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 Preliminary Response to written questions on Natural Features and Landscapes Chapter on behalf of Waimakariri District Council

Date: 17 July 2023

INTRODUCTION:

1 My full name is Shelley Catherine Milosavljevic. I am employed as a Senior Policy Planner for Waimakariri District Council.

2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42 report.

3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.

4 I also note that given the timing of these questions, my preliminary responses in some instances have not been informed by consideration of evidence or legal submissions lodged with the Council following the issuing of my s42A report. Where I have considered such evidence, I have recorded this within the preliminary answers below.

5 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.

6 The format of these responses in the table below follows the format of questions identified in within the Commissioner's minute.

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

Date: 17 July 2023

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s42A paragraph	Question
1. Overarching	**While appreciating that we have yet to hear submissions directly on the EI – Energy and Infrastructure Chapter, please provide at a high level a statement setting out how the objectives, policies, rules and standards in the CE – Coastal Environment, ASM – Activities on the surface of Water, NATC - Natural Character of Freshwater Bodies and NFL - Natural Features and Landscapes are intended to operate with the objectives, policies, rules and standards in the EI – Energy and Infrastructure Chapter. As examples, the Panel would like officers to consider:** **The recommendation in the NFL s42A report that rules and standards would apply to energy and infrastructure activities.** **The recommendation in the CE Coastal Environment s42A report that rules within the CE Chapter do not apply to energy and infrastructure activities.** **The reply report in respect to SASM – Sites and Areas of Significance to Māori to remove the reference to customer connections from SASM-R4 and to reply on EI-R4 instead.** **The relationship between NFL-P1, 3 and 4, CE-P7, NATC-P6, and other policies relating to activities in overlay areas, and EI-P5, and in particular clauses 3 and 4.** **Can you please provide some assessment of whether the objectives and policies of these chapters, and your recommendations to amend those, are consistent with the relevant Strategic Directions objectives.**

As outlined in the Energy and Infrastructure (EI) integration memo[1], the recommended amendments mean that the objectives, policies, associated planning map layer, and appendix in the NFL chapter apply to Energy and Infrastructure. Where the EI chapter includes a permitted standard requiring an activity to be located outside an ONL/ONF/SAL, as part of assessing a resource consent application to breach such a standard, the objectives and policies of the NFL chapter would be considered, along with those of the EI chapter. In addition, standards NFL-S1 and NFL-S2, and rules NFL-R8 and NFL-R9 also apply to EI activities. NFL-P1, NFL-P3, and NFL-P4 and EI-P5 will still apply to infrastructure activities. Policies NFL-P1, NFL-P3 and NFL-P4 apply to specific values or features of ONF, ONL, SAL. While EI-P5 provides a pathway for considering energy and infrastructure activities to locate within ONL/ONF/SALs where there is functional need or operational need. My recommended amendments to NFL-P1 and NFL-P3 will improve consistency with the recommended amendments to SD-O1(3)[2]. NFL-P4 relates to Significant Amenity Landscapes, which are not referred to in the Strategic Directions objectives.	
2. **Overarching**	**Please explain the difference and relationship between a carbon sink (undefined and referenced in the definition of Woodlot) and a carbon forest (which is defined).**
The PDP definition of 'carbon forest' mentions '*the purpose of carbon sequestration*" and the PDP definition of 'woodlot' mentions "*the purpose of a carbon sink*".	

[1] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

[2] As outlined in the Council Officer's Preliminary Response to written questions on Strategic Directions https://www.waimakariri.govt.nz/__data/assets/pdf_file/0018/132714/STRATEGIC-DIRECTIONS-COUNCIL-PRELIMINARY-QUESTIONS.pdf

I am not an expert on carbon sinks however my understanding is that a carbon sink is something that absorbs more carbon from the atmosphere than it releases, and carbon sequestration is the process that occurs within a carbon sink. Therefore, I consider a 'carbon forest' is a type of carbon sink, so therefore carbon forest is a subset of 'woodlot'. *Reference: United Nations Economic Commission for Europe - Carbon Sinks and Sequestration - https://unece.org/forests/carbon-sinks-and-sequestration*	
3. **Para 69**	**Please explain how subdivision can be considered a form of development, with particular reference to the RMA, s6(b) itself, and the National Planning Standards.**
Section 6(b) refers to subdivision, use and development, which implies these are all separate activities. The National Planning Standards definition of 'subdivision' refers to section 218 of the RMA, which relates to the division of allotments. On further reflection of this matter, I consider that subdivision is technically not a form of development as while it is often a pre-curser to consequential development, this is not always the case as it can occur with no development, and equally development can occur with no subdivision. In my opinion, in terms of effects on landscape values, it is not the subdivision of land that causes effects as this is a legal process, it is the resulting land use and development that can affect these values. However, I note that s6(b) does include 'subdivision', along with 'use' and 'development'.	
4. **Para 70**	**Your report states: "However, if the Hearings Panel considers there is, this would also improve alignment with…". Please explain what you are referring to by using "there is" and what your exact recommendation is. What is the consequence if we find that there is no scope to include reference to subdivision in the NFL objectives and policies?**

This sentence should read:

> "*However, if the Hearings Panel considers there is scope to amend NFL-O1, NFL-O2, NFL-P1 and NFL-P3 to include reference to subdivision, this would also improve alignment with s6(b) of the RMA and provide a clearer pathway for SUB-R9.*"

However, on further reflection, I consider that drawing on the submissions as a whole, and not just their specific relief sought, the submissions seeking alignment with s6(b) would have scope to include reference to subdivision.

Including reference to subdivision in the NFL objectives and policies would mean rule SUB-R9 in the Subdivision chapter would no longer be 'orphaned' to some extent, in terms of its link to the NFL chapter.

5. **Para 95**	**Referring to our question above (overarching), is it clear that this is how the NFL and EI chapters would work in practice?** **How are the objectives and policies in the NFL chapter intended to operate with EI-P5 in respect to infrastructure?** **Please also comment on how, for infrastructure activities, relying entirely on the rules in the EI chapter will necessarily give effect to the objectives and policies in the NFL chapter.**

The application of these chapters in terms of how they apply to EI activities will be better clarified in the EI chapter s42A report recommendations. Applicants would still need to look at both chapters, as outlined in EI integration memo[3].

The NFL objectives and policies will still apply to infrastructure activities. Policies NFL-P1, NFL-P3 and NFL-P4 apply to specific values or features of ONF, ONL, SAL. While EI-P5

[3] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

provides a pathway for considering energy and infrastructure activities to locate within ONL/ONF/SAL where there is functional need or operational need.

I consider this follows a similar approach to that of the Regional Policy Statement (RPS) where Chapter 5 of the RPS promotes the integration of regionally significant infrastructure, while Chapter 12 focuses on protecting or maintaining landscape values. Chapter 5 does not specifically refer to ONL/ONF/SALs however does refer to sensitive environments with reference to s6 (RMA) matters[4]. Chapter 12 does not refer to enabling infrastructure, it just refers to protecting from inappropriate subdivision, use and development.

I consider that all applicable objectives and policies would need to be considered and balanced when considering an activity and as EI-P5(3) & (4) are more directive in respect to regionally significant infrastructure (outside the coastal environment), it would hold more weight.

As noted in paragraph 109 of my s42A report, the ONL is fully outside the coastal environment and the Rakahuri ONF is fully within it. While small sections of the Waimakariri ONF and Rakahuri River SAL are within the coastal environment. EI-P5(3) and (4) would not apply to the parts of these features within the coastal environment. As noted in page 8 of the EI integration memo, I agree that this policy framework gives effect to the relevant higher order documents.

I note that as outlined in page 3 of the EI integration memo[5] consideration is still being given to how matters of discretion will be applied, however a cross-reference is likely. NFL-MD1 is more prescriptive than the broader EI-MD1[6]. NFL-MD1(13) includes consideration of the extent to which the proposal has functional need or operational need for its location.

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[4] RPS Policy 5.3.9(3)(c) "*when determining any proposal within a sensitive environment (including any environment the subject of section 6 of the RMA), requiring that alternative sites, routes, methods and design of all components and associated structures are considered so that the proposal satisfies sections 5(2)(a) – (c) as fully as is practicable*."

[5] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

[6] EI-MD1(1) "*The extent of any adverse landscape and visual effects, including cumulative effects, on ONF, ONL and SAL;…"*

The recommended approach of relying on EI rules for infrastructure activities would still give effect to the NFL objectives and policies as the EI rules only apply where they would duplicate a NFL rule, so these activities are still considered, but by one chapters rules, not both. Activities within the NFL rules that are not covered by the EI rules, and that could relate to infrastructure, will still apply (NFL-R8, NFL-R9, NFL-S1 and NFL-S2) and this will be clearly set out in the EI and NFL chapters[7].

Most EI rules that apply to activities within ONL/ONF/SAL default to restricted discretionary activity status (RDIS), which is a similar approach to that in the NFL chapter (e.g., a large electricity transmission structure would be restricted discretionary activity under EI-R24 and if it was considered within the NFL chapter it would also be a restricted discretionary activity under NFL-R5, or non-complying if within the Rakahuri Estuary ONF). Therefore, the NFL objectives and policies must still be considered.

6. **Paras 97 - 99**	**Please clarify whether you consider centre pivots and travelling irrigators to fall within the definition of infrastructure or not. If they are not infrastructure, then please explain and reconsider your sentence in para 98 and your recommendation in para 99 in respect of the standards.**

The PDP definition of 'infrastructure', refers to s2 of RMA, which includes clause *(e) 'a water supply distribution system, including a system for irrigation;*'.

The RMA or PDP do not define irrigation.

The Canterbury Land and Water Plan (page 49) defines irrigation as "*the application of water to land for the purpose of assisting the production of vegetation or stock on that land, other than by naturally occurring rainfall, springs or rainfall run-off*."

I therefore consider that centre pivot and travelling irrigators would be considered 'a system for irrigation' and therefore 'infrastructure'. However, I note that they may not

[7] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

'naturally' be thought of as typical infrastructure, but for the purpose of determining whether NFL-R8 should apply to infrastructure, I consider it should.	
7. **Paras 97 - 99**	**Is your recommendation that NFL-S1 and NFL-S2 should apply to all energy and infrastructure activities?** **If so, please explain how this would functionally occur for energy and infrastructure activity rules in the EI chapter?**
NFl-S1 and NFL-S2 will still apply to energy and infrastructure activities as there is no similar standard in the EI chapter. The EI integration memo[8] outlines that this would functionally occur via the recommended amendments to the 'How to interpret and apply the rules' section of the EI chapter (section (3)(d) specifically on page 5 of the memo) and the recommended updated amendments to the NFL chapter as outlined on page 7 of the memo.	
8. **Para 100**	**Please explain the relationship between the Transport Chapter and the Overlays as a whole (including SASM, SNAs, NFL, etc)**
Page 2 of the EI integration memo[9] outlines that the Transport chapter provides for all the aspects associated with transport and rail, while the EI chapter provides for energy and infrastructure not related to the road and rail network. Overall, the Transport chapter rules are of much more of a technical nature than the EI rules (e.g., design standards for new roads). The Transport chapter provisions do not contain reference to overlays / sensitive environments like the EI provisions do. However, the overlay provisions would still apply to	

[8] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

[9] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

activities covered in the Transport chapter where applicable (E.g., earthworks associated with formation of a new road within an overlay would be considered under the applicable controls for earthworks within that overlay, also rule TRAN-R3 includes an advisory note referring to NFL-R9).	
9. **Para 100**	**Please provide the authority that s7(c) and (f) of the Act 'require' identification of SALs?**
My report states the NFL chapter contains provisions to "*maintain the values of SAL as required by s7(c) and s7(f)'*. Section 7 of the RMA outlines matters that particular regard shall be given to, so I acknowledge that the term '*as required by'* is not the correct term to use in this context as the RMA does not require this as such. I consider this bullet point should be amended to: "*maintain the values of SAL <u>in order to have particular regard to maintenance and enhancement of amenity, and maintenance and enhancement of the quality of the environment, as per section 7(c) and 7(f) of the RMA respectively</u>*." Significant Amenity Landscapes relate to amenity values and their identification is a requirement of the National Planning Standards (*identification of features and landscapes that are outstanding, significant or otherwise valued*) and Canterbury Regional Policy Statement (*Objective 12.2.2 Other important landscapes may include 1. natural character, 2. Amenity, 3. historic and cultural heritage*).	
10. **Para 107**	**You refer to s10 of the RMA, but these provisions use the phrase "where this does not detract from the identified values". Is there not a conflict here with s10?** **Furthermore, should some recognition of the ability of existing activities to adapt/change management systems be provided for, particularly in SALs which do not have the status of ONLs? (for example, where a farmer may need to adapt their systems, for**

	example, where a wintering barn is required to deal with water quality issues)
I agree that the term 'existing' linked to '*where this does not detract from the identified values'* does conflict with s10. Following discussions with the author of the NFL chapter provisions, I understand the purpose of this clause was to convey that rural activities are provided for within these areas, and was a link to the various rules that relate to rural activities (addition to buildings, buildings, farm buildings, access tracks, irrigation). However, I agree that the term 'existing' conflicts with s10 of the RMA. I consider removing the word 'existing' would help clarify this, as requested by submission 41.26 (which is limited to NFL-P4(7)). I do not consider there is scope to extend this amendment to NFL-P1(6) and NFL-P3((5) however if the Hearings Panel considers there is then this would improve clarity for all related policies. Regarding the example of a wintering barn within the SAL, while I acknowledge that the values of SAL's need to be maintained, not protected like ONLs, I do not consider it necessary to amend the rules to provide a less restrictive pathway. Such a barn would likely be restricted discretionary activity under NLF-R5. NFL-MD1 includes consideration of a proposal's functional or operational need for its location. Given the SAL is a river margin, I consider it would be likely that landowners could avoid locating such a barn within this margin. The rules relate to activities that could threaten landscape values and require considerations via a resource consent pathway. There were no submissions regarding this matter.	
11. **Para 111**	**Your report states: "*At the time of writing this report, no evidence has been provided by other energy and infrastructure providers regarding their existing assets or plans for new major infrastructure within ONLF/ONF/SAL*". Please explain the context for this statement and how it relates to the relief sought by the submitters.**
The purpose of this statement was to add context about the known locations of infrastructure. These locations were the only ones where I knew exactly where their	

infrastructure is located. I did not have any such information from other providers, but I had not requested it. I included this purely to add context.	
12. **Para 111**	**In particular, you have focussed on the location of existing assets, but the submissions may be seeking to have appropriate provisions relating to potential new infrastructure. Please explain why it is necessary for these infrastructure providers to be required to provide evidence now on what their future plans might be?**
Infrastructure providers are not required to provide evidence about their future plans. My reference to this was simply to provide context in terms of the relatively isolated nature of infrastructure in relation to the much more extensive geographical extent of the ONL, ONFs, and SAL.	
13. **Para 112**	**Should there not be some policy guidance provided in the Plan on how to balance those competing objectives?**
I do not consider policy guidance on balancing competing objectives is necessary. In my opinion, the provisions give a steer and should be considered as a whole within the context of the activity, and consideration should be given to which provisions are more specific and directive. Policies NFL-P1, NFL-P3 and NFL-P4 apply to specific values or features of ONF, ONL, SAL. While EI-P5 (clauses 3 & 4 specifically) provides a pathway for considering energy and infrastructure activities to locate within ONF/ONF/SAL where there is functional need or operational need. I consider that all applicable objectives and policies would need to be considered and balanced when considering an activity. I consider that as EI-P5 is more directive it would hold more weight. However, consideration to all applicable objectives and policies should be in a manner than considers the context of the activity. I consider this follows a similar approach to that of the RPS where Chapter 5 promotes the integration of regionally significant infrastructure, while Chapter 12 focuses on protecting or maintaining landscape values. Chapter 5 does not specifically refer to ONL/ONF/SALs	

however does refer to sensitive environments with reference to s6 (RMA) matters[10]. Chapter 12 does not refer to enabling infrastructure, it just refers to protecting from inappropriate subdivision, use and development, so the link between the two chapters is whether an activity is inappropriate or not.	
14. **Para 113**	**Further to the questions above, please explain how you see the NFL-P1, NFL-P3, NFL-P4 and Ei-P5 being applied to an application relating to infrastructure, and if there is conflicting policy direction, how would it be reconciled?**
As outlined in my response to question 13 above, in my opinion where there are conflicting policies these should be reconciled by looking at the activity as a package in terms of its context, and considering which policy is more directive, along with balancing the direction of relevant objectives.	
15. **Para 120**	**Referring to an earlier question, please explain how NFL-S1 would apply to infrastructures rules contained in the EI chapter.**
The EI integration memo[11] outlines that this would functionally occur via the recommended amendments to the 'How to interpret and apply the rules' section of the EI chapter (on page 5 of the memo) and the recommended updated amendments to the NFL chapter as outlined on page 7 of the memo.	
16. **Paras 123 and 130**	**Please consider your recommendation in light of the approach taken in other chapters.**

[10] RPS Policy 5.3.9(3)(c) "*when determining any proposal within a sensitive environment (including any environment the subject of section 6 of the RMA), requiring that alternative sites, routes, methods and design of all components and associated structures are considered so that the proposal satisfies sections 5(2)(a) – (c) as fully as is practicable*."

[11] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

Page 7 of the EI integration memo[12] outlines recommended updated amendments to the NFL chapter 'How to interpret and apply the rules' section. Determination of whether rules or standards in a protective chapter applied related to whether that activity was already provided for within an EI rule (i.e., duplication) or not.

I note that paragraph 130 of my report does appear to have an error in that the recommended text does not note that the rule NFL-R8 and NFL-R9 still apply to EI activities.

17. **Para 147**	**Have you considered the option of using primary production, but specifically excluding quarrying activities when referring to it in a policy or rule, as an alternative to using a new definition?**

I had not considered this as an option; however, I agree it is an alternative approach and would improve transparency.

In addition to quarrying, the term 'primary production' (when compared to the 'rural production') also includes mining, aquaculture, and indoor and outdoor intensive primary production activities. However, I consider that this would not be an issue as there are rules limiting the size of buildings, and aquaculture is not an identified threat to these areas.

Therefore, NFL-P3(5) and NFL-P4(7) could be amended to "*providing for existing ~~rural production~~ primary production (excluding quarrying and mining) where this does not detract from the identified values"* (noting that I have recommended the 'existing' be removed from NFL-P4(7) in response to 41.26 as outline in question 10 above).

I consider this matter, in relation to the submission by Fulton Hogan (submission 41.25, 41.26, and 41.27) overall relates to how quarrying is managed in the NFL provisions. As notified, the PDP seeks to avoid quarrying in ONL, ONFs and SAL and is a non-complying activity. Fulton Hogan seeks this to be amended to a discretionary activity (submission

[12] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0023/136238/EI-MEMO-NFL-NATC-CE-ASW-PA-INTEGRATION-PRELIMINARY-HEARING-QUESTION-RESPONSE-11-JULY-2023-DPR.pdf

41.27), removing its reference to 'avoid' in the policies and instead including it within the clause that seeks to '*provide for where it does not detract from values*'. The landscape evaluation report[13] identified quarrying as a threat to landscape values for these areas. Page 29-30 of the report[14] states details how earthworks, which I consider includes quarrying for the context of this landscape report, can affect these values. In summary, it states that the scale, location, layout, and duration of earthworks typically determine the impact. I consider that non-complying activity status is appropriate for quarrying within an ONL/ONF/SAL given the potential for adverse effects. This shows that while it's not anticipated by the PDP, it could occur if effects were minor as per s104D of the RMA. It is not a prohibited activity.	
18. **Para 146 and 147**	**P3(5) and P4(7) refer to existing activities so the comments in relation to para 107 are also relevant to quarrying activities – (*The provisions use the phrase "where this does not detract from the identified values". Is there not a conflict here with s10?)***
NFL-P3(5) and NFL-P4(7) refer to 'rural production' which does not include quarrying.	
19. **Para 183**	**Your report states: "I therefore consider that the indigenous vegetation clearance rules in the NFL chapter in conjunction with rules ECO-R1…". Please set out what indigenous vegetation clearance rules in the NFL chapter you are referring to.**
This is an error. The word 'rules' should refer to 'provisions' and is in reference to NFL-P3(3) and NFL-MD1(9) which both refer to the loss of indigenous vegetation in relation to effects on landscape values. I apologise for this error.	
20.	**In addition, should the NFL chapter contain rules specific to indigenous vegetation clearance rather than relying on rules in the**

[13] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0037/98389/14.-WAIMAKARIRI-ONL-ONF-SAL-BOFFA-MISKELL-REPORT-FINAL.PDF

[14] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0037/98389/14.-WAIMAKARIRI-ONL-ONF-SAL-BOFFA-MISKELL-REPORT-FINAL.PDF

Para 183	**ECO Chapter - which are presumably there to protect indigenous biodiversity rather than outstanding landscape values?**
ONLF status is determined by three attributes – biophysical, associative, and sensory. The Biophysical attribute includes biotic attributes, which Policy 12.3.4 of the RPS defines as "*The presence of important native vegetation communities, wildlife or ecosystems".* I consider this aligns with the provisions of the Ecosystems and Indigenous Biodiversity chapter in terms of protecting significant indigenous biodiversity and maintaining other indigenous biodiversity.	
21. **Para 213**	**Please reconcile this position with cl 15(3) of the NESPF**
I consider that the NESPF does not appear to specifically control how the District Plan manages plantation forestry within SALs. Regulation 13 (NESPF) states that: *Afforestation must not occur within a visual amenity landscape if rules in the relevant plan restrict plantation forestry activities within that landscape.* Regulation 15 clause (3) (NESPF) states that afforestation is a controlled activity if regulation 13 is not complied with. Therefore, while there are regulations in the NESPF regarding afforestation within a SAL, there do not appear to be any relating to how plantation forestry is controlled within a SAL. Therefore, the District Plan rules for plantation forestry within a SAL are not affected by the NESPF regulations.	
22. **Para 215**	**Please set out your understanding of how the NESPF applies to existing plantation forestry.**
The NESPF definition of plantation forestry includes "*a forest…that has been planted and has or will be harvested or replanted".*	

Therefore, I consider it is a cycle that can repeat thus it does not cease once the forest has been harvested; it can be replanted. Afforestation is the establishment of a new plantation forest so this would apply to an area that does not currently have plantation forestry cycle underway. Existing use rights under s10 (RMA) apply to activities that were the same or similar in character, intensity, and scale to those that existed before a rule was notified, were lawfully established at the time, and have not been discontinued for more than 12 months. Therefore, I consider that NESPF would not apply to existing plantation forestry that has existing use rights under s10 of the RMA. Reference: *Ministry for Primary Industries - NESPF Guidance - Existing Consents and Existing Use Rights (V1_26.04.18)* *https://www.mpi.govt.nz/dmsdocument/28548-Existing-consents-and-existing-use-rights*	
23. **Para 238**	**Please check the ECan submission, which does not appear to distinguish between NFL-R11(1) and NFL-R11(2)**
The submission summary incorrectly specifies clause (2)(i) however the original submission just refers to clause (i) which applies to both clause (1) and (2). In light of this, I recommend clause (1)(i) be amended to align with the recommended amendment for clause (2)(i). I apologise for not picking up on this error in my report.	
24. **Para 261 and 262.**	**The current provision appears to focus on activities as opposed to the effects of them. Would the proposed amendment not resolve this?**
Upon further reflection I can see how this requested amendment would improve clarity by more clearly linking the adverse effects of the activities with the avoidance. I consider the	

notified wording still links the effects to the activities, but I agree the requested amendment does make this clearer.

I consider that the intention of this clause (both as notified and as requested to be amended by the submitter 41.26) is to indicate that quarrying should be avoided *if* it creates adverse effects, as opposed to being avoided outright *because* it creates adverse effects.

In hindsight the approach in my report of breaking down the various aspects of Fulton Hogan's submission (41.26) into three separate parts may have complicated the consideration of their submission as a package, which I consider is essentially to reduce the stringency of the approach for quarrying.

Notified version:

> *(5) avoiding activities such as plantation forestry, woodlots, shelterbelts, mining and quarrying activities and large buildings or groups of buildings or other structures* ***which create*** *adverse effects on the identified values;*

Specific amendment sought relating to paragraph 261 and 262:

> *(5) avoiding activities such as plantation forestry, woodlots, shelterbelts, mining and quarrying activities and large buildings or groups of buildings or other structures* ***where activities result*** *in adverse effects on the identified values;*