Before the Hearings Panel

At Waimakariri District Council

Under	Schedule 1 of the Resource Management Act 1991
In the matter of	the Proposed Waimakariri District Plan
Between	**Various**
	Submitters
And	**Waimakariri District Council**
	Respondent

Council Officer's response to preliminary written questions on Ecosystems and Indigenous Biodiversity Chapter - s42A Report on behalf of Waimakariri District Council

Hearing Date: 16 – 17 September 2024

INTRODUCTION:

1 My name is Shelley Milosavljevic. I am a Senior Policy Planner at the Waimakariri District Council.

2 The purpose of this document is to provide a response to the preliminary written questions from the Hearings Panel in response to my s42A report relating to the Ecosystems and Indigenous Biodiversity Chapter (refer to **Table 1** below).

3 Submitter evidence has been received in relation to this topic.

4 Following the conclusion of this hearing, I will prepare a Reply Report outlining any changes to my recommendations as a result of matters highlighted both in response to these questions below and during the hearing.

5 I am authorised to provide this evidence on behalf of the District Council.

Date: 13 September 2024

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Table 1: s42A Officer's pre-hearing response to preliminary written questions from Hearings Panel

Question number	s42A report paragraph reference	Hearings Panel question
s42A Officer's pre-hearing response		
1	**Para 33**	**Please confirm your statement – is it the case that if a landowner was opposed to listing of an SNA then it was therefore not listed in the PDP as notified?**
Yes. If the landowner expressed opposition to the SNA listing, Council voted (during its meeting for the adoption and public notification of PDP) to not list these as SNAs (or part thereof) in the PDP.		
2	**Para 104**	**Please provide your position on the Strategic Directions s42A report authors recommended addition (6) to SD-O1.** **Mauri is not defined in either the NPS-FM or the PDP. The Panel understands that the exact meaning of 'mauri' is not readily definable given it relates to a combination of physical and ecological elements, as well as amenity aspects and a range of te ao Māori concepts, both physical and metaphysical. Hence, the objectives and policies of the NPS-FM do not refer directly to 'mauri' but achievement of the policies will achieve the protection of mauri, without having to define it.** **Seen in this light, should clause (6) be reworded to focus on health and wellbeing which if protected, will also protect mauri?**
Mr Buckley's Strategic Directions Reply Report recommended the addition of the following clause (6) to SD-O1 (via a submission from Forest and Bird [192.29]): "Across the District:		

…

(6) the mauri of ecosystems and indigenous biodiversity is safeguarded and freshwater is managed in a way that gives effect to Te Mana o te Wai."

The first part of this clause ("*the mauri of ecosystems and indigenous biodiversity is safeguarded*") relates to the part of Objective 9.2.1 of the CRPS, which seeks the safeguarding of the life-supporting capacity and mauri of ecosystems and indigenous biodiversity. While the second part of the clause ("*freshwater is managed in a way that gives effect to Te Mana o te Wai.")* relates to the NPS-FM's fundamental concept of Te Mana o te Wai.

The CRPS defines 'mauri' in its Glossary of Māori words (page 246) as "*Life supporting capacity, spiritual essence*."

While the CRPS defines 'mauri' to a certain extent, it outdates the NPS-FM and I concur with the view of the Panel that 'mauri' is not directly definable thus including this term in an objective could create plan interpretation and implementation issues.

I consider that as clause (1) of SD-O1 seeks the maintenance of indigenous biodiversity and protection of SNAs, this would in turn protect their health and well-being (and in turn protect their mauri) and therefore I do not consider that reference to 'ecosystems and indigenous biodiversity' is required in clause (6) as it would result in a degree of duplication with clause (1).

I consider the second part of clause (6) "*freshwater is managed in a way that gives effect to Te Mana o te Wai*" should be retained as recommended by Mr Buckley as it gives effect to the NPS-FM.

I therefore recommend that clause (6) is amended as shown below. Blue text indicates my recommended amendments, green text indicates Mr Buckley's Strategic Directions Reply Report's recommended amendments.

(6) ~~the mauri of ecosystems and indigenous biodiversity is safeguarded and~~ freshwater is managed in a way that gives effect to Te Mana o te Wai."

I discussed this recommended amendment with Mr Buckley and he was supportive of it.

3	**Para 110**	**Please respond to HortNZ's concerns regarding how to measure, at a practical level, the concept of "net gain" or as amended "at least no overall loss" … and "Across the District" (as per the chapeau)?**

I consider this strategic objective is somewhat aspirational. However, at a practical level, I consider the state of biodiversity (both as a baseline and for monitoring change) could be measured via District-wide surveys, informed by analysis of aerials, farm management plans, and monitoring undertaken by Council Ecologists, QEII, and ECan. Given the District's scale, realistically this monitoring would have to occur over a medium to long-term period.

The approach would depend on the fate of the NPSIB and its requirement for Council's to identify all SNAs. Council will need to put in place monitoring regime for the PDP in preparation for reviewing it in the future.

4	**Para 132**	**You recommend the following change to ECO-O1:** **"ECO-O1 - Ecosystems and indigenous biodiversity** **~~Overall,~~ The quality and extent of ~~there is an increase in~~ indigenous biodiversity is maintained so there is at least no overall loss throughout the District, comprising:…"** **Given the requirement of clause 1.7 of the NPS-IB, is the phrase 'quality and extent' adequate?**

I agree with the Panel that 'quality and extent' does not adequately capture clause 1.7 of the NPSIB which details what maintaining indigenous biodiversity requires. In light of this, I recommend ECO-O1 is amended as shown below by deleting 'the quality and extent' as sought by Forest and Bird [192.41].

> **"ECO-O1 - Ecosystems and indigenous biodiversity**
>
> ~~Overall,~~ ~~The quality and extent of~~ ~~there is an increase in~~ Iindigenous biodiversity is maintained so there is at least no overall loss throughout the District, comprising:

1 protected and restored SNAs; and

2 other areas of indigenous vegetation and habitat of indigenous fauna that are maintained, and where practicable ~~or~~ enhanced."

Accordingly, I also consider that clause (1) should be amended to remove reference to 'quality and quantity' as a consequential amendment as shown in blue text below.

(1) ~~there is an overall net gain in the quality and quantity of~~ indigenous ecosystems and habitat, and indigenous biodiversity is maintained so there is at least no overall loss and significant indigenous vegetation and habitats are protected;"

5	**Para 183**	**Please explain how reference to the coastal environment in your recommended ECO-P5 relates to ECO-P7?**

On reflection, I consider that clause (1) of ECO-P5 conflicts to some extent with ECO-P7.

I now recommend ECO-P5 is amended as shown in the blue text below. I consider this amendment aligns with the relief sought by the Forest and Bird submission [192.46].

These amendments mean that ECO-P7 will solely focus on indigenous biodiversity within the coastal environment and give effect to the Policy 11 of the NZCPS, while ECO-P5 focuses on indigenous biodiversity outside the coastal environment. It does mean that there is no policy coverage for the coastal environment in relation to biodiversity offsetting and compensation. However, this is consistent with Policy 11 of the NZCPS, and clause 1.4(2) of the NPSIB which states that the NZCPS prevails over the NPSIB where there is a conflict.

"**ECO-P5 – Managing adverse effects on indigenous biodiversity outside the coastal environment**

Outside the coastal environment:

1. Avoid significant adverse effects on indigenous biodiversity within SNAs ~~and the coastal environment~~; and
2. Apply the following effects management hierarchy for non-significant adverse effects on indigenous biodiversity of SNAs, and significant adverse effects on indigenous biodiversity outside of SNAs:

(a) adverse effects are avoided where practicable; then

		(b) where adverse effects cannot be avoided, they are minimised where practicable; then (c) where adverse effects cannot be minimised, they are remedied where practicable; then (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible, as set out in ECO-APP2; then (e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided, as set out in ECO-APP3; then (f) if biodiversity compensation is not appropriate, the activity itself is avoided."
6	**Para 213**	**We have reviewed the Forest and Bird submission point. Please set out how you consider there is scope within this submission to apply the NPS-IB definition and include the new Appendix.** **If there is scope for these amendments in line with [192.2], is there also scope to amend the definition of 'biodiversity offset' to remove reference to compensation, which is different to offsetting?**

The Forest and Bird submission [192.2] states:

- "*New definition: Biodiversity Compensation (Neutral)"*
- Reasons – "*There is no definition of biodiversity compensation, yet ECO-MD1(4) mentions the potential for compensation*".
- Decision sought – "*Council to consider whether it wishes to articulate a definition for compensation, along with a policy which sets out current best practice and the clearly expresses the limits to compensation*".

Also, page 2 of the submission includes the statement "*Forest & Bird seeks any consequential changes or alternative relief to achieve the relief sought*".

The NPSIB definition of 'biodiversity compensation' includes reference to its Appendix 4: Principles for biodiversity compensation.

As such, I consider there is scope for recommending the NPSIB definition for 'biodiversity compensation' and the new appendix (ECO-APP3 containing the principles for this) as this aligns with what is sought in the submission.

In terms of whether there is also scope to amend the definition of 'biodiversity offset' to remove reference to compensation, I consider there is scope given the addition of the term 'biodiversity compensation' to the PDP (as sought by Forest and Bird's submission [192.2]) would conflict with the notified definition of 'biodiversity offset' which includes to 'compensate'. I consider there would be scope as a consequential amendment via submission [192.2] given the submitter seeks any necessary consequential changes on page 2 of its submission. As such I recommend that the definition of 'biodiversity offset' be amended to align with the definition in the NPSIB via the scope of Forest and Bird's submission [192.2].

7	**Para 219/224/230**	**In practice, what is the process/how is it known in advance which other <u>unmapped</u> SNA areas will meet the SNA criteria?** **How will Council necessarily become aware of an area (that may qualify as an SNA) if it is developed without the need for a resource consent (as it is not a mapped SNA) but will actually have effects that would be deemed inappropriate in an SNA, i.e. 'the horse will have bolted'?** **How will your process in para 230 be implemented in practice? Will it mean that any landowner wishing to remove indigenous vegetation must carry out an SNA assessment for that land? If so, will there be any natural justice issues from imposing such an onus on future applicants at this late stage of the plan review process, or would landowners have been aware of this on notification of the PDP?**

Currently, resource consent applications are reviewed by one of the Council Ecologists if the Council Resource Consent Planner considers there may be an area of vegetation affected by the proposal. The Council Ecologist reviews this, sometimes via aerial imagery or a site visit to determine the type of

vegetation present and therefore the likelihood of the vegetation comprising an unmapped SNA. A SNA assessment could be sought via section 92, and the appropriate the rules consequently applied. Activities not requring any type of resource consent would not have this 'back stop'.

Ideally, Council would have completed a comprehensive, District-wide SNA assessment, engaged with all of the landowners, and had all these SNAs listed and mapped in the PDP. Unfortunately, that was not possible so I consider an alternative 'back-stop' is needed in the interim to provide some level of protection, albeit involving a relatively high level of uncertainty, to areas that are not mapped SNAs but meet SNA criteria and therefore should be protected as per s6(c) of the RMA. Alternatively these unmapped SNA areas would have the lesser protection of ECO-R2, despite being ecologically significant.

I consider the notified PDP's unmapped SNA approach via ECO-SCHED2 is relatively uncertain and very broad. Submissions on the PDP indicated that ECO-SCHED2 was less inclusive than the SNA criteria thus would exclude some areas that would meet the SNA criteria. In terms of natural justice issues, I do not consider the change from using ECO-SCHED2 for determining unmapped SNAs, to using ECO-APP1 for determining unmapped SNAs, is that significant as while it would result in some additional areas being considered SNAs over and above those in ECO-SCHED2, I do not consider this would be extensive. In my opinion, I consider that given this change was sought via submissions it is transparent in that regard.

8	**Para 253**	**You have recommended deleting reference to 'or unmapped SNA' from the ECO-R1 title, but this will leave the term 'mapped SNA' in that rule.** **However, you have also recommended deleting 'mapped SNA' and definition (refer you para 245iii) and amending that term to 'Significant Natural Area'.** **How is this consistent?**

Appendix A of my report shows these recommendations comprehensively (specifically – ECO-R1 just refers to 'Indigenous vegetation clearance within any Significant Natural Area').

I had been showing the specific recommendations relating to that section of my report which resulted in recommendations arising from other sections of my report but applying to another provision not showing up comprehensively, which in hindsight created issues such as this.

9	**Para 273**	**Would deleting ECO-Sched 2 be a backward step in terms of removing useful recorded data and information for landowners, and readers of the Plan, to be aware of? Will this information be retained in Council's systems so as to be accessible to the public?**
I agree that ECO-SCHED2 does contain useful details for landowners and plan users in terms of what could constitute a SNA. Submissions indicate that it is not inclusive enough to capture all potential SNAs that would meet SNA criteria. The Wildlands Report that informed ECO-SCHED2 is available online[1]. The only part it does not include that is within ECO-SCHED2 is the minimum contiguous areas. It is possible that Council could turn ECO-SCHED2 into a report or database that could be accessed online.		
10	**Para 302**	**For the Panel's information can you please elaborate on the process that will be followed to identify SNAs, including the involvement of landowners.**
I note that the Section 78[2] 'Time-limited modifications to NPSIB 2023' of the Resource Management (Freshwater and Other Matters) Amendment Bill proposes to suspend the requirement for Council to identify new SNAs for three years while the Government determines its approach on SNAs via further reform of the RMA. If passed, this Bill will become law by the end of this year[3]. *I deferred the process side of this question to Council Ecologist and ecological expert Kate Steel. Her response will be provided at the Hearing and within my Reply Report.*		

[1] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0014/136130/11.-WILDLANDS-PROTECTED-INDIGENOUS-VEGETATIO~ECOSYSTEMS-INDIGENOUS-BIODIVERSITY-ECO-SCHEDULE-2-UNMAPPED-SNAS-SPECIES-HABITAT.PDF

[2] https://www.legislation.govt.nz/bill/government/2024/0047/latest/LMS962922.html#LMS962921

[3] https://environment.govt.nz/acts-and-regulations/acts/resource-management-freshwater-and-other-matters-amendment-bill/

11	**Para 328a**	**Is there any evidential basis that you are aware of to support your recommendation, based on the submission of Forest and Bird, for a maximum clearance along a fence line of only 1 metre?** **(At another Plan review forum evidence was heard that farmers often rely on a small vehicle with a blade to clear vegetation along fence lines, as to do this on foot is onerous and 1 metre would not provide sufficient width for mechanised assistance).**

No, I am not aware of any evidential basis for this, and Forest and Bird did not provide any in their submission [192].

I discussed this matter with Ms Steel, who noted the following:

- Generally, covenants need to be fenced around the boundary, usually with deer fencing, and this is also encouraged for SNAs to keep stock and wild animals from browsing the vegetation.
- In situations where a SNA crosses property boundaries and only one landowner is covenanting or fencing it would be necessary for the fence to go along a property boundary.
- 2.0m is appropriate if the purpose of the activity was the installation of a fence to establish a covenant or protect a SNA from the impact of browsing animals.
- Avoiding steep topography or difficult terrain can be another reason for erecting fences within a SNA which may require some vegetation clearance.

Taking this into account, I now recommend that this sub-clause be amended as shown in blue text below, via the scope of submission [192.49], which would align well with the recommended amendment to the similar clause in ECO-R1. This would provide a total of 2.0m clearance (1.0m on either side). This removes the variation of the 1.0m width for the fences that delineate property boundaries, and 0.5m width for fence that do not delineated property boundaries, as I cannot see a reason why the distance needs to vary between these fencing purposes and the submission did not elaborate on this. Fences and clearance

associated with this clause are only provided for if the fence is for the "*purpose of protecting, maintaining, restoring or accessing the SNA's ecological values*" as per clause ECO-R1(1)(a).

"Where:
(1) within any ~~mapped~~ SNA ~~or unmapped SNA~~, the indigenous vegetation clearance is:
…..
a. for the purpose of protecting, maintaining, restoring or accessing the SNA's ecological values where it involves:
…..

~~i.~~ erecting a fence provided there is no more than 1.0m width of clearance along each side of the fence; ~~and:~~
~~a. where the fence is necessary for a property boundary within a SNA the clearance is no more than 1m wide within a SNA; or~~
~~b. the fence is located so that there is no more than 0.5m width of clearance along the fence line within the SNA~~;

12	**Para 346**	**In respect of your recommended amendment to (1)a.iv, do you mean for defining or delineating a property boundary?**

Yes, I did mean 'defining or delineating a property boundary'. In light of my recommended amendments to this clause set out in question 11 above, I consider this clause should be amended to as shown above.

13	**Para 357**	**Please explain how individual trees can meet SNA criteria?**

I deferred this question to Council Ecologist and ecological expert Kate Steel. Her response is below:

In the case of the Manor Park SNA the trees are not being assessed individually, they are being assessed collectively as part of the ecosystem connected with the bush block. They're all part of the same SNA, it's just being mapped as a bunch of smaller areas. I've proposed mapping part of the feature as a number of small circles as a novel solution in order to reach agreement with the landowner about including the trees in the SNA.

Direction from the Council was to continue to take a voluntary approach to listing Significant Natural Areas in the District Plan. The landowner was opposed to the grass between the paddock being included due to concern about the potential impact on his farming activities and wanted the trees removed entirely. However, he was amenable to just the trees being mapped. Since the rules in the plan would allow the current level of grazing to continue even if the grassed area was included with a larger single polygon, I do

not believe there is any really difference in the practical management implications of putting a small circle around each tree versus a large circle around the whole area in this case. This is a compromise, and mapping trees individually as part of the same feature without compromising buffering functions would not be possible in the vast majority of cases.

However, I also note that in the context of the Low Plains and High Plains ecological districts individual plants would meet the criteria to be considered a significant natural area. Native populations of some species are so low that every individual is critical to the survival of the species and identification and protection of them is critical. For example, a single plant found on a fence line or beside a road like *Olearia adenocarpa* where there are only 650 individuals remain[4] would qualify as an SNA, although in practice it is likely that some area around it would be included in the SNA as a result of providing a buffering function.

14	**Para 389/390**	**What guarantees/safeguards can realistically/practically be put in place to ensure the additional bonus allotment and dwelling has no effects on the SNA they are meant to be protecting?** **Are you aware of any examples here or in other districts where this approach has been used and what the outcomes have been?**

Yes. During drafting of the PDP, staff investigated SNA protection incentives in other District Plans around the country. This analysis showed that SNA on-site development rights and transferable development rights were relatively common in District Plans in the North Island (notably in Auckland, Northland, Coromandel, Bay of Plenty, Waikato, and Kapiti), but not at all in the South Island. Staff discussed their merits and issues with planners at some of these Councils. I recall the overall consensus was that they do provide an incentive for landowners to undertake SNA protection however the main challenge lies in ensuring this is ongoing.

A SNA that earns a bonus lot would be physically protected (via a required buffer and pest management) and legally protected in perpetuity (via a covenant) thus I consider this would provide a level of protection from the potential effects of the bonus lot's dwelling activity. ECO-MD3 contains a range of matters for

[4] https://www.doc.govt.nz/globalassets/documents/conservation/native-plants/olearia/olearia-adenocarpa-factsheet.pdf

assessing the effects of a bonus lot and matter 1 of ECO-MD3 includes the '*extent to which the SNA will be protected and restored'*. The ECO rules in relation to plantings, clearance and irrigation would also still apply.		
15	**Para 521**	**You state:** ***However, I consider that as ECO-P4 relates to areas of indigenous vegetation / habitats outside SNAs, then the avoid directive is inappropriate as it does not align with s6(c) of the RMA and s30 of the RMA, and also I consider it likely that areas containing such species may meet the SNA criteria anyway.*** **Do you mean likely or unlikely? Why is this, given your earlier statements that the whole district has not had an ecological survey?**
I meant 'likely'. What I was trying to convey was that areas containing species that are at-risk, threatened or vulnerable at a regional or national level would likely meet the criteria for a SNA and therefore ECO-P4, which relates to areas outside SNAs, would not apply.		
16	**Para 543**	**This clause needs to be amended to refer to the updated NES.**
Yes, I will ensure references to the 'NESF' are updated to the 'Freshwater NES'.		
17	**Paras 545, 551, and section 3.17**	**Have you considered whether this amendment is best addressed in the EI chapter since it relates to infrastructure? Is your approach to what we understand to be the District plan approach to dealing with matters relating to infrastructure?** **Did you consider the possibility of putting that part of ECO-R2 into the EI chapter as an alternative relief?** **There are possibly also a number of general submissions that seek all provisions affecting infrastructure to be included in the EI chapter.**

No, but I should have. I will reconcile this in the Reply Report and will liaise with the EI s42A Officer as needed.

18	**Para 559 – clause 1 of the rule**	**Did you also recommend to delete "mapped" from this clause?**

Appendix A of my report shows these recommendations comprehensively - specifically – ECO-R2 just refers to 'Indigenous vegetation clearance outside any Significant Natural Area'.

I had been showing the specific recommendations relating to that section of my report which resulted in recommendations arising from other sections of my report but applying to another provision not showing up comprehensively, which in hindsight created issues such as this.

19	**Para 559 – recommended clauses j and k**	**If we were to include these two clauses, is there any need to include the amendment to clause 2?**

As shown below clause (2) of ECO-R2 links to clause (3) via an 'and' thus both clauses need to be met for an activity to be permitted. Therefore, I consider the exemption for National Grid matters in clause (2) and clause (3)(j) and (k) do not create duplication. The potential transfer of these infrastructure related clauses will be reconciled in my Reply Report.

2. the indigenous vegetation clearance is not within 75m of a lake, 20m of the bank of a river, or 50m of any wetland, unless the clearance is ~~expressly authorised~~ a permitted activity under the NESF or for the purposes of the operation, maintenance, upgrade or development of the National Grid; and

3. the indigenous vegetation clearance is:
   …..

   j. is required for the operation or development of the National Grid; or

   k. required for the maintenance, repair, upgrade or replacement purposes of critical infrastructure.

20	**Para 649**	**Is the inclusion of "mapped" here consistent with your other recommendations?**
No, this is an error. 'Mapped' is incorrectly included both here and in Appendix A and should be removed.		
21	**Para 675**	**What would the consequence be of including direct reference to "wetlands" in ECO-P2(3) instead of "certain" SNAs?**
Aside from probably requiring brackets and making the clause slightly longer, I do not consider there would be any consequence in doing this and it would make it clearer. Below, I have shown my s42A Report drafting along with an alternative drafting that directly references 'wetlands'. *s42A drafting:* Protect and restore SNAs by: ….. 3. limiting irrigation near ~~mapped~~ certain Significant Natural Area~~SNA~~s in order to provide a buffer from edge effects; *Alternative drafting directly referring to wetlands:* Protect and restore SNAs by: ….. 3. limiting irrigation near ~~mapped~~ Significant Natural Area~~SNA~~s (excluding those that are wetlands) in order to provide a buffer from edge effects;		
22	**Para 679**	**Can a consent authority not 'require' pest control/management through resource consent conditions?**
Yes, it could be required via resource consent conditions. My overall s42A recommended amendments for clause (6) are shown below (relating to relief from other submissions). 6. ~~encouraging~~ actively supporting and advising on pest and weed management, and stock management ~~control;~~ and On reflection, clause (6) could be amended (via Forest and Bird's submission [192.43]) to refer to 'requiring' as shown below: 6. ~~encouraging~~ requiring, actively supporting, or ~~and~~ advising on pest and weed management, and stock management ~~control;~~ and		

23	**Para 720**	**Why is it that ECO-R2 contains a rule relating to no clearance within certain distances of waterbodies but ECO-R1 does not? What are the different effects being managed?**

While the notified version of ECO-R1(1)(f) provided for indigenous vegetation clearance that is "*expressly authorised under the NESF*", it does not contain the equivalent of clause (2) and (5) of ECO-R2 "***the indigenous vegetation clearance is not within 75m of a lake, 20m of the bank of a river, or 50m of any wetland****, unless the clearance is expressly authorised under the NESF; and*" (my emphasis). This clause links to ECO-P8, which seeks to maintain of the ecological integrity of waterbodies by minimising indigenous vegetation clearance within their setbacks.

Rule 23.1.1.4[5] of the 'Land and Water Margins' rules chapter of the Operative District Plan precludes vegetation clearance from within 20m of a river or lake, and 50m from a wetland. This rule has the purpose of reducing degradation of waterways via sediment transfer, as set out in Policy 4.1.1.3[6]. I recall this rule was 'rolled over' to a certain extent into ECO-R2, and not included in ECO-R1 potentially due to an oversight.

However, on reflection, I consider that the inclusion of this clause in ECO-R2, creates a degree of duplication with ECan's functions given it appears to have a water quality purpose. Also, putting s30/s31 functions aside, in my opinion limiting the clearance to *indigenous* vegetation, instead of *any* vegetation, seems inappropriate as it would be unlikely that the type of vegetation being removed would affect the potential for generating sediment and thereby creating water quality issues.

In light of this, I will reconsider the purpose of this clause (ECO-R2(2) & (5)) and ECO-P8, along with submissions on these provisions, in the context of the NPS-FM, NPSIB, NES Freshwater, and Canterbury Regional Land and Water Regional Plan, and provide any updated recommendations in my Reply Report.

24	**Para 729**	**Please explain how recognise and provide for (which has a very high weighting in the RMA) is consistent with the NPSIB wording which is manage? How would**

[5] https://waimakariri.isoplan.co.nz/eplan/rules/0/39/0/0/0/72

[6] https://waimakariri.isoplan.co.nz/eplan/rules/0/20/0/0/0/72

		nature-based solutions be recognised and provided for in the Plan and in resource consents?

To aid my response, the submission, recommended s42A version of ECO-P9, and NPSIB Policy 4 are provided below.

- The submission [192] states:
    - *"Forest & Bird recommend that WDC acknowledge in this overview the role that indigenous vegetation and natural ecosystems play in providing nature based solutions to climate change and resilience to its effects. Including policy direction and a permitted rule framework to encourage indigenous vegetation maintenance and restoration as a nature based solution to climate change and its effects would be useful."*
    - *"Add policy … <u>Indigenous vegetation and natural ecosystems are important because they have the following functions to:</u>*
        - *<u>Provide nature based solutions to climate change and resilience to its effects</u>"*
- NPSIB Policy 4 - Indigenous biodiversity is managed to promote resilience to the effects of climate change.
- s42A recommended version of ECO-P9 – "<u>Recognise and provide for nature-based indigenous biodiversity solutions to promote resilience to the effects of climate change.</u>"

I consider that 'recognise and provide for' is not consistent with 'manage'. However, overall I consider that recommended policy ECO-P9 aligns with the direction of NSPIB Policy 4, and is within the scope of the submission that sought it. The submission seeks a policy to "*encourage indigenous vegetation maintenance and restoration as a nature based solution to climate change and its effects*" and its relief sought relates to recognising the importance of biodiversity due to its nature-based solutions function. I consider this is essentially seeking that nature-based solutions are 'recognised and provided for'.

Regarding how nature-based solutions can be recognised and provided for in the PDP, I consider that:

- Activities outside those covered in the ECO rules are not controlled by the ECO chapter (i.e., there is no 'catch all' rule).

- Activities that would "*encourage indigenous vegetation maintenance and restoration as a nature-based solution to climate change and resilience to its effects*" would be indigenous vegetation plantings ('restoration') and potentially indigenous vegetation clearance ('maintenance'):

    - For plantings, I consider adhering to the requirements of ECO-R3 is appropriate.

    - For indigenous vegetation clearance, ECO-R1 and ECO-R2 do not provide an 'exemption' for such activities and on the face of it I do not consider they should.

- Such an activity would fall within the definition of 'conservation activities' which are permitted activities within the Rural Zones, Open Space Zones, Special Purpose Zones (Kainga Nohoanga, Kaiapoi Regeneration, and Pines Beach and Kairaki Regeneration), as well as the Natural Features and Landscapes, and Coastal Environment chapters.

In the scenario of a resource consent application for an activity that involves a nature-based solution that promotes resilience to climate change effects, I consider that this policy would provide direction for the planner to consider the merits of the activity in this context.

25	**Para 757**	**What are the implications for farmers if they are irrigating in an area that is later determined to be within the buffer to an SNA? Should this rule refer to known/identified or mapped SNAs?**

The implications would be that the farmer could potentially receive enforcement action from Council for breaching this setback rule when undertaking a new irrigation activity.

The alternative of retaining the application of this rule to mapped SNAs only would go some way in improving clarity and certainty for new irrigation activities. However, it would mean a large number of unmapped SNAs are not technically protected by this setback rule and therefore more likely to be subject to edge effects of irrigation.

26	**Para 780**	**Have you conferred with Ms Steele on the recommended new ECO-APP4?**
Ms Steel recommended these matters in her evidence (page 23), and these are exactly what I included in my recommendation, as outlined in paragraph 780 of my report. I conferred with Ms Steel generally on this matter, however this specific statement I took directly from her evidence.		
27	**Para 786**	**In respect of your recommended amendment to Clause 6 to include "any adverse effects", what are the adverse effects on that need to be managed?** **In respect of your recommended new clauses 12 and 13, would these not be covered by clauses 2 and 3?**

Clause 6 - In respect of your recommended amendment to Clause 6 to include "any adverse effects", what are the adverse effects on that need to be managed?

The adverse effects in clause (6) relate to effects on the values of these landscape or natural character areas.

Forest and Bird's submission [192.43] considers "*It is also not clear whether limiting the matter to the "degree" of effect is adequate to give scope to consider the relevant policy direction."*

I consider the recommended amendment to this clause could be improved as shown below, primarily by retaining the notified wording but removing the 'degree to which' term, which I consider this could be somewhat ambiguous:

> "Where the clearance is within an ONL, ONF, SAL, ONC, VHNC, HNC, or any natural character of scheduled freshwater body setback (NATC Figure 1), whether the indigenous vegetation proposed to be cleared contributes to the values of these areas and ~~any adverse effects~~ the extent that ~~the degree to which~~ the proposed clearance would adversely affect these values."

In respect of your recommended new clauses 12 and 13, would these not be covered by clauses 2 and 3?

On reflection, I consider that the recommended clause (13) (*the extent to which clearance maintains indigenous biodiversity*) is relatively duplicated with clause (3), which relates to the effects on indigenous biodiversity, and clause (2) to some extent, which relates to protecting significant values. I therefore recommend that the proposed addition of clause (13) is removed.

In terms of recommended clause (12) (*the purpose for clearance and the effects of use for that purpose on remaining and adjacent indigenous biodiversity*), I agree with the Panel that this clause is duplicated by clause (2) and (3) in terms of the effects on biodiversity. I also consider the 'purpose' component of this clause is duplicated to some extent by recommended clause (14) ("*the extent of the functional need or operational need for the activity, and consideration of alternatives*").

Therefore, upon this reconsideration, I now recommend clauses (12) and (13) are deleted from ECO-MD1.

28	**Para 837**	**Nevertheless, would it not be more efficient to provide the exclusions in the definition rather than repeat then throughout the ensuing rules, or do you consider the rules are more nuanced than that?**

The indigenous vegetation clearance rules (ECO-R1 and ECO-R2) are structured in a way that they preclude clearance unless one or more of the specific activity exemptions are met. ECO-R1 (clearance within SNAs) has slightly different exemptions than ECO-R2 (clearance outside SNAs).

If the request by HortNZ was accepted, I consider this would require these clearance rules and clearance definition to be redrafted to cover off all of these various specific activity exemptions and also convey the differences for clearance within, and outside, SNAs, and the differences in activity status. Therefore, in my opinion, the current approach of providing activity exemption within the ECO rules is more appropriate and efficient.