

**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**

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**Council Officer's Preliminary Response to written questions on Strategic  
Directions on behalf of Waimakariri District Council**

**Date: 15 May 2023**

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**INTRODUCTION:**

- 1 My full name is Mark Buckley. I am employed as a Principal 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.

**Date:** 15 May 2023

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Paragraph or Plan reference	Question
Para 56	<b>While you state there is no requirement to provide a hierarchy of strategic directions in the Plan, do you nevertheless consider any particular SD Objective deserves to be ranked higher than others?</b>
<p>Strategic Directions provide the overarching direction for the plan. Each Strategic Direction objective deals with a particular issue for the district. Where overlapping issues do occur, they should be complementary in their approach. No strategic direction objective should be perceived as having precedence over others. The District Plan as a whole should give effect to those documents listed in s75(3).</p>	
Paras 58 and 61	<p><b>You state that: “<i>Several submitters want the inclusion of wording from the NPSUD included into the objectives of Strategic Directions chapter.</i>” And then you subsequently say the wording is not required.</b></p> <p><b>However, then you recommend using the wording from the NPSUD, such as “planned urban form” and “mix of housing”.</b></p> <p><b>Can you please explain why you have used some terminology from the NPSUD, but not all.</b></p>
<p>Section 75(3) requires district plans to give effect any provision within a National Policy Statement. The NPSUD does not direct local authorities to include specific objectives and policies in accordance with S55(2)(a) RMA. I consider that the wording amendments recommended in the S42A are sufficient to provide a greater understanding of the intent of the provision and the linkage with the intent of the NPS-UD.</p> <p>Subject to further consideration of evidence presented to the hearing I will address this amendment in my written right of reply.</p>	
Para 61	<b>Does the inclusion of “<i>Well functioning urban environments</i>” need some cross reference to the NPS-UD so it is clear to Plan readers what the term means.</b>
<p>The inclusion of a definition for the term “<i>well functioning urban environment</i>” that links to Policy 1 of the NSPUD would provide guidance to plan readers who may not be familiar with the NPSUD. However, Council has not undertaken an assessment of what additional considerations are needed to determine what constitutes a well-functioning urban environment within the district.</p>	
Para 65	<b>We understand that the NFL and SUB chapters include reference to what is inappropriate and therefore addresses s6(b). However, is there potential that the wording of SD-O1(3) provide an argument for some that the protection of ONFs and ONLs is an absolute; and more restrictive than what s6(b) requires?</b>

Paragraph or Plan reference	Question
	<p>The notified SUB chapter provisions also do not specifically reference ‘inappropriate’ however SUB-R9 makes subdivision within an ONL/ONF a discretionary activity. Similarly, the notified Natural Features and Landscapes (NFL) chapter provisions do not specifically reference ‘inappropriate’, they detail the assessment used for protection of values from activities that would adversely affect values. I have spoken with the Reporting Officer for the NFL chapter (Hearing Stream 4) who noted there are submissions that seek the addition of ‘inappropriate’ to NFL-O1 and NFL-O2 to remove the absolute nature of these notified provisions and improve alignment with s6(b) of the RMA. The Officer noted her preliminary view is to accept these submissions.</p> <p>While I consider the purpose of the Strategic Objectives is to provide direction for the development of more detailed provisions relating to strategic issues, and that ‘parroting’ the RMA is sometimes not helpful, alignment with the RMA is imperative.</p> <p>I concur with the matter of the Hearing Panel raised in this question, that SD-O1(3) is requiring protection as an absolute, which is more restrictive than the s6(b) requirement to limit this protection to ‘inappropriate subdivision, use, and development’. I now consider the submission requesting SD-O1(3) be amended to reference the intent of s6(b) should now be accepted.</p> <p>Subject to further consideration of evidence presented to the hearing, I will address this amendment in my written right of reply.</p>
<p><b>Indigenous biodiversity</b></p>	<p><b>How much weight should the Panel be ascribing to the draft NPSIB and any guidance where it has yet to be gazetted? The Panel understands from the Minister for the Environment’s recent speech to the New Zealand Planning Institute that the NPS-IB will not be coming out anytime soon.</b></p>
	<p>As the NPSIB is not yet gazetted, it has no legal weight and is not in effect.</p> <p>The draft NSPIB was released in 2018, and public consultation was held in 2019 and 2020. Following analysis of feedback and recommend changes, the NPSIB exposure draft and guidance was released in June 2022 and had the purpose of testing its workability. My understanding from the MfE website is that submissions and feedback on this are being analysed for policy change recommendations, which will be provided to Minister Shaw for decisions before the finalised version goes to Cabinet to consider gazettal.</p>
<p><b>Para 89</b></p>	<p><b>You state:</b></p> <p><i>“Forest and Bird [submission 192.29] have implied that “overall net gain” has a greater degree of impact than “net gain”,...”.</i></p> <p><b>The recommendation to use “net gain” is understood, but, in practical terms, what is the difference in the application of these two terms?</b></p>
	<p>The implication of “overall net gain” is that a gain for part of an ecosystem or species that is not affected an activity would be acceptable and can be different to those ecological values that are lost. In contrast the definition for “net gain” states that it has to relate to those ecological values</p>

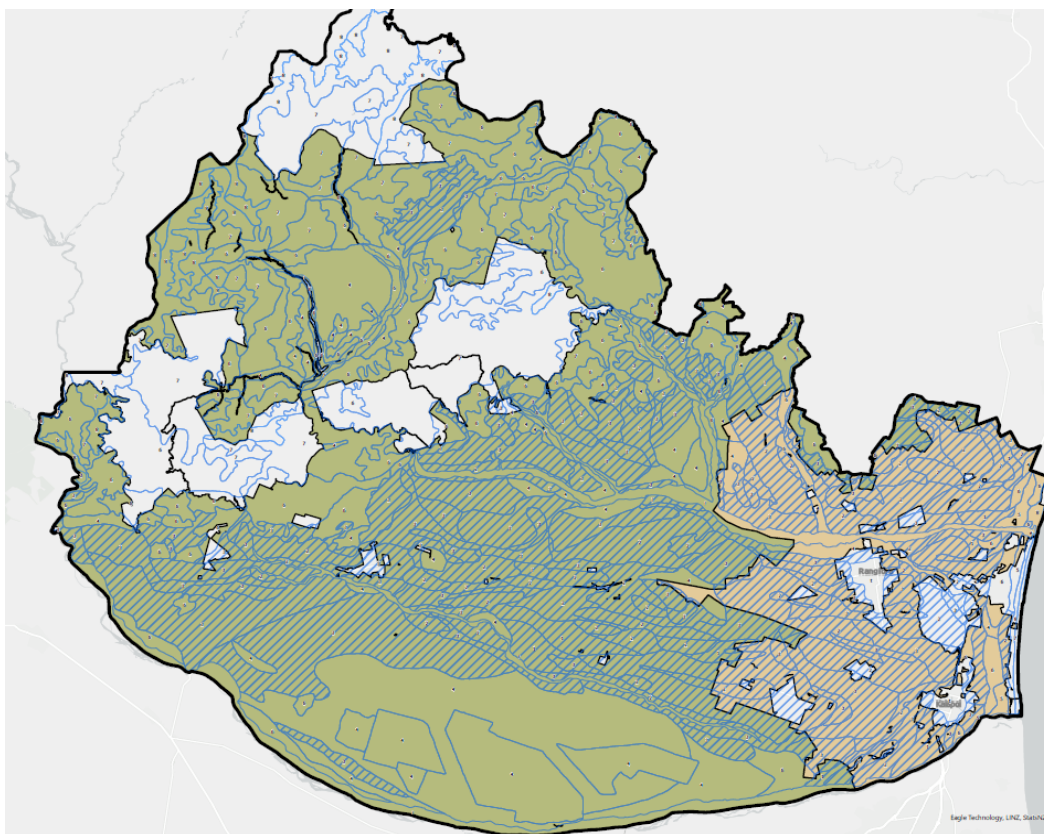
Paragraph or Plan reference	Question
	<p>that are lost. In other words, “overall net gain” when applied to a wider ecosystem may still result in specific components of that ecosystem being lost.</p>
<p><b>Para 100</b></p>	<p><b>You state:</b></p> <p><i>“DoC in submission 419.32 wants additional clauses in Objective SD-O3 to avoid loss of extent of natural inland wetlands and rivers. The suggested change is in line with the direction of the NSPFM. However, the suggested changes are a function of Regional Councils as per sections 3.23 and 3.24 of the NPSFM. Objective EI-O2, and Policies EI-P5, NATC-P5 and NATC-P6 address the issue of infrastructure impacts upon natural inland wetlands and rivers.”</i></p> <p><b>Could this be considered to be a district council matter where the Panel’s decisions on zoning requests may result in other potential land use impacts on natural inland wetlands and rivers, e.g. allowing/encouraging urban development right alongside those natural features.</b></p>
	<p>Yes. The proposed amendment related to SD-O3 deals with the management of adverse effects associated with the placement of strategic, critical and regionally significant infrastructure. Any change in zoning of land or development in and around inland wetlands and rivers would be addressed through those specific chapters of the PDP in which they occur.</p>
<p><b>Para 114</b></p>	<p><b>You state:</b></p> <p><i>“Fulton Hogan has submitted [41.14] to amend SD-O3 to acknowledge the need for a ready local supply of physical construction materials for infrastructure. The submission is inconsistent with Policy 8 of NPSHPL which in section 3.9(2)(j)(iv) details that aggregate extraction is only allowed on highly productive land where it “...provides a significant national or regional public benefit that could not be achieved using resources within New Zealand”.</i></p> <p><b>Can you please explain why you have referenced highly productive land as relevant here, as SD-O3 is not restricted to just consideration of highly productive land.</b></p>
	<p>My understanding is that the amendment proposed by Fulton Hogan was to provide for a ready supply of local construction material. The submission was not zone specific, despite the fact that most aggregate operations in the district are within the Rural Lifestyle Zone, the wording could potentially enable aggregate extraction on land within the General Rural Zone that is subject to the NPS-HPL.</p>
<p><b>Para 116</b></p>	<p><b>You state:</b></p>

Paragraph or Plan reference	Question
	<p><b><i>“The Proposed District Plan has not addressed the issue of the protection of highly productive land.”</i></b></p> <p><b>Is that correct?</b></p> <p><b>The NPS-HPL was notified after the PDP. Do you consider that this is now of sufficient importance that a SD objective for protection of HPL should be added to the Plan? Will SD-O4 be reconsidered as part of the s42A report for Rural Zones? You reference in para 118 in respect to the ECan submission that the strategic objectives can be considered in that report.</b></p>

Most development pressure within the district is located within the Rural Lifestyle Zone. This zone comprises third of all LUC Class 1 to 3 soils in the district (GIS analysis records this as 32%).

ECan are presently working with other regional councils to develop a consistent approach with mapping of HPL and scoping up what variables will apply. Their intent is that mapping will start within the next six months.

Given that a large proportion of the districts LUC Class 1 to 3 soils sit within the General Rural Zone, it would be advantageous to understand what variables ECan is going to use for mapping HPL and whether they would consider land within the RLZ. Once the mapping variables have been determined and the general direction that the Regional Council is going, it would be more appropriate to consider the NPSHPL during the Rural zones hearing and amend the Strategic Directions chapter subsequent to any decision.



Paragraph or Plan reference	Question
Para 140	<b>What would the consequence be of including “inappropriate” within SD-O6-1, given the RPS has the direction to avoid inappropriate development in high hazard areas?</b>
<p>My understanding is that the approach to the s32 hazard evaluation has taken within high hazard areas is to manage new subdivision, land use and development. This is reflected in the wording of Objective NH-O1 and Policy NH-P1. The wording within Objective SD-O6 relates to “unacceptable risk”, the addition of the word “inappropriate” implies that “appropriate” subdivision could occur where the risk was unacceptable. This approach is consistent with Objective 6.2.1(8) and the general risk management approach (section 11.3.5) of the RPS.</p>	
Para 141	<b>Is relying on a definition in another planning document where there is no cross-reference to that document or definition the most appropriate response to the submitter’s request for a definition?</b>
<p>While a definition within the Proposed District Plan would provide greater certainty to provisions within the plan, this particular submission relates to a risk management approach that is detailed within the RPS. The RPS approach is associated with Risk Management Standard (AS/NZS ISO31000:2009) framework. Including this in a definition would be outside the scope of the RMA and would not provide any more certainty for the submitter.</p>	
Para 150	<b>When was the Waimakariri District Development Strategy adopted and under what statutory process?</b>
<p>The District Development Strategy (DDS) was adopted in July 2018 and was developed under Local Government Act process using a special consultative procedure process. The DDS also responds to the National Policy Statement on Urban Development Capacity.</p>	
Para 164	<b>What would the consequence be of removing reference to the Port of Lyttleton in the definition of Strategic Infrastructure?</b>
<p>The district has a navigational marker located on Pegasus Bay Beach that is used by ships. Although not specifically part of the Port’s operations, it forms part of the wider maritime navigation network.</p>	
Page 31 – amendments to SD-O2	<b>What is the rationale for deleting “existing character” from clause 2?</b>
<p>Policy 6 of the NPSUD notes that planned urban built form in RMA planning documents may involve significant changes to an area, and then states that those changes may detract from amenity values. The submission by Kainga Ora noted “<i>that urban environment would change over time through planned urban growth and intensity</i>” implying that existing character is likely</p>	

<b>Paragraph or Plan reference</b>	<b>Question</b>
	to change also. I agree with this, and therefore consider that “existing character” should be deleted from the clause.