that:.....c. manage the form and design of development associated with landscape, coastal and biodiversity overlay zones and associated with large scale activities....
694. These submissions were opposed by *Howard Saunders* (FS2373.6, FS2373.44) because 'subjective councillor discretion' contradicts a rule based process. *Federated Farmers of New Zealand* (FS2449.282, FS2449.283) and *Horticulture New Zealand* (FS2452.36) opposed it because "providing for councillor discretion in a provision is both uncertain for resource users and unfair over time as councillors change". In addition, the further submitters noted that there was adequate provision for landscape, coastal and biodiversity issues in other parts of the Plan.
695. *Waste Management (NZ) Limited* (OS796.3) sought to add a new clause (e) to Policy 2.4.6.2 to "recognise that some activities have a form or function that requires them to be located within a rural zone". This submission was supported by *Oceana Gold (New Zealand) Limited* (FS2439.55) and supported in part by *Horticulture New*

Zealand (FS2452.37) which sought that the submission be allowed but clear criteria included as to how such activities would be assessed.

696. *Federated Farmers of NZ* (OS919.14) sought to amend Policy 2.4.6.2 to specifically provide for primary production, stating that there was a need to ensure that primary production and ancillary activities were specifically provided for. The submission was supported by *John Scott* (FS2140.35), *Dianne Reid* (FS2200.6), *Ben Graham* (FS2279.35), *Mathew O'Connell* (FS2300.35), and *Pigeon Flat Road Group* (FS2416.39) as it is an "important recognition of farming in rural areas "; and *Horticulture New Zealand* (FS2452.38) because there "needs to be specific recognition that rural production activities are enabled and provided for in rural zones". The submission was opposed by the further submission of *Forest and Bird NZ* (FS2482.16) who considered that the amendment was not consistent with Policy 2.4.6.1 or the values identified in Appendix A7.

3.5.3.3 Section 42A Report

697. In response to *Dianne Reid* (OS592.6) and *Pigeon Flat Road Group* (OS717.7) and their request to add a new policy, the Reporting Officer, Michael Bathgate, stated, while acknowledging the need for an appropriate balance to be struck between a range of matters, that Objective 2.4.6 and its policies were concerned with the maintenance or enhancement of the character and visual amenity of the rural environment (s42A Report, p. 96), and thus were at odds with the request. He considered that the proposed policy would be in conflict with Objective 2.4.6, through introducing matters that may not be seeking to achieve the same outcome, and would detract from plan clarity.
698. Mr Bathgate (s42A Report, p. 100) did not support the first amendment proposed by *HPPC* and *STOP* because he considered that the addition of the term "subjective councillor discretion", into the policy, was contrary to how plans work in line with the RMA which relates to assessment of proposals against rules, and the ability to apply for resource consents where activities are not permitted in accordance with those rules. In contrast, resource consents considered by Hearings Panels, generally include consideration against the Plan (and other relevant documents and the RMA itself in accordance with s104) objectives and policies and assessment matters (rather than absolute discretion) (s42A Report, p. 100). Furthermore, while hearings panels usually include some councillors they may also include independent Hearings Commissioners.
699. Mr Bathgate also did not support the second amendment, and noted that Policy 2.4.6.2 was specific to the rural zones in general, in terms of maintaining identified rural character and visual amenity values. He then referred to other strategic policies that relate to the management of activities and development in landscape, coastal and biodiversity overlay zones, scheduled and mapped areas and considered that to bring these additional matters into Policy 2.4.6.2, would be both replicating other policies, and would detract from plan clarity.
700. In response to *Waste Management (NZ) Limited*, Mr Bathgate noted that there had been recommended amendments to Policy 2.3.1.2.b made in the Cross-Plan s42A report on Mining Activities (s42A, pp. 108-109). These included adding in the phrase "or are most appropriately located in the rural zone" to provide for those activities that may be deemed 'locationally constrained'. He considered that this strategic policy, concerning the productivity and range of rural activities, was a more suitable location for recognition of those activities that may be anticipated in the rural zones
701. Mr Bathgate also noted an amendment to Policy 2.4.6.2.c, made as a result of the Cross-Plan Section 42A Report on Mining Activities, which recommended adding 'mining' as an example alongside 'factory farming'. He also recommended adding 'landfills' into this policy, and considered that these amendments may address the concerns of both *Waste Management* and *Oceana Gold* in recognising that some activities will need to be located in a rural zone, while at the same time maintaining

the intent of the policy to manage the form and design of development associated with these activities.

702. The Reporting Officer stated, in response to *Federated Farmers*, that farming and other rural activities were anticipated and either enabled or provided for by Policy 2.3.1.2; this policy was concerned with economic productivity (s42A Report, pp. 101-102). He considered that this was the more appropriate strategic policy to recognise these activities, rather than in Policy 2.4.6.2, which related to rules required to achieve Objective 2.4.6. He then concluded that Policy 2.3.1.2 provided strong recognition for these activities, as was sought by the submitter and all but one of the further submitters.

3.5.3.4 Hearing

703. Ms Lynette Wharfe (resource management consultant) was called by *Horticulture New Zealand* to provide evidence. The submitter supported the s42A Report recommendation and reiterated support for the retention of Policy 2.4.6.2, but considered that rural production activities were a key activity in the rural zones and integral to character, so needed to be included in descriptions of rural character.

3.5.3.5 Revised recommendations

704. In response to *Horticulture New Zealand*, Mr Bathgate reiterated his s42A Report recommendation and noted that this policy set out the rules that will be used to manage effects on rural character rather than specifying those activities anticipated in the zone that may contribute to character. He also referred to the preceding Policy 2.4.6.1.e that specified that productive uses will be used in identifying and listing rural character values.
705. Following the hearing, the Panel noted that the use of the term "large scale" in clause (c) was confusing as effects may arise from small scale activities, and there may be confusion with the use of the same term in activity names (e.g. rural research, rural tourism).
706. In response to the Panel, the Reporting Officer noted that this part of the policy was intended to signal that, as well as performance standards such as setbacks and maximum height, the assessment of certain land use activities that may reach a reasonably significant scale (in terms of buildings, structures and site development) will also include consideration of the development associated with these land use activities and its effects on character and visual amenity. This assessment leads to Policy 16.2.3.5, which uses the same phrase, and lists all land use activities that the policy applies to.
707. Mr Bathgate explained that one of rules 16.10.2.5 or 16.11.2.2-4 is then utilised to assess any such potential effects on character and visual amenity. He then agreed with the Panel, that the use of the term "large scale" in Policy 2.4.6.2 could be confusing, leading as it does via Policy 16.2.3.5 to some land use activities that are deemed large scale by definition (e.g. rural tourism – large scale), and some that may vary considerably in scale (e.g. factory farming, mining). He did not, however, consider that there was scope to amend this part of Policy 2.4.6.2 as the only submissions directly on this clause (OS447.9, OS900.20) did not concern themselves with this particular wording; there were no other submissions to generally amend or remove Policy 2.4.6.2. Similarly, he did not consider that submissions on Policy 16.2.3.5 gave scope to change that policy either.

3.5.3.6 Decision and Reasons

708. We accept in part the submission of *Waste Management (NZ) Limited* (OS796.3). We agree with the submitter that some activities have a form or function that requires that they locate in a rural zone, noting the submitter's evidence in their wider submission that landfills often require large areas to operate, including buffers.

However, we do not consider that there should be a new clause added to Policy 2.4.6.2 as requested by the submitter, because the policy is focused on maintaining rural values through zoning and rules.

709. We do not agree with the recommendation of the Reporting Officer to amend Policy 2.4.6.2.c to include reference to 'landfills' as we do not consider that this provides relief to the *Waste Management* submission. Further, we note that, we have not accepted the Mining Reporting Officer's recommendation to amend Policy 2.3.1.2.b to provide for those activities that may be deemed 'locationally constrained' (see Cross Plan - Mining Decision). Instead, we have added a new strategic policy for mining to recognise the resource-related locational constraints of mining activities (alongside providing for scheduled mining activities). We consider that it is also appropriate to add a similar policy for landfills to recognise the locational constraints of this activity.
710. We reject the submissions of *Dianne Reid* (OS592.6) and *Pigeon Flat Road Group* (OS717.7) to add a new policy under Objective 2.4.6 to enable alternative types of subdivision and development. We agree with the further submitters' concern that such a policy may encourage residential development and result in potential adverse effects on rural activities. We also agree with the evidence of the Reporting Officer, that the objective is focused on the character and visual amenity of Dunedin's rural environment and the proposed policy would be in conflict with Objective 2.4.6, through introducing matters that may not be seeking to achieve the same outcome.
711. We reject the submissions of *HPPC* (OS447.9) and *STOP* (OS900.20) to add two different amendments to Policy 2.4.6.2. With respect to the submission to add 'subjective councillor discretion' in conjunction with the use of rules, we agree with the further submissions in opposition that such a change would be contradictory and uncertain, and with the Reporting Officer that it would be contrary to how plans work under the RMA. With respect to the addition of references to the overlay zones we agree with the further submitters as well as the Reporting Officer that it would be both unnecessary and inappropriate because they are dealt with in other strategic policies.
712. We also reject *Federated Farmers of NZ* (OS919.14) request to amend Policy 2.4.6.2 to specifically provide for primary production and agree with the assessment of the Reporting Officer that there is already appropriate policy recognition of farming related activities in Policy 2.3.1.2
713. To implement this decision, we have made the following amendments:
- Added a new policy under Objective 2.3.1 as follows:

Policy 2.3.1.Y

Provide for landfills in the rural zones by considering as part of resource consent applications for new or expanded landfills:

- the need for landfills to locate where the environmental performance of the landfill is supported, and
- the transport benefit of locating landfills close to the sources of waste destined for the landfill. {RU 796.3}

- Added a reference to Policy 2.3.1.Y in Rule 16.11.2.4

3.5.4 Objective 16.2.3

3.5.4.1 Background

714. Objective 16.2.3 states:

"The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include:

- a. a predominance of natural features over human made features;
- b. a high ratio of open space, low levels of artificial lights, and a low density of buildings and structures;
- c. buildings that are rural in nature, scale and design such as barns and sheds;
- d. a low density of residential activity, which is associated with rural activities;
- e. a high proportion of land containing farmed animals, pasture, crops, and forestry;
- f. significant areas of indigenous vegetation and habitats for indigenous fauna; and
- g. other elements as described in the character descriptions of each rural zone located in Appendix A7."

3.5.4.2 Submissions

- 715. *Egg Producers Federation* (OS702.3) supported Objective 16.2.3 and its associated policies as it acknowledged there are different character and amenity values associated with different rural zones. *Radio New Zealand* (OS918.44) supported Objective 16.2.3 and the direction toward maintaining the character value and amenity of the rural zones. *Oceana Gold* (OS1088.56) also sought to retain Objective 16.2.3. *McLeary Family Trust* (OS832.6) sought to retain Objective 16.2.3 "in principle with appropriate amendments to accommodate the basic tenants of their submission". With regard to the *McLeary Family Trust* submission, in lieu of specific amendments proposed to Objective 16.2.3, the Reporting Officer inferred support for the objective with the relief sought by their submission to be considered under other submission points.
- 716. *Federated Farmers of New Zealand* (OS919.51) sought to amend Objective 16.2.3 to replace the descriptive clauses (a)-(g) with alternative words to recognise the changing nature of the rural landscape. The submitter stated that rural areas were working landscapes which required a degree of change. This submission was supported by *Clifton Trust* (FS2202.18) and opposed by *Otago Regional Council* (FS2381.24) who considered it was inconsistent with the proposed Regional Policy Statement and provided no context for assessment against the objective. The *Federated Farmers'* submission was also opposed in part by *Horticulture New Zealand* (FS2452.43) who considered that "the elements of rural character are clear, but acknowledgement is needed that not all elements are found in all rural areas as the rural character can vary" (s42A Report, p. 178).
- 717. *Horticulture New Zealand* (OS1090.33) sought to amend Objective 16.2.3 to expand clause (e) as, in their view, it should be clear that there can be effects arising from farmed animals, pasture and crops in rural areas
- 718. *Timothy Morris* (OS951.33) and the *Morris Family Trust* (OS1054.33) sought to remove clause (f) as, in their view, it was important that the objective emphasised the requirement to provide for Rural activities and recognised that flexibility was necessary within these areas. The submission of the *Morris Family Trust* was supported by *John Scott* (FS2140.42), *Ben Graham* (FS2279.42), *Mathew O'Connell* (FS2300.42) and the *Pigeon Flat Road Group* (FS2416.46), who supported the requested flexibility for Rural activities. The submission was opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* ((FS2456.68) who supported the retention of areas of indigenous vegetation and habitats of indigenous fauna
- 719. *Forest and Bird NZ* (OS958.99) sought to amend clause (f) to remove "significant", as it considered that the remaining areas of indigenous vegetation and presence of wildlife are important components of rural character and are not restricted to significant areas. This was supported by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.67) as it was consistent with Manawhenua aspirations to see an increase in indigenous biodiversity. The *Forest and Bird* submission was opposed by the *Clifton Trust* (FS2202.10) and *Federated Farmers of New Zealand* (FS2449.299).

3.5.4.3 Section 42A Report

720. The Reporting Officer did not support the submission by *Federated Farmers* (OS919.51) to remove the descriptive clauses (a)-(g) from Objective 16.2.3. He considered these, along with the more detailed zone descriptions and values in Appendix A7, provide a useful general description of the rural character values and amenity that the objective seeks to maintain or enhance. He also noted that the descriptions of the elements that reflect the character of the rural environment are quite broad and high level, and allowed for a high degree of change in the productive landscape without straying from these core qualities. Mr Bathgate considered that the proposed deletion of the descriptors would remove valuable guidance on outcomes expected in terms of character and amenity. However, in response to this submission, and reflecting the comments made in the further submission of *Horticulture New Zealand*, he recommended the insertion of the word “generally” into the first line of the objective to clarify that not all elements may be found to the same degree in all rural zones. Mr Bathgate therefore recommended that *Federated Farmers* (OS919.51) be accepted in part (s42A Report, p. 178).
721. With regard to *Horticulture New Zealand Ltd* (OS1090.33), the Reporting Officer recommended the submission be rejected, but did concur with the submitter that effects such as noise, odour and dust associated with activities such as farming and forestry are to be expected to a degree in the rural zones (s42A Report, pp. 178-179). He considered, however, that it was ‘problematic’ to spell these out in the Objective as this would imply an intent to “maintain or enhance” these effects.
722. With regard to submissions on clause f, the Reporting Officer noted that the inclusion of clause (f) into Objective 16.2.3 was intended to indicate that areas of indigenous vegetation are a component of the overall character and amenity of the rural zones (s42A Report, pp. 179-180). However, the inclusion of this element was problematic in an objective that sought to ‘maintain or enhance’ the listed elements, as Objective 16.2.3 itself was not linked to any specific policies or rules that manage indigenous vegetation (whether considered ‘significant’ areas of indigenous vegetation or otherwise). Given this, the Reporting Officer considered that the removal of clause (f) would aid plan clarity and avoid the confusion of having multiple objectives across plan sections concerned with the maintenance and enhancement of indigenous vegetation, particularly where there are no Rural Section policies or rules that manage indigenous vegetation.
723. As the Reporting Officer recommended the removal of clause (f) altogether, he did not recommend that the submission of *Forest and Bird* to remove the word “significant” from clause (f) be accepted.

3.5.4.4 Hearing

724. At the hearing *Mr David Cooper* for *Federated Farmers* indicated support for the s42A Report recommendation to include the word ‘generally’ into Objective 16.2.3.
725. *Ms Lynette Wharfe* appeared for *Horticulture New Zealand* and pre-circulated evidence and spoke at the hearing. *Ms Wharfe* considered that effects such as noise, odour and dust are part of the makeup of rural areas and this needs to be clarified; she held the view that the issue is wider than reverse sensitivity.

3.5.4.5 Revised recommendations

726. The Reporting Officer, in response to *Ms Wharfe*, once again acknowledged these rural-effects but nevertheless retained the view that the 2GP sought to “maintain or enhance” under Objective 16.2.3, with clause (e) already implying that the effects associated with these elements (e.g. farmed animals, crops, forestry) will exist as part of the rural environment.
727. *Ms Sue Maturin* appeared for *Forest and Bird* and tabled a statement. She reiterated, that in the view of *Forest and Bird*, Objective 16.2.3 should retain (f) without the

word 'significant' as the clause adds clarity because it fully lists elements of rural character and amenity.

728. In response to *Ms Maturin*, Mr Bathgate agreed that the word 'significant' should be removed as this implied reference only to scheduled ASCVs, and in doing so, revised his s42A recommendation to remove clause f entirely.

3.5.4.6 Decision and Reasons

729. We accept in part the submission of *Forest and Bird NZ* (OS958.99), because we accept the evidence of Mr Bathgate and Ms Maturin that the remaining areas of indigenous vegetation and presence of wildlife are important components of rural character and this should not be restricted to significant areas. We have amended clause "f" of Objective 16.2.3 to replace 'significant' with 'extensive' because we consider that this better describes the nature of indigenous vegetation and habitats of indigenous fauna while aiding in plan clarity. For these reasons, we reject *Timothy Morris* (OS951.33) and the *Morris Family Trust* (OS1054.33) to remove clause f.
730. We reject the submission of *Federated Farmers of New Zealand* (OS919.51) to replace clause a-g of Objective 16.2.3 to recognise the changing nature of the rural landscape. We agree with *Otago Regional Council* that the changes would be inconsistent with the pRPS and with the Reporting Officer that the clauses provide a general and high level description of the rural character values and amenity that the objective seeks to maintain or enhance, while allowing for an element of change. We have decided not to include the word 'generally', as recommended by the Reporting Officer. We hold the view that including 'generally' forms an aspirational statement that, in our view, is not effective in an objective.
731. We reject the submission of *Horticulture New Zealand* (OS1090.33) to expand clause e. to acknowledge effects arising from farming activities. We agree with the reason provided by the Reporting Officer that referring to these effects within the policy would imply an intent to maintain or enhance such effects when the intent of the objective is to maintain or enhance rural character and amenity.
732. We have made the following amendments to implement this decision:
1. Amended Objective 16.2.3.f to replace 'significant' with 'extensive'. See Appendix 1 (amendments attributed to RU 958.99).

3.5.5 Ridgeline Mapped Area and Related Provisions

3.5.5.1 Background

733. Important ridgelines in Dunedin were initially identified by Boffa Miskell in a review of the landscape management areas in the operative Plan (Dunedin Landscape Management Areas Review, 2007). The ridgelines identified in the study were considered to be visually prominent and of high cultural or amenity value. Most, but not all of the ridgelines identified by Boffa Miskell, that were included in the 2GP as 'ridgeline mapped areas', lie within proposed landscape overlay zones.
734. Rule 16.6.11.4 Setback from ridgeline reads:
1. New buildings and structures (except fences), additions and alterations, and network utilities structures (all scales) and network utilities poles and masts - small scale must be at least 20m vertically below any ridgeline mapped area.
 2. For the purposes of this standard, the vertical distance will be measured from the highest part of the building or structure.

3.5.5.2 Submissions to remove Rule 16.6.11.4

735. *Blackhead Quarries Ltd* (OS874.41) and *Tussock Top Farm Ltd* (OS901.34) sought the deletion of Rule 16.6.11.4 as the submitters considered that the 2GP did not provide adequate recognition of the importance of aggregate to the community and did not provide the appropriate level of protection for existing quarries. The proposed deletion, in their view, would go some way to ensuring the appropriate level of recognition and protection was put in place. These submissions were opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.95, 96), who considered that the ridgeline provisions as notified provided for the consideration of Manawhenua values in wāhi tūpuna.
736. *Tim Morris and the Morris Family Trust* (OS951.30, OS1054.30) also sought deletion of Rule 16.6.11.4 as they considered the setback distances were far too restrictive and unreasonable. *Federated Farmers of New Zealand* (FS2449.337, 338) supported an amendment of setback rules as they considered they were not appropriate for rural areas. *HPPC* (FS2267.70) opposed the submissions of *Tim Morris and the Morris Family Trust* as “structures on or close to ridgelines have a significant impact on character and amenity”.

3.5.5.3 Request to remove 20m vertical setback and amend Policy 16.2.3.1 and mapping

737. *The Clifton Trust* (OS720.3) sought that Rule 16.6.11.4.1 be amended so that the highest points of buildings or structures are located below a ridgeline, rather than being required to be 20m below the ridgeline. The submitter considered that the rule should follow that proposed by Boffa Miskell Limited, which recommended that any building located within 100m of a ridgeline should have its highest point below the ridgeline. The submitter also sought that Policy 16.2.3.1 be amended by deleting the words “and identified ridgelines”, and that the mapping of the Ridgeline Mapped Areas be amended to show a 100m horizontal buffer on either side of a mapped ridgeline, within which the submitter’s amended version of Rule 16.6.11.4.1 would apply.

3.5.5.4 Submission to amend Ridgeline Mapped Area

738. *Ben Sutherland* (OS335.2) sought to amend the Ridgeline Mapped Area in the vicinity of 16 Treetop Drive. The submitter explained that the position of the mapped area would restrict his ability to build a new dwelling in future because under Rule 16.6.11.4 new buildings must be 20m vertically below the ridgeline mapped area. The submitter noted that the actual physical ridgeline was at least 100 meters above the proposed ridgeline and a neighbour's house was already at the same elevation as any future dwelling he would build. The submitter suggested either moving the ridgeline further up the hill side or reducing the 20m exclusion zone.

3.5.5.5 Submissions on Policy 10.2.5.10 (relating to ridgelines provisions)

739. Policy 10.2.5.10 states “Only allow mining where adverse effects on identified ridgelines can be avoided or, if avoidance is not possible, would be insignificant.”
740. *Saddle Views Estate Limited* (OS458.13) sought to remove Policy 10.2.5.10. They considered the policy applies an absolute threshold of only insignificant adverse effects from mining on ridgelines and that the approach of the District Plan is not balanced, and that the identification of ridgelines as having the same protection as other landscapes is not appropriate because these are working environments with significant modifications through farming, forestry and mining.
741. *Blackhead Quarries Limited* (OS874.17) and *Tussock Top Farm Ltd* (OS901.12) also sought to remove Policy 10.2.5.10, as they considered aggregate resources are critical for people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. They felt their suggested amendments would go some way to ensuring the appropriate level of recognition and protection is put in place. *Oceana Gold (New Zealand) Limited* (OS1088.47) sought the same

amendment, or to clarify that it does not apply to the Macraes Gold Project (which occupies in an area known as Taieri Ridge), because there is no definition of ridgeline or ridgeline mapped area. They sought clarification of these issues as they wish to ensure that further development of the Macraes Gold Project is not contrary to this policy.

- 742. *HPPC* (FS2267.30, FS2267.31) opposed the removal of Policy 10.2.5.10, stating "ridgelines are inappropriate to mine because the positive economic increment of removing a ridgeline and altering the skyline is so small compared to mining the main ore body below".
- 743. *STOP* (OS900.60) considered that mining generally has a significant impact if it goes as high as a ridgeline, and sought amendment of the policy to read: "Do not allow mining where adverse effects on identified ridgelines cannot be avoided or if avoidance is not possible, would be insignificant."

3.5.5.6 Section 42A Report

- 744. In making his recommendations on the ridgeline provisions, the Reporting Officer noted that the mapping of the ridgeline mapped areas in the 2GP at notification was not satisfactory, often at variance to actual topographical ridgelines. He considered that because of the level of error in the mapping; the large amount of work required to review and fix this mapping; and the probability that remapping will result in new sites falling within ridgeline mapped areas, that it was not possible to remedy this situation within the scope of submissions and within the timeframe of the hearings process. Because of this, he suggested that the provisions relating to the ridgeline mapped areas should be removed from the 2GP, with a review of the mapping and related provisions to be included in the plan through a subsequent plan change.
- 745. In relation to Rule 16.6.11.4, the Reporting Officer (s42A Report, pp. 341-342) noted that the need to protect important ridgelines in Dunedin from inappropriate development was raised by Boffa Miskell in their review of the operative Plan landscape management areas (Dunedin Landscape Management Areas Review 2007, pp. 12,164,179). As stated above, the ridgelines identified by this study were considered to be visually prominent ridgelines of high cultural or amenity value. Mr Bathgate considered the evidence of Mike Moore supported the need for a level of protection of these ridgelines.
- 746. Mr Bathgate then acknowledged the concerns expressed in the further submissions of *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtakou* that the removal of ridgeline protection would not provide for consideration of Manawhenua values; and of *HPPC* that structures on or close to ridgelines can have significant impacts on character and amenity. However, due to the mapping issues raised above, he recommended accepting the submissions to remove Rule 16.6.11.4 and as a consequential change to amend Policy 16.2.3.1 and remove the Ridgeline Mapped Area from the 2GP.
- 747. The Reporting Officer (s42A Report, p. 384) agreed with *Ben Sutherland* (OS335.2) that the mapping was erroneous in the vicinity of his property at 16 Treetop Drive, Portobello, and he recommended the submission be accepted in part.
- 748. With regard to the submission of the *Clifton Trust* (OS720.3) Mr Bathgate, in response, noted that Mike Moore, landscape architect, had provided expert evidence in relation to the setback from ridgelines standard (refer Moore evidence, pp. 17-20). Mr Moore raised several issues with the proposed rule, and concluded that "to properly protect ridgelines, these should be mapped in a way that is responsive to the particular landform and to the visibility from significant viewing corridors. Rather than ridgelines being represented as lines on the planning maps, it would be more appropriate to indicate more thoroughly defined overlays. In my opinion, this would have greater effectiveness and clarity than to refer to a measurement below a line."
- 749. Mr Moore did not support the approach suggested by *Clifton Trust*, as he considered that the blanket 100m horizontal offset does not take sufficient account of landform

variability, with the result that buildings could still be prominent on a skyline. In line with Mr Moore's evidence, Mr Bathgate considered that further work was required to better map the ridgelines and the extent to which the effects of any buildings, structures and network utilities in relation to these ridgelines will be experienced; he noted Mr Moore's suggestion for a mapped overlay (i.e. polygons) rather than a line, which Mr Bathgate considered would provide more certainty in terms of where the rule applied (i.e. a form of horizontal offset) than the current rule.

750. As Mr Bathgate recommended withdrawal of the ridgeline mapped areas from the 2GP, he did not recommend that the parts of the *Clifton Trust* submission requesting this 100m horizontal buffer be accepted; he did, however recommend that the part requesting amendment to Policy 16.2.3.1, be accepted (OS720.3).
751. Consequential to the removal of ridgelines provisions in the Rural section, the Natural Environment Reporting Officer also recommended removal of Policy 10.2.5.10 (relating to mining and identified ridgelines) in the Natural Environment section. He noted that most of the mapped ridgelines are within landscape overlay zones, where Mining is either discretionary or non-complying, and effects on landscape will be assessed regardless. Further, he explained that in rural zones outside of landscapes overlay zones, Rule 16.11.2.4 assesses the effects of Mining as a discretionary activity on rural character and visual amenity.

3.5.5.7 Decision and Reasons

752. We agree with the assessment of the Reporting Officer that it is appropriate that all references to mapped ridgelines be removed from the 2GP, because the mapping of ridgelines was inaccurate. Our reasons are the same as that outlined by Mr Bathgate - that time did not permit the remedying of this in the hearings process, nor provide for adequate consideration by owners of any new areas that could be captured by the revised mapping. We therefore accept the submissions seeking the removal of some or all of these provisions: *Blackhead Quarries Ltd* (OS874.17 and OS874.41) and *Tussock Top Farm Ltd* (OS901.3 and OS901.12), *Tim Morris* and the *Morris Family Trust* (OS951.30, OS1054.30) (opposed by *HPPC* (FS2267.70) and supported by *Federated Farmers of New Zealand* (FS2449.337, 338), *The Clifton Trust* (OS720.3), *Ben Sutherland* (OS335.2), *Saddle Views Estate Limited* (OS458.13) and *Oceana Gold (New Zealand) Limited* (OS1088.47). We reject the further submission opposing removal or amendment of the ridgeline mapping: *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (FS2456.95, 96), *HPPC* (FS2267.30, FS2267.31), and *STOP* (OS900.60).
753. Notwithstanding the removal of the ridgeline mapped area and related provisions from the 2GP, we agree with the Reporting Officer that a review of the mapping and related provisions should be undertaken at a later date, and included in the District Plan through a subsequent plan change, as overall we support the intent of the provisions.
754. We have made the following amendments to implement this decision (See Appendix 1) and have attributed this to RU 874.41 and others.
 1. Removed the Ridgeline Mapped Area from the 2GP Map.
 2. Amended Policy 16.2.3.1 to delete reference to 'identified ridgelines' and network utilities as these were only subject to the set back from ridgelines provisions.
 3. Deleted Policy 10.2.5.10
 4. Deleted Rules 5.3.2.1.e, (referenced to ridgeline performance standard in Network Utilities Activity Status table) 5.5.12.3 (Network utilities ridgelines setback performance standard), 5.7.3.14 (Network utilities setback assessment of performance standard contraventions), 16.3.4.2 (Performance standards that apply to all buildings and structures

activities). 16.6.11.4 (Rural setback ridgelines setback performance standard), 16.9.4.14 (assessment of setback from ridgelines), part of 16.9.6.7 (assessment of setback from ridgelines in a wāhi tūpuna mapped area).

5. Note that as consequential change to the removal of the ridgelines provisions we have also amended Rule 16.9.6.7 (assessment of performance standard contravention in a wāhi tūpuna mapped area) so that setback from ridgelines is replaced by maximum height (see Manawhenua Decision Report).

3.5.6 Policy 16.2.3.1

3.5.6.1 Background

755. Policy 16.2.3.1 reads:

"Require buildings, structures and network utilities to be set back from boundaries and identified ridgelines, and of a height that maintains the rural character values and visual amenity of the rural zones."

3.5.6.2 Submissions

756. *Federated Farmers* (OS919.52) sought to amend Policy 16.2.3.1 to ensure "consistency with" rural character values and visual amenity, as they considered the requirement "to maintain" failed to reflect the changing nature of the rural areas. This submission was supported by *Horticulture New Zealand* (FS2452.44) and *Clifton Trust* (FS2202.19)
757. *Federated Farmers* was opposed by *HPPC* (FS2267.48) who stated that "consistent with" was adequate for rural zones, but that maintaining values and amenity properly protects existing residents in overlays from losing these qualities, and the policy should be amended to differentiate landscape, coastal overlays and ASCVs. The *Federated Farmers* submission was also opposed by *Forest and Bird NZ* (FS2482.33).

3.5.6.3 Section 42A Report

758. The Reporting Officer (s42A, pp. 182-183) stated, in response to *Federated Farmers*, that he believed "to be consistent with" rural character value and visual amenity was not sufficiently different from "to maintain" to warrant using the different terminology. He did, however, accept that the use of the wording "maintains" in the policy may be interpreted as meaning there can be no effects whatsoever on rural character values and visual amenity. He considered that the use of the standard wording from the 2GP drafting protocol of "adverse effects are avoided, or if avoidance is not possible, are no more than minor" would clarify the intent of Policy 16.2.3.1 and he recommended an amendment to the policy to capture this.
759. The Reporting Officer also did not recommend the suggested amendment by *HPPC* was made, as in his view this policy was concerned with rural character and amenity. The particular values that make these overlay zones and ASCVs significant are the subject of separate objectives and policies in the Natural Environment section of the 2GP.

3.5.6.4 Hearing

760. David Cooper, for *Federated Farmers NZ*, supported the recommended amendment to Policy 16.2.3.1.
761. Lynette Wharfe (resource management consultant) called by *Horticulture New Zealand* pre-circulated evidence and spoke at the hearing. In relation to Policy

16.2.3.1, Ms Wharfe considered that the recommended amendment would address the issue in terms of character and visual amenity, but that setbacks were also appropriate to manage reverse sensitivity, and policy framework demarcation does not adequately address the cross policy issues.

3.5.6.5 Revised recommendations

762. In his revised recommendations, Mr Bathgate noted that the requirement for setbacks to minimise reverse sensitivity effects were managed by policies under Objective 16.2.2. He also referred the submitter to the proposed revised amendment to strategic Policy 2.3.1.2 which, if accepted by the Panel, would refer to setbacks and reverse sensitivity.

3.5.6.6 Decision and Reasons

763. We reject the submission of *Federated Farmers of New Zealand* (OS919.52) to ensure consistency with rural character values and visual amenity rather than maintaining them. We also considered but did not agree with the alternative relief suggested by the Reporting Officer to replace "maintains" with the "avoids adverse effects on" ... "or, if avoidance is not practicable, adverse effects are no more than minor", wording. In our view, 'maintains' does not imply no effects or change whatsoever, but should instead be viewed in a holistic sense in terms of the overall character and amenity of rural areas.

3.5.7 Policy 16.2.2.5

3.5.7.1 Background

764. Policy 16.2.2.5 reads:

"Only allow rural tourism - large scale, rural research - large scale, community and leisure - large scale, sport and recreation, veterinary services, visitor accommodation, cemeteries, crematoriums, factory farming, domestic animal boarding and breeding (including dogs), rural industry, mining or landfills where adverse effects on the amenity of residential activities on surrounding properties will be avoided or, if avoidance is not possible, adequately mitigated."

3.5.7.2 Submissions

765. *Glenelg Gospel Trust* (OS350.17), *Craig Horne Surveyors Limited* (OS704.23), *Blueskin Projects Ltd* (OS739.23), *CTW Holdings Limited* (OS742.23) and *G & J Sommers Edgar* (OS889.8) sought to amend Policy 16.2.2.5 to 'enable' the activities listed, if 'significant' adverse effects were "avoided, remedied or mitigated". These submissions were opposed by *Otago Regional Council* (FS2381.14, 16, 17, 18, 20) who considered that the amendments would be too enabling.
766. *Waste Management (NZ) Limited* (OS796.24) requested a less stringent policy as it considered it was not always going to be possible to avoid all adverse effects on the amenity of residential activities, from landfill operation. This was opposed by *Otago Regional Council* (FS2381.22).
767. *Rural Contractors New Zealand Incorporated* (OS911.10) and *AgResearch Limited* (OS924.9) supported the policy 'in part', but considered it placed too much emphasis on 'avoiding' adverse effects on the amenity of residential activities (resulting in an unrealistic threshold test). They sought to change the end of the policy to "will be adequately avoided, remedied or ~~if avoidance is not possible, adequately mitigated~~" to give greater consistency with the terminology used in Part 2 of the RMA.
768. *AgResearch* also considered the policy needed to reflect that 'rural research - large scale' was provided for as a permitted activity within the identified boundaries of the two Invermay Research Farms (which are in the Taieri Plain and Hill Slopes Rural

zones). The *AgResearch* submission was supported by *Federated Farmers* (FS2449.298) and *Otago Regional Council* (FS2381.23).

3.5.7.3 Section 42A Report

769. The Reporting Officer did not support the submission of *Glenelg Gospel Trust* and others to change the beginning of Policy 16.2.2.5 to start with 'enable' (s42A Report, pp. 171-172). Mr Bathgate explained that this policy set up the assessment of restricted discretionary and discretionary activities, and the wording 'only allow' was consistent with the 2GP drafting protocol for this type of policy and indicated a measure of discretion in deciding whether an activity was suitable. He considered that 'enable' would be more indicative of a permitted activity status. He also did not support the proposed change to only require 'significant' adverse effects to be managed, as he considered less than significant (but more than minor) effects on the amenity of surrounding properties, can and should be avoided if practicable, or adequately mitigated. Mr Bathgate did, however, support that part of the *AgResearch's* submission that sought to specify that only rural research – large "outside the Invermay Farm mapped area" be included in Policy 16.2.2.5, given this activity was permitted in the Invermay Farm mapped area.
770. Mr Bathgate noted that a number of submitters had requested a change in the wording relating to tolerance of effects to "avoided, remedied or mitigated" or "adequately avoided, remedied or mitigated". The use of "avoided, remedied or mitigated" was discussed on page 26 of the Plan Overview Section 42A Report. He concurred with the opinion expressed in that report, that the phrasing did not provide any guidance in terms of whether effects are avoided, remedied, or mitigated. He agreed with the Plan Overview Reporting Officer that any amendment should clearly state the outcome to be achieved, and provide guidance as to an acceptable level of mitigation.

3.5.7.4 Decision and Reasons

771. We accept in part the submission of *AgResearch* (OS924.9) in relation to the Invermay Farm mapped area, because rural research – large scale is a permitted activity in the Invermay Farm mapped area. We have amended Policy 16.2.2.5 to clarify it refers only to rural research – large scale outside the Invermay Farm mapped area.
772. We reject the submissions of *Glenelg Gospel Trust* (OS350.17), *Craig Horne Surveyors Limited* (OS704.23), *Blueskin Projects Ltd* (OS739.23), *CTW Holdings Limited* (OS742.23) and *G & J Sommers Edgar* (OS889.8), *Waste Management (NZ) Limited* (OS796.24) to 'enable' the listed activities if the potential for 'significant' adverse effects was "avoided, remedied or mitigated". We agree with the further submissions of *Otago Regional Council* that the proposed changes would be too enabling. As outlined by the Reporting Officer, the 'only allow' wording at the start of the policy is consistent with the 2GP drafting protocol. We consider that it would not be appropriate to 'enable' the listed activities as this wording implies permitted activity status, and instead we note the wording indicates that they will be subject to assessment on a case by case basis as discretionary or restricted discretionary activities. We also agree with the Reporting Officer that all (not just significant) adverse effects should be avoided where practicable, and adequately mitigated where not. With regard to *Waste Management (NZ) Limited's* submission, we accept that it may not always be practicable to avoid all adverse effects on the amenity of residential activities from landfill operations; however, we consider that the requirement to 'adequately mitigate' those effects that are not practicable to avoid is entirely appropriate.
773. See the Plan Overview Decision Report for further discussion in relation to our decision against the use of 'avoid, remedy or mitigate' in policy drafting.

774. We also reject in part the submissions of *AgResearch* (OS924.9) and *Rural Contractors New Zealand Incorporated* (OS911.10) with respect to their requested amendments to the policy to use the 'avoid, remedy, mitigate' terminology.
775. We have made the following amendments as a result of this decision, (See Appendix 1, amendments attributed to RU 924.9):
- Amended Policy 16.2.2.5 to include "rural research – large scale (outside the Invermay Farm mapped area)".
 - Amended Rule 16.11.2.2 to replace activity name Rural Research – large scale with "Rural Research – large scale (outside the Invermay Farm mapped area)".

3.5.8 Policy 16.2.2.6

3.5.8.1 Background

776. Policy 16.2.2.6 reads:

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.

3.5.8.2 Submissions

777. Multiple submissions were received to change policy wording to "provide for" and "avoided, remedied or mitigated".
778. *Craig Horne Surveyors Limited* (OS704.10), *Blueskin Projects Ltd* (OS739.10), *CTW Holdings Limited* (OS742.10) and *G & J Sommers Edgar* (OS889.9) sought to amend Policy 16.2.2.6 to "provide for" the activities listed, if the potential for adverse effects were "avoided, remedied or mitigated". This was opposed by *HPPC* (FS2267.47).
779. *Waste Management (NZ) Limited* (OS796.28) sought that the reference to Policy 16.2.2.6 that was contained within Rule 16.11.2.4.c (i.e. the assessment rule that applies to mining and landfills in the rural zones) be amended to include the phrase "avoided, remedied or mitigated". *HPPC* (FS2267.72) supported this submission but sought that the wording be amended to "avoided, remedied or adequately mitigated."

3.5.8.3 Section 42A Report

780. The Reporting Officer, Michael Bathgate, did not support the submission of *Craig Horne Surveyors Ltd* and others to change the beginning of Policy 16.2.2.6 to start with "provide for" because, as noted above, this policy sets up the assessment of restricted discretionary and discretionary activities, and the wording 'only allow' is consistent with the 2GP drafting protocol for this type of policy and indicates a measure of discretion in deciding whether an activity is suitable. For the same reasons as discussed under Policy 16.2.2.5, he did not support the proposal to change the wording relating to tolerance of effects to either "avoided, remedied or mitigated" or "avoided, remedied or adequately mitigated".

3.5.8.4 Hearing

781. *Craig Horne Surveyors Ltd* and others did not discuss their submission on Policy 16.2.2.6 at the hearing.

3.5.8.5 Decision and Reasons

782. As a result of submissions heard in the Cross Plan - Mining Hearing we have decided to delete the policy and its consequential references in assessment rules, as shown in Appendix 1 (attributed to *CP 458.23 and others*). We consequentially reject the submissions of *Craig Horne Surveyors Limited* (OS704.10) *Blueskin Projects Ltd* (OS739.10), *CTW Holdings Limited* (OS742.10) and *G & J Sommers Edgar* (OS889.9) and *Waste Management (NZ) Limited* (OS796.28). We note that we also do not agree with the requested changes for the reasons outlined by the Reporting Officer as summarised above.

3.5.9 Policy 16.2.3.2

3.5.9.1 Background

783. Policy 16.2.3.2 reads: "Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones".

3.5.9.2 Submission

784. *Federated Farmers of New Zealand* (OS919.53) sought an amendment to Policy 16.2.3.2 to allow more flexibility where the residential activity was ancillary to primary production. This submission was opposed by *HPPC* (FS2267.49) who sought to retain Policy 16.2.3.2 because the matter was already "properly" covered by Objective 16.2.1.

3.5.9.3 Section 42A Report

785. The Reporting Officer (s42A Report, pp. 184-185) acknowledged that there may occasionally be circumstances, such as on a smaller horticultural site, where residential activity on a site that did not meet the density standard could support farming activity. He considered, however, that any "flexibility" in considering such exceptions (as requested by the submitter) were best detailed under Objective 16.2.1 in terms of the functions of the rural zones, and referred to his recommended amendments to Policy 16.2.1.7 elsewhere, which in his view, offered the relief the submitter sought.

3.5.9.4 Hearing

786. Neither *Federated Farmers* or *HPPC*, both of whom were represented at the hearing, discussed Policy 16.2.3.2.

3.5.9.5 Decision and Reasons

787. We reject the submission of *Federated Farmers of New Zealand* (OS919.53). We agree with the further submitter and the assessment of the Reporting Officer that this matter is better considered under Objective 16.2.1 in terms of the functions of the rural zones rather than Policy 16.2.3.2 which is focused on maintaining rural character and visual amenity. However, we note that we have not amended Policy 16.2.1.7 as recommended by the Reporting Officer as we do not support the liberalisation of this policy (see section 3.2.11 for further discussion). We have made no changes to Policy 16.2.3.2 as a result of the submission, having heard no evidence to convince us otherwise.

3.5.10 Policy 16.2.3.4

3.5.10.1 Background

788. Policy 16.2.3.4 reads:

"Only allow mining and landfills where there is reasonable certainty that land will be restored to an acceptable standard with respect to landform and productive potential."

3.5.10.2 Submissions

789. *Waste Management (NZ) Limited* (OS796.26) sought an amendment to Policy 16.2.3.4 because a closed landfill, in their view, was not able to return to a productive rural state due to the on-going landfill gas emissions, and the requirement to care for the landfill cap layer (e.g. avoid heavy grazing or forestry).

3.5.10.3 Section 42A Report

790. The Reporting Officer, Katie James, noted that according to *A Guide for the Management of Closing and Closed Landfills in New Zealand* (MfE, 2001), closed landfills in rural areas have been converted to grazing, forestry or have remained disused, therefore in some instances returning to a productive state. Dr James also noted that there are a number of potential adverse effects associated with closed landfills and that closed landfills need to be managed in terms of build-up and release of gases formed by the decomposition of waste. However, she considered that, following rehabilitation and with appropriate monitoring, it was certainly possible for a closed landfill to regain productive potential.

791. Dr James noted that Policy 16.2.3.4 refers to having a 'reasonable certainty' that land will be restored to an acceptable standard but that it provided no timeframe in which this transformation should occur. For instance, she noted that light grazing may be possible in the short term after the cap was built over the landfill while other uses, such as forestry, may not be feasible for decades. She agreed in part with the submitter in that in the short to medium term (i.e. if the length of time of aftercare is around 30 years) and depending on factors such as nature of the landfill contents, scale of the landfill, thickness of the cap and topography, it may indeed be difficult for a closed landfill to return to a productive state in the sense implied by the policy (i.e. farming, forestry or horticulture). In addition, Dr James noted that the MfE Closed Landfills guidance suggested that in the case of larger regional landfills, "public open space activities such as golf courses and driving ranges may be more appropriate in the future" (MfE, 2001, p. 2). She recommended that, while it was appropriate that Policy 16.2.3.4 continued to refer to productive potential, that a reference to potential recreational use was added to recognise that a return to productive land may not always be achievable in the short to medium term.

3.5.10.4 Hearing

792. *Waste Management (NZ) Limited* were not represented at the hearing.

3.5.10.5 Decision and Reasons

793. Our decisions on this policy are made in response to submissions addressed in both the Rural and Mining Activities Section 42A Reports.

794. We accept in part the submission of *Waste Management (NZ) Limited* (OS796.26) to amend Policy 16.2.3.4 to recognise that a return to an acceptable standard with regard to productive potential may not always be possible in the short to medium term. We accept the relief suggested by the Reporting Officer to reference recreational use as well as production. We also consider that the policy should

recognise conservation activities as another potential use that may be suitable following closure of a mining activity or landfill.

795. We note we have also amended the policy in relation to submissions by *Saddle Views Estate Ltd* (CP458.24) and others to use the word 'rehabilitated' in the policy (see Mining Activities Decision).

796. We have made the following amendments as a result of this decision:

- Amended Policy 16.2.3.4 as follows:

"Only allow mining and landfills where there is reasonable certainty that land will be restored or rehabilitated {CP458.24} 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}

- Amended Rule 16.11.2.4 to reflect the changes to Policy 16.2.3.4.

3.5.11 Policy 16.2.3.5

3.5.11.1 Background

797. 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."

3.5.11.2 Submissions

798. *Craig Horne Surveyors Limited* (OS704.11), *Blueskin Projects Ltd* (OS739.11), *CTW Holdings* (OS741.11) and *G & J Sommers Edgar* (OS889.10) sought to amend the policy to 'enable' rather than 'only allow' activities, and to require significant effects to be avoided, remedied or mitigated.

799. *AgResearch Ltd* (OS924.10) sought to amend the policy to reflect that 'rural research – large scale' was provided for as a permitted activity within the identified boundaries of the two Invermay Research Farms.

3.5.11.3 Section 42A Report

800. The Reporting Officer (s42A Report, p. 188) did not support the change in wording at the start of the policy from "only allow" to "enable", or the inclusion of the wording "avoided, remedied or mitigated", for the same reasons as discussed under Policy 16.2.2.5 (see Section 3.5.7 above). He then referred to his recommended changes to this policy as a result of the Plan Overview hearing, which recommended the word "significant" be removed from in front of "adverse effects"; and the addition of the phrase "...are avoided, or if avoidance is not possible adequately mitigated". In his view, these changes may go some way toward granting the relief sought by these submitters.

801. In response to *AgResearch Ltd*, Mr Bathgate supported the submission because, as rural research – large scale was a permitted activity in the Invermay Farm mapped area, it should be excluded from this policy.

3.5.11.4 Decision and Reasons

802. We accept the submission of *AgResearch Ltd* (OS924.10) and have amended Policy 16.2.3.5 to include "outside the Invermay Farm mapped area" for clarification purposes (see also related decision in section 3.5.7 above).
803. With regard to the submission of *Craig Horne Surveyors Limited* (OS704.11), *Blueskin Projects Ltd* (OS739.11), *CTW Holdings* (OS741.11) and *G & J Sommers Edgar* (OS889.10), we note our Plan Overview Decision to review the usage of 'no significant effects' where it occurs in the Plan.
804. As a result, we accept in part *Craig Horne Surveyors Limited* (OS704.11) and others and have amended Policy 16.2.3.5 as follows:
"Only allow ~~factory~~ intensive farming {RU1090.3}, rural tourism - large scale, rural industry, rural research - large scale (outside the Invermay Farm mapped area) {RU924.10}, rural contractor and transport depots - large scale, {RU 911.5} mining and landfills activities {RU cl. 16} where ~~there are no significant~~ {CP 458.25 and others} adverse effects from large scale development on rural character and visual amenity will be avoided or minimised as far as practicable {RU704.11 and others}."
805. We have also made consequential changes to Rule 16.10.2.5.a.ii, 16.11.2.2.d 16.11.2.3.b and 16.11.2.4.e as follows:
~~There are no significant~~ Adverse {CP 458.25 and others} effects from large scale development on rural character and visual amenity will be avoided or minimised as far as practicable {RU704.11 and others} (Policy 16.2.3.5).

3.5.12 Policy 16.2.3.6

3.5.12.1 Background

806. Policy 16.2.3.6 reads:
"Only allow community and leisure activities - large scale, sport and recreation, early childhood education, and visitor accommodation activities where the adverse effects of development on rural character and visual amenity are insignificant."

3.5.12.2 Submissions

807. *Glenelg Gospel Trust* (OS350.18), *Craig Horne Surveyors* (OS704.12), *Blueskin Projects* (OS739.12), *Blackhead Quarries* (OS874.24), *G & J Sommers Edgar* (OS889.11), *CTW Holdings* (OS742.12) and *Tussock Top Farm Ltd* (OS901.19) sought to amend Policy 16.2.3.6 to 'enable' the listed activities where any listed 'significant' adverse effects were 'avoided, remedied or mitigated'. The submitters considered the 2GP did not provide for the range of rural living options sought after by the community or other facilities that contribute to community wellbeing. *Otago Regional Council* (FS2381.25- 29) opposed these submissions, as in their view, they were inconsistent with the Regional Policy Statement.
808. *HPPC* (FS2267.51) opposed *Blackhead Quarries Ltd* (OS874.24) and sought that the policy be retained as notified; they considered protection of rural character from large-scale development and significant adverse effects was very appropriate and that the activities described in this policy can compatibly be located outside of rural areas.

3.5.12.3 Section 42A Report

809. The Reporting Officer (s42A Report, pp. 190-191) did not support the submission of *Glenelg Gospel Trust* and others, to start the policy with "enable", as the wording "only allow" is consistent with the 2GP drafting protocol for this type of policy and

indicates a measure of discretion in deciding whether an activity is suitable. He considered that “enable” would be more indicative of a permitted activity status.

810. Mr Bathgate also did not support the proposed change to only require “significant” adverse effects to be managed, as he considered these activities may cause less than significant, but more than minor, adverse effects on the amenity of surrounding properties which can and should be avoided if practicable, or adequately mitigated. After giving further consideration to this policy he was, however, of the opinion that the requirement for effects to be ‘insignificant’ (the strictest policy wording in the 2GP drafting protocol in terms of tolerance of effects) may be too stringent for a policy associated with discretionary activities. He then recommended a change to the wording of this policy to bring it in line with the wording used for the same activities in Policy 16.2.2.5, which considered the effects of these activities on the amenity of surrounding residential activities.
811. For the same reasons as discussed under Policy 16.2.2.5, he did not support the proposal to change the wording relating to tolerance of effects to “avoided, remedied or mitigated”.

3.5.12.4 Decision and reasons

812. We do not accept the requests of *Glenelg Gospel Trust* (OS350.18), and others to change the beginning of Policy 16.2.3.6 to ‘enable’, to only require ‘significant’ effects to be managed, or to use the words ‘avoided, remedied or mitigated’ at the end of the policy for the same reasons as we give in relation to the related requests to change Policy 16.2.2.5 (section 3.5.7 above). However, we accept in part *Glenelg Gospel Trust* (OS350.18) and others in relation to their reason that the 2GP should provide for “facilities that contribute to community wellbeing” and their desire for the policy to be more lenient. We agree with the recommendation of the Reporting Officer that the word ‘insignificant’ is too stringent for the discretionary status of the policy. However, rather than the medium strictness test recommended by the Reporting Officer, we consider that an effects test with a medium-high strictness is a more appropriate test for these activities, which may only be anticipated to locate in the rural zones in certain circumstances and may generate a range of effects on rural character and visual amenity.
813. We have made the following amendments to implement this decision

Policy 16.2.3.6

Only allow community and leisure activities {RU cl. 16} - large scale, sport and recreation, early childhood education, service stations, {CP 634.40} and visitor accommodation activities {RU cl. 16} where the adverse effects of development on rural character and visual amenity are insignificant avoided or, if avoidance is not practicable, no more than minor. {RU 350.18 and others}

Rule 16.10.2.5 (now Rule 16.10.2.1 all RD activities) and Rule 16.11.2.5.c:

Adverse effects of development on rural character and visual amenity are insignificant avoided or, if avoidance is not practicable, no more than minor {RU 350.18 and others} (Policy 16.2.3.6).

814. See Appendix 1 (amendment attributed to RU 350.18 and others).

3.5.13 Policy 16.2.3.8

3.5.13.1 Background

815. Policy 16.2.3.8 reads:

"Only allow subdivision activities where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the rural character and visual amenity of the rural zones."

3.5.13.2 Submissions

816. *Federated Farmers of New Zealand* (OS919.54) considered that provision should be made in Policy 16.2.3.8 for subdivision activities where these were ancillary to primary production. This submission was supported by *AgResearch Limited* (FS2398.20), *Rural Contractors New Zealand Incorporated* (FS2450.20) and *Horticulture New Zealand Ltd* (FS2452.45).

817. *Timothy George Morris* (OS951.34) and *RG and SM Morris Family Trust* (OS1054.34) sought that Policy 16.2.3.8 was deleted or amended to be more reasonable; stating that "the imposition arising from the policy is unreasonable".

3.5.13.3 Section 42A Report

818. The Reporting Officer, Michael Bathgate, did not support the submissions of *Federated Farmers*, or *Timothy George Morris* and *RG and SM Morris Family Trust* (s42A Report, pp. 192-193). In response to *FFNZ*, Mr Bathgate noted that Policy 16.2.3.8 set out that subdivision was conducted with a view to maintaining or enhancing rural character and visual amenity. He noted Policy 16.2.4.3 was also pertinent in that it set out that subdivision should maintain or enhance the productivity of rural activities. Mr Bathgate considered that this latter policy was the appropriate place to consider and provide for subdivision that contributes to rural productivity, situated as it is under Objective 16.2.4 which seeks to maintain or enhance the productivity of rural activities in the rural zones. With this in mind, he considered it would detract from plan clarity to replicate this policy requirement under Objective 16.2.3, which sought an outcome in relation to rural character and visual amenity.

3.5.13.4 Hearing

819. Lynette Wharfe for *Horticulture New Zealand* tabled evidence and spoke at the hearing. Ms Wharfe considered that the recommended amendment referenced Policy 16.2.4.3 for subdivision related to primary production, but did not amend 16.2.4.8 as requested. In the view of *Horticulture New Zealand*, rural production activities contributed to rural character so it was not inappropriate to include the wording sought into Policy 16.2.3.8. As an alternative, she suggested the 2GP include the term 'ancillary to primary production' in Policy 16.2.4.3.

3.5.13.5 Revised recommendations

820. In response to *Horticulture New Zealand*, Mr Bathgate did not consider that Policy 16.2.4.3 required amendment as clause (a) already specified that subdivision will maintain or enhance productivity of rural activities. Policy 16.2.3.8 did not list land use activities associated with subdivision, but did specify that subdivision should maintain or enhance rural character and visual amenity. In his view, rural production activities are unlikely to be at odds with this policy, and he was unclear why these (or ancillary) activities needed to be spelt out in this policy.

3.5.13.6 Decision and Reasons

821. We reject the requests of *Federated Farmers of New Zealand* (OS919.54), *Timothy George Morris* (OS951.34) and *RG and SM Morris Family Trust* (OS1054.34) to amend Policy 16.2.3.8. We accept the evidence of the Reporting Officer that the consideration of the need for subdivision to support primary production is already adequately covered by Policy 16.2.4.3. We note the evidence of Ms Wharfe seeking a change to 16.2.4.3 in relation to this matter but question the scope for her change requested. Irrespective of scope, we do not agree the change is necessary for the reasons given by the Reporting Officer.

3.5.14 Policy 16.2.3.9

3.5.14.1 Background

822. Policy 16.2.3.9 states: "Require activities to be designed and operated to ensure that adverse effects from light spill on rural character and amenity, and the ability of people to view the night sky, would be insignificant." This policy is linked to the performance standard Rule 16.5.4 which controls light spill in the rural zones.

3.5.14.2 Submissions

823. *Federated Farmers* (OS919.55) sought to amend the policy as it considered that "Insignificant" sets a relatively low regulatory bar (Mr Bathgate assumed the submitter meant to say a relatively high regulatory bar). *HPPC* (FS2267.54) opposed *FFNZ* and sought retention of the policy wording, as notified.
824. *HPPC* considered that a dark sky initiative had large economic gain potential for Dunedin, and stated that "a somewhat flexible term (rather than 'avoid') was appropriate". *Oceana Gold* (OS1088.59) partially supported Policy 16.2.3.9, but sought to amend the policy as it considered that the word "minor" was a more appropriate test for light spill, than "insignificant".

3.5.14.3 Section 42A Report

825. The Reporting Officer agreed that Policy 16.2.3.9 set too stringent a test for assessing the effects of a contravention of the light spill standard (s42A Report, p. 194). He considered that there may be situations in the rural zones where minor effects on rural character and amenity resulting from contravention of the light spill standard may be acceptable. He also noted that the relevant health and safety policy (Policy 9.2.2.4) allowed for only insignificant effects from light spill on the health of people, and, considered this was an appropriate test.
826. Mr Bathgate noted, in response to the further submission, that the word avoid was not used in the policy, or suggested amendment.
827. Policy 16.2.3.9 was not discussed by any of the submitters present at the hearing.

3.5.14.4 Decision and Reasons

828. We accept in part the submissions of *Federated Farmers of New Zealand* (OS919.55) and *Oceana Gold* (OS1088.59) and have amended Policy 16.2.3.9 to replace insignificant with "no more than minor". We agree with the reasons provided by the Reporting Officer that Policy 16.2.3.9 sets too stringent a test for assessing the effects of a contravention of the light spill standard and that a 'no more than minor' test would be more appropriate.
829. To implement this decision, we have amended Policy 16.2.3.9 as follows:

"Require activities to be designed and operated to ensure that any {RU 919.55, RU 1088.59} adverse effects from light spill on rural character and amenity, and the ability of people to view the night sky, ~~would be insignificant~~ will be no more than minor. {RU 919.55, RU 1088.59}."

We have also made consequential changes to rules 16.11.3.3 and 16.12.5.3 which paraphrase this policy.

3.5.15 Objective 16.2.2

3.5.15.1 Background

830. Objective 16.2.2 states:

"The potential for conflict between activities within the rural zones, and between activities within the rural zones and adjoining residential zones, is minimised through measures that ensure:

- a. the potential for reverse sensitivity effects from more sensitive land uses (such as residential activities) on other permitted activities in the rural zones is minimised;
- b. the residential character and amenity of adjoining residential zones is maintained; and
- c. a reasonable level of amenity for residential activities in the rural zones."

3.5.15.2 Submissions

831. *Saddle Views Estate Limited* (OS458.20) and *Egg Producers Federation of New Zealand* (OS702.2) sought to retain Objective 16.2.2 in order to manage reverse sensitivity effects. *New Zealand Defence Force* (OS583.19) also supported managing reverse sensitivity while providing for a range of activities to be undertaken.
832. *Federated Farmers of New Zealand* (OS919.135) sought to retain Objective 16.2.2 because "the primary purpose should be to provide for residential activity which is compatible with the rural zone" and be complementary to farming.
833. *McLeary Family Trust* (OS832.5) sought to retain Objective 16.2.2 "in principle with appropriate amendments to accommodate the basic tenets of their submission".
834. *Oceana Gold (New Zealand) Limited* (OS1088.55) also sought to retain Objective 16.2.2.
835. *Timothy George Morris* (OS951.29) and the *Morris Family Trust* (OS1054.29) stated "support in part" for Objective 16.2.1, but it was unclear what amendments were sought beyond (inferred) retention of Objective 16.2.2.
836. *Horticulture New Zealand* (OS1090.31) sought to amend Objective 16.2.2 by replacing the word "minimised" with "avoided as far as practicable" as it considered that "minimise" was "not sufficient to avoid reverse sensitivity effects".

3.5.15.3 Section 42A Report

837. With regard to *Horticulture NZ's* submission, the Reporting Officer did not consider that avoidance of potential conflict or the potential for reverse sensitivity effects, were realistic outcomes and did not think that it was logical to 'avoid as far as practicable'. Mr Bathgate noted that due to submissions at earlier hearings a recommendation was given to use "as far as practicable" with the use of the word 'minimised'. As a result of discussions in the Industrial hearing, the 2GP drafting guidance was amended so that policies with a medium-high strictness in terms of tolerance of effects use both "minimise" and "as far as practicable". The Reporting Officer considered that this may also be appropriate drafting for Objective 16.2.1 rather than use of "avoid", and recommended an amendment to this effect.

3.5.15.4 Hearing

838. David Cooper, for *Federated Farmers*, responded to the s42A Report recommendation and said while not being strongly opposed, he preferred the removal of "as far as practicable" as he considered that it weakened the intent of the objective and considered that the focus should be on ensuring reverse sensitivity does not occur in or in proximity to rural zones.
839. Lynette Wharfe, for *Horticulture NZ*, considered that the amendment to "minimise as far as practicable" weakens the objective to the extent that the potential for reverse sensitivity would increase. She also considered that the use of 'existing or permitted' meant that consented activities that were not yet established would not be provided for. She noted that the Plan Overview Hearing recommended the use of 'permitted or lawfully established' and that Rule 16.5.9 also uses 'lawfully established' and she considered this to be appropriate terminology.

3.5.15.5 Revised recommendations

840. In response to the evidence of Lynette Wharfe, the Reporting Officer noted that 'as far as practicable' had been added on legal advice as a result of the Industrial Hearing and he maintained his support for this amendment. However, he considered that the witness had raised a valid point in relation to activities that may be consented but not yet established, and recommended amending the objective so that the words 'existing, consented or permitted' would be used. He was uncertain whether the original *Horticulture NZ* submission provided scope for the amendment as it focused on the adequacy of the word 'minimised'. We agree that these comments are outside of the scope of *Horticulture NZ's* submission on this objective and also note that the reverse sensitivity wording was subject to a holistic overview of evidence, with revised Reporting Officer recommendations considered as part of the Plan Overview topic.

3.5.15.6 Decision and reasons

841. We reject the submission of *Horticulture New Zealand* (OS1090.31) to amend Objective 16.2.2 by replacing the word "minimised" with "avoided as far as practicable". We note that the evidence in the Plan Overview Hearing was that minimised means in Plain English to reduce to the smallest extent practical, therefore it essentially requires avoidance if that can be practicably achieved. Therefore, we consider this change to be unnecessary.
842. While we acknowledge that the points raised by *Horticulture NZ* were outside the scope of their submission on this objective, we note there were other submissions that addressed this topic on similar provisions. We note that as part of the Plan Overview topic we considered the definition of reverse sensitivity, and in light of that, the wording of reverse sensitivity objectives and policies. In the decision on that topic, as a result of a submission from *Air New Zealand* (OS1046.5) we expanded the definition of reverse sensitivity to include 'future activities' and deleted all references in policies and objectives to 'permitted' activities or activities 'provided for' in order to prevent duplication between the policies and objectives, and the definition.
843. Therefore, we have not followed the revised recommendation in the Rural Addendum to add 'existing, consented or permitted' and we have removed reference to 'permitted' from the objective, as the definition clarifies that lawful activities are those that are "existing lawfully established activities, permitted activities, and consented activities that are likely to establish". This addresses the concern raised at the Rural Hearing by Ms Wharfe regarding activities that may be consented but not yet established.

844. We note as a result of the Plan Overview Decision we have made the following amendments to Objective 16.2.2:

"The potential for conflict between activities within the rural zones, and between activities within the rural zones and adjoining residential zones, is minimised through measures that ensure:

- a. the potential for reverse sensitivity ~~effects from more sensitive land uses (such as residential activities) on other existing or permitted or lawfully established~~ {PO 1046.5} activities in the rural zones is minimised;

3.5.16 Policy 16.2.2.1

3.5.16.1 Background

845. Policy 16.2.2.1 reads:

"Require residential buildings to be set back an adequate distance from site boundaries to minimise the potential for reverse sensitivity effects from:

- rural activities such as farming (for example, effects from noise, dust or odour); and
- existing factory farming, domestic animal boarding and breeding (that includes dogs), mining, landfills, wind generators - small scale and wind generators - regional scale.

3.5.16.2 Submissions

846. *Federated Farmers of New Zealand* (OS919.136) sought to retain Policy 16.2.2.1 because "the onus should be upon residential buildings to be set back an adequate distance from site boundaries to minimise the potential for reverse sensitivity effects from rural activities such as farming (for example, effects from noise, dust or odour)."

847. *Horticulture NZ* (OS1090.32) considered that "adequate setbacks of residential buildings are an important mechanism to reduce potential for reverse sensitivity effects." However, the submitter also noted that "reverse sensitivity effects are not 'from' rural activities – they are 'on' the rural activities." The submitter requested an amendment to the wording of Policy 16.2.2.1 to reflect this and a similar change to 16.9.4.1.

3.5.16.3 Section 42A Report

848. The Reporting Officer, Ms Jane MacLeod, recommended accepting the submission of *Horticulture NZ* to clarify that the policy is concerned with reverse sensitivity effects 'on' not 'from'. She also noted that the corresponding Policy 17.2.2.1 in the Rural Residential section contains that same error and if the Panel considered that there was scope that this policy should also be amended.

3.5.16.4 Hearing

849. Ms Wharfe, for *Horticulture NZ*, supported the Section 42A recommendation, but noted the suggested amended to assessment Rule 16.9.4.1.b.ii did not seem to be considered.

3.5.16.5 Revised recommendations

850. The Reporting Officer noted that the change to the assessment rule was encompassed within "and make consequential changes to assessment rules" in recommended Amendment One on p168 of the Rural Section 42A report.

3.5.16.6 Decision and Reasons

851. We accept in part the submission of *Horticulture NZ* (OS1090.32) that reverse sensitivity effects are not 'from' rural activities – they are 'on' the rural activities. We have amended the policy to clarify this, though have done this differently than as suggested by the submitter, in part so that the policy reflects broader changes to reverse sensitivity policies we have made as a result of our decision on the Plan Overview topic. We have restructured Policy 16.2.2.1 in order to do this and have made the same changes to Policy 17.2.2.1 as they both contain the same issue identified by the submitter. We note we have also made other amendments to this policy as a consequence of our decision on the related separation distance performance standard discussed in the following section. In addition, we have amended the effects test in Policy 16.2.2.1 from "minimise" to "minimise as far as practicable", as part of a wider change to the drafting protocol which is discussed in the Plan Overview Decision.
852. We do not believe that any of the changes affect the aspects of the policy that were supported by *Federated Farmers* (OS919.316) and as such we accept in part that submission as well.
853. To implement this decision, we have amended Policy 16.2.2.1 to read as follows (attributed to RU 1090.32 and PO 1046.5) and consequentially made the same changes to Policy 17.2.2.1):
- Require residential buildings and cemeteries {RU 702.4} ~~to be set back an adequate distance from site boundaries~~ {RU cl.16} to minimise, as far as practicable, {PO 906.34 and 308.497} the potential for reverse sensitivity by being set back an adequate distance from effects from {RU 1090.32 and PO 1046.5}:
- b. ~~rural activities such as farming (for example, effects from noise, dust or odour)~~ site boundaries {RU 1090.32 and PO 1046.5}; and
 - c. ~~existing~~ {PO 1046.5} ~~factory farming~~ intensive farming {RU 1090.3}, domestic animal boarding and breeding (~~that includes including~~ {RU cl.16} dogs), mining, landfills, ~~wind generators – small scale and wind generators – regional scale wind generators – large scale~~, {NU 308.122} and the Waitati Rifle Range {RU 583.20}.
854. We have consequentially made changes to assessment rules 16.9.3.7.a and 16.9.4.1.b (as well as 17.9.3.7.a and 17.9.4.1.b) as follows:

16.9.3.7.a

- ii. Residential buildings and cemeteries {RU 702.4} ~~are set back an adequate distance from~~ {RU cl.16} ~~existing~~ {PO 1046.5} minimise, as far as practicable, {PO 906.34 and 308.497} the potential for reverse sensitivity {PO 1046.5} by being set back an adequate distance from {RU cl.16} ~~factory farming~~ intensive farming {RU 1090.3}, domestic animal boarding and breeding (including dogs), mining, landfills, wind generators – large scale ~~wind generators – small scale and wind generators – regional scale~~ {NU 308.122} and the Waitati Rifle Range {RU 583.20} ~~to minimise the potential for reverse sensitivity effects~~ {PO 1046.5} (Policy 16.2.2.1.b).

16.9.4.1.b

- iii. Residential buildings ~~are set back an adequate distance from site boundaries to~~ {RU cl.16} minimise as far as practicable {PO 906.34 and 308.497} the potential for reverse sensitivity ~~effects from rural activities~~ {RU 1090.32 and PO 1046.5} by being set back an adequate distance from site boundaries {RU cl.16} (Policy 16.2.2.1.a).

3.5.17 Rule 16.5.9 Separation distance performance standard

3.5.17.1 Background

855. Rule 16.5.9 reads:

1. New residential buildings must be located at least 100m from:
 1. existing, lawfully established factory farming on a separate site;
 2. existing, lawfully established domestic animal boarding and breeding including dogs on a separate site;
 3. existing, lawfully established mining on a separate site;
 4. existing, lawfully established landfill activity on a separate site; and
 5. existing, lawfully established wind generators - community scale and wind generators - regional scale on a separate site.
2. For the purposes of this standard, separation distance is measured from the closest wall of the new residential building to the closest edge of any operational area or other part of the site being used as part of the activities listed.

3.5.17.2 Requests that additional land use activities be subject to the separation distances in Rule 16.5.9

856. The *Egg Producers Federation (EPF)* (OS702.4) considered that the separation distance from the activities listed in Rule 16.5.9.1 should apply not only to new residential buildings, but also to a wider range of new sensitive activities including: visitor accommodation, community activities, recreational facilities and activities, camping grounds, cemeteries, educational facilities, places of assembly, marae and papakāika housing.
857. *The New Zealand Defence Force (NZDF)* (OS583.21) sought that Rule 16.5.9 be amended to require a 100m separation distance between new residential buildings and “existing, lawfully established defence facilities”. They also sought a complementary amendment to Policy 16.2.2.1 (OS583.20). The submitter considered reverse sensitivity to be a “significant issue” for *NZDF* facilities, including the Waitati Rifle Range which was an existing facility located in the rural zone. It noted that local, regional and national significance of this infrastructure meant it was important to protect it from reverse sensitivity effects.
858. *Wallace Corporation Limited* (OS343.6) sought that protection from reverse sensitivity effects should be provided to operators of established and consented industrial activities, in the Rural Zones. We note this request was made as a submission on Policy 16.2.2.1.
859. We note *Fonterra Limited* (OS807.28 and 32) sought that the separation distances also apply from industrial zones. We have considered these points in our Industry decision.

3.5.17.3 Requests for increase of separation distance

860. *The EPF* (OS702.4) considered that the 100m minimum separation distance specified in Rule 16.5.9 was insufficient to prevent reverse sensitivity effects. *EPF* considered that 250m was more appropriate for all of the existing activities protected by the rule. This submission was opposed by *Waste Management (NZ) Ltd* (FS2444.29):
861. *Waste Management (NZ) Ltd* (OS796.8) also considered that the 100m was not a sufficient separation distance to adequately address reverse sensitivity effects, and that the distance should be increased from 100m to 150m for all activities, but particularly in relation to the distance between new residential buildings and landfills.

3.5.17.4 Request for cross-referencing

862. *Horticulture New Zealand* (OS1090.37) considered that Rule 16.6.11 should be cross referenced in Rule 16.5.9 as they considered there was scope for confusion as both rules have provisions relating to the location of residential buildings (Rule 16.6.11 sets out the minimum distances that buildings and structures must be set back from site boundaries).

3.5.17.5 Request that separation distances also apply from industrial and rural industrial activities

863. *Wallace Corporation Limited* (OS343.6) sought that Policy 16.2.2.1 be amended to include reference to existing industrial and rural industrial activities. The submitter considered that protection from reverse sensitivity effects should be provided to operators of established and consented industrial activities, in the Rural Zones. Although the submitter did not specifically request a change to Rule 16.5.9.

3.5.17.6 Section 42A Report

864. With regard to the request from the *Egg Producers Federation* that the separation distance should apply not only to new residential buildings, but also to a wider range of new sensitive activities (OS702.4), the Reporting Officer, Ms Jane Macleod, agreed that many of the activities that the submitter sought to be added to Rule 16.5.9 could lead to reverse sensitivity effects. However, she did not consider that the rule should be amended to apply to 'community and leisure' activities – large scale, early childhood education, sport and recreation, visitor accommodation, entertainment and exhibition, schools or campus activities, on the basis that these are discretionary or non-complying activities in rural zones. She explained that performance standards are not normally applied to discretionary or non-complying activities and noted that, under Rules 16.11.2.1 and 16.12.2.1, all applications for discretionary or non-complying activities will be assessed against Objective 16.2.2, which refers to the need to minimise the potential for reverse sensitivity effects (s42A Report, section 5.10.4, pp. 312-314).
865. In relation to the submitter's request that papakāika housing be subject to the separation distance rule, Ms Macleod noted that the definition of "residential building" would cover new housing of this kind. With regard to community and leisure – small scale, she considered that, as this was likely to consist of activities that make use of space in or around an existing community or other building, the application of Rule 16.5.9 to these activities would be excessively restrictive, and would be an inefficient way to manage the use of existing physical resources.
866. Ms Macleod did, however, recommend that Rule 16.5.9 be amended to apply to new cemeteries, which are restricted discretionary activities in rural zones. She did not consider that amending Rule 16.5.9 in this way would result in excessive restrictions on the development of sites close to the existing activities listed in Rule 16.5.9.
867. With regard to EPF's and *Waste Management's* requests (OS702.4 and OS796.8) to increase separation distance from 100m to 250m, the Reporting Officer assessed this change for:
- domestic animal boarding and breeding (including dogs)
 - landfills
 - factory farming
 - wind generators – community and regional scale.
868. She noted that separation distance from the only other listed activity, mining, was being considered at the Cross Plan: Mining Hearing (s42A Report, section 5.10.4, pp. 314-321).
869. In relation to requests to increase separation distance from domestic animal boarding and breeding (including dogs), Ms Macleod noted that of the 18 other district plans

reviewed during preparation of the s42A Report, only one, the Ruapehu District Plan, required a minimum separation distance between new dwellings and animal boarding activities (Ruapehu's rule requires a minimum distance of 500m). Based on this review of current practice, she did not recommend that the separation distance for this activity should be increased.

870. In relation to the separation distance from landfills, Ms Macleod noted that other district plans that she had reviewed, do not contain rules requiring a minimum separation distance between new dwellings and existing landfills. However, in her view, the increase in the minimum separation distance from 100m to 150m sought by *Waste Management (NZ) Limited* would not result in significant changes to the potential land uses of sites that surround these landfills. Therefore, she recommended that *Waste Management (NZ) Ltd's* submission (OS796.8) be accepted and that Rule 16.5.9 be amended to specify 150m as requested.
871. In relation to the separation distance for factory farming, of which there are three currently in existence throughout the city, Ms Macleod concluded that on the basis of the evidence available to her at the time of drafting the s42A Report, the disadvantages of increasing the separation distance outweighed the advantages. However, she was of the view that if submitters presented evidence at the hearing to indicate that it was impractical for operators of piggeries, poultry farms, and/or any other types of existing factory farm in Dunedin to avoid odour or other effects within 250m of the activity, even where appropriate measures have been taken to mitigate these effects, then an increase to 250m for those particular types of factory farm could be assessed as appropriate.
872. In relation to wind generators, Ms Macleod deferred discussion of this matter to the Reconvened Network Utilities Hearing. She noted that during the original Network Utilities Hearing, the Panel had directed staff to investigate the costs and benefits of introducing a minimum setback for new wind generators from existing dwellings (s42A Report, p. 321). Therefore, she considered that any recommendation to amend the separation distance of dwellings from wind generators should take into account the evidence to be provided in response to this request.
873. In her evidence for the Reconvened Network Utilities Hearing (held in November 2017), Ms Macleod, who was also the Reporting Officer for the Network Utilities topic, recommended that the minimum separation distance of new sensitive activities and from wind generators – large scale should be increased from 100m to 250m as requested by EPF for several reasons, which were outlined in the Network Utilities Memorandum, section 8.3.5, p. 30. (We note that, in response to a separate issue, Ms Macleod had recommended that 'wind generators – community scale' and 'wind generators – regional scale' be merged into a single activity 'wind generators – large scale'; therefore, the latter term is used here.)
874. Firstly, Ms Macleod noted that wind energy generation is of considerable economic and social significance. This is supported by the fact that the need to develop and operate renewable electricity generation, and the benefits of renewable electricity generation, are recognised as matters of national significance under the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG).
875. Secondly, she did not consider it feasible for wind generators to internalise their effects; visual and noise effects, among others, will be felt beyond site boundaries. She considered it possible that noise effects may give rise to complaints. New wind generators – large scale are required to meet 2GP noise standards; however, even where these standards are met, some noise from the generators would still be audible at nearby sites. The original *Blueskin Energy Ltd* wind energy generation proposal at Porteous Hill would have been located within approximately 470-680m of the three closest dwellings. During the 2016 resource consent hearing for this application, the Council's Environmental Health Officer Mr Carlo Bell gave evidence indicating that, even if the proposal were designed to comply with NZS6808:2010 (on which 2GP noise standards for wind generators are based), noise from the wind farm would still be clearly audible from outdoor areas of nearby properties in certain wind conditions, and this may cause annoyance to residents. Therefore, Ms Macleod considered that,

if new dwellings were established within 250m of an existing wind generator, residents of those dwellings could lodge complaints about noise that, even if they were not upheld, may hinder the operation of the existing activity.

876. She also noted that Policy D of NPSREG states: "Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities."
877. In addition, Ms Macleod was of the view that it may be appropriate to increase this distance further via a future plan change, with input sought from an acoustic engineer on a suitable minimum separation distance. However, scope from submissions on the 2GP only allows an increase to 250m.
878. With regard to the submissions of *NZDF*, Ms Macleod recommended that only the Waitati Rifle Range, and not 'defence facilities' in general, should be included in Policy 16.2.2.1 and Rule 16.5.9, because all types of defence facility do not necessarily give rise to adverse effects beyond site boundaries, that could result in reverse sensitivity effects (s42A Report, pp. 321-322). She noted that the *NZDF*'s two other designated facilities in Dunedin City (D159 Kensington Army Hall and D161 RNZNVR Centre) consisted mainly of activities such as administration, residential activities, and storage of military vehicles or equipment, that would not trigger reverse sensitivity effects.
879. With regard to the submission of *Wallace Corporation Limited*, the submission was responded to in the s42A Report alongside other submissions on Rule 16.5.9 because the Reporting Officer considered that the implementation of the submitter's requested change would require an amendment to Rule 16.5.9 to specify a minimum separation distance between new residential buildings and existing industrial and rural industrial activities in rural zones.
880. Ms Macleod noted that the activity definitions of industry and rural industry were wide ranging and included some land uses that would not necessarily result in effects that could trigger reverse sensitivity effects. Therefore, in her view it would not be justifiable to impose a blanket minimum separation distance from all of the listed activities for new residential buildings. However, she considered that it may be appropriate to impose a minimum separation distance for new residential buildings from certain specified existing industry or rural industry activities, if it could be shown that the existing activity cannot reasonably internalise its effects, the existing activity is of some considerable economic or social significance and there is a significant probability of significant effects being felt beyond the site boundaries of the existing activity (s42A Report, pp. 322-324). If the submitters presented evidence at the hearing to demonstrate this, then she considered that the specific activities concerned should be added to Rule 16.5.9; in the absence of any such evidence she recommended that the submission of *Wallace Corporation Ltd* be rejected.
881. The Reporting Officer (s42A Report, p. 324) agreed that the cross-referencing requested by *Horticulture NZ* should be included in the rule, for the reasons given by submitter.
882. Note that two *Fonterra Limited* (OS807.28 and 32) points in the s42A Report seeking that the separation distances also apply from industrial zones were transferred to the Industry decision.

3.5.17.7 Hearing

883. At the hearing Mr Poul Israelson appeared for *EPF* and tabled a statement indicating that he supported the s42A recommendation that most types of sensitive activity do not need to be subject to the separation distance, given that they have discretionary or non-complying status. He would, however, still like to see community and leisure activities – small scale (which are permitted in the rural zones) being subject to Rule 16.5.9. In his view, the activities included in the 'community and leisure' definition are not rural uses; may occur on a regular basis; and are of a nature that may be susceptible to the effects of poultry activities (as well as the other activities listed in the amended separation distance definition).

884. Ms Macleod did not change her recommendation on this matter in response to Mr Israelson's evidence.
885. Mr Israelson also reiterated the request in his tabled statement that the separation distance for intensive farming be increased from 100 to 200m. With regard to the evidence needed to demonstrate this distance was necessary to manage reverse sensitivity effects, he referred to a draft report prepared by Aecom for *EPF* and the *Poultry Industry Association New Zealand*, titled 'Comprehensive Assessment of the Relationship between Poultry Farms and Air Quality Effects'.
886. Ms Macleod, in response, noted that although it was useful to have the additional evidence to consider on this matter, in her view, the extract from the draft report did not on its own justify an increase in the minimum separation distance to 200m, and requested that the full draft report be supplied to the Panel for consideration. She considered that, in order to justify the increase, evidence needed to be provided to show that a significant number of complaints had been made by neighbours that lived between 100m and 200m of poultry farm, and that these complaints were made even when the poultry farm in question had undertaken best practice measures to mitigate odour effects.
887. *NZDF* tabled evidence but did not attend the hearing. The evidence indicated the submitter accepted the Reporting Officer's recommendation that only Waitati Rifle Range (rather than all defence facilities) should be added to Rule 16.5.9. *NZDF* also requested that the reference to the rifle range in Rule 16.5.9 be amended to include reference to its designation, as follows: "the Waitati Rifle Range at 108 Miller Road, Waitati (Minister of Defence designation D158)".
888. In response, Ms Macleod agreed that it would be appropriate to amend the reference to the rifle range as requested, to help clarify the area covered by the range.
889. Although *NZDF* had not raised this matter in their submission, in hearing evidence the submitter agreed with *EPF* that the separation distance provisions should be extended to apply to all sensitive activities, rather than just dwellings and cemeteries in order to ensure consistency with Policy 4.3.4 of the Otago RPS (which refers to 'sensitive activities'). As examples of other sensitive activities, they included schools and childcare facilities, hospitals, offices and hotels/motels.
890. Ms Macleod disagreed that all sensitive activities should be subject to Rule 16.5.9, for the same reasons as explained in terms of the similar submission from the *EPF*.

3.5.17.8 Decision and reasons

891. We accept in part the request from the *Egg Producers Federation of New Zealand* (OS702.4) to apply Rule 16.5.9 to additional sensitive activities. We have amended the rule to apply to Cemeteries but not the other activities requested; we agree with the submitter that sensitive activities other than residential buildings may result in reverse sensitivity effects, but we accept the Reporting Officer's evidence that it is unnecessary to apply the rule to discretionary or non-complying activities, and that it would be unduly onerous to apply it to community and leisure – small scale activities.
892. We accept in part the requests from the *Egg Producers Federation* (OS702.4) and *Waste Management (NZ) Limited* (OS796.8) to increase the separation distance in Rule 16.5.9; we have increased the separation distance from landfills (to 150m) and from wind generators – large scale (to 250m), but we have retained the notified separation distance of 100m for intensive farming and for domestic animal boarding and breeding including dogs.
893. In relation to intensive farming, we are not convinced by the evidence presented by *Egg Producers Federation* that the requested increase is necessary, or that it would result in benefits to intensive farming that would outweigh the restrictions on residential activity on surrounding sites outlined by the Reporting Officer.
894. In relation to domestic animal boarding and breeding including dogs, we accept the evidence provided by the Reporting Officer.

895. In relation to landfills, we accept the evidence of *Waste Management* (that an increase to 150m would be appropriate, taking into account the Reporting Officer's evidence that this increase is unlikely to result in significant changes to potential land uses at sites surrounding Dunedin's landfills).
896. Finally, in relation to wind generators – large scale, we accept the evidence provided by the Reporting Officer for Network Utilities.
897. We accept in part the submissions from *NZDF* (OS583.20 and OS583.21) requesting that provisions be amended to apply a separation distance from defence facilities; we agree with the submitter and the Reporting Officer that a 100m separation distance should be applied from the "Waitati Rifle Range at 108 Miller Road, Waitati (Minister of Defence designation D158)", but not from other defence facilities.
898. We reject the submission from the *Wallace Corporation Limited* (OS343.6), as we have not been presented with evidence that would justify the application of a separation distance either from industry or rural industry activities in general, or from specific examples of these activities.
899. We reject the submission of *Horticulture New Zealand* (OS1090.37) to add cross referencing between rules 16.5.9 and 16.6.11. We do not consider that this is necessary; it is the activity status tables in the Plan that set out which performance standards apply to a given activity. We do not consider that cross-referencing between performance standards is necessary to achieve this.
900. The amendments required for this decision, including consequential amendments, are as follows.
- Amend rules 16.5.9.1 and 16.5.9.2 to apply separation distances from cemeteries and to indicate that, in the case of new cemeteries, the separation distance applies to the "closest edge of the cemetery". Amend Rule 16.3.3.40 (the activity status rule for cemeteries in rural zones) to apply to the separation distances performance standard to cemeteries (RU 702.4)
 - Amend rules 16.5.9.1 and 17.5.10.1 to increase the separation distance from wind generators – large scale to 250m (RU 702.4) and to increase the separation distance from landfills to 150m (RU 796.8).
 - Amend Rule 16.5.9.1 to apply a 100m separation distance from the "Waitati Rifle Range at 108 Miller Road, Waitati (Minister of Defence designation D158)" (RU 583.21).
 - Amend Policy 16.2.2.1 to reflect the changes to Rule 16.5.9, i.e. add references to cemeteries (RU 702.4) and to the Waitati Rifle Range (RU 583.20).
 - Amend Rule 16.9.3.7.a.ii, which paraphrases Policy 16.2.2.1, to reflect the amended wording of this policy (RU 702.4 and RU 583.20).
See Appendix 1.
901. We note that we have also amended the separation distances from mining activities in Rules 16.5.9 and 17.5.10 in response to submissions discussed at the Mining Hearing (see mining decision).

3.5.18 Rule 16.6.8 Number, location and design of ancillary signs performance standard

3.5.18.1 Background

902. Rule 16.6.8 sets out standards for the number, location and design of ancillary signs in rural zones, landscape and natural coastal character overlay zones.

3.5.18.2 Submissions

903. *Otago Peninsula Community Board* (OS588.10) sought greater flexibility in the signage rules stating that they felt they are not practical for local operators. *NZTA* (OS881.116) supported the rule as "signs can impact on road safety, and the provision of a strong framework in respect of this matter provides certainty and clarity to Plan users".

3.5.18.3 Section 42A Report

904. The Reporting Officer considered that the process undertaken to develop the 2GP signage provisions was robust and thorough, as set out in the signs Section 32 Report. In his opinion, the resulting Rule 16.6.8 allows for more flexibility in permitted signage in the rural zones, while recognising the need to protect the identified values of landscape and natural coastal character overlay zones. In the absence of more specific suggestions by the *Otago Peninsula Community Board* as to how Rule 16.6.8 should be amended and why, he recommended that the rule is retained without amendment.
905. Neither submitter appeared at the hearing

3.5.18.4 Decision and reasons

906. We reject the submission of *Otago Peninsula Community Board* (OS588.10) and accept the submission of *NZTA*, noting that we have made a minor amendment to the rule due to a decision on a submission heard in the Commercial and Mixed Use Hearing. This amendment provides an exemption to the signs standards for "regulatory signs, directional signs and warning signs that do not exceed 0.25m²".

3.5.19 Rule 16.6.11.1 Boundary setbacks

3.5.19.1 Background

907. Rule 16.6.11.1 sets out boundary setbacks for new buildings and structures and additions and alterations.

3.5.19.2 Submissions in support

908. *KiwiRail* (OS322.170) supported Rule 16.6.11.1 as the requirement for a setback from side and rear boundaries in separate ownership would give effect to a setback from the rail corridor boundary, as the rail corridor in all reality was never likely to be a front boundary. *Horticulture New Zealand* (OS1090.38) also supported a minimum setback of 40m for residential buildings from side and rear boundaries as the submitter considered it was an appropriate mechanism to reduce potential reverse sensitivity effects. The submitter also sought clarification as to how artificial crop protection structures are classified in terms of the setbacks.

3.5.19.3 Submissions for boundary setbacks to be less restrictive, including for small sites

909. *Tim Morris* and the *Morris Family Trust* (OS951.74, OS1054.74) considered the setback distances were "far too restrictive" and sought amendment to a more reasonable requirement. *Federated Farmers* (FS2449.379, 380) supported these submissions.
910. *Christopher Valentine* (OS464.8) sought to amend Rule 16.6.11.1.a.2 so that residential buildings had a setback ranging between 20m and 40m depending on the width of the site, and provided a formula for determining this. The submitter stated that some rural properties were not much wider than 80m, resulting in either no or

very limited permitted build area. This submission was opposed by *EPFNZ* (OS2437.4) as in their view; the proposed requests would make managing potential effects difficult, and reduced the buildable area on site which was inconsistent with the objectives and policies of the rural zone. *Horticulture New Zealand* (FS2452.55) also opposed *Christopher Valentine*, stating that *Horticulture NZ* sought certainty in the setbacks to ensure that potential for reverse sensitivity was appropriately managed.

911. *Mark and Rayna Dickson* (OS868.2) sought exemption of smaller rural sites from the setback rules, due to the limitations imposed by small rural lots. This request was linked to their request (OS868.1) to rezone their split-zoned site at 36 Harvey Street, Waitati so that it was fully within the Coastal Rural Zone. This submission was opposed by *Horticulture New Zealand* (OS2452.54) who acknowledged that the setbacks may be difficult for smaller sites, but considered that consent could be sought, and an appropriate building platform identified.

3.5.19.4 Submission to increase boundary setback for large farm sheds

912. *Helen Skinner and Joseph O'Neill* (OS312.17) sought that the setback for all buildings and structures was 20m from any side boundary. The submitters stated that they have seen many examples of very large, high sheds built at 6m from a side boundary with a detrimental effect on neighbouring properties, and since the operative plan, the availability of quick built cheap sheds had changed. The submitters also requested that any building or structure higher than 7 metres, or larger than 120m², should be at least 30 metres from a side boundary.
913. This submission was opposed by *AgResearch* (FS2398.37), *Rural Contractors New Zealand* (2450.37) who considered that the relief sought would be unnecessarily restrictive for typical rural buildings and structures. The submission was also opposed by *EPFNZ* (FS2437.3) who believed a blanket setback distance did not reflect that different activities have different effects.

3.5.19.5 Submission to amend exception for existing building within setback

914. *Christopher Valentine* (OS464.7) also sought to amend Rule 16.6.11.1.f.i so that existing buildings located within the setback from the road boundary may undertake additions and alterations that contravene a second boundary setback (i.e. a side or rear setback) if "other options are not possible" or there was "no more than a minimal effect" and the addition or alteration did not increase the contravention of the smallest setback. This request from Mr Valentine would be additional to the existing exemption in Rule 16.6.11.1.f.i, that allows for additions and alterations to an existing building located within the minimum setback from the road boundary, if the addition or alteration does not extend the building any closer to the road boundary. The submitter stated that "some rural properties are not much wider than 80m, resulting in either no, or very limited, permitted build area to side boundaries".

3.5.19.6 Section 42A Report

915. We note that the Reporting Officer relied on expert landscape evidence from Mr Mike Moore, DCC consultant landscape architect, in responding to this topic.
916. In response to *Horticulture New Zealand*, the Reporting Officer noted that the 2GP definition of building is "a structure that includes a roof that is, or could be, fully or partially enclosed with walls" (s42A Report, p. 332). As artificial crop structures do not include a roof, but instead are covered by some form of fabric rather than an impermeable roof, he did not consider that they fitted within the definition of building. Instead, he considered they fell within the category of "all other structures" in terms of Rule 16.6.11.1, and hence did not have a setback requirement.
917. In response to the *Morris'* submission, the Reporting Officer did not consider the setback requirements were "far too restrictive" and noted that the setback rules in the 2GP were the same as the operative Plan; with the addition of a new provision for

roadside produce stalls, and an exemption for additions and alterations to existing buildings located within the minimum setbacks, that do not increase the contravention of the setback (s42A Report, pp. 332-33). He then reiterated that the setback rules were designed to achieve objectives 16.2.2 and 16.2.3 relating to amenity, reverse sensitivity and rural character.

918. In relation to the submission of *Christopher Valentine* (OS464.8), Mr Moore's evidence stated that "In my assessment it would be inappropriate to make provision for development on smaller properties in this way... because development on small properties can have significant built impact and perceived density effects on rural character values generally, and because development that is closer than characteristic to boundaries, can potentially have significant adverse effects on the privacy and visual amenity of neighbouring properties" (Moore Evidence, pp. 15-16).
919. Mr Bathgate concurred with Mr Moore's statement, and did not consider that small sites should be exempt from setback rules, or otherwise have a lesser requirement. Mr Bathgate did not recommend the submission of *Christopher Valentine* to amend Rule 16.6.11.1.f.i was accepted (s42A Report, p. 337). In his view, the amendment proposed introduced elements of subjectivity to the rule that he considered ultra vires in a performance standard. The phrases "other options are not possible" and "there is no more than a minimal effect" require a value judgement which, while acceptable in a policy or assessment rule, would not be effective or provide certainty to a performance standard, that are designed to signal when a development activity is permitted.
920. Mr Bathgate agreed with the reverse sensitivity concerns raised by *Horticulture New Zealand* in relation to smaller sites. In relation to *Mark and Rayna Dickson*, while Mr Bathgate acknowledged that the setbacks may be difficult to achieve on a small rural site, he did not consider that small sites should be exempt from the setback rules (s42A Report, p. 336). This, in his view, would exempt sites of a residential or rural residential scale from meeting rules designed to protect rural activities from reverse sensitivity effects due to these more intensively developed sites, and designed to maintain a reasonable level of amenity for residential activities in rural areas. He noted that existing buildings located within setbacks may undertake additions and alterations, if these do not increase the contravention of the setback or involve an increase in building height.
921. In response to *Helen Skinner and Joseph O'Neill* (OS312.17), Mr Bathgate acknowledged that there was the potential for an amenity effect at the boundary as suggested by the submitters, and by Mr Moore (refer Moore evidence, pp 11-17); but considered that any effects would be lessened by the requirement for a residential building on an adjacent site to be set back 40m from the boundary. Furthermore, he considered that the visual effects could be mitigated relatively easily through screening planting on rural sites.
922. It was also the opinion of Mr Bathgate that relatively large farm buildings form part of the character of the rural environment, and any really large buildings were likely to be associated with land use activities such as factory farming or rural industry, where resource consent would be required, including an assessment of the effects on rural character and visual amenity. He considered that any amendment to require a building to be twice or three times its height or half its length from the side or rear boundary may impact on rural productivity. Requiring rural buildings such as barns and implement sheds to be located further from site boundaries may result in the more inefficient use of a site with more land taken out of production through the creation of more 'dead space' between the boundary and the building. In the case of horticulture, glasshouses are typically very large buildings located on relatively small sites which are likely not to comply with this rule, particularly in respect of the length of the building.
923. On balance, therefore, he did not favour the amendment to the boundary setbacks rule (that was proposed by Mr Moore in his evidence) and he considered that any gains in terms of amenity outcomes may be outweighed by the potential for such an amendment to impact on rural productivity. Further to this point, he did not favour

any requirement for a minimum setback based on building length, as he considered it would unduly penalise long, relatively low rural buildings such as glasshouses.

3.5.19.7 Hearing

924. Ms Lynette Wharfe appeared for *Horticulture New Zealand* and tabled a statement, indicating *Horticulture New Zealand* supported the s42A recommendation, including the clarification that artificial crop protection structures are categorised as 'all other structures'. However, she considered the definition of building should be amended to provide improved clarity and certainty on this.
925. In response, Mr Bathgate noted that another option would be to add a Note to Plan Users under Rule 16.6.11.1 to clarify that artificial crop protection structures fall under (e). He did not, however, favour this approach for the same reasons as raised in the discussion of the building definition on p. 93 of the Plan Overview Section 42A Report, namely that the chance for misunderstanding seemed very low and that including such a note would lead to demands to list all potential structures that are not buildings, which would make for a long and unwieldy note that may detract from plan clarity through not being exhaustive.
926. Mr Christopher Valentine spoke at the hearing to his concerns about setback requirements on small rural sites. He considered there was adequate flexibility on a 15ha site for 40m setback for dwellings, but not on smaller sites. He noted that the Environment Court case (EC2004/194) in relation to setbacks in the Dunedin City District Plan that led to the 40m setback requirement did not consider existing lawful dwellings on smaller sites. He also noted that, while the intention of the Court in requiring a 40m setback was to guarantee a 40m separation between dwellings, methods for calculating separation between buildings have improved since this case, meaning that buildings shouldn't necessarily have to be 40m from the boundary.
927. Mr Valentine also noted that a Northland Environment Court case in 2016 rejected the introduction of a 30m setback for dwellings to manage reverse sensitivity effects. Mr Valentine indicated he sought either:
- a 20m setback for dwellings; or
 - the formula provided in his submission; or
 - discretionary status, included assessment that any residential building should be no closer than 40m from other residential buildings on separate sites and at least 10m from its own site boundary (to address reverse sensitivity effects).
928. At the hearing, Mr Tony Devereux appeared on behalf of *Helen Skinner and Joseph O'Neill* and tabled a statement that he spoke to. He reiterated the submitters' concern about large/tall sheds in proximity to side/rear boundaries. He stated in their view, the 10m height rule had always been too high and in making this point, he referred to the period prior to 2005, where the side/rear setback was 20m for dwellings.
929. Mr Devereux outlined that the submitters considered that there was no need for buildings to be close to boundaries, and that small site owners looking to establish large buildings should have to adjust their plans. In their view, screening by shrubs or trees is not practical and there would be no amenity effects from siting large buildings away from boundaries, with anecdotal evidence suggesting this issue warrants further attention. The submitters held the view that if the setback could not be changed, the 2GP needs to consider a rule that protects existing dwellings inside a 40m setback.
930. On behalf of *Helen Skinner and Joseph O'Neill*, Mr Devereux questioned the need for a 10m maximum height if no rural examples at this height can be found. He then referred to the situation at the rural/residential zone boundary, where the side/rear setback on a residential site is only 2m. A 10m high shed could be established on rural site only 8m from a dwelling on a residential site.
931. The Reporting Officer acknowledged the point made by *Ms Skinner and Mr O'Neill* about the 20m requirement for residential side/rear setback prior to 2005, but still

considered that 26m provided a reasonable level of separation between residential buildings and farm buildings from a visual amenity perspective. In relation to the residential zones, he noted that the maximum height (except Inner City Residential) was 9m, with a 2m side/rear setback and a height plane angle restriction of 45 degrees, starting 2.5m above ground level. Thus a 4.5m building could be erected 2m from the boundary, or an 8.5m building erected 6m from the boundary of another residential site. Thus it may be considered that any amenity risk at the boundary may be as much to the rural site as the residential site. He did, however, acknowledge that farm buildings may be of much larger size than a building on a residential site, but remained unconvinced that screen planting was an ineffective mitigation measure.

932. The Reporting Officer noted that, depending on setback, topography and viewing point; and the desired level of mitigation of softening versus screening, any planting did not need to attain the height of the building being screened. While he realised there was an expectation of open space in the rural zones, he still had concerns about attempts to provide greater residential amenity than is sought for the residential zones. In addition, he still had concerns about any negative impact on rural productivity objectives. As such, he opposed the suggested minimum 20m side/rear setback for all farm buildings, which may include small sheds, pump houses or other relatively small buildings. However, in recognition of the infrequent existence, likely use and potential scale of tall rural buildings, he considered that the side/rear setback could be amended in response to the submitter's concerns for what may be considered very large rural buildings.
933. The Reporting Officer stated that, based on reviewing brochures and websites for farm building suppliers, it is rare for farm buildings to be 7m or taller (Section 42A Report p. 336). Thus he considered that the amendment was not likely to impact on rural productivity while responding to the submitter's concerns around the level of amenity provided across boundaries. He still concurred with the further submitters that the submitter's suggestions of a side/rear setback of 20m for buildings up to 7m and 30m for buildings over 7m were excessive and unnecessarily restrictive. In relation to buildings over 7m, he preferred the less restrictive of Mr Moore's suggestions in relation to height, that of double the building's height from the boundary, and made a recommended revised amendment to this effect. He noted that this revised amendment may have implications for the corresponding discussion of setbacks from side/rear boundaries in the Rural Residential Hearing.
934. The Reporting Officer, after further consideration and further reading of the Environment Court case (EC2004/194) in relation to setbacks in the Dunedin City District Plan, provided a revised recommendation on the side/rear boundary setback for residential buildings in response to *Mr Valentine*. It was his understanding that the intent of the 40m setback for dwellings imposed by the Court, was to guarantee a 40m separation between dwellings, recognising that many of Dunedin's smaller rural sites contained buildings closer than the (then) 20m side/rear boundary setback. After a review of side/rear setbacks for dwellings in other district plans, he noted that 40m did seem to be a large requirement, with setbacks commonly ranging from 5m to 25m (with setbacks at the smaller end of this range typically relating to plans that are more enabling of smaller rural sites).
935. He noted that Mr Moore, in his landscape evidence, was concerned that *Mr Valentine's* submission could result in a side/rear boundary setback for dwellings of 20m. Mr Moore stated "In my assessment it would be inappropriate to make provision for development on smaller properties in this way. This is because development on small properties can have significant built impact and perceived density effects on rural character values generally, and because development that is closer than characteristic to boundaries can potentially have significant adverse effects on the privacy and visual amenity of neighbouring properties." (Mr Moore's Statement of Evidence, para 49).
936. The Reporting Officer accepted Mr Moore's concerns, but considered that guaranteeing a 40m separation between residential buildings may go some way to alleviating them. He then noted that as with the submission of *Helen Skinner and*

Joseph O'Neill, this issue also raised the question as to whether it was character and amenity at the boundary that was to be protected, or where an adjoining dwelling and its curtilage might be located. He also noted that, as well as amenity of adjoining properties, reverse sensitivity was a consideration in determining setbacks. *Mr Valentine's* submission was opposed by *EPFNZ* and *Horticulture New Zealand*, with *Horticulture New Zealand* seeking certainty in setbacks to ensure the potential for reverse sensitivity was appropriately managed.

937. On the basis that the intent of the Environment Court (EC2004/194) was to guarantee a 40m separation between dwellings (on the grounds of rural character and amenity), rather than specify that dwellings should be 40m from side/rear boundaries, Mr Bathgate revised his recommendation in response to *Mr Valentine's* submission. The revised recommendation sought a side/rear boundary setback of the greater of either 20m or a 40m separation from a residential building on an adjoining site. He acknowledged that there was no evidence on the different potential for reverse sensitivity effects with a potential reduction in location of a residential building from 40m to 20m from the boundary. He did, however, note the introduction of the separation distances standard to the 2GP (Rule 16.5.9), which addresses the potential for reverse sensitivity in relation to certain land use activities.
938. It is relevant to note here that the DCC's expert landscape architect, Mr Mike Moore, also provided evidence to the Natural Environment Hearing on buildings and structures and their effects on amenity values, natural character and landscape. As part of this, he considered potential management approaches for buildings and structures in rural residential zones, rural zones and landscape and coastal character overlay zones. Mr Moore stated there is merit, from an amenity point of view, in considering strengthening the amenity protection provisions applicable to the rural zones and recommended the following controls:
 - A maximum gross built site coverage standard of 2%;
 - Requiring all buildings in the High Country, Hill Slopes, Coastal and Peninsula Coast Rural zones to comply with the reflectivity rule that applies in landscape and coastal character overlay zones; and
 - Amending the side/rear boundary setback standards so that it is the greater of: three (or as a minimum two) times the height of the building; or half the length of the building parallel to the boundary; or 12m if the building is used for housing animals.

3.5.19.8 Decision and Reasons

939. We reject the submission of *Mark and Rayna Dickson* (OS868.2) to exempt smaller sites from the setback rule. We agree with the Reporting Officer and with the further submitter *Horticulture New Zealand* that reverse sensitivity may become an issue were reduced setbacks to be provided on smaller rural sites. We also share the concerns of Mr Moore in terms of the effects of development on small sites on rural character and amenity, however, we note that new residential activity on an undersized rural site is a non-complying activity so development would generally need to be associated with an existing residential activity or be for rural buildings. We note the provision for additions and alterations which do not increase the scale of an existing setback contravention. We consider that any new building activity within the boundary setback should be subject to examination under a resource consent process. However, we note the amendment we have made below in response to the submission by *Mr Valentine* may go some way to addressing the submitter's concerns.
940. We generally do not accept the contention of *Tim Morris and the Morris Family Trust* (OS951.74, OS1054.74) that the rural boundary setbacks are far too restrictive. We note the amendment we have made below in response to the submission by *Mr Valentine* may go some way to addressing the submitters' concerns as it will provide for lessening restriction on residential buildings. Conversely, we note we have

increased the setback requirements for non-residential buildings. However, as discussed in our decisions on these submissions we believe these will still be the most appropriate in terms of the objectives of the rural zone.

941. We accept in part the submission of *Helen Skinner and Joseph O'Neill* (OS312.17) to increase boundary setbacks for large farm sheds. We have amended the setback from boundaries standard (Rule 16.6.11.1) so that non-residential buildings of more than 7m at their maximum height must be situated a distance that is at least twice their maximum height from side and rear boundaries. Rules controlling what planners term "bulk and location" of structures near boundaries are always a compromise between the interests of the two affected parties. Having considered the evidence and arguments presented, we believe this change is needed to better give effect to the relevant objectives and policies. The evidence was that few non-residential farm buildings are over this height in any case. We accept in part the submission of *Christopher Valentine* (OS464.8) to amend the side and rear setbacks for residential buildings. We have amended Rule 16.6.11.1 to require a minimum setback for residential buildings of the greater of either 20m from the boundary or to provide a 40m separation from any residential building on an adjoining site. We note the opinion of the Reporting Officer that guaranteeing a 40m separation between residential buildings on adjoining sites was the intention of the Environment Court in specifying a 40m setback for the operative Plan. We consider that the option of allowing for a reduced setback of down to 20m, as long as this 40m separation is still achieved, provides a flexible approach that recognises the existence of narrow rural sites, while still achieving objectives in terms of rural character and amenity through guaranteeing adequate separation between residential buildings across site boundaries. In making this amendment, which may result in residential buildings closer to side or rear boundaries, we have also been mindful of the addition of the separation distance rule 16.5.9 in the 2GP, which addresses the potential for reverse sensitivity in relation to certain land use activities. We are also mindful of the non-complying status of new residential activity on undersized sites, which will also constrain development in the rural zone, which was of concern to Mr. Moore.
942. We reject *Christopher Valentine* (OS464.7) submission to amend Rule 16.6.11.1.f.i to provide additional exemptions to the setback standard for buildings that already contravene the standard. We agree with the reasons outlined by the Reporting Officer for rejecting this submission, as summarised above.
943. To implement this decision, we have made the following amendments (see Appendix 1, amendments attributed to RU 312.17 and RU 464.8):
- Amended Rule 16.6.11.1.2 (minimum setback from side and rear boundaries with sites held in separate ownership) to require that:
 - new residential buildings are set back a minimum of 20m or have a setback that provides a 40m separation from any residential building on an adjoining site.
 - non-residential buildings housing animals have a 12m setback for buildings with a maximum height of up to 7m, or twice the maximum height of the building where the building has a maximum height that is over 7m.
 - non-residential buildings not housing animals have a 6m setback where the building has a maximum height of up to 7m; or at least twice the maximum height of the building where the building has a maximum height that is over 7m.
 - Added new Rule 16.6.11.1.vii. to exempt rooftop structures from the calculation of maximum height.
 - Added new Rule 16.6.11.1.viii to clarify that the separation between residential buildings is measured from the closest wall of each residential building.
 - Added new figures to diagrammatically display the boundary setbacks rule.

3.5.20 Maximum Height Performance Standard Rule 16.6.6

3.5.20.1 Background

944. The maximum height for buildings and structures is 10m in the rural zones, except roadside produce stalls for which the proposed maximum is 3.5m (Rule 16.6.6). The proposed maximum height for buildings and structures in landscape and natural coastal character overlay zones is 5m, and submissions on this part of the rule are considered in the Natural Environment decision report.

3.5.20.2 Submissions

945. The *Morris family* (OS355.3, OS951.62, and OS1054.62) requested a 25m maximum height limit for buildings and structures. They stated that the present height restrictions were far too restrictive, but did not give any other reasons for their submission. *HPPC* (FS2267.69) opposed the 25m request as they considered structure height is a key element of perceived structure bulk which can have a significant impact on rural character and amenity.

3.5.20.3 Section 42A Report

946. We note that the Reporting Officer, Michael Bathgate, relied on expert landscape evidence from Mr Mike Moore, DCC consultant landscape architect, in responding to this topic. Mr Bathgate noted that Mr Moore concluded that “a maximum height of 25m is too high to be compatible with rural character values and amenity and could give rise to built form of significant visual dominance”. He recommended a continuation of the 10m maximum height limit as appropriate because it restricts height to a level that will ensure natural elements will still be dominant (Mike Moore Statement of Evidence, pp. 6-7) (s42A Report, p. 327).
947. Mr Bathgate believed that a 25m height limit would also be in conflict with Objective 16.2.3 relating to the maintenance or enhancement of rural character values and amenity. He considered that a 10m maximum height was appropriate for the rural zones, providing for large farm sheds which were typically no taller than 7 or 8m; or double-storied residential buildings which may be of similar height. In his opinion, requiring consent as a restricted discretionary activity for structures over 10m was appropriate, to enable the assessment of effects on rural character and amenity of the proposed building or structure. In his view, this approach best met the objectives of the plan and did not detract from objectives relating to rural productivity.

3.5.20.4 Decision and Reasons

948. We reject the submissions of *the Morris family* and have retained the 10m maximum height performance standard. We agree with the expert evidence of Mr Moore that a 25m maximum height limit is likely to have detrimental effects on rural character and visual amenity and could lead to buildings that are far too dominant in scale in the rural setting. We consider that the vast majority of buildings and structures required for rural activities will be able to comply with a 10m maximum height standard; and that taller buildings and structures should be subject to an assessment of their effects on character and amenity through the resource consent process.

3.5.21 New suggested development performance standard for buildings and structures

3.5.21.1 Submissions

949. *HPPC* (OS447.5) and *STOP* (OS900.124) sought that a new performance standard was added to the 2GP to limit the size and number of buildings and structures for different land use activities within the Hill Slopes Rural Zone. This request related to a

similar submission to add the same standard for landscape and coastal overlay zones, which we consider in the Natural Environment Decision. The proposed standard was on page 30 of the *HPPC* original submission, although an amended version was subsequently provided following liaison with the Reporting Officer (s42A Report, p. 344).

950. These submissions were opposed by *Federated Farmers* (FS2449.339, 343), which considered that the provisions sought went significantly beyond the sustainable management principles and the overall intent and provisions within the RMA. *Federated Farmers* also considered that they were excessive, inappropriate and overly onerous.

3.5.21.2 Section 42A Report

951. The Reporting Officer, Michael Bathgate, did not agree that a new standard was required, and after detailing the advantages and disadvantages of the new rule, formed the view that the disadvantages far-outweighed the advantages (s42A Report, pp. 345-348). He considered that the new rule would introduce a hugely prescriptive standard in response to a resource management issue that had not been proven to exist. In his opinion, economic costs dictated that farming, and other permitted rural activities, did not erect a proliferation of large buildings and structures. Those activities that were most likely to involve multiple large buildings in the rural zones, such as factory farming or rural industry, were already restricted discretionary or discretionary activities, and required resource consent.
952. In his expert evidence, Mr Moore found the *HPPC* proposed rule to be very prescriptive where there has not been any evidence to date of any particular amenity issues. Mr Moore did, however, consider that alternate controls could be considered to preclude any proliferation of rural built form through the life of the 2GP. He suggested an approach based on either a maximum built site coverage of 2% (while acknowledging that this could be problematic due to the variability in rural sites sizes), or an approach based on managing the reflectivity of larger buildings (over 750m² in floor area). We note that these options are significantly different to what was requested and, therefore, are outside the scope of that submission.
953. Mr Bathgate considered the advantages and disadvantages of the site coverage standard suggested by Mr Moore; he concluded that the standard would be ineffective in achieving the 2GP objective relating to rural character and visual amenity, owing to the sheer variability in rural site sizes (s42A Report, pp. 345-348). Mr Bathgate considered the standard was only likely to be relatively effective when applied to small rural sites. He did, however, note that the issue of varying any site coverage standard, depending on site size, could be investigated further; but held the view that this approach would add complexity to any site coverage rule. Further to this, he noted that he had seen little evidence that there was an issue to be addressed, and again, considered this rule could be detrimental to the achievement of rural productivity objectives.
954. In relation to the alternative suggested by Mr Moore, that of a reflectivity standard for large (over 750m²) rural buildings, Mr Bathgate noted that were the Hearings Panel of a mind that a new rule was required to control the effects of built form on rural character and amenity, he favoured this suggestion of Mr Moore's; that of a new performance standard for reflectivity for large rural buildings.

3.5.21.3 Hearing

955. At the hearing *Mr Craig Werner* appeared for *HPPC* and tabled a statement that clarified that the new proposed standard '16.6.13 Building and Structure Size and Quantity' was intended for overlays only, not the general rural zone (although 2% site coverage may be considered for the general rural zone). *HPPC* remained concerned about pavilion style houses; buildings on prominent ridgelines; overall appearance of 'rural sprawl'; farming activity being used as smokescreen for other 'development';

the number of homes on sites in overlay zones; and the need for a precautionary approach, generally.

956. In response to *HPPC*, Mr Bathgate noted the submitter's clarification that this rule was intended for overlay zones only (he was under the assumption it was for overlay zones and the Hill Slopes Rural Zone) (Tabled Statement of Evidence, p. 5). He also stated that the proposed standard was to be considered again in the Natural Environment Hearing, so he deferred making any further response until then.
957. Mr Moore provided evidence to the Natural Environment Hearing on buildings and structures and their effects on amenity values, natural character and landscape. He considered the effects of built form across rural zones, rural residential zones, landscape and coastal character overlays. Mr Moore stated that while there is little evidence that there is a significant issue with excessive built coverage in rural zones at present, there is merit in considering strengthening the amenity protection provisions applicable to the rural zones. Mr Moore again recommended a maximum gross built site coverage standard of 2%. He also recommended that all buildings in the High Country, Hill Slopes, Coastal and Peninsula Coast Rural zones should comply with the reflectivity rule that applies in landscape and coastal character overlays.
958. Mr Moore provided revised evidence to the Natural Environment Hearing in relation to maximum site coverage (Attachment Two of the Revised Recommendations Summary, pp. 63-64). As part of that, Mr Moore had reviewed the Tasman Resource Management Plan approach of having a maximum built coverage expressed both in square metres and as a percentage of site area, which would allow for development on smaller sites (such as 1 ha). Mr Moore recommended a similar approach for the rural zones in Dunedin, i.e. that: "The total area of all buildings on the site does not exceed whichever is the greater of 2 percent of the site area or 700m²".

3.5.21.4 Decision and Reasons

959. We reject the *HPPC* submission (as we understood it), to add a new performance standard specifying the size and number of permitted buildings and structures for different land use activities in the Hill Slopes Rural Zone and for landscape and coastal overlay zones. We agree with the Reporting Officer that the proposed standard is far too prescriptive. We also note that the submitter provided no evidence of any resource management issue arising to date or any specific examples of where a proliferation of buildings and structures had been a cause for concern in the rural zones. The Reporting Officer was not aware of any either.
960. We note that the submitter clarified at the Rural Hearing that the new standard was being sought for landscape and coastal character overlay zones only, although the written submission and subsequent clarification clearly state that the standard is sought for the Hill Slopes Rural Zone. We issue this decision in the absence of any advice that this part of their submission has been formally withdrawn.
961. We do have some sympathy for the notions expressed in the submission, and in the evidence of the DCC's expert landscape architect, that there may be some merit in taking a precautionary approach toward possible future proliferation of buildings and structures in the rural zones. We do not have the scope from this submission to provide a workable cross-city rule and acknowledge that most of Mr Moore's suggested methods were outside the scope of the submission. The submitter's concern will however be met in part by a reflectivity rule for large buildings and structures in the Hill Slopes Rural Zone, that we are introducing in response to submissions from *HPPC* and *STOP* (See Natural Environment Decision).

3.5.22 Hours of Operation Performance Standard

3.5.22.1 Background

962. Rule 16.5.3 sets out hours of operations for certain land use activities, including rural ancillary retail, rural tourism - small scale and working from home (excluding

homestay). Rule 16.5.3.3 states that, for rural tourism - small scale, visitors must not arrive before 7am or depart after 7pm.

3.5.22.2 Submissions

963. The *McLeary Family Trust* (OS832.11) supported Rule 16.5.3 as part of a general statement of support for the land use performance standards set out in 16.5.3-16.5.7.
964. *Jeremy Noble and Kumari Fernando* (OS408.1) sought to amend Rule 16.5.3 so that overnight stays were allowed as part of rural tourism, as they considered infrastructure that could cope with up to 25 tourists during the day should also be able to cope with the same visitors at night.
965. *The Yellow-eyed Penguin Trust* (OS690.20) sought to amend the hours of operation for approved penguin viewing, noting that the limit of 7am to 7pm for small scale tourism does not provide for penguin viewing during summer as the best times are dawn and dusk. This submission was supported by *Elm Tourism Limited* (FS2188.1), *Alan and Sandra Clearwater* (FS2442.1) and *Penguin Place Limited* (FS2339.2) and others; although the latter submitter did not support the use of the word 'approved' in relation to penguin viewing. Penguin Place noted that "the best viewing for penguins and other nature tourism is often early morning or evening and these viewing times have been undertaken by tourists for many many years without negative effect on the wildlife or local residents".
966. *Otago Peninsula Community Board* (OS588.9) considered that Rule 16.5.3 did not take into account the nature of the Otago Peninsula and its business operations; as an example, penguin tours are often not completed until well after 10pm, meaning visitors checking into accommodation or tour operators taking or returning guests, will be outside of the proposed hours. The submitter stated that more flexibility is required to meet the demands and realities of the current visitor market.

3.5.22.3 Section 42A Report

967. The Reporting Officer, Mr Michael Bathgate, did not agree with *Jeremy Noble and Kumari Fernando* that overnight stays should be allowed as part of rural tourism. He considered that overnight rural tourist stays are better managed as visitor accommodation, which is a different activity with its own set of effects, for example, any additional water, wastewater and accommodation facilities required.
968. Mr Bathgate noted that two submitters and three further submitters highlighted the particular circumstances around penguin viewing activities on the Otago Peninsula. While acknowledging that this is an issue for tourism operators, in response to the Otago Peninsula Community Board he noted that it should not affect "small scale accommodation providers". The part of the hours of operation rule that relates to working from home exempts homestays from the rule, and visitor accommodation is not covered by Rule 16.5.3 – instead being covered by any conditions set as part of gaining consent as a discretionary activity. Mr Bathgate agreed with the submitters that the rule as it stands does not cater adequately for penguin viewing operations.
969. Mr Bathgate explained that hours of operation were included as a standard in conjunction with making small scale rural tourism activities permitted in the 2GP, in order to manage amenity effects in rural areas. He noted that the isolated location and quiet nature of penguin viewing activities on the Otago Peninsula meant that the risk of adverse effects on the amenity of surrounding properties from vehicle movements and any other effects is likely to be low. He recommended that an exemption to this rule is provided for rural tourism activities associated with penguin viewing. He did not consider that there was any need to state that any exemption is for 'approved' penguin viewing as suggested by the Yellow-eyed Penguin Trust (s42A Report pp. 305-306).

3.5.22.4 Hearing

970. At the hearing, Ms N McGrouther appeared for *Penguin Place Ltd* and detailed concerns that the exclusion-time for penguin viewing was too narrow. *Penguin Place Ltd* submitted that all wildlife viewing should be excluded from the standard, raising other tourism ventures on Otago Peninsula, such as night sky viewing.

3.5.22.5 Revised recommendations

971. The Reporting Officer considered the submitter had raised a valid issue in relation to penguin viewing and other activities such as the albatross colony, or night sky viewing that may require hours outside the 7am to 7pm in the proposed rule. He considered the exclusions to the standard could be broadened without causing adverse effects on rural amenity objectives, noting that the standard applied to rural tourism – small scale only, with rural tourism – large scale being a discretionary activity.
972. In terms of the scope of any changes, the recommended amendment in the s42A Report was in response to the *Yellow-eyed Penguin Trust* request (OS690.20) to amend Rule 16.5.3 to extend hours of operation to provide for approved penguin viewing activities. The other relevant submission was from *Otago Peninsula Community Board* (OS588.9) which submitted that Rule 16.5.3 needed more flexibility to meet the demands of the visitor market and to take into account the nature of the Otago Peninsula and its business operations. This submission sought expanded hours for rural tourism and accommodation providers. The Reporting Officer noted, however, that the wording of the planner's summary of the *Otago Peninsula Community Board* submission differed from the original submission in that the original submission did not specify a decision sought *per se*. As a result, the Reporting Officer was uncertain as to the scope to make any changes to hours of operation beyond penguin viewing activities in areas of Dunedin outside the Otago Peninsula.
973. After further consideration of the submissions, and the matters raised at the hearing by *Penguin Place*, Mr Bathgate considered three options were available to provide additional relief. The Reporting Officer favoured Option A, which would exempt all wildlife and night sky viewing activities from the standard. He noted that no other examples of tourism operations, which may require such an exemption, were provided for through submissions. Mr Bathgate then provided a revised recommendation to amend Rule 16.5.3.3 to explicitly exclude 'wildlife and night sky viewing activities.

3.5.22.6 Decision and reasons

974. We reject the submission of *Jeremy Noble and Kumari Fernando* (OS408.1). We agree with the Reporting Officer that overnight stays should be managed separately as visitor accommodation (although we note that up to five guests per night is permitted as part of working from home activity). We prefer a discretionary activity status for this activity to allow for a full assessment of the range of possible effects, such as effects on infrastructure, surrounding amenity or the viability of commercial centres.
975. We accept the submission of *the Yellow-eyed Penguin Trust* (OS690.20) and accept in part the submission of *Otago Peninsula Community Board* (OS588.9) and have amended Rule 16.5.3 hours of operations to exclude wildlife viewing and night sky viewing activities from being subject to this standard. We agree with the submitters and the Reporting Officer that adding this exemption will make the rule more efficient by reducing the requirements for consent for these activities, without reducing its effectiveness. The evidence was that these operations are likely to be situated in remote, sparsely populated parts of Dunedin, where any adverse effects on rural amenity from allowing these extended hours of operation are likely to be minor. We note that this performance standard applies only to rural tourism – small scale, as

rural tourism - large scale requires resource consent as a discretionary activity and hours of operations for these activities will be assessed on a case by case basis.

976. In terms of the question of scope raised by the Reporting Officer for applying this amendment outside the Otago Peninsula, we have re-examined the submission of *Otago Peninsula Community Board*. This submission raises general issues rather than suggesting specific amendments to rules and other provisions. While the submitter highlights the issues on Otago Peninsula in particular, we consider the submission may be read as broadly suggestive of the need for change throughout the rural zones. For example, the comment on page 5 of their submission that "more flexibility is required in this section to meet the demands and realities of the current visitor market" suggests to us that the submitter may have been seeking a change to the hours of operation standard not necessarily limited to the Otago Peninsula. We are comfortable that no one will be unduly prejudiced by the decision to apply this exemption for wildlife and night sky viewing activities across all rural zones.
977. We have made the following amendments in order to implement this decision, including consequential amendments:
- Amended Rule 16.5.3 hours of operation by adding a new clause clarifying "Wildlife and night sky viewing activities are exempt from this standard" {RU 690.20}

3.5.23 Appendix A7

3.5.23.1 Request to insert references to Appendix A7 values to certain assessment rules

978. The *DCC* (OS360.127-133, OS360.135 and OS360.136) requested amendments to a number of assessment rules, in Rules 16.9, 16.10 and 16.11, to include general assessment guidance: "As well as the effects on the values specified in Objective 16.2.3, the Council will consider the effects on the rural character values identified in Appendix A7." These amendments would appropriately link the rules to the values already known for the various rural zones.
979. *Horticulture New Zealand* (FS2452.59-66) supported these submissions (with the exception of OS360.136, which related to Rule 16.11.2.1). *HPPC* (FS2267.77-85) also supported the *DCC's* submissions in part, but requested an amendment to the wording above, so that the guidance indicated that the Council would ensure the Appendix A7 values were fully maintained and enhanced, rather than just "consider the values". *HPPC* considered that the wording proposed in the *DCC's* submission failed to establish any priority, and undermined Objective 16.2.3.
980. *Oceana Gold (New Zealand) Limited* (FS2439.66 and FS2439.67) supported the inclusion of the reference to Appendix 7 values in Rules 16.9.4.14.a and 16.11.2.1, but their support was subject to amendments it had proposed to the A7 values.
981. The Reporting Officer (s42A, p. 356) did not agree with *HPPC* that the wording requested by the *DCC* would undermine Objective 16.2.3 and noted that each of the relevant assessment rules also makes reference to a policy that provides clear guidance on the testing of applications to ensure achievement of Objective 16.2.3. He further noted that the amendment requested by the *DCC* would align the assessment wording, with the standard wording used elsewhere for the matters of discretion in the 2GP, and would therefore aid in plan usability.
982. We accept the submissions of *DCC* (OS360.127-131 and 133, OS360.135 and OS360.136) to add consideration of "effects on the rural character values identified in Appendix A7 " to assessment rules 16.9, 16.10 and 16.11 to align the assessment wording with the standard wording used elsewhere in matters of discretion in the 2GP which, as outlined by the Reporting Officer, aids in plan usability. We note that we do

not accept the submission of *DCC* (OS360.132) on Rule 16.9.4.14 because this rule has been removed as consequence of the decision on ridgeline provisions (see section 3.5.5)

3.5.23.2 Request to amend term 'watercourse' to 'water body' in A7.3 Taieri Plains Rural Zone

983. *Dunedin City Council* (OS360.40) sought to amend the term 'watercourse' to 'water body' in Appendix A7.3 Values, because 'watercourse' was not defined, and 'water body' was the term used in the 2GP.
984. The Reporting Officer (s42A Report, p. 362) considered this to be an appropriate amendment to ensure there was consistent and correct terminology used in the 2GP.
985. We accept *Dunedin City Council* (OS360.40) request to amend the term 'watercourse' to 'waterbody'.

3.5.23.3 Request to amend appendices to better recognise Manawhenua values

986. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.126) sought to amend A7.1 Values to replace 'takata whenua values' with 'Manawhenua values'. They also (OS1071.127) sought to amend A7.3 Values to recognise the significance of the Taieri River, which is a taoka to Manawhenua; and to amend A7.7 to recognise the significance of the Peninsula to Te Rūnanga o Ōtakou (OS1071.128).
987. The Reporting Officer considered and the change to Manawhenua values would ensure there is consistent and correct terminology used in the 2GP. The Reporting Officer (s42A Report, p. 362) also supported the recognition of the value of the Taieri River and the Peninsula to Manawhenua, and recommended accepting these submissions.
988. We accept the submission of *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou* (OS1071.126) and have amended A7.1 values to replace 'takata whenua' values with 'Manawhenua values'. We agree with the Reporting Officer that this will ensure consistent and correct terminology is used in the 2GP. We also accept the submissions (OS1071.127,) to recognise the significance of the Taieri River and the Peninsula to *Te Rūnanga o Ōtakou*

3.5.23.4 Request to amend A7.3 values to acknowledge horticultural production

989. *Horticulture New Zealand* (OS1090.41) sought to amend A7.3 Values to recognise that some horticultural production continued in the area.
990. The Reporting Officer (s42A Report, p. 362) considered this to be an appropriate amendment and recommended accepting the submission.
991. We accept the submission of *Horticulture NZ* to recognise horticultural production.

3.5.23.5 Summary of amendments

992. We have made the following amendments that to implement the decision on submissions on Appendix A7:

- Amended Rules 16.9.3.1, 16.9.3.8, 16.9.4.1.c, 16.9.4.10, 16.9.4.11, 16.10.4.1 16.10.2.5, and 16.11.2.1 to add General Assessment Guidance as follows:

"As well as the effects on the values specified in Objective 16.2.3, Council will consider the effects on the rural character values identified in Appendix A7".
{OS360.127-131, 133, OS360.135 and OS360.136}.

- Amended A7.1: d. ~~Takata whenua~~ Manawhenua values {OS1071.126}
- Amended A7.3 to replace the term 'watercourses' with 'water bodies' {RU 360.40}.

- Amended A7.3 to recognise the significance of the Taieri River {RU 1071.127}
 - Amended A7.3 to recognise horticultural production {RU 1090.41}
 - Amended A7.7 to recognise the significance of the Peninsula {RU 1071.128}
993. In addition to these amendments, we note that we have made further amendments to A7 Rural Character values as a result of the mining decision to add reference to the Macraes Gold Project to A7.1 High Country Rural Zone (see Mining Decision Report).

3.6 Notification Rule

3.6.1 Background

994. Rule 16.4 sets out the rules around notification of resource consent applications. Submissions on the following aspects of Rule 16.4 are discussed in this section.

Rule 16.4.1:

Applications for resource consent for the following activities will be considered without the need to obtain a written approval of affected persons and will not be notified in accordance with section 95A or 95B of the Act, unless Council considers special circumstances exist in relation to the application that require public notification:

1. papakāika (controlled activity) where the associated site development activities are permitted;
2. earthquake strengthening of a scheduled heritage building or scheduled heritage structure where external features only are protected (controlled activity) and that are not listed by Heritage New Zealand; and
3. contravention of performance standard 13.3.2 'Materials and design' where the building or structure is not listed by Heritage New Zealand.

Rule 16.4.3:

Applications for resource consent for the following activities will be publicly notified in accordance with section 95A(2) of the RMA:

1. new residential activity on a site that contravenes the performance standard for density;
2. new residential building greater than 60m² in an Outstanding Natural Landscape (ONL);
3. general subdivision that contravenes the performance standard for minimum site size.;
4. demolition of a protected part of a scheduled heritage building or scheduled heritage structure

Rule 16.4.6:

In accordance with section 95B of the RMA, where an application is not publicly notified, Council will give limited notification to all affected persons.

3.6.2 Submissions

995. *Fonterra Limited* (OS807.30) sought that Rule 16.4 be retained as notified. The submitter considered that public notification for any new residential activity that contravenes the performance standard for density (which is required by Rule 16.4.3.1) is appropriate, since such activities are not anticipated by the Plan.
996. *Dianne Reid* (OS592.20) and *Pigeon Flat Road Group* (OS717.19) sought that Rule 16.4.1, and Rules 16.4.3.1, 16.4.3.3 and 16.4.3.4 be deleted. These submitters considered that the activities listed in these rules do not involve effects on resources of wider public interest or of national importance and, therefore, that "it is

appropriate to undertake a specific assessment of the effects under section 95A rather than a blanket notification requirement." We note that these submitters also sought deletion of Rule 16.4.3.2 relating to notification of activities in ONLs. Submissions on this rule were discussed in the Natural Environment Section 42A Report.

997. *Dianne Reid* and the *Pigeon Flat Road Group's* submissions were opposed by *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Otakou* (the *Runaka*) (FS2456.85 and FS2456.86) because the proposed rules allow applications for papakāika to be considered without written approval and notification. *Dianne Reid's* submission was also opposed by *David Hiom and Kerry Hiom* (FS2473.18).
998. *HPPC* (OS447.84) and *STOP* (OS900.119) sought that Rule 16.4.3 be amended to require that applications for all non-complying activities be publicly notified. The submitters considered that "the public has a right to know of all consent applications that fail to meet those Plan standards despite perhaps costing Council more in time and money". These submissions were opposed by *Federated Farmers of New Zealand* (FS2449.329 and FS2449.330), who considered that the proposed approach was indiscriminate and resource intensive for the council to administer, with no added value in meeting s6(b) obligations.
999. Similarly, *HPPC* (OS447.85) and *STOP* (OS900.119) also sought that Rule 16.4.6 be amended to add "primary, secondary and tertiary adjacent property owners, all other property owners within 2 km capable of viewing the site and all community groups and organizations involved in conservation, preservation or land use" to the list of 'affected persons' to whom limited notification of resource consent applications should be given. *HPPC* and *STOP's* submissions were opposed by *Federated Farmers of New Zealand* (FS2449.330 and FS2449.332), who considered that the relief sought is inconsistent with accepted planning approaches under the RMA, excessive, uncertain and will impinge on the council's ability to make decisions about limited notification under s95B of the RMA.
1000. Related to their submissions on the notification rules, *HPPC* (OS447.73) and *STOP* (OS900.105) also sought to add a new policy under Objective 16.2.1 to specify extensive stakeholder consultation and notification, including public notification of all rural activity, subdivisions and development resource consent applications. Their reason was to recognise that "environmental and cultural effects often reach well beyond just the adjacent resident's street address". These submissions were opposed by *Dianne Reid* (FS2200.4, FS2200.2), *Radio New Zealand Limited* (FS2332.22), *Geoff Scurr Contracting Limited* (FS2391.4, FS2391.116), *AgResearch Limited* (FS2398.9), *Pigeon Flat Road Group* (FS2416.35, FS2416.32), *Federated Farmers of New Zealand* (FS2449.293, FS2449.294), *Rural Contractors New Zealand Incorporated* (FS2450.9), *John Scott* (FS2140.32), *Ben Graham* (FS2279.32) and *Mathew O'Connell* (FS2300.32). Reasons for opposition include that the new policy would be 'unnecessary,' 'onerous', 'costly', 'overly restrictive', 'uncertain', 'unfair' and the RMA already has 'adequate provision' for consultation and public notification.
1001. *Timothy George Morris* (OS951.48) and *Timothy Morris* (on behalf of *RG and SM Morris Family Trust*) (OS1054.48) sought that Rule 16.4.6 be removed from the Plan. In the submitters' view, it is unclear what activities the limited notification will apply to, and the proposed requirements associated with this section are excessive and overly complicated.
1002. *Forest and Bird NZ* (OS958.109) sought that Rule 16.4 be amended so that the *Department of Conservation* (DoC) "will be considered as an affected party for applications involving all indigenous vegetation clearance and development and activities within the natural character coast overlay."

3.6.3 Section 42A Report

1003. The Reporting Officer, Ms Jane Macleod, did not recommend that Rule 16.4.1 be deleted as requested by *Dianne Reid* (OS592.20) and *Pigeon Flat Road Group* (OS717.19). She noted that Rule 16.4.1 sets out the activities that will not normally be publicly notified, and for which affected party approval will not normally be sought, except where special circumstances exist. Therefore, Rule 16.4.1 does not impose a “blanket notification requirement” on the activities concerned, and this part of *Dianne Reid* and the *Pigeon Flat Road Group*’s submission seemed to be based on a misreading of the rule. In relation to the submitters’ requests that Rules 16.4.3.1, 16.4.3.3 and 16.4.3.4 be deleted, she noted that in the Heritage Section 42A Report the Reporting Officer had recommended that Rule 16.4.3.4 (and all similar notification rules in other sections of the plan) be deleted.
1004. With regard to Rules 16.4.3.1 and 16.4.3.3, the Reporting Officer agreed with the submitters that, for applications of this kind, a case by case assessment of the effects under section 95A would be preferable to the mandatory notification requirement in place under Rules 16.4.3.1 and 16.4.3.3 as notified. Therefore, she recommended that Rules 16.4.3.1 and 16.4.3.3 be deleted as requested.
1005. She did not consider that all proposed subdivisions and residential development that contravene the relevant standards will necessarily result in adverse effects on the environment that are more than minor. Therefore, she felt a mandatory notification rule risked requiring full public notification, with the additional costs and time that this would involve for the applicant and the council, in cases where notification is not actually warranted.
1006. Ms Macleod also recommended rejecting all submission points from *HPPC* and *STOP* requesting wider mandatory public or limited notification of resource consent applications, including the request for a related new policy on stakeholder consultation and public notification (OS447.84, OS447.85, OS900.119, OS447.73 and OS900.105). She did not consider that these amendments were necessary to achieve the purpose of the RMA. She considered it more appropriate to rely on the determination regarding public and limited notification that is carried out under RMA sections 95A and 95B when a resource consent application is lodged.
1007. She considered that the amendments requested by the submitters could result in mandatory notification of parties who are not subject to adverse effects from a proposed activity, thereby resulting in inefficient processes.
1008. The Reporting Officer did not recommend that Rule 16.4.6 be removed as requested by *Timothy Morris*. She noted that the wording set out in Rule 16.4.6 was included in all notification rules in the plan as a complementary/explanatory statement, where the notification rule also includes rules (such as 16.4.2 and 16.4.4 in the rural zones section) that identify parties who will be considered as affected persons in specific situations.
1009. She agreed in part with *Forest and Bird NZ* (OS958.109) that it would be desirable to consider DoC as an affected person for applications that may involve adverse effects on indigenous vegetation. However, noting that there was no longer a planner in the DoC office in Dunedin, she considered that DoC were unlikely to have the resources to be able to provide comment on large numbers of applications. Therefore, she recommended that Rule 16.4 be amended so that DoC were considered as an affected person only for those activities most likely to have significant effects on biodiversity and natural character, i.e. activities within scheduled Areas of Significant Conservation Value and in Natural Coastal Character, High Natural Coastal Character or Outstanding Natural Coastal Character overlay zones that have either discretionary or non-complying activity status. She recommended the following addition to Rule 16.4 in response to the submission:

With respect to resource consent applications for the following activities, the Department of Conservation will be considered an affected person in

accordance with section 95B of the RMA where its written approval is not provided:

1. discretionary and non-complying activities in a scheduled Area of Significant Conservation Value or in a Natural Coastal Character, High Natural Coastal Character or Outstanding Natural Coastal Character overlay zone.

1010. As some scheduled ASCVs and NCCs are located within recreation zones, and some HNCCs and NCCs are located within rural residential zones, Ms Macleod also recommended that an equivalent amendment be made to the notification rules in recreation zones and rural residential zones sections of the Plan.

3.6.4 Hearing

1011. Craig Werner for *HPPC* noted that the Section 42A Report wrongly discussed *HPPC*'s submission (OS447.84) as if it had requested notification of all rural applications, not all non-complying applications. In relation to the Reporting Officer's argument that wider notification rules are not necessary to achieve the purpose of the RMA, and would result in additional costs to the Council, *HPPC* considered that this displayed "a lack of vision and enthusiasm about crafting a District Plan that truly respects the natural assets of Dunedin and inclusive, democratic norms". In his view, "while protection of the public purse is laudable, Council departments striving to avoid any extra work, complications or costs can go too far and hollow out the governance mission". He requested that Rules 16.4.3.1 and 16.4.3.3 not be deleted, as recommended in the report, but instead that clear, quantifiable exceptions to mandatory notification be included, with exceptions being fine-tuned with plan changes if necessary.
1012. The *New Zealand Defence Force* had not submitted on Rule 16.4. However, in hearing evidence, the submitter sought that a new rule be added to the Plan to request that *NZDF* be treated as an affected person for applications for new residential buildings and sensitive activities within 100m of the Waitati Rifle Range. We note that this request goes beyond the scope of submissions; therefore, it is not discussed further in this decision. However, we note that our decision to apply the separation distance performance standard from the Waitati Rifle Range, as set out in section 3.5.17, will meet the submitter's request by alternative means.
1013. Ms Sue Maturin tabled a statement and appeared at the hearing on behalf of *Forest and Bird NZ*. The submitter was concerned that the ASCV schedule would never be complete and that the extent of the ASCVs was limited by the need for a landowner agreement. Therefore, she considered that DoC should be notified on all activities that affect indigenous vegetation.
1014. Following Ms Maturin's presentation, we asked the Reporting Officer to clarify her reasons for recommending that *Forest and Bird's* request be rejected; if the key reason was that DoC may not have the resources to comment on resource applications, an alternative approach would be to include the requested notification rule, and allow DoC themselves to determine, at the time, whether they have the resources to respond.

3.6.5 Revised recommendations

1015. The Reporting Officer deferred the question of which types of application should be referred to DoC as an affected person to the Natural Environment hearing, so that other relevant recommendations in response to submissions, for example in relation to rules for indigenous vegetation clearance, could be taken into account. However, we note that this matter was not discussed in Reporting Officers' evidence at the Natural Environment Hearing.
1016. In relation to *HPPC* (OS447.84), Ms Macleod acknowledged that the discussion of this matter in the s42A report wrongly indicated that *HPPC* had requested that all rural

resource consent applications be notified, rather than only non-complying applications. She apologised for the error but did not change the recommendation and did not consider the consents for all non-complying activities should be subject to mandatory notification requirements in the rural zones because RMA section 95A states that an application for any activity that is likely to have more than minor adverse effects must be notified.

1017. In relation to the *HPPC* request that Rules 16.4.3.1 and 16.4.3.3 not be deleted, but instead that exceptions be added to these rules so that minor breaches do not need to be notified, Ms Macleod did not agree with this approach. In her view, it could lead plan users to expect that lesser contraventions of the standard will never be notified, when in fact, depending on the individual circumstances of each case, notification may be warranted under section 95A.

3.6.6 Decision and reasons

1018. We accept the submissions of *Dianne Reid* (OS592.20) and *Pigeon Flat Road Group* (OS717.19) requesting the deletion of clauses 1 and 3 of Rule 16.4.3, which require mandatory public notification of subdivisions that do not meet performance standards for minimum site size, and of residential development that do not meet the density standard. We agree with the evidence of the submitters on this matter. Our decision on Rule 16.4.3 is also made in response to submissions heard in the Natural Environment and Heritage Hearings where the removal of the other clauses in the rule were also recommended.
1019. We accept in part the submission of *Fonterra Limited* (OS807.30) in support of Rule 16.4 as a whole, but disagree with the submitter's view that public notification for any new residential activity that contravenes the performance standard for density (via notified Rule 16.4.3.1) is appropriate.
1020. Similarly, we reject the submissions of *HPPC* (OS447.84, OS447.85, OS447.73) and *STOP* (OS900.119, OS900.105) to expand public and limited notification requirements by adding a new policy and amending Rules 16.4.3 and 16.4.6. We agree with the evidence of the further submitters and of the Reporting Officer on this matter.
1021. We accept the submissions of *Timothy Morris* (OS951.48) and *Timothy Morris* (on behalf of *RG and SM Morris Family Trust*) (OS1054.48) to remove the limited notification clause (Rule 16.4.6). We note that the limited notification rules have been removed from provisions from all relevant sections of the Plan as a clause 16 amendment, as discussed in the Plan Overview Decision.
1022. We accept in part the submission of *Forest and Bird NZ* (OS958.109) to amend Rule 16.4 so that DoC is considered as an affected person for all applications for indigenous vegetation clearance, and applications for "development and activities" in the natural coastal character overlay zones. We agree with the submitter that it is appropriate to seek input from DoC on activities likely to have significant effects on biodiversity and natural character, noting that the scope of the submission extends to indigenous vegetation clearance in any area, and also to any activity in a natural coastal character overlay zone. Of these activities, we consider that those most likely to result in significant effects are indigenous vegetation clearance – large scale in scheduled Areas of Significant Biodiversity Value, and indigenous vegetation clearance – large scale as well as any discretionary or non-complying activities in Natural Coastal Character, High Natural Coastal Character or Outstanding Natural Coastal Character overlay zones. In our view, requiring treating DoC as an affected person for the other activities requested by *Forest and Bird NZ*, i.e. indigenous vegetation clearance – large scale outside these areas, and additional activities in coastal overlays, may result in inefficient and overly onerous consent processes. We note that DoC did not request automatic notification of any types of applications, anywhere.
1023. Therefore, we have amended Rule 16.4 to require that DoC be treated as an affected person for applications for the activities described above, unless the Department's written approval is provided with the application. We have made similar consequential

amendments to Rules 17.4 and 20.4, i.e. the notification rules for the Rural Residential Zones and Recreation Zone Sections.

1024. The amendments required for this decision, including consequential amendments, are as follows.

- Amend Rule 16.4.3 to delete 16.4.3.1 and 16.4.3.3 (RU 592.20 and 717.19).
- Add new Rule 16.4.5 as follows (RU 958.109):

With respect to resource consent applications for the following activities, the Department of Conservation will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:

1. indigenous vegetation clearance – large scale in a scheduled Area of Significant Biodiversity Value or
2. indigenous vegetation clearance – large scale or any discretionary or non-complying activity in a Natural Coastal Character, High Natural Coastal Character or Outstanding Natural Coastal Character overlay zone.

- Add new Rule 17.4.5 as follows (RU 958.109):

With respect to resource consent applications for the following activities, the Department of Conservation will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:

1. indigenous vegetation clearance – large scale in a scheduled Area of Significant Biodiversity Value; or
2. indigenous vegetation clearance – large scale or any discretionary or non-complying activity in a Natural Coastal Character or High Natural Coastal Character overlay zone.

- Add new Rule 20.4.5 as follows (RU 958.109):

With respect to resource consent applications for the following activities, the Department of Conservation will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:

1. indigenous vegetation clearance – large scale in a scheduled Area of Significant Biodiversity Value or
2. indigenous vegetation clearance – large scale or any discretionary or non-complying activity in a Natural Coastal Character overlay zone.

1025. See Appendix 1.

3.7 Rural Section and Introduction

3.7.1 Rural Section

3.7.1.1 Submissions

1026. *Rebecca Jane Wilde* (OS471.1) sought to replace the entire Section 16 Rural Zones, as in her opinion, the Plan was too complex, onerous and did not make adequate provision for cultural and economic considerations. The submitter considered that the 2GP would impose unnecessary costs on individuals and ratepayers. The same submitter also requested that the entire Natural Environment section be replaced for the same reasons, which was addressed in the Natural Environment section 42A report.

1027. *Oceana Gold (New Zealand) Limited* (OS1088.1) raised concerns about the Rural Zones Section 32 Report, namely whether it had misdirected itself in relation to the proposed Regional Policy Statement (pRPS), and whether it had sufficiently considered whether the proposed objectives were the most appropriate means of achieving the purpose of the RMA. *Oceana Gold* also raised concerns about how the 2GP will give effect to the pRPS, if the pRPS became operative while the 2GP was still proposed.

3.7.1.2 Section 42A Report

1028. The Reporting Officer, Michael Bathgate, did not agree with the submission of *Rebecca Wilde* (OS471.1) that the obligations are far too complex and excessively onerous and referred to the discussion on page 116 of the Plan Overview Section 42A report and that "Section 16 Rural Zones has been drafted to achieve the purpose of the RMA (section 5), to meet the functions of territorial authorities (RMA section 31), and to meet the legislative requirements for district plans (RMA sections 72-77)". Mr Bathgate considered that the Rural section does not go beyond the scope of these requirements and the use of rules is an important part of managing landuse and controlling environmental effects of activities. He recommended that, in the absence of specific examples of provisions that are considered to be too onerous, that the submission should be rejected.
1029. With regard to the contention that the Plan does not make adequate provision for cultural and economic considerations, Mr Bathgate considered that the 2GP had been prepared in accordance with meeting the purpose of the RMA, which requires consideration of the social, economic and cultural well-being of people and communities, with the Rural s32 Report having considered environmental, economic and social costs and benefits in its evaluation of the proposed 2GP provisions and alternate options.
1030. In response to the submitter's statement that the 2GP will impose unnecessary costs on individuals and ratepayers, Mr Bathgate noted that while meeting the requirements of the RMA means there will be restrictions on landowners, the 2GP had been drafted to minimise these restrictions to the greatest extent possible.
1031. In relation to the submission of *Oceana Gold* (OS1088.1), the Reporting Officer addressed the three parts to the submission (s42A Report, p. 104). In response to whether the submission had misdirected itself in relation to the proposed RPS, Mr Bathgate accepted that there had been an error in the Rural Zones Section 32 Report with regard to the use of the phrase 'be consistent with'; however, as this would place a higher onus on the 2GP than the 74(2)(a)(i) RMA requirement to 'have regard to', he did not consider that the s32 report as a whole needed to be revisited.
1032. In relation to the question over how the 2GP will give effect to the RPS if it becomes operative while the 2GP is still proposed, Mr Bathgate considered that it was likely (although not certain) that the RPS would become operative before the 2GP. Noting that the 2GP had been drafted to have regard to the proposed RPS, Mr Bathgate explained that the preparation of the Rural s42A report had been able to draw upon the decisions version of the proposed RPS, and where possible, provided updates to the 2GP approach to provisions, subject to the scope of submissions. However, he acknowledged that it was not inconceivable that the final form of the RPS may leave some areas where the 2GP was not giving effect to the operative RPS. If this was to happen a plan change may be required, although Mr Bathgate also noted that there were further opportunities during the 2GP hearings process to assess whether the 2GP was giving effect to those parts of the RPS that are operative or near operative.
1033. With regard to the submitter's query over the statement in the Rural Zones section 32 Report (p. 8) that the objectives are 'an appropriate' rather than 'the most appropriate' means of achieving the purpose of the RMA, Mr Bathgate agreed that there had been an error in the terminology that had been employed. He considered that the section 32 was conducted with the intent to evaluate the set of objectives as to whether they were "the most appropriate" means of achieving the purpose of the

RMA and did not recommend that there was any need to amend the objectives as a direct result, noting that most of the strategic objectives and all the rural zone objectives have submissions seeking amendment, which provided a further opportunity for evaluation.

3.7.1.3 Decision and reasons

1034. We reject the submission of *Rebecca Jane Wilde* (OS471.1) to replace the entire Rural Section. We agree with the Reporting Officer's statement that the 2GP has been prepared in accordance with the purpose of the RMA, which requires consideration of the social, economic and cultural well-being of people and communities. While 2GP provisions do sometimes impose some measure of restriction or cost on individuals, we are comfortable that these do not go beyond the scope of the legislative requirements for district plans as set out under the RMA. We note the absence of specific examples provided by the submitter of unnecessarily complex or onerous provisions within the Rural Section. We do not agree with the submitter that it would be more effective to start again in drafting the Rural Section, and we certainly do not think this would be an efficient response.
1035. We reject that part of the submission of *Oceana Gold* (OS1088.1) that states that the Rural Zones Section 32 Report may not have complied with the requirements of s32(1)(a) or s74(2)(a)(i) of the RMA. We note the explanations of the Reporting Officer that there were errors in terminology in the Section 32 Report, but that these have not changed the efficacy of the evaluation of appropriateness of the 2GP provisions nor its meeting of its requirements with regard to the proposed RPS. We do not consider the Section 32 Report as a whole needs to be revisited, noting that the 2GP hearings and decisions process has entailed further evaluation of most 2GP provisions under s32AA of the RMA.
1036. We accept in part the submission of *Oceana Gold* (OS1088.1) which sought to clarify how the 2GP will give effect to the RPS. We agree with the explanation set out by the Reporting Officer as summarised above as to how the development of the 2GP relates to the proposed RPS. We note that at the time of deliberating on submissions, the proposed RPS has not been made operative. However, in reaching our decisions across the 2GP, we have paid particular regard to the appeals and mediation phases of the proposed RPS, and note that a number of consent memoranda have now been issued by the Environment Court in respect of the proposed RPS. We have not found it necessary to amend the 2GP specifically as a result of this submission. Rather, in our decisions that we have made across the various topics, we have clarified where decisions have been made to either give better effect to the operative RPS or to better have regard to the proposed RPS. We are comfortable that our decisions will leave the 2GP well-placed to be able to give effect to the proposed RPS once it becomes operative.

3.7.2 Rural Introduction

3.7.2.1 Background

1037. The Introduction to the Rural Section provides a description of Dunedin's rural environment, an outline of the key resource management issues facing this environment, and a brief overview of how the 2GP responds to these issues.

3.7.2.2 Submissions

1038. *Federated Farmers of New Zealand* (OS919.127) sought to retain 16.1 Introduction to the Rural Zones chapter. The submitter was supportive of the recognition that the rural zones provide for productive rural activities and agreed with the 'key issues facing the rural zone'. *Horticulture New Zealand* (OS1090.28) also sought to retain 16.1 Introduction and was particularly supportive of the recognition of reverse sensitivity effects on productive rural activities.

1039. *Dunedin City Council* (OS360.143) sought to amend 16.1 Introduction to Rural Zones, by changing paragraph 6 with a minor correction to improve consistency with surrounding text and adding a list of the seven rural zones to paragraph 10 "to improve plan clarity and understanding through naming the rural zones in the introduction, rather than the user seeing these listed for the first time in the rules".
1040. *HPPC* (OS447.70) and *STOP* (OS900.102) sought to add a new fifth paragraph to the Introduction as follows: "The Rural environment and Natural Environment are key aspects of the Dunedin character and have been through our history, even for city dwellers. All Dunedin residents are stakeholders in the rural environment and its preservation. This cultural well-being of the current residents in all of Dunedin and the wellbeing of future generations is, therefore, accorded an equal priority standing with that of rural development interests." *HPPC* reasoned that, along with the existing statement about the rural environment contributing significantly to the economy, the Introduction also needs a statement about the rural environment 'contributing significantly' to the broader environment of citizens' lives and their cultural well-being. *STOP* (OS900.102) also requested an additional sentence be added to the Rural Introduction as follows: "The rural environment contributes not only economically through rural production but also in making Dunedin a place where people wish to live and work." *Federated Farmers of New Zealand* (FS2449.287 and FS2449.288) opposed these submissions because the submitter considered that residential interests are adequately represented through District Plan provisions already and the amendments requested would be uncertain and unfair.
1041. The *NZ Institute of Surveyors - Coastal Otago Branch* (OS490.25) sought to amend paragraphs 3 (principal functions) and 6 (key issues) of 16.1 Introduction to allow for an effects-based regime and to better reflect a range of resource management issues and how these issues may be addressed, including the possibility of creating lots that do not meet the minimum sizes set out in the 2GP. The submitter sought these amendments in conjunction with its submission to process subdivision that is less than the minimum site size as a discretionary rather than a non-complying activity.
1042. *Forest and Bird NZ* (OS958.96) sought to amend the 9th paragraph of 16.1 Introduction to clarify that the provisions of the Natural Environment section apply throughout the rural zones. The submitter was concerned that the paragraph as it existed suggested that plan users only need to consider scheduled areas of indigenous vegetation and habitats and considered that reference should be made to the maintenance of indigenous biodiversity more generally.

3.7.2.3 Section 42A

1043. The Reporting Officer, Michael Bathgate, noted the support of *Federated Farmers and Horticulture New Zealand* for 16.1 Introduction. He also considered that the amendments sought by the *Dunedin City Council* (OS360.143) for the introduction were appropriate and improved clarity for plan users and recommended that the submission be accepted.
1044. The Reporting Officer did not agree with the *HPPC* and *STOP* amendments that the Introduction should be amended as submitted as although rural and natural environments can be valued by a wide range of stakeholders for different reasons, he considered that trying to accord any particular status with respect to any particular stakeholders in this very general way may be problematic in terms of part II of the RMA and the notification processes set out under s95A-G of the RMA. While there are provisions under Rule 16.4 setting out affected parties, the Reporting Officer did not consider it appropriate for the 2GP to specify this prioritisation of stakeholders in a broader sense, and considered that it was more appropriate to rely on case-by-case assessment as set out under the RMA.
1045. The Reporting Officer noted that the submission of *NZ Institute of Surveyors - Coastal Otago Branch* sought to include the principal functions listed in 16.1 Introduction to allow for an effects-based approach to providing for the 'lifestyle market' to establish on undersized rural sites and to allow for the possibility of creating sites that are less

than that permitted by the minimum site size standard. He noted that the Plan Overview Section 42A considered the effects based approach to planning on page 23, and stated that planning practice has "moved from solely managing "effects" to specifically managing activities for outcomes that support (enable) people's economic, social, environmental, and cultural well-being, e.g. moving back toward a traditional policy analysis/town planning approach from purely an environmental impact assessment approach. As with most second generation plans the drafting of the 2GP has attempted to integrate both of these lines of thinking" (s42A report, p. 149).

1046. The Reporting Officer considered that Section 16 Rural Zones followed this approach of providing for certain activities as long as they achieve the objectives of the 2GP and have an acceptable level of effects. This approach was discussed in the 8th paragraph of 16.1 Introduction. In response to the submission of *NZ Institute of Surveyors*, he proposed an amendment to paragraph 8 to clarify the dual nature of the approach.
1047. The submission of *NZ Institute of Surveyors - Coastal Otago Branch* also sought to amend the list of key issues in 16.1 Introduction to reflect the list of issues raised in its submission. The Reporting Officer did not consider there is a need to reference such issues in 16.1 Introduction and referred to the discussion in the Rural Residential Section 42A Report. He also noted that the issue of undersized rural sites was already discussed in the first key issue set out in paragraph 6 of 16.1 Introduction. He recommended an amendment to 16.1 Introduction to incorporate the other issue listed by the submitter - that of the occasional preference for "lifestyle" sites other than in the rural residential zones.
1048. The Reporting Officer recommended that the suggestion by *Forest and Bird NZ* (OS958.96) that the introduction should be amended to highlight that there are provisions in Section 10 Natural Environment that apply widely in the rural zones. While these are linked from the relevant parts of the Section 16 Rural Zones, he considered it would enhance plan clarity by drawing attention to these linkages in the introduction. The Reporting Officer recommended a modified version of the submission be accepted, however, as he considered the proposed wording did not easily differentiate itself from the preceding sentences, he considered it did not quite meet the submitter's intent to highlight more general Natural Environment provisions that may apply, and recommended alternate wording as set out in the s42A Report, p. 110.

3.7.2.4 Hearing

1049. At the hearing, Craig Werner for *HPPC* considered that the 2GP says "nothing about the contribution of broader rural environment to citizen's lives and cultural well-being". In his view, the decision-making focus needed to go beyond the personal interests of consent applicants to neighbours and wider citizenry. As an example, he suggested there could be some mention of the natural environment as viewed from urban areas.
1050. Lynette Wharfe for *Horticulture NZ* supported the Reporting Officer's recommendation on the introduction.

3.7.2.5 Revised recommendations

1051. In response to *HPPC*, while reiterating that he was adverse to specifying any particular 'standing' or hierarchy of interests or stakeholders in relation to the rural environment, the Reporting Officer considered that 16.1 Introduction could be expanded to mention the broader value placed on the rural environment by the wider Dunedin community. He considered that this would complement the paragraph specifying that rural areas are valued for tourism purposes, without detracting from the messages around the core contribution of the rural environment for productive purposes and ecosystem services.

1052. He recommended that the fifth paragraph of 16.1 Introduction be amended, as follows: "The rural environment is valued by Dunedin's citizens for its open spaces, natural areas and visual amenity when viewed from both rural and urban areas." {RU447.70} The rural environment also contains a number of outstanding and significant natural landscapes...."

3.7.2.6 Decision and reasons

1053. We accept the submission of *Dunedin City Council* (OS360.143) to improve consistency and clarity in the Rural Introduction by adding a list of the seven rural zones so that they are introduced before being listed in the rules.
1054. We also accept in part the submission of *Forest and Bird NZ* (OS958.96) and agree with the intent of the Reporting Officer's proposed amendments. We have therefore amended the Rural Introduction to refer to the Natural Environment section as follows: "The provision of ecosystem services, and issues relating to the natural environment more generally, are addressed in the Natural Environment section (Section 10)." {RU 958.96}
1055. We accept the submissions of *HPPC* (OS447.70) and *STOP* (OS900.102) in part and agree with the intent of the Reporting Officer's recommended amendment to acknowledge the value of the rural environment for Dunedin's citizens. We have added a sentence to the end of the fifth paragraph as follows: "Along with the biodiversity values referred to above, these elements of the rural environment make an important contribution to the social and cultural wellbeing of the residents of Dunedin, and to the quality of the city's natural environment" {RU 900.102 and 447.70}.
1056. We considered these submission points in tandem with the submission of *HPPC* (OS447.14), which sought similar amendments to the Natural Environment Introduction. As discussed in the Natural Environment Decision Report, we consider amendments to the Natural Environment Introduction are warranted to better recognise the social and cultural importance of the natural environment. We acknowledge that among other social and cultural functions the natural environment provides amenity and recreational opportunities, and serves to build a sense of identity, and accept that these matters are not canvassed in the Introduction. In response to the submission of *HPPC* (OS447.14 and 447.70) and *STOP* (OS900.102), we have amended the Natural Environment Introduction by adding an additional sentence to acknowledge the natural environment (both rural and urban) as a source of recreational opportunities, and that natural character, biodiversity and landscape values of the natural environment help shape residents' sense of identity.
1057. We consider these changes (and elements of other changes to the Natural Environment Introduction, attributed to OS477.10 and OS588.1 and discussed in section 3.5.2 above and the Natural Environment Decision respectively) also constitute acceptance in part of the submissions of *HPPC* (OS447.70) and *STOP* (OS900.102).
1058. We accept in part the submission of *NZ Institute of Surveyors - Coastal Otago Branch* (OS490.25) and have adopted the Reporting Officer's recommended amendments to clarify the dual nature of the approach to providing for activities as follows:
- In response to these issues, seven rural zones and their objectives, policies and rules manage Dunedin's rural environment in a manner that recognises its diversity. The ~~District~~ {PO cl.16} Plan emphasises the importance of providing for rural activities and for other activities which are reliant on or associated with the rural environment ~~(provided effects are managed)~~ {RU 490.25}, while acknowledging that residential uses are clearly secondary and subordinate to these activities. This approach seeks to achieve the strategic outcomes for the rural zones, while ensuring that environmental effects are managed at an acceptable level {RU 490.25}.
1059. With regard to requesting inclusion of demand for rural lifestyle blocks in the list of key issues in the Rural Introduction. We have modified the Reporting Officer's

recommended amendment to the introduction in response to this submission point, to provide more of a focus on the pressure for rural residential subdivision as follows:

...the fragmentation of rural landholdings from subdivision, which can lead to rural properties too small to be used for productive purposes. Dunedin already has a large number of small rural sites as a result of historic subdivision patterns under earlier district plans and schemes. ~~and further pressure~~ Pressure {RU 490.25} for rural residential ~~(lifestyle block) activities~~ subdivision {RU 490.25} in rural areas threatens to further fragment rural land;...

3.7.3 Broad submissions

3.7.3.1 Submissions to amend all objectives and policies to replace 'minor' with 'insignificant' and 'insignificant' with 'very insignificant, meaning bordering on unidentifiable'

1060. *Dale Benson* (OS280.1) sought to retain 16.2 Objectives and Policies with no specific reason given.
1061. *HPPC* (OS447.71) and *STOP* (OS900.103) sought to amend all Rural Objectives and Policies to change the word 'minor' to 'insignificant' and to change the word 'insignificant' to 'very insignificant, meaning bordering on unidentifiable'. They were concerned that the use of 'minor' should not be confused with the use of minor in RMA case law which relates to section 104D. With regard to the replacement of insignificant with 'very insignificant, meaning bordering on unidentifiable', HPPC explained that it provided for a more definitive description and better clarity.
1062. These submissions were opposed by *Clifton Trust* (FS2202.12, FS2202.22) because the amendment "imposes a standard which would provide activities to have nearly de minimise effects on the environment" which is not anticipated by the RMA; *Oceana Gold* (FS2439.58) who sought to retain the proposed terminology; *Federated Farmers of New Zealand* (FS2449.289, FS2449.290) because the proposed amendments "are inappropriate and uncertain and inconsistent with the RMA and accepted planning terminology"; and *Waste Management (NZ) Limited* (FS2444.47) because the submitter considered that "the normal tests under the RMA should apply in regards to effects".

3.7.3.2 Submissions to add new provisions to manage land use in dry catchments

1063. *Otago Regional Council* (OS908.72) sought to amend rural zone provisions to manage land use in dry catchments where water yield may be impacted, to give effect to the Proposed Regional Policy Statement Policy 4.3.2. *Oceana Gold (New Zealand) Limited* (FS2439.61) opposed the submission because although the submitter "supports achieving consistency" with the proposed RPS, it noted that the actual form of the amendments were not given and Policy 4.3.2 remains subject to change.
1064. *Forest and Bird NZ* (OS958.110) sought to add policies to give effect to the proposed RPS Policy 4.3.2, such as avoiding any significant reduction in water yield by restricting forestry activities in dry catchments and minimising the conversion of tussock grasslands. *Oceana Gold Limited* (FS2439.62) opposed this submission because "it is not always possible to avoid or even minimise tussock grassland losses at the Macraes Gold Project." *Federated Farmers of New Zealand* (FS2449.381) also opposed the submission, because it is "not supported by science sufficient to justify such a restrictive provision".

3.7.3.3 Section 42A Report

1065. The Reporting Officer explained that use of 'minor' in the 2GP policies is part of the standard wording that was developed to indicate different levels of strictness or leniency in terms of the tolerance of effects (refer Plan Overview section 42A report

pp22-23). The use of 'no more than minor' is used in the 2GP in policies with a 'medium to high strictness' level while 'insignificant' is used in policies with the 'most strict level' with respect to the tolerance of effects. As discussed in the Plan Overview section 42A, this wording was developed to be best practice, based on expert opinions from planning and legal practitioners.

1066. Therefore, the Reporting Officer did not consider it to be appropriate to change the word 'minor' to 'insignificant' throughout the Rural objectives and policies, as this would both conflict with the 2GP drafting protocol and indicate a stricter test than is intended for certain policies. He also did not recommend replacing 'insignificant' with 'very insignificant, meaning bordering on unidentifiable'. He noted that the dictionary definition of insignificant as being 'too small or unimportant to be worth consideration' rendered the addition of the modifier 'very' essentially meaningless. With regard to the meaning intended by the submitter that it would mean 'bordering on unidentifiable', this is a somewhat vague use of language. The Reporting Officer noted that the submitter used 'bordering on undetectable' elsewhere (see Mining activities section 42A Report) which implied a standard that can be measured. Notwithstanding the meaning intended, he considered that 'bordering on unidentifiable/undetectable' created both an unrealistically high bar for activities to achieve, and did not represent an improvement in meaning or clarity over the use of the word 'insignificant' as set out in the 2GP drafting protocol.
1067. With regard to the submissions to add new provisions to manage land use in dry catchments, the Reporting officer noted in the s42A that the RPS proposed policy had been renumbered in the decisions version and that there had been other changes made to the proposed provisions including removal of the provision to minimise the conversion of tussock grasslands and the decisions version focused solely on managing plantation forestry for the purposes of water yield.
1068. The Reporting Officer was of the opinion that the control of the use of land for maintaining water quantity is a regional function under s30(1)(c)(iii) of the RMA and he considered that the management of effects of land use on water quantity was more effectively delivered at a regional level. He did not recommend accepting the submissions of *Otago Regional Council* and *Forest and Bird NZ* because he did not consider that it was within the scope of the 2GP or current roles and responsibilities of the DCC in terms of land use planning. However, he noted that tussock grasslands that are within 2GP landscape overlay zones or ASCVs cannot be converted to forestry as of right because forestry is not a permitted activity within these areas.

3.7.3.4 Hearing

1069. Craig Werner, for *HPPC*, stated that he was "unconvinced that 'bordering on unidentifiable' is not a clearer, less subjective benchmark than 'insignificant'". He expressed concern that there was a conflict with the use of the word minor in RMA in section 104D.
1070. The Reporting Officer did not change his recommendation in relation to *HPPC* and *STOP*. He did not see a clash with the use of the word "minor" in section 104D, used as one of the tests for whether a non-complying activity can be granted. He noted that in rural policies the word "minor" is used in relation to the level of effects that will be tolerated with certain restricted discretionary and discretionary activities and standards (policies 16.2.2.2, 16.2.2.6, 16.2.4.3). He did not consider there to be a conflict in this differing use of the word.
1071. *Forest and Bird NZ* was represented at the Hearing by Sue Maturin and considered that the 2GP should be managing land conversions in dry catchments, especially in the absence of a regional land plan. Ms Maturin expressed the submitter's concern about tussock conversion and noted that it had appealed the RPS, and that regional and territorial functions can overlap.
1072. *Otago Regional Council*, represented by ORC director of policy, planning and resource management Mr Fraser McRae attended the hearing. In response to our questions Mr McRae indicated the ORC considered these responsibilities had been delegated to

territorial local authorities under a triennial agreement, but could not produce formal confirmation of this delegation. We recommended clarification of this position between the two authorities as a matter of relative urgency, to then enable the resource management issues listed under s30(c) to be considered and the appropriateness of any relevant management options formally assessed.

1073. The Reporting Officer made no change to his recommendation in relation to *Forest and Bird* and *Otago Regional Council's* submissions to add new provisions to manage land use in dry catchments.

3.7.3.5 Decision and reasons

1074. We reject the submission of *HPPC* (OS447.71) and *STOP* (OS900.103) to change the word 'minor' to 'insignificant' and to change the word 'insignificant' to 'very insignificant, meaning bordering on unidentifiable'. With regard to the use of the word 'minor', we draw attention to our decision in the Natural Environment report on a similar submission by *HPPC* (OS447.15). We note the concerns of the further submitters and agree with the assessment of the Reporting Officer that it would not be appropriate to use the requested terminology as it would be inconsistent with the 2GP drafting protocol, as detailed in the Plan Overview Section 42A Report (pages 22-23) and we therefore reject both submissions.
1075. We reject the submissions of *Otago Regional Council* (OS908.72) and *Forest and Bird NZ* (OS958.110) that the 2GP should be managing land conversions in dry catchments. We agree with the reasoning by the Reporting Officer and note, as discussed elsewhere, the control of land use for the maintenance and enhancement of water and ecosystems in water bodies and coastal water is a responsibility of regional councils under s30(c) of the RMA.

3.7.4 Request for new provisions for Huriawa and Māpoutahi

3.7.4.1 Background

1076. Huriawa Peninsula has several pā sites and is mapped in the 2GP as a wāhi tūpuna. The bulk of the peninsula, with the address of 50 Sulisker Street Karitane, is a former historic reserve, now vested in Te Rūnanga o Ngāi Tahu under the Ngāi Tahu Claims Settlement Act 1998 and is also mapped as the Karitane Outstanding Natural Feature overlay and the Karitane Headland Coastal Environment, with the general zoning of Coastal Rural Zone.
1077. Māpoutahi (peninsula) and Mateawheawhe (beach) located at the northwestern point of Pūrākaunui Bay are mapped in the 2GP as wāhi tūpuna and identified as Māpoutahi Pā archaeological site (Heritage NZ category 2). The peninsula is also mapped as the Māpoutahi Outstanding Natural Feature, while the beach and the landward edge of the site are mapped as part of the Hayward Coast Significant Natural Landscape. The entire area is also mapped as Māpoutahi Cliffs Coastal Environment and has a general zoning of Coastal Rural Zone.

3.7.4.2 Submissions

1078. *Te Rūnanga o Ngāi Tahu* (OS790.2, 3 & 4) sought to add new policies, rules and related definitions to enable land use activities on Huriawa and Māpoutahi, noting that there is already a need to obtain an Archaeological Authority from Heritage New Zealand for any activity (such as earthworks or buildings) that affects an archaeological site. *Te Rūnanga o Ngāi Tahu* considered that the 2GP should enable and facilitate land use activities on Huriawa and Māpoutahi that comply with an Approved Management Plan, without the need for a resource consent. The submission stated that both *Te Rūnanga o Ngāi Tahu* and *Kāti Huirapa Rūnaka ki Puketeraki* are working with DoC to prepare management plans for Huriawa and Māpoutahi setting out iwi and papatipu aspirations for land use activities in the future. The submission provided the example of signs, interpretations, structures, fences and tracks as

potential activities. *Kāti Huirapa Rūnaka ki Puketeraki* and *Te Rūnanga o Otakou* (FS2456.14 & 76) supported OS790.3 and OS790.4 respectively because they are 'consistent with the aspirations' of the Rūnanga.

1079. *Te Rūnanga o Ngāi Tahu* (OS790.13) also sought that if the relief sought by the submissions described above was not implemented, the submitter wished the whole plan to be withdrawn.
1080. A related submission point, to amend the wāhi tūpuna values listed in the appendices for both Huriawa and Māpoutahi, was considered in the Manawhenua Section 42A report (OS790.5 and OS790.6). That report recommended accepting the submission in part and adding additional information with regard to the areas vested to Ngāi Tahu. However, the Report recommended against adding in reference to a requirement that activities in the areas be carried out "in accordance with an approved management plan" as this is not a DCC enforcement matter. In addition, the report recommended declining amending the mapping so that the wāhi tūpuna mapped areas are consistent with the legal description of the vested areas. The Reporting Officer noted that the areas identified in *Te Rūnanga o Ngāi Tahu's* submission were smaller than the wāhi tūpuna mapped areas, which were mapped by Manawhenua and which reflected the areas which are significant to them.

3.7.4.3 Section 42A Report

1081. With regard to the request by *Te Rūnanga o Ngāi Tahu*, the Reporting Officer, Katie James, did not consider it to be appropriate to permit all activities that comply with a management plan approved by Ngāi Tahu, or to provide a new definition of 'approved management plan' within the 2GP. She explained that:
- a management plan is prepared for different purposes than a district plan and may have different standards for activities than those set out in the 2GP, and would not be enforceable by the DCC.
 - the DCC has a statutory role under s31 of the Resource Management Act 1991 to control any actual or potential effects of the use, development, or protection of land within its jurisdiction, including reserve land, and it is important that activities with potential material effects on the values of Huriawa and Māpoutahi are appropriately managed.
 - the recognition of both Huriawa and Māpoutahi as Outstanding Natural Features means that there is more restriction on effects for development activities taking place at these sites. The Reporting Officer considered that this was appropriate given the rich cultural, archaeological, landscape and geological values associated with both landforms.
 - Objective 10.2.5 of the 2GP provides for the protection of ONFs along with Significant Natural Landscapes and Outstanding Natural Landscapes from inappropriate development. Policy 10.2.5.1 limits rural and community activities (including conservation) in an ONF to those that do not require buildings or involve change to the landform. Policy 10.2.5.4 expressly avoids buildings and structures in an ONF unless there are no material effects on landscape values.
1082. With regard to the concern raised by the submitter that activities such as earthworks would potentially require resource consent as well as an Archaeological Authority, the Reporting Officer considered that this was appropriate, where necessary, as the two types of consent serve different purposes. An Archaeological Authority may be required for any work affecting an archaeological site because of the high risks associated with disturbance of archaeological remains or artefacts.
1083. The Reporting Officer noted that the 2GP allows for small scale earthworks without resource consent, although the status of Huriawa and Māpoutahi as Outstanding Natural Features places more restrictions on earthworks given the potentially greater adverse effects on these visually prominent natural features. In addition, she noted that earthworks are considered to be one of the principal threats to wāhi tūpuna values. She noted further, that in an ONF, any tracks involving a greater than 1m

change in ground level or involving more than 50m² in area will require resource consent, allowing for minimal disturbance of the land, such as maintenance of an existing track. However, the Reporting Officer also noted that:

- fences are a permitted activity and while any new building or structure is non-complying, other buildings and structures activities such as repairs and maintenance are restricted discretionary.
- The 2GP allows for one ancillary sign per site while public amenities including information or interpretation kiosks or panels, place name signs, picnic tables, seating and pedestrian paths are permitted, subject to size, setbacks and status of any associated development activities.

1084. Therefore, the Reporting Officer was satisfied that the 2GP provided for a range of activities that are appropriate for the nature of the two areas while ensuring that activities associated with material effects on landscape values, such as large scale earthworks, buildings and structures, are subject to a resource consent process. In relation to the areas defined as Huriawa and Māpoutahi, she did not consider it to be appropriate to provide definitions for both Huriawa and Māpoutahi based on the description contained within the Ngāi Tahu Settlement Claims Act because these describe smaller areas than the wāhi tūpuna mapped areas in the 2GP, which were mapped by Manawhenua, and which reflected the larger areas which are significant to them rather than being based on legal ownership.

1085. The s42A Report recommended rejecting the submission to withdraw the whole plan if other submission points were not implemented.

3.7.4.4 Hearing

1086. *Te Rūnanga o Ngāi Tahu* (OS790) tabled evidence but did not appear at the hearing. The written evidence noted that an approved management plan approach has been applied successfully in Southland District. The submitter's evidence suggested that a Management Plan would not necessarily be at cross purposes with the District Plan and it was not necessary for DCC to reject the management plan approach because the effects of activities within the management plan would be below the 'materiality threshold' to need controlling via consents and as the properties are non-commercial they would be managed "in a manner that respects their intrinsic landscape and cultural values". The submitter was concerned that if more than one sign was required it would require resource consent which would be "incongruous to the scale of effect and fails to recognise the safety checks provided by the requirement of a management plan to first be approved before an activity can take place" (Statement of Evidence, p. 5).

3.7.4.5 Revised recommendations

1087. In her revised recommendations, the Reporting Officer referred to the s42A Report where she outlined a range of activities that would be permitted on the site under the 2GP, including: maintenance of an existing track involving less than 1m change in ground level or less than 50m² in area, fences, and a range of public amenities subject to size, setbacks and status of associated development activities including: information or interpretation kiosks or panels, place name signs, picnic tables, seating and pedestrian paths. With respect to signs, she considered that the 2GP provides sufficient scope to allow *Te Rūnanga* to provide for a range of information or place name signs as appropriate under public amenities rules. She explained that consent would only be required if the height exceeded 3m and for place name signs, if the maximum area of the display face exceeded 2m². In addition, she noted that one ancillary sign (sign related to permitted or lawfully established land use activity) is allowed in an ONF. While accepting that a management plan would not necessarily be at cross purposes with the plan and recognising the intent to manage the areas in a way that respects intrinsic landscape and cultural values, she considered that there is a level of uncertainty around what would be included in the Management Plan. In addition, as the Management Plan would not require approval by the DCC, she

considered it appropriate that the 2GP provisions continued to apply to these areas. This would allow for a range of activities to be carried out without consent while still requiring that more significant activities would be subject to 2GP requirements.

3.7.4.6 Decision and reasons

1088. We reject the submission of *Te Rūnanga o Ngāi Tahu* (OS790.2, 3 & 4) to add new policies, rules and related definitions to enable land use activities on Huriawa and Māpoutahi. We agree with the assessment of the Reporting Officer that the 2GP already provides for a range of activities (including many that are listed in *Te Rūnanga o Ngāi Tahu's* submission) that are appropriate for the special nature of each area while ensuring that activities which are associated with greater effects are managed through the resource consent process. We note the submitter's evidence that a management plan would not necessarily be at cross purposes with the District Plan, however the DCC would have no control or certainty as to the level of protection to be provided to Māpoutahi or Huriawa or what would be provided for as de facto permitted activities. Without such certainty, we cannot be sure that the effects of these activities would be minor, or that the DCC would be meeting its requirements under s31. We do not consider that the rules in the 2GP are unduly onerous given the importance of these two sites.
1089. We also reject the request of *Te Rūnanga o Ngāi Tahu* (OS790.13) to withdraw the 2GP if the relief sought in the submitter's other submissions is not implemented.

3.8 Zoning and mapping submissions

3.8.1 Introduction

1090. This section of the Decision Report responds to zoning and mapping submissions.

3.8.2 High class soils mapped area

3.8.2.1 Background

1091. The high class soils mapped area (HCS mapped area) in the 2GP was carried over from the Dunedin District Plan (2006). There was one submission in support of the HCS mapped area and several seeking removal at particular locations, discussed separately below.

3.8.2.2 Submission in support

1092. *Vicky Carthew* (OS342.3) sought to retain the HCS mapped area.

3.8.2.3 60 Mount Grand Rd

1093. *James Fraser* (OS93.3) sought to remove the mapped area from his property at 60 Mount Grand Rd. He did not consider that his land has high class soils based on his own review of information relating to characteristics of high class soils (see submission for full details). There is a small area of high class soils mapped at the centre of the site. The submitter stated that this is an elevated site and has a farm road cut through it. He also explained that the soil is too rocky and the site is too steep, noting that part of the HCS mapped areas is also in a Hazard 2 overlay zone, and attached photos to the submission as evidence. The submitter also provides a list of characteristics for high class soils, one of which is listed as slopes of less than 12°. The submitter also asked for more information about 'what is High Class Soil?'

3.8.2.4 171 Pigeon Flat Rd

1094. *Bruce Mark Norrish* (OS461.6) sought to remove the high class soils mapped area from 171 Pigeon Flat Road as he did not consider there to be any high class soil on his property. No reason is given other than to 'see last District Plan submissions'.

3.8.2.5 121 Hall Rd

1095. *Liz McLennan* (OS680.1) sought to remove the High Class Soils overlay from part of 121 Hall Road (Lot 6 DP 456117). The submitter stated that soil tests do not support the classification for the mapped area of 'Lot 6', which is steep and rolling.

3.8.2.6 712 Kaikorai Valley Rd

1096. *Burnside (Dunedin) Limited* (OS798.2) sought to remove the high class soils mapped area from 712 Kaikorai Valley Road as soils are 'poor', the property is undersized and the activities on site are industrial in nature.

3.8.2.7 Middelmarsh Basin Rural Zone

1097. *Lindsay Carruthers* (OS860.10), *David Frew* (OS872.10), *John Carruthers* (OS879.10) and *Neil Grant* (OS883.10) each sought to review the high class soils mapped area in the Middelmarsh Basin Rural Zone because the submitters wanted more information about the criteria for identifying and mapping High Class Soils.
1098. *Lindsay Carruthers* (OS860.7), *David Frew* (OS872.7), *John Carruthers* (OS879.7) and *Neil Grant* (OS883.7) also sought deletion of Policy 16.2.4.2 and associated rules (i.e. assessment rules applying to activities in high class soil areas) until the zoning reflected the true high class areas as they considered that there is insufficient information regarding the criteria, standard and mapping of high class soil areas in the Middelmarsh Basin zone. The submitters requested consultation with local people regarding the mapping and also wanted to know if the high class soils are measured on a national, regional or local scale.

3.8.2.8 Area of Ridge, Sandymount and Hoopers Inlet roads, Otago Peninsula

1099. *Timothy George Morris* (OS951.35) and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* (OS1054.35) sought to change the extent of the High class soils mapped area in the Peninsula Coast Rural zone in the vicinity of Ridge Road, Sandymount Rd and Hoopers Inlet Road as shown in the figure accompanying the submission. There was no further information given by the submitters as to how they would like the mapping of high class soils to be amended, just that the areas shown had been 'inaccurately mapped'.

3.8.2.9 55 Otokia Road East

1100. *Ian H Bryant* (OS987.3) sought to amend the HCS mapped area for 55 Otokia Road East because he did not consider the mapping reflects the "reality of the soil type there".

3.8.2.10 14 Polwarth Road

1101. *Grady Cameron* (OS1008.1) sought to remove the High Class Soils Mapped Area from 14 Polwarth Road, Helensburgh. The submitter suggested that the mapping is an error because the submitter's property is zoned Large Lot Residential 1. The entire site is mapped as high class soils.

3.8.2.11 155 and 252 Scroggs Hill Road

1102. *Scroggs Hill Farm Limited* (OS1052.3) sought to review the HSC mapped area at 155 and 252 Scroggs Hill Road because the area marked on 155 Scroggs Hill Road is 'incorrectly located' and HCS have been 'incorrectly identified' on the map.

3.8.2.12 Section 42A

1103. In responding to the submissions, the Reporting Officer, Katie James, noted that slope is one of the key limiting factors in determining whether soil is high class because of access issues, potential for erosion on steeper slopes and because a slope of 15 degrees is considered as the upper limit for the use of harvesting machinery (see Hunter, 1992 in Lynn and Carrick, 2003).
1104. In response to the submission of *James Fraser*, Dr James noted that some of the marked HSC mapped area was on slopes of 16 degrees or higher and she recommended that these areas be removed from the mapped area. She noted that this would result in approximately 0.9ha being removed leaving approximately 0.6ha of HSC mapped area on the site.
1105. In response to the submission of *Bruce Mark Norrish*, Dr James noted that there is a small section of high class soil mapped at the eastern edge of the site, which is part of a much larger high class soil mapped area. This soil is shown on the GrowRural Dunedin Soil Information Data sheet as being Leith type, which was evaluated on the GrowRural Dunedin Soil Information Data Sheet as being a high class soil unless limited by slope. Referring to the 2GP slope data map, the slope is less than 12° in this location so she considered that it was appropriate that no change be made to the mapping in this instance and that the submission be rejected.
1106. In response to the submission of *Liz McLennan*, the Reporting Officer also recommended that the steeper areas be removed from the HCS mapped area with 1.7ha being removed from SEC 1 of SEC 86 BLK VII SO 1275, leaving 0.5ha mapped as high class soils, and 0.2ha being removed from Lot 7, leaving 0.7ha mapped as high class soils.
1107. With regard to the submission of *Burnside (Dunedin) Limited*, Dr James noted that there was a very small area of HCS indicated at the edge of the site at 712 Kaikorai Valley Road and that the submitter (OS798.1) also requested that the rural zoned part of this site be rezoned industrial, so that the entire site is in the Industrial Zone. The Industrial s42A report recommended that this submission be accepted. The Reporting Officer recommended that the HSC mapped area be removed from 712 Kaikorai Valley Road if the Industrial Transition Overlay Zoning is confirmed, and recommended that this should be removed from all areas with Transition Overlay Zones.
1108. In response to *Lindsay Carruthers* and others the Reporting Officer noted that there had been more recent soil surveys carried out in Middelmarsh than those which the 2GP (and operative plan) mapping was based on, which provided a more accurate picture of the soils. It was recommended that the Middelmarsh HSC mapped area be reviewed, with the additional information being presented to the Panel for consideration. With regard to the request to remove Policy 16.2.4.2, the Reporting Officer explained that the criteria for assessing areas as containing high class soils were discussed with other submissions on defining high class soils and she considered that the concerns of the submitter were better addressed through assessment of the appropriateness of the mapping for the Middelmarsh area in particular, and did not recommend removing the policy or any associated rules in response to the mapping submissions.
1109. With regard to the submission of *Timothy George Morris* and others, Dr James noted that the soils mapped on the sites in question were high class but there were some steeper areas included. It was recommended that areas with a slope of 16 degrees or higher be removed from the HCS mapped area.

1110. In response to the submission of *Ian H Bryant*, the Reporting Officer noted there is a broad swathe of mapped HCS running through the site and that the GrowRural Dunedin Web Maps identified the area mapped as High Class Soils in the 2GP as Pomahaka soil type. Referring to the GrowRural Dunedin Soil Information Data Sheet, she noted that this soil meets the High Class Soils versatility rating. Without additional evidence from the submitter as to why he considered that the reality of the soil type is not reflected in the mapping, the Reporting Officer recommended that the submission was rejected.
1111. In response to *Grady Cameron*, Dr James agreed that the submitter's property and neighbouring properties which are zoned Large Lot Residential 1 should have the High Class Soils layer removed to reflect the change in zoning.
1112. In response to *Scroggs Hill Farm*, the Reporting Officer noted that the land is very steep in places and recommended that the areas with slopes of 16 degrees or higher be removed from the HCS mapped area.

3.8.2.13 Hearing

1113. *James Fraser* tabled and spoke to evidence at the hearing. He did not consider that any of the soil on the property at 60 Mount Grand Rd should be classified as high class according to the recommended high class soils definition. He requested the removal of the entire high class soils mapped area, not only areas with slopes of 16 degrees and above. Mr Fraser provided detailed evidence in support of his position and also raised a question about the classification of the soils in Landcare Research's S-map platform.
1114. *Timothy Morris* pre-circulated evidence and spoke at the hearing. He agreed that HCS should be protected but submitted that there were errors in certain locations. Mr Morris explained that areas he is concerned with are steep hill country and of poor quality soil whereas other adjacent areas of land are of 'high class', stating that "it is very likely that this information was intended to represent general areas and not exact areas in the manner that has been included in the plan".

3.8.2.14 Revised recommendations

1115. The Reporting Officer noted that the farming activity taking place on site at 60 Mount Grand Road is compatible with the high class soils mapped area as provided for by Objective 16.2.4. The evidence provided by *Mr Fraser* in his submission was acknowledged, including a discussion of the limitations for cultivation from his own experience on the site. The Reporting Officer explained that the 2GP high class soils mapped area was based on data originally provided by Landcare Research and in the absence of further technical evidence relating to this particular site, did not consider it appropriate to remove the high class soils layer apart from where there was a clear departure from the original criteria in terms of slope. However, if new technical evidence was provided showing the area does not contain high class soils, the Reporting Officer recommended revisiting this recommendation. Further, as raised by *Mr Fraser*, the Reporting Officer agreed that there needed to be further clarification from Landcare Research around the specific Cargill soil subtype present in the mapped area as shown on S-Map online.
1116. In response to *Mr Morris*, the Reporting Officer reiterated the recommendation of the s42A Report, that parts of the areas indicated by the submitter were above the slope cut off for HCS and should be removed. However, as with the response to *Mr Fraser*, it was not considered appropriate to remove the HCS layer apart from where there is a clear departure from the original criteria in terms of slope because the HCS mapped area was based on data provided by Landcare Research and there was no additional technical evidence.

3.8.2.15 Panel minute to submitters

- 1117. We sent a minute dated 24/9/17 to those submitters who submitted against the high class soils mapping on their land, inviting them to provide updated technical evidence from a qualified soil scientist to show if their land did not contain high class soils.
- 1118. The minute noted that while we are satisfied that the mapping is based on the best available information, we accept that the soil types and their boundaries do not necessarily show what a soil study in a specific location would find. In our view it is not practical to investigate every area within the mapped areas at that level of detail.
- 1119. With respect to the main purpose of the mapping, which is to define the areas where the earthworks rule (not to remove topsoil) applies, we noted that in the course of a resource application, a landowner could have the soils investigated. Any mapping found to be incorrect at that lower scale could be taken into account in the assessment of the application. Such mapping errors could be tidied up periodically through changes to the District Plan.
- 1120. No responses were received to the Panel minute.

3.8.2.16 Memo and Reconvened hearing - review of Middlemarch Basin HCS mapped area

- 1121. The Reporting Officer was directed to review the HCS mapped area for the Middlemarch Basin Rural Zone and to bring any amendments to the Panel for consideration.
- 1122. The Reporting Officer prepared a memo dated 17 November 2017 'High Class Soils Mapping in the Middlemarch Basin Rural Zone' to assist in the Panel's deliberations.
- 1123. The Reporting Officer recommended that the three soil types present in the Middlemarch Basin that were identified as high class in a Landcare Report by Lynn and Carrick (2003) should be included in a revised high class soils mapped area. In her view it was appropriate that a precautionary approach should be taken with respect to preserving the remaining areas of high class soil from inappropriate use and development.
- 1124. The Reporting Officer recommended that the Middlemarch Basin Rural Zone high class soils mapped area was amended to reflect the soils types that were assessed by Lynn and Carrick (2003) in the Strath Taieri study as meeting the criteria for high class soils (e.g. the Clutha, Tarras and Middlemarch soils).
- 1125. The Rural Hearing was reconvened on Friday 8 December 2017 to rehear this evidence. Cr Kate Wilson removed herself from the hearing and deliberation on this matter because it affects her farm.

3.8.2.17 Decision and reasons

- 1126. We accept the submissions of *Liz McLennan* (OS 680.1} and *Scroggs Hill Farm Ltd* (OS 1052.3) and accept in part the submissions of *James Fraser* (OS 93.3), *Timothy Morris* and *Timothy Morris (on behalf of RG and SM Morris Family Trust)* {OS 951.35, OS 1054.35) with respect to removing the HCS mapping from areas that are over the slope gradient listed in new Policy 2.3.1.9. In recognition that slope is one of the key limiting factors in determining whether soil is high class, we agree with the recommendation of the Reporting Officer, and have removed the HCS mapped area from all land in the Dunedin district with a slope of 16 degrees or greater. This wider change is consequential to the identification of criteria used to identify areas of high class soil as discussed in section 3.3.2 above, attributed to RU 360.161 and RU 853.1,

which include that to be defined as high class soils they must be located on a slope of 15 degrees or less.

1127. We accept the submission of *Burnside Dunedin Ltd* (OSS798.2) to remove the HCS mapped area from 712 Kaikorai Valley Road and note our decision in relation to a related submission point heard in the Industrial hearing was to rezone the entirety of the site as Industrial (see Industrial Decision).
1128. We accept the submission of *Grady Cameron* (OS1008.1) to remove the HCS mapped areas from his property because HCS provisions do not apply in the Large Lot Residential 1 Zone. We also agree with the Reporting Officer that the HCS mapped area should be removed from the neighbouring Large Lot 1 properties listed in the Rural s42A report (p. 370-371) as well as all other land with a zoning other than Rural, Rural Residential, or Invermay and Hercus (noting that the latter major facility zone was subject to the earthworks high class soils rule in the notified version of the plan and it is appropriate that the HCS mapping is retained). The wider changes to remove HCS mapping from zones other than these three types of zones are made as non-substantive cl. 16 changes because high class soils provisions only apply in these zones. We have not removed the HCS mapping from the transition overlay zones where it is present because we do not consider that there is scope for this change while these areas are still managed under rural zone provisions.
1129. We accept the submissions of *Lindsay Carruthers* (OS860.10) *David Frew* (OS872.10), *John Carruthers* (OS879.10) and *Neil Grant* (OS883.10) with respect to reviewing the HCS mapped area in the Middelmarsh Basin Rural Zone. The additional information presented to the Panel by the Reporting Officer at the reconvened hearing shows a different distribution of high class soils than in the notified 2GP. We agree with the Reporting Officer that the maps should be updated to reflect the new information. However, in making our decision we note that there are some affected properties that did not have HCS mapped areas on them in the notified 2GP, and our decision is that only those properties that are already subject to high class soils mapping should have the updated mapping information applied. We consider that any other changes should be made through a subsequent plan change, allowing for the owners of newly affected properties to be properly consulted (see Appendix 2, Figure 1 for notified and amended high class soils mapping in Middelmarsh).
1130. We reject the submission of *Lindsay Carruthers* (OS860.7), *David Frew* (OS872.7), *John Carruthers* (OS879.7) and *Neil Grant* (OS883.7) to remove Policy 16.2.4.2. In our view, the policy is necessary to achieve Objective 16.2.4 and, as outlined by the Reporting Officer, the submitters' concerns around the high class soils mapped areas are better addressed by reviewing and updating the HCS maps for Middelmarsh. In addition, we refer to our decisions in relation to defining and providing for HCS and highly productive land as outlined in section 3.3.2 which we consider provides the submitters with further relief.
1131. We reject the submission of *Bruce Mark Norrish* (OS461.6) to remove the area of HCS from the property at 171 Pigeon Flat Road. As outlined by the Reporting Officer this is a very small area and is not steep, so in the absence of any further information we have not removed the HCS mapped area.
1132. We also reject the submission of *Ian H Bryant* (OS987.3). We note that the property at 55 Otokia Road East is largely flat and in the absence of further information we have not removed the HCS mapped area.
1133. In making our decision on the high class soils mapping submissions, and with regard to the concerns raised by *Mr Fraser* and others in evidence regarding the accuracy of the HCS mapped area, we note that while we consider that the high class soils mapped areas are based on the best available information, they have been mapped at a broad scale. Therefore, from time to time it may be necessary to update the 2GP mapping, in light of any more detailed information being made available (such as information provided to support resource consent applications).
1134. We have made the following amendments to the 2GP map to implement this decision:

- removed the HCS mapped area from all land in the Dunedin district with a slope of 16 degrees or more, including at:
 - 60 Mount Grand Road {RU93.3}
 - 121 Hall Road {RU680.1}
 - 155 and 252 Scroggs Hill Road {RU1052.3}
 - area of Ridge, Sandymount and Hoopers Inlet roads {RU951.35, RU1054.35}
- removed the HSC mapped area from 712 Kaikorai Valley Rd {OSS798.2}
- removed the HCS mapped area from all land with a zoning other than Rural, Rural Residential, or Invermay and Hercus, including at 14 Polwarth Rd {OS1008.1}

3.8.3 Rural zones – general

3.8.3.1 Submissions

1135. *Colin Weatherall* (OS194.10) sought to amend rural zoning in some areas because he considered that the zoning of rural along with residential and rural residential is 'impractical' and lacking quality assessment, although no specific examples were given. *Robert George & Sharron Margaret Morris* (OS355.6) sought to remove or review rural zones because the submitter considered that the zones have "been drawn up without consultation with landowners" and the defined areas were "too subjective". This was opposed by *Radio New Zealand Limited* (FS2332.76) because of its general opposition to "rezoning in the vicinity of its facilities that might result in adverse reverse sensitivity effects".
1136. *Dunedin City Council* (OS360.252) sought to move the boundary between the Coastal Rural Zone and Hill Country Rural Zone and Hill Slopes Rural Zone to follow parcel boundaries to reduce the occurrence of split zoning. This was opposed by *Radio New Zealand Limited* (FS2332.77) because of its general opposition to "rezoning in the vicinity of its facilities that might result in adverse reverse sensitivity effects".

3.8.3.2 Section 42A Report

1137. The Reporting Officer, Michael Bathgate, explained that the rural zone boundaries were mapped at a broad level, reflective of the landscape units that formed their basis and which stemmed back to the Boffa Miskell study in 2007. This broader scale mapping left some fine-tuning of zone boundaries required prior to notification of the 2GP. An example of fine-tuning was to try and resolve instances of split zoning where zone boundaries ran through sites with the result that a site was within more than one rural zone. The intent was that owners of rural sites only have to deal with one set of zone provisions; however, in some cases the large size of rural sites means that split zoning cannot always be avoided without creating zoning that is inappropriate in terms of the Plan's objectives.
1138. As the fine tuning process was not able to be entirely completed prior to the notification of the 2GP, the DCC submitted to reduce the occurrences of split zoning between the Coastal Rural Zone and Hill Country Rural Zone and the Hill Slopes Rural Zone. However, Mr Bathgate considered that it may be problematic to adjust zone boundaries without direct notification of affected landowners and it affected too many landowners to contact and obtain agreement in relation to potential zone boundary shifts within the timeframe of the hearings process.
1139. Rather than trying to adjust zone boundaries, Mr Bathgate considered that it would be more effective to clarify how the 2GP provisions affected by split zoning are managed. It was recommended in the Plan Overview s42A that the definition of site was amended with the effect that a rural site remains a single site to which more than one

zone applies. The Reporting Officer explained that while the vegetation clearance rule already addresses the issue of split zoning, and rural character values can be assessed in relation to the zone in which the activity is occurring, subdivision and residential density rules needed to be clarified.

1140. With regard to subdivision, Mr Bathgate considered that the amount of land to create a resultant site in each particular rural zone should still apply and recommended an amendment to Rule 16.7.4.1 to clarify this, noting that any contravention of the new clause (h) would be a non-complying activity.
1141. With regard to residential density, Mr Bathgate considered there could be more flexibility in terms of using the entire site size in consideration of whether residential activity is compliant with Rule 16.5.2.1. On this basis, he proposed that the minimum site size for residential activity that applies where the residential activity is to be established should be used. This then led to the question of how much of the total site should be contained within that zone, in relation to this density standard. An example was given of establishing a residential activity in the Hill Slopes Rural Zone (where a site must be at least 15ha) part of a site, but only 10ha of the total site is in the Hill Slopes Rural Zone and a further 5 or more ha of the same site is located in another rural zone. The Reporting Officer looked at two potential approaches:
- Requiring a proportion (such as half) of the entire site to be located in the zone where the residential activity is to be established, for the residential density standard of that rural zone to apply.
 - Requiring a minimum area of the site to be located within the zone where the residential activity is to be established.
1142. Mr Bathgate favoured the latter approach, because the variability of site sizes and circumstances made requiring a proportion less meaningful. In terms of requiring a minimum area of a split zoned site to be located in a rural zone, he proposed using a figure of 2ha as a minimum for this purpose for each new residential activity. While acknowledging that this may be regarded as a somewhat arbitrary figure, it was designed to avoid the situation where a very small area such as 1,000m² is located in the zone where the residential activity is to be established. Mr Bathgate noted that the overall site size must meet the minimum site size for residential activity for at least one rural zone, and he considered that it may be unduly onerous to treat an application as a non-complying activity where slightly less than 2ha per residential activity is in the one zone. This was left for discussion at the hearing.
1143. In terms of the scope for making these changes, Mr Bathgate considered it did not fall within the scope of the DCC submission which is to do with mapping changes alone. Instead, scope could be provided from a submission point (OS908.1) from the *Otago Regional Council* considered in the Plan Overview hearing, which sought to clarify the need for two sections of definitions and ensure the definitions as written do not create further uncertainty. As it was considered the amendments to Rule 16.7.4.1 and Rule 16.5.2.1 clarify how the definition of site will be handled in relation to a split zoning situation, he proposed these amendments fall within the scope of this submission.
1144. No submitters were heard at the hearing on this subject.

3.8.3.3 Decision and reasons

1145. We reject the submission of *Colin Weatherall* (OS194.10) to amend rural zoning in some areas. In the absence of any examples or evidence being provided by the submitter, we do not find the statement that the zoning of rural along with residential and rural residential is 'impractical' and lacking quality assessment to be a compelling submission. We also reject the submission of *Robert George & Sharron Margaret Morris* (OS355.6) to remove or review the zones. In our view the development of the rural zoning was a comprehensive process and we do not think it is necessary to undertake a wholesale review of the rural zones, although we do consider that some clarification is necessary with respect to instances of split zoning.

1146. We also reject the DCC's (OS360.252) original submission to move the boundary between the Coastal Rural Zone and Hill Country Rural Zone and Hill Slopes Rural Zone to follow the parcel boundaries in order to reduce split zoning. We agree instead with the amendments recommended by the Reporting Officer to amend Rule 16.5.2.1 (minimum site size) and Rule 16.7.4.1 (subdivision minimum site size) to clarify how split zones should be managed. The scope for this decision is provided by a submission by Otago Regional Council (OS908.1) that was considered at the Plan Overview Hearing, relating to ensuring that the definitions as written (including definition of site) do not create further uncertainty.
1147. We have made the following amendments to implement this decision (Appendix 1, attributed to OS908.1):

Amend Rule 16.5.2.1 as follows:

- "...j. if a site is crossed by a boundary between two or more rural zones, the maximum density of the standard residential activity must meet the density required for the rural zone in which the residential activity is to be established; and:
- i. the total site size must meet the minimum site size for the zone in which the residential activity is to be established; and
 - ii. for each new residential activity per site, a minimum of 2ha of the site per residential activity must be located within the rural zone in which the residential activity is to be established. {RU 908.1}

Amend Rule 16.7.4.1 as follows:

- "....h. For the purposes of this standard, if a site is crossed by a boundary between two or more rural zones, then new resultant sites must comply with the minimum site size required for new resultant sites in each relevant rural zone." {RU 908.1}

3.8.4 Middlemarch Basin Rural Zone

3.8.4.1 Submission

1148. *Maurice Prendergast* (OS451.2) sought to change the rural zoning of the Hyde area from 'Middlemarch Basin' to 'Maniototo Escarpment' because "Hyde is located on a rampart between the two plains (Maniototo and Strath Taieri) and could not remotely be described as being in the Middlemarch Basin".

3.8.4.2 Section 42A Report

1149. The Reporting Officer, Katie James, explained that in the 2GP the names of the different Rural zones are used to broadly describe the different areas and that Appendix A7.2 provided a description of the Middlemarch Basin Rural Zone: "Relatively flat, this landform is surrounded by the High Country ranges which rise steeply from either edge. Open and wide in the south but narrowing towards the north..." She drew attention to the Zoning Special Report – Rural for the 2GP which set out the methodology used to derive each of the seven rural zones, which was preceded by landscape assessments and rural character assessments by Boffa Miskell and Forest Environments Ltd for the DCC. With regard to appropriateness of terminology, Dr James noted that 'basin' is a commonly used geographic term which, as its name suggests, refers to a depression which rises up at the sides like a basin, Hyde being on an upper side of a linear shaped basin: "North of Rock and Pillar, the broad plain landscape tapers into a shallow valley that extends to Hyde. The boundary between the valley floor and the adjacent ridges is less defined as the landscape becomes more gently undulating" (Boffa Miskell 2007, p. 137). The report explained that another factor that was considered in landscape management areas

was historic character of the area: "In many ways the landscape between Sutton and Hyde maintains a well-preserved historic character" (ibid). Dr James also did not consider that it was appropriate to name the Hyde area 'Maniototo Escarpment' because the Maniototo plain is part of the Central Otago District and in her view it would be more appropriate to use a name associated with the Dunedin District were it to be necessary to create a new zone. However, she also considered that it would be inefficient to create a new zoning for the Hyde area in its own right and that the Middelmarsh Basin Rural Zone landscape unit was appropriate, based on earlier assessment reports. She recommended that the submission be rejected.

1150. The submitter did not appear at the hearing.

3.8.4.3 Decision and reasons

1151. We reject the submission of *Maurice Prendergast* (OS451.2) to change the name of the Middelmarsh Basin Rural Zone, for the reasons outlined by the Reporting Officer.

3.8.5 Hill Slopes Rural Zone

3.8.5.1 Submissions

1152. *Graham and Nothburga Prime* (OS399.2) sought to move the boundary of the Hill Slopes Rural Zone and the Coastal Rural Zone so that it corresponded with the proposed boundary of the Flagstaff-Mt Cargill Significant Natural Landscape in the area of Pigeon Flat. The submitter considered that "Moving the Hill slope boundary from O'Connell road to correspond with the SNL boundary would bring consistency with the rest of the boundary and more accurately reflect the topography down to the SNL boundary." This submission was supported by *Bruce McLennan* (FS2322.2) who considered that it was 'far-fetched' to include any of the land in the Coastal Rural Zone.

1153. *Pigeon Flat Road Group* (OS717.27) sought to amend the zoning of properties on O'Connell Road and Pigeon Flat Road so that the sites were entirely within the Hill Slopes Rural Zone. The submitter considered the Coastal zoning to be an 'anomaly' and that Hill Slopes zoning was "more consistent with the character and nature" of the land. The submitters also commented more generally that it would be more appropriate to use legal boundaries to differentiate between zones.

1154. *Dianne Reid* (OS592.29) sought to change the zoning of CFR OT10C/237 (except Lot 2 DP 19043) at 505 Saddle Hill Road from Coastal Rural Zone to Hill Slopes Rural Zone, as shown on the map accompanying the submission. *David Hiom and Kerry Hiom* (FS2473.27) opposed the submission and sought to retain the Coastal Rural zoning for the property because it is less intensive. See also the same submitter's (FS2473.27) reasons for opposing the submission of *Dianne Reid* (OS592.28) to change the zoning of Lot 2 DP 19043 to Large Lot Residential 2, which was addressed in the Urban Land Supply hearing.

1155. *William Glasson Clark* (OS561.1) sought to change the zoning of the portion of 47 Spiers Road, Halfway Bush that is zoned Rural Residential 1 to Hill Slopes Rural Zone because the submitter considered that opening up the area to subdivision would be "against the spirit and intent of the Resource Management Act" and there are no services supplied. This submission was supported by *David More and Susan More* (FS2139.1) who own a property at 26 Spiers Road, for similar reasons as given by the original submitter, stating that rural zoning "will ensure the Rural Character Values are met."

1156. *Hillside Forestry Limited* (OS797.1) sought to move the Hill Slopes Rural Zone boundary along 504 Rollinsons Road so that the full property is in the Hill Slopes Rural Zone. The submitter explained that the property did not meet the description of 'Hill Country Rural'. As shown on the map accompanying the submission, a small part

of the submitter's property is in the Hill Slopes Rural Zone, which the submitter considered to be more appropriate to the nature of the property, which consists mainly of forestry or bush.

3.8.5.2 Section 42A

1157. We note that the Reporting Officers, Michael Bathgate and Katie James, relied on expert landscape evidence from Mr Mike Moore, DCC consultant landscape architect, in responding to this topic.
1158. With regard to *Graham and Nothburga Prime*, Dr James noted that in terms of the Rural Character Assessment report by Forest Environments Ltd, the general area in question is mapped as the Waikouaiti Coast and Hills Character Area and the Special Zoning Report – Rural discussed the methodology used to group different rural character areas. In response to the further submitter, the Reporting Officer noted that the Coastal Rural Zone is a broad category which includes Waikouaiti Coast and Hills as well as South Coast and is characterised by small-medium properties, coastal as well as adjacent hills, landscape and biodiversity values and development pressures. With regard to the submitter's request that the Rural zone boundary should correspond with the boundary of the SNL overlay zone, she noted that a review of the boundaries of the SNL was being undertaken for the purposes of the Natural Environment hearing. Dr James did not want to make any recommendation on the submitters' request without this information being available and recommended that consideration of this submission be deferred, to be done in conjunction with consideration of the mapping of the boundary of the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone. To enable this, this submission point was copied and moved to the Natural Environment s42A Report so that it could be considered during the Natural Environment Hearing.
1159. The Reporting Officer also noted that, as the extent of the area raised in the *Graham and Nothburga Prime* submission includes the area that is the subject of the submission by the *Pigeon Flat Road Group*, she considered the two submissions should be treated alike. Accordingly, she recommended that any consideration of the *Pigeon Flat Road Group* submission (OS717.27) should be deferred to the Natural Environment Section 42A hearing, so that it may be assessed in conjunction with an assessment of the boundary of the SNL overlay zone. To enable this, this submission point was copied and moved to the Natural Environment s42A Report so that it could be considered at that time. The Reporting Officer acknowledged the comment by the submitters that it was more appropriate to use legal boundaries to delineate zones and noted the recommended amendments to Rules 16.5.2 and 16.7.4 to clarify how split-zoning would be handled in the case of applications for either subdivision or residential activity.
1160. Mr. Moore reviewed the location of the Flagstaff-Mt Cargill SNL boundary in the general area included in the *Prime* and *Pigeon Flat Road Group* submissions. Mr Moore considered the boundary too low to be justified in a number of areas and recommended amendments to either the 300m contour line or nearby road lines were more appropriate between State Highway 1 and O'Connell Road, as "...there is a large amount of farm land that is not particularly visually prominent in the Pigeon Flat area. The 300m contour generally reflects a change in character to steeper more bush covered land in this section and the land above is visually prominent" (Moore evidence for Natural Environment Hearing, p. 21).
1161. On the basis of this evidence, the Natural Environment Reporting Officer, Michael Bathgate recommended adjusting the SNL boundary uphill as shown in Figure B5:3 of Mr Moore's evidence. The effect of this recommendation was that the redrawn boundary of the SNL would roughly align with the boundary between the two different rural zones. However, Mr Bathgate, noted that the request by *Graham and Nothburga Prime* requested that the boundary of the Hill Slopes Rural Zone be adjusted to the notified SNL boundary, so he did not recommend adjustment to the boundary between the Hill Slopes and Coastal Rural zones on the basis of the submission.

1162. With regard to the *Pigeon Flat Road Group* submission, Mr Bathgate did not agree that Coastal Rural zoning in this area is an anomaly, noting that the Coastal Rural Zone is a broad category which is characterised by small-medium properties, coastal as well as adjacent hills, landscape and biodiversity values and development pressures. He explained that rural zone boundaries were mapped at a broad level, and in some cases the large size of rural sites meant that split zoning could not be always avoided without creating zoning that was inappropriate in terms of the Plan's objectives. However, in some cases where there is only a very small area of a site in a different zone, Mr Bathgate considered that it made sense to adjust the boundary so that the site is entirely in one zone (Natural Environment s42A Report, pp.637-638).
1163. On the basis of some small zone overlaps on the properties subject to the *Pigeon Flat Road Group* submission, the Reporting Officer recommended (s42A Report, p.638):
- amending the zoning of 8 O'Connell Road so that it is entirely in the Hill Slopes Rural Zone; and
 - amending the zoning of 324 Pigeon Flat Road and 55 O'Connell Road so that they are entirely in the Coastal Rural Zone.
1164. Dr James did not consider it to be appropriate to change the zoning at 505 Saddle Hill Road because of its location within a contiguous area of Coastal Rural Zone, with the nearest area of Hill Slopes Rural Zone some distance away. She considered that this would create a spot zoned property which would not be reflective of the overall character values of the area. The Zoning Special Report – Rural contained additional detail about the character of each area; a key difference between the two zones is that Hill Slopes Rural Zone tends to consist of smaller properties while the Coastal Rural Zone is characterised by small-medium properties.
1165. With regard to the submission of *William Glasson Clark* (OS561.1) and the further submission in support, the Reporting Officer noted that both submitted against a request by the DCC to change the zoning of 26 Spiers Road to Rural Residential 1 Zone to correct a mapping error, which was addressed in the Rural Residential Section 42A hearing. She did not consider it necessary or appropriate to amend the zoning of the part of the parcel that is Rural Residential 1 to Hill Slopes Rural Zone as it was separately owned and its very small size meant that it was more alike in use and nature to the adjoining Rural Residential zoning than the adjoining Rural zoning. She noted, in response to the concerns of the submitters, that there was no further development potential for this site under the proposed Rural Residential 1 zoning
1166. With regard to 504 Rollinsons Road, Dr James noted that although the submitter points out that the property is largely forested, the difference between zones is a factor of several different characteristics, including property size, with the Hill Slopes Rural Zone being characterised by smaller properties than High Country, which is reflected in a smaller minimum site size being permitted in the Hill Slopes Rural Zone. However, a change to the zoning to make the whole property Hill Slopes would make no material difference to development opportunities on the site because the property is on a 47ha site so is below the minimum site size to provide for additional residential activities and subdivision. Dr James therefore saw no issue with amending the split zoning and zoning the entire site as Hill Slopes. She also noted that there was a split zoned property immediately to the south of the submitter's property, owned by the Dunedin City Council for water purposes. Dr James considered that this should also be rezoned so that the entire property is in the Hill Slopes Rural Zone, to avoid effectively creating an island of Hill Country Rural Zone surrounded by Hill Slopes Rural Zone.

3.8.5.3 Hearing

1167. *Dianne Reid* appeared at the hearing, requesting that if subdivision consent for 505 Saddle Hill Road, which she noted was heard in a consent hearing held the previous week, was granted then the four new small sites should be zoned as rural residential.
1168. In response to *Dianne Reid*, the Reporting Officer noted that there was no rezoning request for rural residential sites in the original submission of *Dianne Reid*.

3.8.5.4 Decision and reasons

1169. We accept the submission of *Hillside Forestry Limited* (OS797.1) and agree with the recommendation of the Reporting Officer to change the zoning of 504 Rollinsons Road (Flagstaff-Whare Flat Road) and SEC 42 Flagstaff-Whare Flat Road so that each site is entirely in the Hill Slopes Rural Zone.
1170. We accept in part the submissions of *Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd* (on behalf of the "Pigeon Flat Road Group") (OS717.27) in order to adjust the rural zone boundaries so that the sites in question are all in one zone. We agree with the Reporting Officer's recommendation and relying on the new assessment by Mr Moore to amend the zoning of 8 O'Connell Road so that it is entirely in the Hill Slopes Rural Zone. We have also amended the zoning of 324 Pigeon Flat Road and 55 O'Connell Road so that they are entirely in the Coastal Rural Zone.
1171. We reject the submission of *Graham and Nothburga Prime* (OS399.2) to amend the boundary of the Hill Slopes and Coastal Rural zones so that they correspond with the boundary of the Flagstaff-Mt Cargill SNL in the area of Pigeon Flat. The overlay zone boundary was determined as discussed in the Natural Environment Decision report to be redrawn as recommended by the Natural Environment Reporting Officer to roughly align with the boundary between the two different rural zones but the rural zone boundaries have not been redrawn as requested.
1172. We reject the submission of *Dianne Reid* (OS592.29) to change the zoning at 505 Saddle Hill Road from Coastal Rural Zone to Hill Slopes Rural Zone for the reasons outlined by the Reporting Officer. We also note that there is no scope to provide for the rezoning of the site to rural residential as requested by the submitter at the hearing.
1173. We reject the submission of *William Glasson Clark* (OS561.1) to change the zoning of 47 Speirs Rd so that the site is entirely in the Hill Slopes Rural Zone for the reasons outlined by the Reporting Officer. With regard to the further submission of *David More and Susan More* (FS2138.1) we note that we have amended the mapping of all of 26 Spiers Road to Rural Residential 1 as discussed in the Rural Residential Decision in response to DCC (OS360.181) for the reasons outlined by the Rural Residential Reporting Officer.
1174. We have made the following amendments to the 2GP map to implement this decision:
- amended the zoning of 504 Rollinsons Road (Flagstaff-Whare Flat Road) and SEC 42 Flagstaff-Whare Flat Road so that each site is entirely in the Hill Slopes Rural Zone {RU 797.1} (see Figure 2 in Appendix 2).
 - amended the zoning of 324 Pigeon Flat Road and 55 O'Connell Road so that they are entirely in the Coastal Rural Zone {RU 717.27} (see Figure 3 in Appendix 2).
 - amended the zoning of 8 O'Connell Road so that it is entirely in the Hill Slopes Rural Zone {RU 717.27} (see Figure 4 in Appendix 2).

3.8.6 Coastal Rural Zone

3.8.6.1 Submissions

1175. *Irene Mosley* (OS994.3) sought to review the Coastal Rural zoning for the Taieri Plain side of Saddle Hill. The submitter notes that the area is on the other side of the hill to the coast and was concerned that future rules for coastal land may be restrictive. The submission was opposed by *Radio New Zealand Limited* (FS2332.69) which was concerned about any increase in development and potential for reverse sensitivity issues near its radio transmission operations.
1176. *David Roy Hardisty* (OS119.2) sought to change the zoning of Lots 4-8 Deeds Plan 193 at 25 Jones Road, Evansdale from Rural Residential 2 to Coastal Rural zone because the land is subject to a Hazard 2 land instability layer and the submitter considered that the section was not suitable for residential development. *David Roy Hardisty* (OS119.3) also sought to change the zoning of Section 52 BLKII SO 18349 North Harbour and Blueskin because the section is subject to hazard overlays and the submitter did not consider residential development to be appropriate.
1177. *Anthony Parata* (OS248.3) sought to change the zoning of land at Warrington from Rural Residential 2 Zone to Rural zoning. The submitter wished this area to remain zoned as it is in the operative Plan and that any increase in residential or rural residential zoning "must be sustainable and not lead to an increased demand for infrastructure extension or upgrade". The submitter expressed concern about the ecology of Blueskin Bay being impacted and the effect of intensification on infrastructure.
1178. *Anthony Parata* (OS248.4) sought to change the zoning of Edinburgh St, Waikouaiti from Rural Residential 1 Zone to Rural zoning. The submitter wished this area to remain zoned as it is in the operative Plan and that any increase in residential or rural residential zoning "must be sustainable and not lead to an increased demand for infrastructure extension or upgrade". The submitter expressed concern about the effect of intensification on infrastructure.
1179. *Geoff Scurr Contracting Limited* (OS794.7) sought to change the zoning of the sites bounded by Bendigo, Edinburgh and Glasgow Streets, Waikouaiti from Rural Residential 1 Zone to Coastal Rural Zone. The submitter noted that the area in question was a working farm and understood that the lower part of the land flooded every two or three years.
1180. *Mark and Rayna Dickson* (OS868.1) sought to change the zoning of the part of 36 Harvey Street, Waitati, zoned Township and Settlement Residential Zone to Coastal Rural Zone because of the rural activities taking place on the property, which included growing produce, rural ancillary and community activities and a single residential activity. The submitter also suggested a caveat that there were exemption rules applied for setbacks because of the limitations of the small site. This matter was dealt with in another submission by the same submitter (OS 868.2) on Rule 16.6.11, where it was recommended that this submission be declined (see section 3.5.19).
1181. *Mark Lauder* (OS913.1) sought to change the zoning in the area around and including his property at 287 Green Island Bush Road from Rural Residential 2 to Coastal Rural Zone. We note, from the full submission, that the submitter was concerned about the zoning of the area more generally as the submitter preferred a rural zoning because he did not want further residential development.

3.8.6.2 Section 42A

1182. In response to *Irene Mosley*, the Reporting Officer, Katie James, noted that the Coastal Rural Zone is a broad category which includes Waikouaiti Coast and Hills as well as South Coast and is characterised by small to medium properties and includes coastal land as well as adjacent hills. She recommended rejecting the submission, noting that although the name of the zone has 'coastal' in it, the provisions associated

with the rural zoning do not relate to coastal issues per se, with other mapping layers addressing coastal issues specifically, including natural coastal character overlay zones and coastal hazard layers.

1183. In response to the submissions of *David Roy Hardisty*, Dr James noted that as the property owner himself did not consider residential development to be suitable on the sites, including concerns about hazard overlays on the sites, that it would be appropriate to change the zoning. It was recommended that the zoning was changed to Coastal Rural Zone for both sites.
1184. With respect to the submission of *Anthony Parata* and the rural residential zone at Warrington, Dr James noted that the Rural Residential 2 Zone at Warrington formalised an existing cluster of small sites immediately adjacent to the Warrington Township and Settlement Zone. These met the criteria laid out in the Special Zoning Report – Rural Residential Zones with half of these sites already having dwellings, meaning that there would be only an additional development potential of four. With regard to the submitter's infrastructure concerns, she noted that Rural Residential zones are not serviced for water, waste water or storm water and there is no expectation that new dwellings would connect to infrastructure. An additional four households worth of traffic would also have a negligible effect on roading infrastructure. For these reasons it was recommended that the submission be rejected.
1185. In response to *Anthony Parata's* submission on Edinburgh Street. Waikouaiti zone, Dr James noted that the Rural Residential 1 Zone at Waikouaiti is a new zone which zones a cluster of small (1-4ha), mostly developed rural sites, which was identified through the process outlined in the Special Zoning Report – Rural Residential. There was a theoretical capacity of 11 further dwellings, including infill potential (see Rural Residential Section 42A Report for data). The Reporting Officer considered that the area was no longer predominantly rural in nature and recommended the submission be accepted in part (see our response to *Geoff Scurr Contracting Limited Geoff Scurr Contracting Limited* below).
1186. In response to *Geoff Scurr Contracting Limited*, Dr James noted that area outlined has the address of 35 Edinburgh St and consists of 11 separate titles (sites) owned by the submitter, which have a total area of 7.6ha. It was noted that were three sites above the 1ha minimum site size for residential activity and no dwellings on any of the sites. As the submission was from the owner of the sites who actively uses the land for farming activities, the Reporting Officer considered that changing the zoning of 35 Edinburgh St to Coastal Rural Zone would be appropriate. In the Reporting Officer's view, this recommendation also addresses, in part, the concerns of *Anthony Parata* (OS248.4).
1187. In response to *Mark and Rayna Dickson*, Dr James noted that, based on the description provided by the submitter, most of the activities on site revolve around growing produce, with complementary activities such as markets, workshops and provision of accommodation for workers as well as a family home. The submitter also referred to conservation and community activities taking place on site. Under residential zoning, farming, including rural ancillary retail, is a non-complying activity. Therefore, Dr James noted that while the commercial market gardens at the rear of the property are in the Coastal Rural Zone and are permitted, any new ancillary activities that rely on the rural activity would be non-complying if they were located in the part of the property zoned as Township and Settlement Zone. As all of the activities described are permitted in rural zones the Reporting Officer was inclined to agree with the submitter that the nature of the activities on the site were more in keeping with a rural zoning than a residential one. She recommended amending the split zoning of the property and zoning the entire site as Coastal Rural Zone. Notwithstanding this recommendation, Dr James also noted that the submitter may still be required to seek consent for any new buildings or additions or alterations that do not comply with the boundary setback rules for rural zones.
1188. In response to *Mark Lauder*, Dr James noted that the Rural Residential 2 zoning on 287 Green Island Bush Road did not allow for any further development on the site as

there was an existing house. When taking into account the whole area zoned as Rural Residential 2, she noted that the properties met the criteria for the Rural Residential 2 Zone as they are within a cluster of undersized, partly developed, rural sites and the zoning would only allow for 2-3 extra houses. Noting that there were no submissions from the other affected landowners, Dr James recommended rejecting the submission.

3.8.6.3 Hearing

1189. *Irene Mosley* tabled a statement at the hearing but did not appear. In her statement, she expressed concern about the name of the Coastal Zone and impact in relation to the coastal hazard rules. She considered that the land was suitable for subdivision for eco-friendly homes.
1190. *Anthony Parata* appeared at the hearing and tabled a statement, opposing the Rural Residential 2 zone at Warrington and Rural Residential 1 Zone at Waikouaiti. He expressed concern about residential sprawl and impacts on infrastructure, particularly water, sewerage and road sealing.

3.8.6.4 Decision and reasons

1191. We accept the submissions of *David Roy Hardisty* (OS119.2) and have changed the zoning of the listed sites at 25 Jones Road, Evansdale from Rural Residential 2 Zone to Coastal Rural Zone for the reasons outlined by the Reporting Officer.
1192. We accept the submission of *Geoff Scurr Contracting Limited* (OS794.7) and the submission of *Antony Parata* (OS248.4) in part, to change the zoning of 35 Edinburgh Street (but not any of the surrounding properties on Edinburgh Road, Waikouaiti) to Coastal Rural Zone for the reasons outlined by the Reporting Officer.
1193. We accept the submission of *Mark and Rayna Dickson* (OS868.1) and have amended the split zoning of 36 Harvey St, Waitati so that the entire site is in Coastal Rural Zone for the reasons outlined by the Reporting Officer.
1194. We reject the submission of *Anthony Parata* (OS248.3) relating to the zoning around Warrington; we note the explanation of the Reporting Officer that the notified Rural Residential 2 Zone at Warrington has formalised an existing cluster of small sites immediately adjacent to the Warrington Township and Settlement Zone. These sites have largely lost their rural-character and in our view are appropriately zoned.
1195. We reject the submissions of *Mark Lauder* (OS913.1) and *Irene Mosley* (OS994.3), and have retained the Rural Residential 2 zoning in and around 287 Green Island Bush Road; and the Coastal Rural zoning for the Taieri Plains side of Saddle Hill for the reasons outlined by the Reporting Officer.
1196. We have made the following amendments to the 2GP map to implement this decision:
- Amended the zoning of Lots 4-8 Deeds Plan 193 at 25 Jones Road, Evansdale from Rural Residential 2 Zone to Coastal Rural Zone {RU 119.2} (see Figure 5 in Appendix 2).
 - Changed the zoning of 35 Edinburgh Street Waikouaiti to Coastal Rural Zone {RU 794.7} (see Figure 6 in Appendix 2).
 - Amended the zoning of 36 Harvey St, Waitati so that the entire site is in Coastal Rural Zone {RU 868.1} (see Figure 7 in Appendix 2).

3.8.7 Peninsula Coast Rural Zone

3.8.7.1 Submissions

1197. *Dunedin City Council* (OS360.170) sought to change the zoning of part of 616 Highcliff Road, Highcliff from Rural Residential 2 Zone to Peninsula Coast Rural Zone to correct a mapping error.

1198. *Bloemfarm* (OS687.1) sought to change the zoning of part of 616 Highcliff Road from Rural Residential 2 to a Rural zoning because a "rural residential 2 zoning ... is totally incompatible with intensive farming". The submitter was concerned that a Rural Residential zoning would be incompatible with the intensive farming that takes place on the property.
1199. *Bloemfarm* (OS687.2) also sought to change the zoning of the neighbouring properties directly opposite 616 Highcliff Road from Rural Residential 2 to Rural zoning because the submitter was concerned that a Rural Residential zoning will result in reverse sensitivity. The submission was opposed by *Howard Saunders* (FS2373.66) who sought to retain the Rural Residential 2 zone because, as a property owner, he considered the Rural Residential 2 zoning appropriate for the site.
1200. *Candida Savage* (FS2022.3) opposed *Bloemfarm* (OS687.1) stating that the area "is not viable for rural farming activities" and the Rural Residential zoning should be retained, or preferably changed to Rural Residential 1 Zone. The Reporting Officer noted that the submitter was an owner of land on the other side of Highcliff Road in an area of Rural Residential 2 zoning and suggested that the submitter may have meant instead to oppose the submission of *Bloemfarm* relating to the properties directly opposite 616 Highcliff Road (OS 687.2).
1201. *Clifton Trust* (OS720.1) sought to change the zoning of 877 Highcliff Road so that the entire property is Hill Slopes Rural Zone. The submitter was concerned that the split zoning is not efficient and "the Rural (Hill Slopes) Zone can be demarked by existing property boundaries and Highcliff Road".
1202. The submissions to change the zoning in each of the locations were opposed by *Radio New Zealand* (FS2332.60, 61, 62, 64) who opposed enabling higher density residential activities in the vicinity of its facilities including at Highcliff.

3.8.7.2 Section 42A Report

1203. In response to *Dunedin City Council and Bloemfarm* (OS687.1), the Reporting Officer, Katie James, noted that Part of Lot B DP 1357 within the SNL overlay was erroneously zoned as Rural Residential 2 in the 2GP and it was appropriate that this mistake was corrected and that this area be rezoned, as the area in question is part of a property which is rural in nature. The Reporting Officer noted that the DCC submission incorrectly requested that the area be rezoned as Peninsula Coast Rural Zone; instead it was recommended that it be rezoned as Hill Slopes Rural Zone so that it corresponded with the boundary between landscape overlays.
1204. In response to *Bloemfarm* (OS687.2), the Reporting Officer noted that the properties opposite 616 Highcliff Road were identified as part of an analysis of clusters of semi-developed, undersized rural sites and the Rural Residential 2 zoning recognised the existing fragmentation and partial development of the land. Under the Rural Residential 2 zoning she explained there would be minimal additional development and although residential activity of one per site is permitted, buildings greater than 60m² in this area would require consent because there is a Significant Natural Landscape Overlay. She also discussed the separation distance rule (16.5.9) which was in place to address potential reverse sensitivity effects on the nearby intensive farming operation. The Reporting Officer therefore considered the proposed zoning to be the most appropriate in terms of the plan's objectives and policies and recommended that the Rural Residential 2 zoning be retained.
1205. In response to *Clifton Trust*, the Reporting Officer did not consider it to be appropriate to rezone the small area of the property that is in the Peninsula Coast Rural Zone as Hill Slopes Rural Zone because the boundaries between the two zones align with the boundary between the Significant Natural Landscape and Outstanding Natural Landscape overlays as defined by landscape assessment, rather than following roads or cadastral boundaries. She considered that amending the zone boundary so that it does not follow the landscape overlay zone boundary would be inconsistent with the situation elsewhere between the Peninsula Coast and Hill Slopes Rural zones. While she acknowledged that a split-zoned site may not be viewed as ideal, he also noted

his recommended amendments to Rules 16.5.2 and 16.7.4 to clarify how split-zoning will be handled in the case of applications for either subdivision or residential activity.

3.8.7.3 Hearing

1206. Mr Pieter Bloem spoke to his concerns about reverse sensitivity issues from rezoning land to Rural Residential 2. In response, the Reporting Officer reiterated the discussion in the section 42A report and there was no change made to the recommendation.

3.8.7.4 Decision and reasons

1207. We accept the submissions of *Dunedin City Council* (OS360.170) and *Bloemfarm* (OS687.1) to change the zoning of part of 616 Highcliff Rd to Rural zoning because the notified Rural Residential zoning was an error. We agree with the correction recommended by the Reporting Officer regarding the appropriate rural zone being the Hill Slopes Rural Zone.
1208. We reject the submission of *Bloemfarm* (OS687.2) to change the zoning of the properties directly opposite 616 Highcliff Rd from Rural Residential 2 to a Rural zoning for the reasons outlined by the Reporting Officer.
1209. We reject the submission of *Clifton Trust* (OS720.1) to change the zoning of 877 Highcliff Road so that the entire property is Hill Slopes Rural Zone for the reasons outlined by the Reporting Officer and we have retained the property's Peninsula Coast Rural zoning.
1210. We have made the following amendment to the 2GP map to implement this decision, attributed to RU360.170 and RU687.1
- Changed part Lot B DP 1357 616 Highcliff Rd from Rural Residential 2 Zone to Hill Slopes Rural Zone (see Figure 8 in Appendix 2).

4.0 Future plan change reviews and other suggestions

1211. In considering this topic, and as highlighted in this decision, it was our opinion that the Plan may be improved by reviewing possible provisions, as set out below, together with some suggestions we have made as to future work that may be carried out via plan changes or as part of the next plan review:
- A review of the activity status of cross lease, company title and unit title subdivision in rural residential and recreation zones, with a view to changing the activity status to discretionary to align with the rural zone by way of a future plan change (see section 3.2.13).
 - A review of the ridgeline mapped area and related provisions with a view to inclusion in the District Plan through a future plan change (see section 3.5.5).
 - We also recommend that consultation be undertaken with owners of properties in the Middlemarch Basin Rural Zone which have been identified as having high class soils but which were not previously part of the HSC mapped area (see section 3.8.2), with a view to potential inclusion in the District Plan through a future plan change.

5.0 Minor and inconsequential amendments

1212. 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.
1213. 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
1214. 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 related submission point references for the changes.

Appendix 2 – Figures

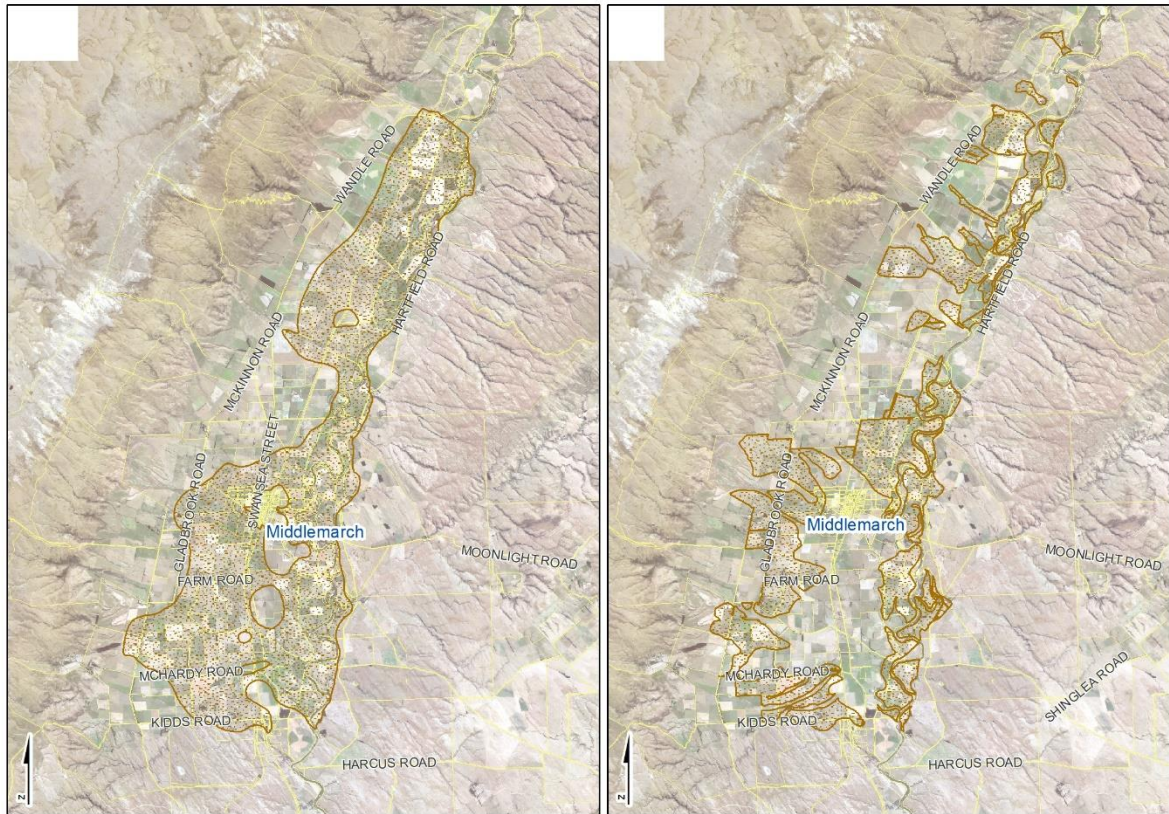


Figure 1: Middlemarch high class soils mapped area. Notified version is shown at left and decisions version at right.

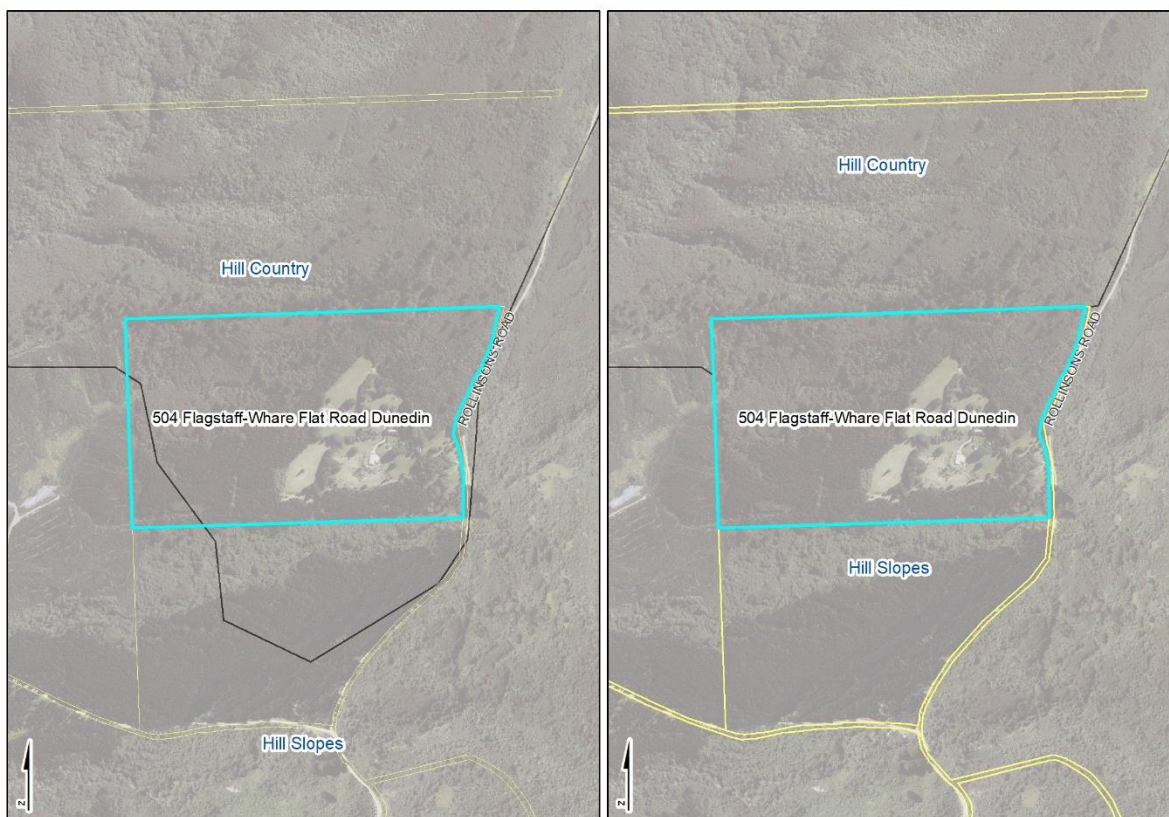


Figure 2: Zoning of 504 Flagstaff-Whare Flat Road. Notified version shown at left and decisions version at right

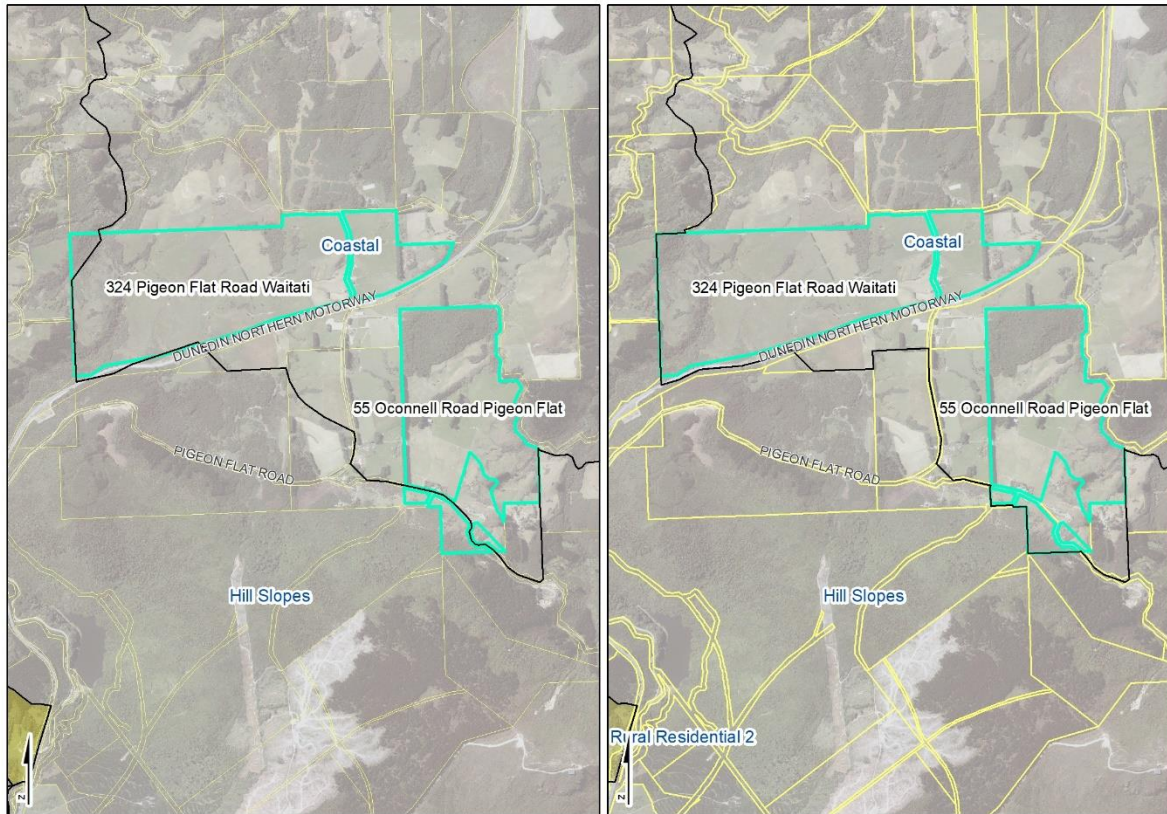


Figure 3: Zoning of 324 Pigeon Flat Road and 55 O'Connell Road. Notified version is shown at left and decisions version at right

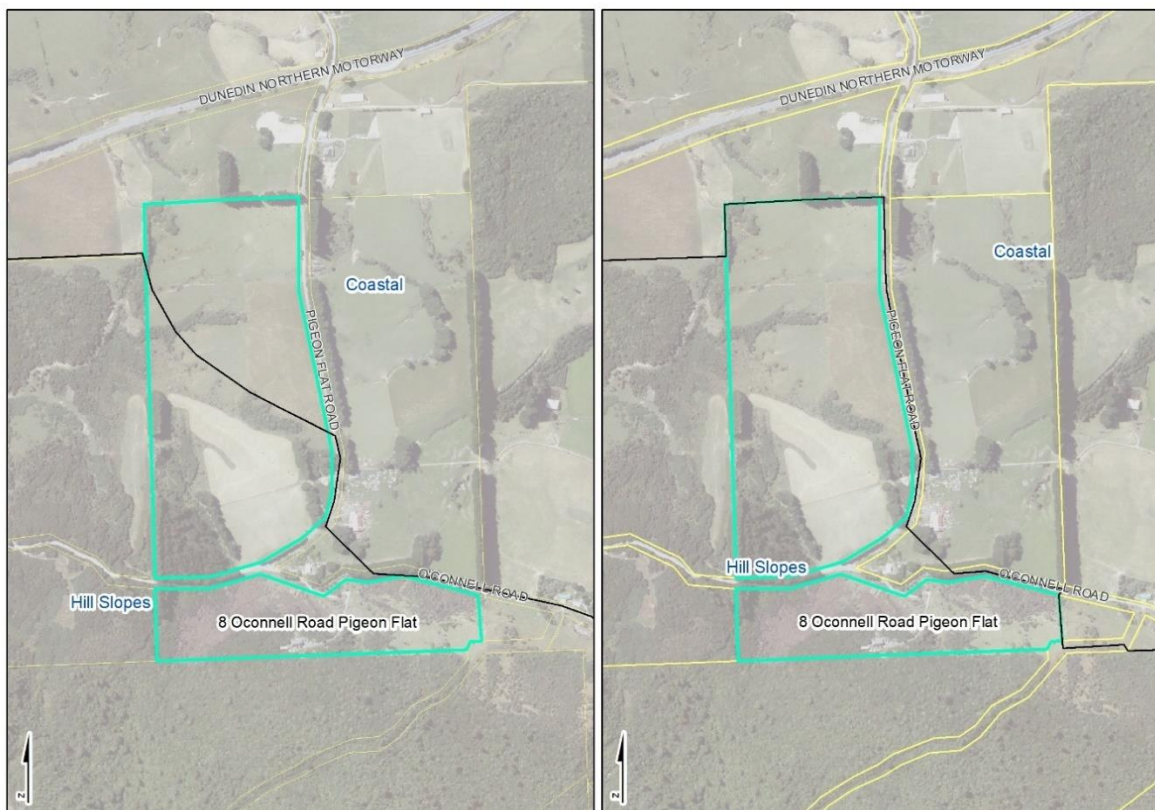


Figure 4: Zoning of 8 O'Connell Road Pigeon Flat. Notified version is at left and decisions version is at right

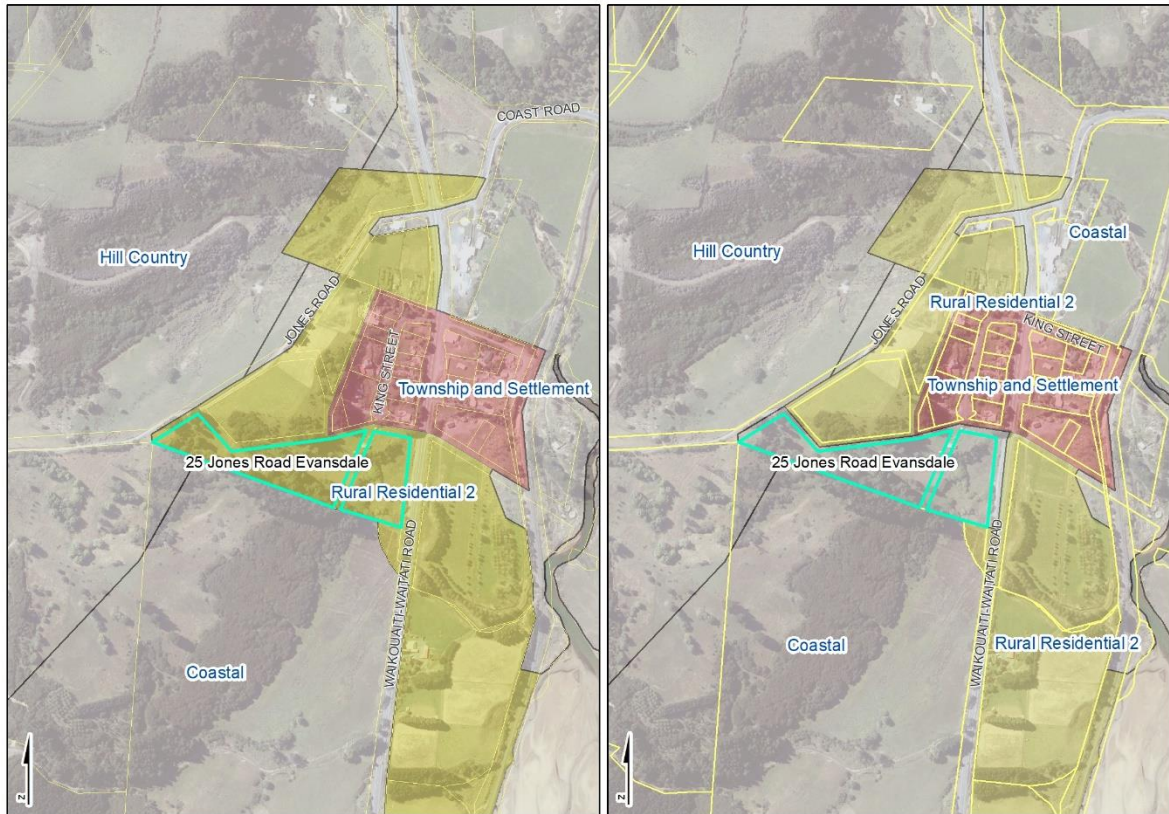


Figure 5: Zoning of 25 Jones Road Evansdale. Notified version is at left and decision version is at right.

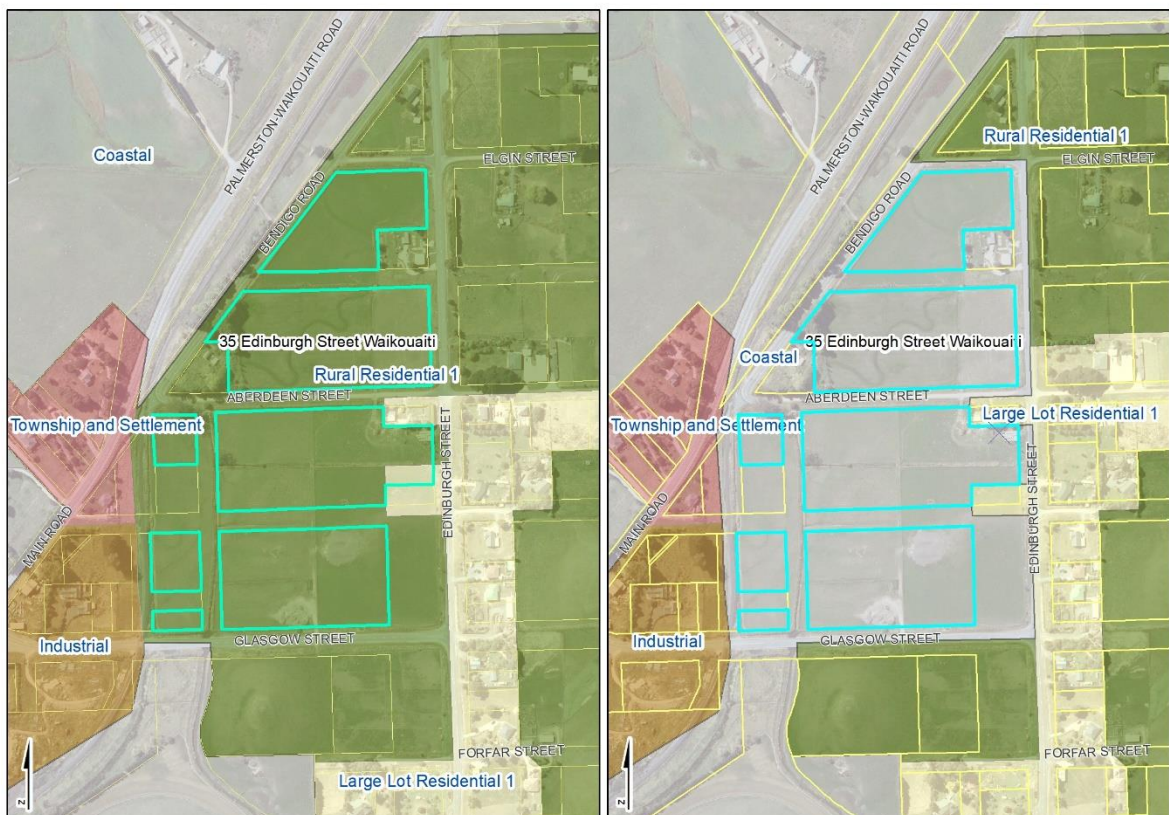


Figure 6: Zoning of 35 Edinburgh Street, Waikouaiti. Notified version is at left and decisions version is at right.

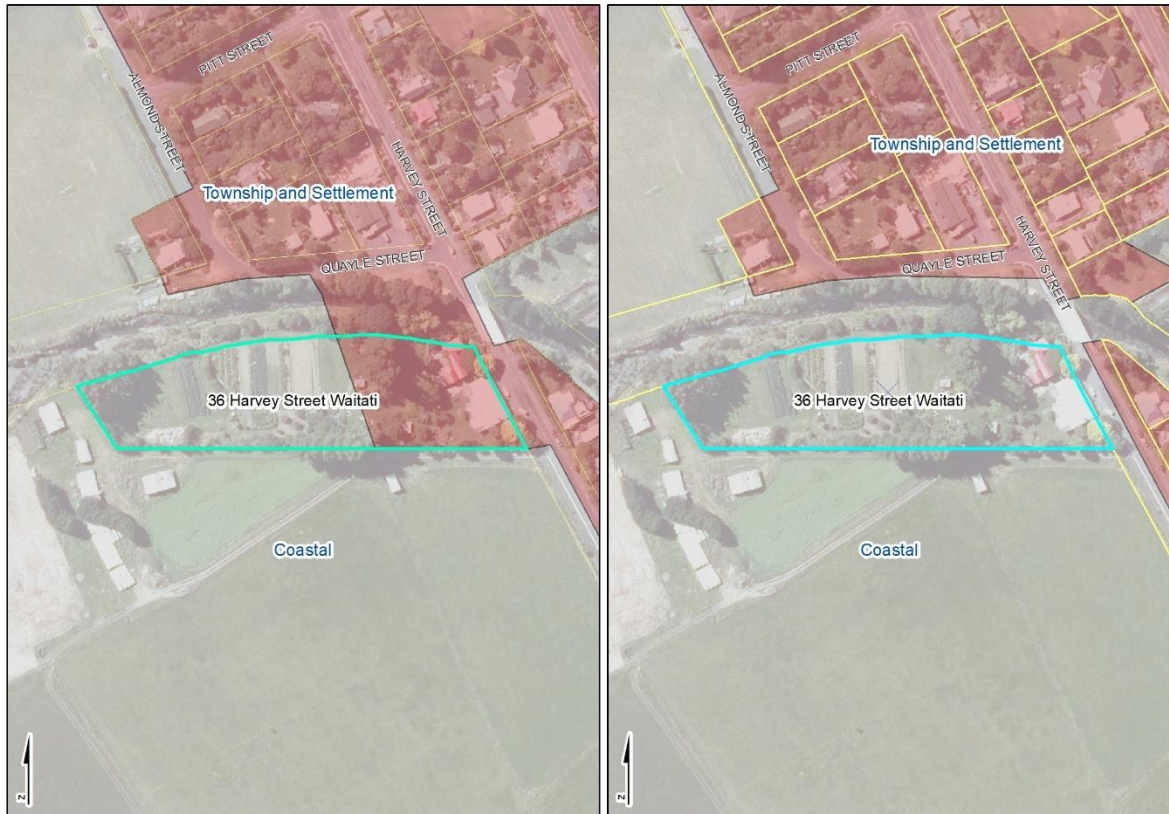


Figure 7: Zoning of 36 Harvey Street, Waitati. Notified version is at left and amended version is at right.



Figure 8: Zoning of 616 Highcliff Road. Notified zoning is at left and amended zoning is at right.

Appendix 3 – 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	Nested Tables	1.4	1.2.2.4	Industrial activities category	Add 'rural contractor and transport depots' as sub-activities of industry as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
1. Plan Overview and Introduction	Definition	1.5		Highly productive land (New)	Add new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
1. Plan Overview and Introduction	Definition	1.5		Intensive farming (notified as factory farming)	Rename definition as intensive farming.	RU 1090.3	3.4.2	5.1.2.1
1. Plan Overview and Introduction	Definition	1.5		Farming	Amend definition to add the landing and take off of fixed wing aircraft and to exclude helicopter movements	RU 1090.4	3.4.3	5.1.2.2
1. Plan Overview and Introduction	Definition	1.5		Rural industry	Amend definition to include 'offal rendering plants'	RU 343.5	3.4.6	5.1.2.4
1. Plan Overview and Introduction	Definition	1.5		Landfills	Amend definition to include rehabilitation activities after landfills are closed	RU 796.13	3.4.5	5.1.3.1

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		Shelterbelts and small woodlots (notified as tree planting)	Amend definition to include planting as a carbon sink	RU 853.6	3.4.4	5.1.2.5
1. Plan Overview and Introduction		1.5		Forestry	Amend definition to read more clearly in relation to expanded scope of definition of shelterbelts and small woodlots	RU 853.6	3.4.4	5.1.2.5
1. Plan Overview and Introduction	Definition	1.5		Rural contractor and transport depots (New)	Add a new definition for 'rural contractor and transport depots' as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
1. Plan Overview and Introduction	Definition	1.5		Rural contractor and transport depots - small scale (New)	Add a new definition for 'rural contractor and transport depots - small scale' as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
1. Plan Overview and Introduction	Definition	1.5		Rural contractor and transport depots - large scale (New)	Add a new definition for 'rural contractor and transport depots - large scale' as a consequence of creating a new activity 'rural contractor and transport depots -	RU 911.5	3.4.6	5.1.3.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					small scale'			
1. Plan Overview and Introduction	Definition	1.5		Rural industry	Amend wording to reflect split off of new 'rural contractor and transport depot' activity from rural industry as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
1. Plan Overview and Introduction	Definition	1.5		Industrial activities	Amend wording to include 'rural contractor and transport depots' as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
1. Plan Overview and Introduction	Definition	1.5		Industry	Amend wording to include 'rural contractor and transport depots' as sub-activities of industry as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3

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		Intensive farming (notified as factory farming)	Amend definition to clarify only includes intensive poultry farming (not all poultry farming) and does not include wintering barns	RU 924.2 RU 702.9	3.4.2	5.1.2.1
1. Plan Overview and Introduction	Definition	1.5		Forestry	Do not amend as requested		3.4.4	5.1.2.3
2. Strategic Directions	Strategic Direction	2.2.2.1			Amend policy wording	RU 919.7RU 1090.13	3.3.3	5.2.1.2
2. Strategic Directions	Strategic Direction	2.2.4.3.c			Do not amend as requested		3.2.2	5.2.1.3
2. Strategic Directions	Strategic Direction	2.3.1.2			Amend policy wording	RU 1090.13 RU 908.71 RU 1090.14	3.3.5	5.2.2.2
2. Strategic Directions	Policy	2.3.1.2			Amend policy wording	RU 366.3	3.4.11	5.6.2
2. Strategic Directions	Strategic Direction	2.3.1.3			Retain policy as notified		3.2.3	5.2.2.3
2. Strategic Directions	Strategic Direction	2.3.1.3			Do not amend as requested		3.3.6	5.2.2.3
2. Strategic Directions	Strategic Direction	2.3.1.9	2.3.1.9		Add new strategic policy for high class soils	RU 360.161 and 853.1	3.3.2	5.1.3.2
2. Strategic Directions	Strategic Direction	2.3.1.Y (New)			Add a new strategic policy to provide for landfills	RU 796.3	3.5.3	5.2.3.4
2. Strategic Directions	Strategic Direction	2.3.1			Do not amend as requested		3.3.4	5.2.2.1
2. Strategic Directions	Strategic Direction	2.4.6.2			Do not amend as requested		3.5.3	5.2.3.4

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	Strategic Direction	2.4.6			Do not add new objective as requested		3.5.3	5.2.3.2
2. Strategic Directions	Strategic Direction	2.4			Do not add new objective as requested		3.5.2	5.2.3.1
5. Network Utilities	Activity Status	5.3.2.1			Amend guidance linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8
5. Network Utilities	City Wide Performance Standard	5.5.12.3	5.5.9.3		Remove performance standard to reflect removal of ridgeline mapped area	RU 874.41 and others	3.5.5	5.10.8
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.14	delete		Amend guidance linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8
10. Natural Environment	Introduction	10.1			Amend introduction wording	RU 447.10 and RU 900.22	3.5.2	5.2.3.1
. Natural Environment	Introduction	10.1			Amend introduction wording	RU 447.70 RU 900.102	3.7.2	5.3.2
10. Natural Environment	Policy	10.2.5.10	N/A (Deleted)		Delete policy linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8

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	Introduction	16.1			Amend introduction wording	RU 360.143 RU 958.96 RU 900.102 and RU 447.70 RU 490.25	3.7.2	5.3.2
16. Rural Zones	Introduction	16.1		Introduction	Amend introduction wording	RU 807.26	3.2.8	5.4.2.10
16. Rural Zones	Policy	16.2.1.1			Do not amend as requested		3.4.7	5.4.2.2
16. Rural Zones	Policy	16.2.1.2			Amend wording to include 'rural contractor and transport depots' as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
16. Rural Zones	Policy	16.2.1.2			Do not amend as requested		3.4.8	5.4.2.3
16. Rural Zones	Policy	16.2.1.4			Amend policy wording	RU 366.3	3.4.11	5.6.2
16. Rural Zones	Policy	16.2.1.5			Amend policy wording	RU 350.11	3.2.10	5.4.2.6
16. Rural Zones	Policy	16.2.1.7			Retain policy as notified		3.2.11	5.4.2.8
16. Rural Zones	Policy	16.2.1.9			Amend policy to reflect change in activity status for cross lease, company lease and unit title subdivision	RU 490.29	3.2.13	5.4.2.9
16. Rural Zones	Policy	16.2.1.10			Do not amend or remove as requested		3.2.8	5.4.2.10

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	Objective	16.2.1			Do not amend as requested		3.2.9	5.4.1
16. Rural Zones	Objective	16.2.1			Do not add new policy as requested		3.6	5.7.1
16. Rural Zones	Policy	16.2.2.1			Amend Policy 16.2.2.1 to reflect changes to separation distances performance standard	RU 702.4 RU 583.20	3.5.17	5.10.4
16. Rural Zones	Policy	16.2.2.1			Amend policy wording	RU 1090.32	3.5.16	5.4.3.2
16. Rural Zones	Policy	16.2.2.5			Amend policy wording	RU 924.9	3.5.7	5.4.3.3
16. Rural Zones	Policy	16.2.2.6	NA deleted		Do not amend as requested (delete - CP - mining)		3.5.8	5.4.3.4
16. Rural Zones	Objective	16.2.2			Do not amend as requested		3.5.15	5.4.3.1
16. Rural Zones	Policy	16.2.3.1			Delete policy linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8
16. Rural Zones	Policy	16.2.3.1			Do not amend as requested		3.5.6	5.108.8
16. Rural Zones	Policy	16.2.3.2			Retain policy as notified		3.5.9	5.4.4.3
16. Rural Zones	Policy	16.2.3.4			Amend policy wording	RU 796.26	3.5.10	5.4.4.4
16. Rural Zones	Policy	16.2.3.5			Amend wording to include 'rural contractor and transport depots - large scale' as a consequence of creating a new activity 'rural contractor and	RU 911.5	3.4.6	5.1.3.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					transport depots - small scale'			
16. Rural Zones	Policy	16.2.3.5			Amend policy wording	RU 924.10 RU 704.11 and others	3.5.11	5.4.4.5
16. Rural Zones	Policy	16.2.3.6			Amend policy wording	RU 350.18 and others	3.5.12	5.4.4.6
16. Rural Zones	Policy	16.2.3.8			Retain policy as notified		3.2.14	5.4.4.7
16. Rural Zones	Policy	16.2.3.8			Retain policy as notified		3.5.13	5.4.4.7
16. Rural Zones	Policy	16.2.3.9			Amend policy wording	RU 919.55 and RU 1088.59	3.5.14	5.4.4.8
16. Rural Zones	Policy	16.2.3			Amend objective wording	RU 958.99	3.5.4	5.4.4.1
16. Rural Zones	Policy	16.2.4.1			Retain policy as notified		3.3.8	5.4.5.2
16. Rural Zones	Policy	16.2.4.2			Amend policy wording	RU 796.27 RU 1090.13 and 1090.35	3.3.9	5.4.5.3
16. Rural Zones	Policy	16.2.4.3			Amend policy wording	RU 1090.13 and 1090.35	3.3.9	5.4.5.4
16. Rural Zones	Policy	16.2.4.3			Do not amend as requested		3.2.15	5.4.5.4

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	Policy	16.2.4.4			Amend policy wording	RU 592.14 and 717.16	3.2.16	5.4.5.5
16. Rural Zones	Objective	16.2.4			Do not amend as requested		3.3.7	5.4.5.1
16. Rural Zones	Objective	16.2			Do not amend wording for objectives and policies as requested		3.7.3	5.4.1.1
16. Rural Zones	Policy	16.2			Do not add new provisions for managing land use in dry catchments as requested		3.7.3	5.4.1.1
16. Rural Zones	Activity Status	16.3.3.7		Forestry	No amendment required (forestry provided for)		3.4.9	5.6.1
16. Rural Zones	Activity Status	16.3.3.10		Landfills	Do not split off from landfills a new 'closed landfill' subactivity and change activity status to P		3.4.5	5.1.3.1
16. Rural Zones	Activity Status	16.3.3.24	16.3.3.27	Supported living facilities	Do not amend as requested		3.4.10	5.6.4
16. Rural Zones	Activity Status	16.3.3.35	16.3.3.38	Visitor accommodation	Do not amend as requested		3.4.11	5.6.2
16. Rural Zones	Activity Status	16.3.3.37	16.3.3.42	All other activities in the commercial activities category	Do not amend as requested		3.4.12	5.6.5
16. Rural Zones	Activity Status	16.3.3.38	16.3.3.45	Rural industry	Do not amend activity status from D to RD		3.4.6	5.1.2.4

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	16.3.3.39	16.3.3.46	All other activities in the industrial activities category	Do not amend activity status to provide for industrial or ancillary activities that do not fall within the definition of rural industry or rural contractor and transport depots		3.4.8	5.4.2.3
16. Rural Zones	Activity Status	16.3.3.40	16.3.3.47	Cemeteries	Add separation distances performance standard to cemeteries	RU 702.4	3.5.17	5.10.4
16. Rural Zones	Activity Status	16.3.3.AA	16.3.3.44	Rural contractor and transport depots - large scale (New)	Split off from rural industry a new activity as a sub-activity of industry: 'rural contractor and transport depots - large scale' with same activity status as rural industry (consequential to creating new activity 'rural contractor and transport depots - small scale')	RU 911.5	3.4.6	5.1.3.3
16. Rural Zones	Activity Status	16.3.3.Z	16.3.3.43	Rural contractor and transport depots - small scale (New)	Split off from rural industry a new activity as a sub-activity of industry: 'rural contractor and transport depots - small scale' and change activity status from D to P in rural zones and ONL/SNL/NCC	RU 911.5	3.4.6	5.1.3.3

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			Do not amend to provide for new site specific activity as requested		3.4.13	5.6.6
16. Rural Zones	Activity Status	16.3.3			No amendments required to give relief to submission		3.4.9	5.6.1
16. Rural Zones	Activity Status	16.3.4.2			Amend guidance linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8
16. Rural Zones	Activity Status	16.3.4		Development activities on a scheduled heritage site	No amendment required (fencing provided for)		3.4.14	5.6.7
16. Rural Zones	Activity Status	16.3.5.2		Cross lease, company lease and unit title subdivision	Amend activity status of cross lease subdivisions from NC to D	RU 490.29	3.2.13	5.4.2.9
16. Rural Zones	Notification Rule	16.4.3	NA deleted		Remove rules requiring mandatory public notification of residential development that does not meet the performance standard for density and general subdivision that does not meet the performance standard for minimum site size	RU 592.20 and RU 717.19	3.6	5.7.1

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	Notification Rule	16.4.5 (New)	16.4.4		Add new rule to require that DoC is treated as an affected person for IVC -large scale in ASBVs or IVC -large scale or D or NC activities in NCC, HNCC and ONCC overlay zones	RU 958.109	3.6	5.7.1
16. Rural Zones	Notification Rule	16.4.6 (notified)	16.4.5		Do not amend as requested		3.6	5.7.1
16. Rural Zones	Land Use Performance Standard	16.5.2.1		Minimum site size (density)	Amend performance standard to add exception for standard residential activity 15ha or larger in Middlemarch Basin, Hill Country and High Country rural zones that existed before 7 November 2023	RU 1018.2	3.2.12	5.8.1
16. Rural Zones	Land Use Performance Standard	16.5.2.1			Amend performance standard to clarify how the standard applies to split zoned sites	RU 908.1	3.8.3	5.15.1
16. Rural Zones	Land Use Performance Standard	16.5.2.3		Minimum site size (density) performance standard contravention	Do not amend as requested		3.2.12	5.8.3

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	Land Use Performance Standard	16.5.3	16.5.4	Hours of operation	Amend performance standard to add an exemption for 'wildlife and night sky viewing' activities	RU 690.20	3.5.22	5.10.1
16. Rural Zones	Land Use Performance Standard	16.5.9	16.5.10	Separation distances	Amend separation distance performance standard to apply separation distances from cemeteries (RU 702.4), apply a 100m separation distance from the Waitati Rifle Range (RU 583.51) and to increase separation distances from landfills (RU 796.8) and wind generators - large scale (702.4); and clarify how distance is measured (RU 702.4)	RU 702.4 RU 583.21 RU 796.8	3.5.17	5.10.4
16. Rural Zones	Development Performance Standard	16.6.6	16.6.5	Maximum height	Do not amend as requested		3.5.20	5.10.5
16. Rural Zones	Development Performance Standard	16.6.8	16.6.7	Number, location and design of ancillary signs	Do not amend as requested		3.5.18	5.10.6

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	Development Performance Standard	16.6.11.1	16.6.10.1	Boundary setbacks	Amend boundary setbacks performance standard for residential and non residential buildings by increasing distance for non residential buildings over 7m, providing an additional exemption for rooftop structures, and clarifying separation distance measurement	RU 464.8 RU 312.17	3.5.19	5.10.7
16. Rural Zones	Development Performance Standard	16.6.11.4	NA deleted	Setback from ridgeline	Remove performance standard to reflect removal of ridgeline mapped area	RU 874.41 and others	3.5.5	5.10.8
16. Rural Zones	Development Performance Standard	16.6		Development performance standards	Do not amend to add new performance standard		3.5.21	5.10.9
16. Rural Zones	Subdivision Performance Standard	16.7.4.1			Amend performance standard to clarify how the standard applies to split zoned sites	RU 908.1	3.8.3	5.15.1
16. Rural Zones	Subdivision Performance Standard	16.7.4.1		Subdivision minimum site size standard	Do not amend as requested		3.2.4	5.9.1
16. Rural Zones	Subdivision Performance Standard	16.7.4.2		Subdivision minimum site size standard	Amend performance standard to exempt scheduled heritage items, heritage covenants, protected private land	RU 366.2 RU 735.5	3.2.6	5.9.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					agreements and conservation covenants			
16. Rural Zones	Subdivision Performance Standard	16.7.4.3		Minimum Site Size	Amend performance standard to clarify situation where a condition is offered to be secured by consents notice that restricts further subdivision (RU 592.26 and 717.25); align with Policy 16.2.1.10 (RU 807.26); adding a second set of circumstances where subdivision is RD (RU 704.21)	RU 592.26 and 717.25 RU 807.26 RU 704.21	3.2.8	5.4.2.10
16. Rural Zones	Subdivision Performance Standard	16.7.4.3		Subdivision minimum site size standard contravention	Do not amend as requested		3.2.5	5.9.3
16. Rural Zones	Subdivision Performance Standard	16.7.5		Subdivision shape performance standard	Amend performance standard to exempt scheduled heritage items, heritage covenants, protected private land agreements and conservation covenants	RU 366.2 RU 735.5	3.2.6	5.9.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Subdivision Performance Standard	16.7.5		Subdivision shape performance standard	Do not amend as requested		3.2.7	5.11
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.2.1			Retain 16.9.2.1 as notified		3.4.16	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.3.1			Amend guidance to refer to rural character values	RU 360.127	3.5.23	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.3.7			Amend guidance to reflect changes to separation distances performance standard	RU 702.4 RU 583.20	3.5.17	5.10.4
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.3.8			Amend guidance to refer to rural character values	RU 360.128	3.5.23	5.12.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.1	16.9.4.2		Amend guidance to refer to rural character values	RU 360.129	3.5.23	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.10	16.9.4.6		Amend guidance to refer to rural character values	RU 360.130	3.5.23	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.10	16.9.4.6		Do not amend as requested		3.4.16	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.11	16.9.4.7		Amend guidance to refer to rural character values	RU 360.131	3.5.23	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.14	NA deleted		Amend guidance linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8

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	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.4.14	NA deleted		Do not amend guidance (rule removed: ridgelines)		3.5.23	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.5.5			Amend guidance to reflect change in Policy 16.2.4.3	RU 1090.13 and 1090.35	3.3.9	5.4.5.3 and 5.4.5.4
. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.5.5			Amend guidance to reflect change in Policy 16.2.4.3	RU 1090.13 and 1090.36	3.3.9	5.4.5.3 and 5.4.5.4
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.5.5			Amend guidance linked to change to Minimum Site Size performance standard Amend guidance to align with Policy 16.2.1.10	RU 592.26 and 717.25 RU 807.26	3.2.8	5.4.2.10
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.5			Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	16.9.6.7	16.9.6.5		Amend guidance linked to removal of setback from ridgeline performance standard	RU 874.41 and others	3.5.5	5.10.8
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.1	16.10.2.3		Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.1	16.10.2.3		Amend guidance to reflect changes in Policy 16.2.4.2	RU 1090.13 and 1090.35RU 796.27	3.3.9	5.4.5.3
. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.5	16.10.2.1		Amend guidance to reflect change to Policy 16.2.3.6	RU 350.18 and others	3.5.12	5.4.4.6
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.5	16.10.2.1		Amend guidance to refer to rural character values	RU 360.133	3.5.23	5.12.2
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.2.5	16.10.2.1		Amend guidance to reflect change to Policy 16.2.3.5	RU 704.11 and others	3.5.11	5.4.4.5

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	Assessment of Restricted Discretionary Activities	16.10.4.1			Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.4.1			Amend guidance to reflect change in Policy 16.2.4.3	RU 1090.13 and 1090.35	3.3.9	5.4.5.3
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.4.1			Amend guidance to refer to rural character values	RU 360.135	3.5.23	5.12.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.1			Amend guidance to refer to rural character values	RU 360.136	3.5.23	5.12.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.2			Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.2			Amend guidance to reflect changes in Policy 16.2.4.2	RU 1090.13RU 796.27	3.3.9	5.4.5.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.2.d			Amend guidance to reflect change to Policy 16.2.3.5	RU 704.11 and others	3.5.11	5.4.4.5

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	Assessment of Discretionary Activities	16.11.2.2			Amend guidance to reflect change to Policy 16.2.2.5	RU 924.9	3.5.7	5.4.3.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend guidance to reflect changes in Policy 16.2.4.2	RU 1090.13 and 1090.35 RU 796.27	3.3.9	5.4.5.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3.b			Amend guidance to reflect change to Policy 16.2.3.5	RU 704.11 and others	3.5.11	5.4.4.5
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend guidance to add 'rural contractor and transport depots - large scale' as a consequence of creating a new activity 'rural contractor and transport depots - small scale'	RU 911.5	3.4.6	5.1.3.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect changes in Policy 16.2.4.2	RU 1090.13 and 1090.35	3.3.9	5.4.5.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect change to Policy 16.2.3.5	RU 704.11 and others	3.5.11	5.4.4.5
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend guidance to reflect change to Policy 16.2.3.4	RU 796.26	3.5.10	5.4.4.4
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4		Mining, landfills	Amend guidance to refer to Policy 2.3.1.Y	RU 796.3	3.5.3	5.2.3.4
16. Rural Zones	Activity Status	16.11.2.4		Mining, landfills	Amend guidance wording	RU 796.9	3.4.15	5.12.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.5.h (New)			Add new guidance to support change in Policy 16.2.1.4	RU 366.3	3.4.11	5.6.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.5			Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.5			Amend guidance to reflect changes in Policy 16.2.4.2	RU 1090.13 and 1090.35 RU 796.27	3.3.9	5.4.5.3
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.5.c			Amend guidance to reflect change to Policy 16.2.3.6	RU 350.18 and others	3.5.12	5.4.4.6

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16. Rural Zones	Assessment of Discretionary Activities	16.11.2.5.b			Amend guidance to reflect change in Policy 2.3.1.2	RU 366.3	3.4.11	5.6.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.5.d			Amend guidance to reflect change in Policy 16.2.1.4	RU 366.3	3.4.11	5.6.2
16. Rural Zones	Assessment of Discretionary Activities	16.11.3.3			Amend guidance to reflect change to Policy 16.2.3.9	RU 919.55 and RU 1088.59	3.5.14	5.4.4.8
16. Rural Zones	Assessment of Discretionary Activities	16.11.4 (New)	16.11.4		Amend guidance to reflect change to activity status for cross lease, company lease and unit title subdivision (add guidance)	RU 490.29	3.2.13	5.4.2.9
16. Rural Zones	Assessment of Non-complying Activities	16.12.3.2			Amend guidance to exclude rural contractor and transport depots from industrial activities	RU 911.5	3.4.6	5.1.3.3
16. Rural Zones	Assessment of Non-complying Activities	16.12.5	NA deleted		Amend guidance to reflect change to activity status for cross lease, company lease and unit title subdivision (remove guidance)	RU 490.29	3.2.13	5.4.2.9
16. Rural Zones	Assessment of Non-complying Activities	16.12.6.3	16.12.5.3		Amend guidance to reflect change to Policy 16.2.3.9	RU 919.55 and RU 1088.59	3.5.14	5.4.4.8

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	Assessment of Non-complying Activities	16.12.6.6	16.12.5.6		Add new general assessment guidance for highly productive land as a consequence of creating new definition of highly productive land	RU 1090.13	3.3.2	5.2.2.2
16. Rural Zones	Assessment of Non-complying Activities	16.12.6.6	16.12.5.6		Amend guidance to reflect change in Policy 16.2.4.3	RU 1090.13	3.3.9	5.4.5.3 and 5.4.5.4
16. Rural Zones	Section	16			Do not amend rural section as requested		3.7.1	5.3.1
17. Rural Residential Zones	Policy	17.2.2.1			Amend policy wording	RU 1090.32	3.5.16	5.4.3.2
16. Rural Zones	Notification Rule	17.4.5 (New)	17.4.4		Add new rule to require that DoC is treated as an affected person for IVC -large scale in ASBVs or IVC -large scale or D or NC activities in NCC or HNCC overlay zones	RU 958.109	3.6	5.7.1
16. Recreation Zone	Notification Rule	20.4.5 (New)	20.4.6		Add new rule to require that DoC is treated as an affected person for IVC -large scale in ASBVs or IVC -large scale or D or NC activities in NCC Overlay zone	RU 958.109	3.6	5.7.1
A7. Rural Character Values	Appendix	A7.1		High Country Rural Zone	Amend values wording	RU 1071.126	3.5.23	5.13.1

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A7. Rural Character Values	Appendix	A7.2			Amend values description	RU 1090.13	3.3.2	5.2.2.2
A7. Rural Character Values	Appendix	A7.3		Taieri Plain Rural Zone	Amend values wording	RU 360.40 RU 1071.127 RU 1090.41	3.5.23	5.13.2
A7. Rural Character Values	Appendix	A7.7		Peninsula Coast Rural Zone	Amend description wording	RU 1071.128	3.5.23	5.13.3
0. Plan	Terminology	1.5			Replace the term factory farming with the term intensive farming throughout the Plan	RU 1090.3	3.4.2	5.1.2.1
16. Rural Zones	Plan				Do not add new provisions for Huriawa and Mapoutahi or withdraw the 2GP as requested		3.7.4	5.5.1