

3.1. RPS Notification

Prepared for:	Council
Report No.	SPS2135
LGOIMA:	Sec 48(i)(a); 7(2)(f)(ii); 7(2)(g)
Activity:	Governance Report
Author:	Anita Dawe, Manager Policy and Planning
Endorsed by:	Gwyneth Elsum, General Manager Strategy, Policy and Science
Date:	16 June 2021

PURPOSE

- [1] To adopt the Proposed Otago Regional Policy Statement 2021 for public notification, as a freshwater planning instrument.

EXECUTIVE SUMMARY

- [2] Notification of the Proposed Otago Regional Policy Statement 2021 (PORPS 2021) is a significant milestone in complying with first step in meeting the Minister for the Environment's recommendation to Council that it "takes all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to all the relevant national instruments".
- [3] The Proposed Otago Regional Policy Statement is consistent with the recommendation to Council that by 30 June 2021 (amended from November 2020) Council completes a review of the current Regional Policy Statement (RPS) and notifies a new RPS, with the intention that it be made operative before the new Land and Water Regional Plan (LWRP) is notified (2023).
- [4] If approved for notification on 16 June 2021, public notification of the PORPS 2021 will occur on Saturday 26 June 2021. The period for making submissions will expire on Friday 3 September 2021, being a period of 50 working days.
- [5] When the PORPS 2021 is publicly notified, the public notice must state whether Council is satisfied that the document is a freshwater planning instrument. This dictates the process or processes used for hearing and determining submissions on the document.
- [6] The PORPS 2021 builds on the work previously completed in respect of the partially operative RPS and moves this forward to achieve compliance with the National Planning Standards.
- [7] The PORPS 2021 has also been drafted to comply with all other relevant national direction, including the National Policy Statement for Freshwater Management 2020.
- [8] Clarity about the outcomes sought and responsibilities for implementing the PORPS is at the heart of the drafting style. This drafting style responds to feedback received on the

partially operative RPS and through the consultation that occurred during the preparation of the PORPS 2021.

- [9] To the extent practicable, while drafted to meet specified statutory functions and obligations, the PORPS 2021 assists Council with achieving its Strategic Directions, particularly Council's vision for Otago.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Affirms** that the Proposed Otago Regional Policy Statement 2021 is a freshwater planning instrument as defined in Section 80A (2) of the Resource Management Act 1991
- 3) **Adopts** the Proposed Otago Regional Policy Statement 2021 and the Evaluation Report prepared pursuant to Section 32 of the Resource Management Act 1991.
- 4) **Approves** the Proposed Otago Regional Policy Statement 2021 and the Evaluation Report prepared pursuant to Section 32 of the Resource Management Act 1991 for public notification on 26 June 2021, for a period of 50 working days.
- 5) **Notes** that the Manager Policy & Planning has delegated authority to amend the proposed Regional Policy Statement in accordance with Clauses 16(1) and 16(2) of the First Schedule to the Resource Management Act 1991, to make alterations of minor effect, or correct minor errors.

BACKGROUND

- [10] In 2019, a review of ORC's planning functions was initiated by the Minister for the Environment and undertaken by his appointee, Honorary Professor Peter Skelton. Professor Skelton's report noted, amongst other things, that the Otago Regional Council's planning framework was not fit for purpose¹.
- [11] After receiving Professor Skelton's report and recommendations, in November 2019 the Minister for the Environment made several recommendations to Council on the future of its freshwater planning framework. Relevantly, these recommendations specified the following, which were agreed by ORC:
- a. by November 2020, review the existing regional policy statement² (RPS) and notify a new RPS (intended to be operative before notification of the new LWRP); and
 - b. by December 2023, notify a new regional plan for land and water resources (LWRP) in accordance with the requirements of the NPSFM (intended to be operative by 31 December 2025).
- [12] On 3 May 2019 the National Planning Standards came into force. These standards establish a structure for policy statements and plans made under the provisions of the RMA, as well as require the use of specified definitions of commonly used words and phrases. Regional policy statements are required to be compliant with the planning standards by 2022.

¹ Summarised in the Recommendation Letter from the Minister for the Environment

² At the time of the review, ORC had its partially operative 2019 RPS, and the 1998 RPS. The 1998 RPS has now been revoked in its entirety.

- [13] In the case of the Otago RPS a full review was required because the content and format of the partially operative RPS was not conducive to a simple restructuring.
- [14] On 1 July 2020, the Resource Management Act 1991 (RMA) was amended to insert a new Subpart 4 – Freshwater planning process – to Part 5 and a new Part 4 – Freshwater planning process into Schedule 1 of the RMA. The purpose of these provisions is to require all planning instruments prepared by a regional council that relate to freshwater to go through a new freshwater planning process.
- [15] Section 80A (3) of the RMA requires Council to be satisfied that the relevant planning instrument, in this case the PORPS 2021, is a freshwater planning instrument. Staff consider it is in its entirety.
- [16] The freshwater planning process is designed to expedite plan making. It involves the normal notification and submissions periods but then requires a public hearing of those submissions to be conducted by a freshwater hearings panel. Following its deliberations, the hearings panel makes recommendations to Council. Council is required to consider those recommendations and may accept or reject any recommendation. Council then issues its decisions.
- [17] The decision of Council must be in a form that sets out the following information:
- a. Each recommendation of the freshwater hearings panel that it accepts.
 - b. Each recommendation of the freshwater hearings panel that it rejects and the reasons for doing so.
 - c. The alternative solution for each rejected recommendation.
- [18] Rights of appeal to the Environment Court are set out in Clause 55 of the First Schedule to the RMA, and are as follows:
- (1) A person who made a submission on a freshwater planning instrument may appeal to the Environment Court in respect of a provision or matter relating to the freshwater planning instrument—*
- (a) that the person addressed in the submission; and*
- (b) in relation to which the relevant regional council rejected a recommendation of the freshwater hearings panel and decided an alternative solution which resulted in—*
- (i) a provision or matter being included in the freshwater planning instrument; or*
- (ii) a provision or matter being excluded from the freshwater planning instrument.*
- (2) If a regional council decides to reject a recommendation of the freshwater hearings panel that is outside the scope of submissions, a person who made a submission may appeal to the Environment Court in respect of that decision or the alternative solution proposed by the council.*
- [19] On 7 September 2020, the National Policy Statement for Freshwater Management 2020 (NPSFM) came into force. Contained within the NPSFM is a requirement, at Clause

3.3³, for Council to develop long-term visions for freshwater by FMU or sub FMU and include those long-term visions as objectives in the regional policy statement.

- [20] In developing the PORPS 2021 Council had not anticipated this requirement. A request was made to the Minister for the Environment for an extension to the timeframe for notifying the new RPS to 30 June 2021. This was agreed to by the Minister. The extension has no effect on the timeframe for developing and notifying the new Land and Water Regional Plan by December 2023.

PART A DISCUSSION: FRESHWATER PLANNING INSTRUMENT

Freshwater planning instrument defined

- [21] Section 80A (2) of the RMA sets out the definition of a freshwater planning instrument:

A freshwater planning instrument means—

- (a) a proposed regional plan or regional policy statement for the purpose of giving effect to any national policy statement for freshwater management;*
- (b) a proposed regional plan or regional policy statement that relates to freshwater (other than for the purpose described in paragraph (a));*
- (c) a change or variation to a proposed regional plan or regional policy statement if the change or variation—*
 - (i) is for the purpose described in paragraph (a); or*
 - (ii) otherwise relates to freshwater.*

- [22] Of direct relevance to Council at this time are paragraphs (a) and (b) because they concern proposed regional policy statements.

Is the PORPS 2021 a freshwater planning instrument?

- [23] For Council to be satisfied as to whether the PORPS 2021 (as a whole or in part) can be a freshwater planning instrument, two issues arise. First, does the PORPS 2021 give effect to any national policy statement for freshwater management; and secondly, does the PORPS 2021 relate to freshwater.

- [24] Significant parts of the PORPS 2021 are clearly able to be classified as a freshwater planning instrument, either because they are designed to give effect to a national policy statement for freshwater, or because they are a matter that relates to freshwater. For other parts it is less straight forward.

- [25] Staff advice is that the PORPS 2021 as a whole should be considered a freshwater planning instrument for the following reasons:
- a. The underpinning philosophy of the RMA demands an integrated approach to the management of natural and physical resources.
 - b. Ki uta ki tai – from the mountains to the sea - is a progressive natural management planning approach which also reflects Te Ao Maori.
 - c. It is best planning practice to draft plans and policy statements in this way to properly recognise and plan for interdependencies, co-dependencies, and interconnectedness.

³ NPSFM 2020 Part 3: Implementation, Subpart 1, 3.3 Long-term visions for freshwater

- d. The integrated management chapter of PORPS 2021 has been drafted to ensure that conflicts between competing demands for resources can be resolved and has adopted an approach of interconnectedness.
- [26] The consequences of not recognising the PORPS 2021 in its entirety as a freshwater planning instrument can be summarised as:
- a. The overall integrity of the PORPS 2021 is likely to be undermined through the hearings process as a result of two parallel processes being run (see paragraph 45 below).
 - b. Achieving the Minister for the Environment's outcome of a 'fit for purpose' planning regime is likely to be undermined because two differently constituted hearings panels will make recommendations on submissions.
 - c. There would be a failure to fulfil Council's obligations under the RMA (Section 30) and as a consequence, to achieve the best environmental outcome for Otago.
 - d. The time taken to make the PORPS 2021 operative is likely to be lengthened with a subsequent consequence of it not being operative before the LWRP is notified.
 - e. There are risks associated with separating out some parts of the RPS to be heard by separate panels, especially those risks associated with the document being considered as one single document and related to the timing of decision making of each separate part.
- [27] Having developed the PORPS 2021 and its provisions as a package, staff consider that the PORPS 2021 should be managed post-notification as a single integrated planning instrument considered by one hearing panel. This also aligns with the Kai Tahu approach to resource management.
- [28] To perpetuate the disintegration of the management of natural and physical resources within the region fails to recognise that all water, in rivers, underground, in the air and in the ocean is connected, and what occurs in the headwaters and on land will have an impact in the ocean. This lack of holistic freshwater management, and consequently all natural and physical resources, also makes it difficult to understand and address the cumulative effects of different activities and decisions on cultural values.
- [29] Section 80A (3) leaves to Council the determination regarding whether the PORPS 2021 is a freshwater planning instrument. As earlier noted, staff believe the RPS does meet the requirements to be considered a freshwater planning instrument.

Integrated management

- [30] The integrated management of the natural and physical resources is at the heart of the planning approach to resource management in Otago as expressed in the PORPS 2021. Integrated, in this context, means that everything is connected to everything else and that resource management thus needs to be cognisant of those interconnections and interdependencies. The foundation for this approach is found in Part 2 of the RMA (and particularly section 5) and it is given impetus, in the context of regional planning, through s30 (functions of regional councils) and s59 (purpose of regional policy statements).
- [31] Council's functions under the RMA are set out at Section 30. Particularly pertinent to the PORPS 2021 is "the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the natural and physical resources

of the region” (Section 30 Clause 1(a)). The purpose of the PORPS 2021, as set out at Section 59 of the RMA, is to “achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region”.

- [32] In the context of the PORPS 2021, the integrated management objectives, along with the policies and methods that implement those objectives, and all the other objectives, policies, and methods within the PORPS 2021, form a suite of provisions whose focus is on defeating a ‘silo approach’ to resource management. This is achieved by requiring, when interpreting and applying the provisions of the PORPS 2021, the adoption of a broad and holistic perspective that is focussed on the protection and enhancement of the life supporting capacity of the environment.
- [33] The reason for this particular focus is that unless the life supporting capacity of the environment is protected and enhanced, providing for the health needs of people is increasingly problematic, and the ability in the long-term for people and communities to provide for their social, economic, and cultural wellbeing is compromised.
- [34] Understanding this underpinning philosophy to the drafting of the PORPS 2021 is critical in the context of Council’s determination that the PORPS 2021 either is, or is only partially, a freshwater planning instrument.

Linking freshwater to other chapters

- [35] In addition to the overarching reason given in paragraph 24, links can also be made between the freshwater chapter of the PORPS21 and other specific resource management chapters in PORPS 2021 namely management of air; the management of infrastructure and transport resources; and parts of the historical and cultural values, natural features and landscapes and urban form and development chapters.
- [36] The infrastructure and transport chapters and urban form and development chapters both have freshwater aspects. For urban form and development, the impact of growth on water quality and quantity is a significant issue, especially for Otago to manage. For infrastructure and transport, the activities they seek to undertake are often locationally constrained, and the impacts of those activities on wetlands and rivers and streams are significant issues that the PORPS 2021 is seeking to manage.
- [37] Connections between air and freshwater can also be made. Air is essential for most life; and excellent quality air sustains that life far more readily than inferior quality air. Polluted air, when it rains, adds contaminants to land and freshwater which in turn can affect their life supporting capacities, and, for example, the amenity of urban areas.
- [38] Much of Otago’s heritage and cultural values relate to the multiple uses of freshwater, and the life supporting benefits attributable to the availability of sources of freshwater. To disconnect these is to challenge the significant role freshwater has played in the settlement and development of Otago.
- [39] Many of the natural features and landscapes of Otago have been formed by or have water as an essential element of what it is that makes them outstanding and highly valued. Further, it is frequently the freshwater element – be it a lake, a river, or a

wetland – that gives rise to the visual and physical integrity of those natural features and landscapes.

- [40] Considering the chapters and domains as outlined above, and the nature of the RPS being prepared as a single, integrated document, staff are of the opinion that the PORPS 2021 can be considered a freshwater planning instrument in its entirety.

PART A OPTIONS

- [41] The first substantive question to be considered is whether the PORPS 2021 is a freshwater planning instrument. Considering the chapters and domains as outlined above, and the nature of the RPS being prepared as a single, integrated document, staff are of the opinion that the PORPS 2021 can be considered a freshwater planning instrument in its entirety.

- [42] Council staff are of the opinion that the PORPS 2021 is a freshwater planning instrument because it meets the requirements of paragraphs (a) and (b) of s80A (3) of the RMA. This opinion is founded on the drafting of the PORPS 2021 that has adopted a ki uta ki tai philosophy which emphasises integration, interdependencies, and interconnections. There are no aspects of the provisions within the PORPS 2021 that do not have some connection with freshwater.

- [43] The alternative to this position is that only parts of the PORPS 2021 are a freshwater planning instrument. If this is the decision, then the RPS will need to be split in two, and there is no national guidance available to assist with this differentiation, for example whether it occurs at Chapter, objective, or policy level.

PART A CONSIDERATIONS

Strategic Framework and Policy Considerations

- [44] An affirmation by Council that the PORPS is a freshwater planning instrument has no implications for Council's strategic framework or policy considerations. Rather, such an affirmation only has implications for the plan making pathway the PORPS 2021 will follow after the periods for making submissions and further submissions have expired.

Financial Considerations

- [45] The costs of the PORPS 2021 being heard by the Freshwater Hearings Panel have been budgeted in the proposed Long-Term Plan. If Council decides the PORPS 2021 is not a freshwater instrument in its entirety, staff have not budgeted for a second hearings panel and there will be additional unbudgeted expenditure, likely to be significant.

Significance and Engagement Considerations

- [46] The freshwater planning process satisfies the requirements of the Significance and Engagement Process, as would a combined process, should Council affirm that only parts of the PORPS are a freshwater planning instrument.

Legislative and Risk Considerations

- [47] The risks of affirming that only part of the PORPS is a freshwater planning instrument fall into two categories:

- a. The investment (elapsed time and costs) in two parallel processes where Council must participate in one (the freshwater hearings process) and both manage and participate in the other; and
- b. The difficulties of ensuring that the PORPS 2021 remains an integrated policy statement (because two different hearings panels will be making recommendations on different but integrated provisions) and therefore ensuring that it achieves the purpose of the Resource Management Act⁴ and fulfils Council's obligation to have a planning instrument that achieves integrated management of the natural and physical resources of the region⁵.

[48] Affirming that the entire PORPS 2021 is a freshwater planning instrument is a decision open to judicial review by one or more parties who disagree with that affirmation. Such action is entirely untested because as yet no other regional council has been through this process however that is also true of any alternative decision under the new sub part.

Climate Change Considerations

[49] Climate change considerations are not relevant to Council's affirmation that the PORPS 2021 is wholly or partially a freshwater planning instrument.

Communications Considerations

[50] There are no relevant communication considerations in respect of Council's affirmation that the PORPS 2021 is wholly or partially a freshwater planning instrument.

PART B DISCUSSION: NOTIFICATION OF PORPS

The PORPS 2021

[51] The PORPS 2021 has been developed in accordance with the requirements of the RMA, particularly its statutory purpose to promote the sustainable management of natural and physical resources, the functions of the regional council, and the pre-notification consultation requirements. It has also been developed in accordance with the underpinning philosophy of ki uta ki tai and the principles of Te Mana o Te Wai and gives effect to the New Zealand Coastal Policy Statement, four other national policy statements, seven national environmental standards (to the extent practicable in a regional policy statement), and a water conservation order.

[52] Details concerning the development of the PORPS 2021, and the consultation engaged in, are set out in Chapter 2 of the Section 32 Evaluation Report and associated appendices.

[53] In terms of the planning instrument itself it is worthy to note:

- a. In response to considerable feedback and input regarding the role of the RPS, the PORPS 2021 has been drafted using direct language to achieve clarity of the outcomes sought and of the responsibilities for implementation.
- b. The instrument is fully integrated in its approach to the attainment of environmental outcomes. This integration is reflected in the wording of the

⁴ Section 5 – promote the sustainable management of natural and physical resources

⁵ Section 30(1) RMA 1991

objectives, policies and methods and is in response to both the requirements of Section 59 of the RMA and the architectural requirements of the National Planning Standards.

Section 32 Evaluation Report

- [54] As required by section 32 of the RMA, an evaluation report on the PORPS 2021 has been prepared and is attached as Attachments 2 and 3 to this report.
- [55] The section 32 Report sets out the background and context for the PORPS 2021, the consultation undertaken (and Council's response to that consultation) and an evaluation of the effectiveness and efficiency of the proposal. The report concludes that the proposed PORPS 2021 is the most effective and efficient way of achieving the objective of the proposal and the purpose of the RMA.

PART B OPTIONS

- [56] The second substantive decision to be made today is whether the PORPS 2021 and associated section 32 report are adopted for notification.
- [57] A decision not to proceed with public notification of the PORPS 2021 may mean that the ORC (Otago Regional Council) must rely on the partially operative RPS which is not fit for purpose in relation to freshwater and does not comply with national direction instruments.
- [58] A decision not to adopt the PORPS 2021 for notification now will have significant flow-on implications for the development of the LWRP and Council will fail to comply with the Minister for the Environment's recommendation in respect of the timeline for the PORPS notification for preparing and making the RPS and consequently perhaps the LWRP operative.

PART B CONSIDERATIONS

Strategic Framework and Policy Considerations

- [59] The PORPS 2021 is part of a transition towards a new freshwater management framework to be set in the new LWRP and to a more integrated and holistic resource management framework in respect of all natural and physical resources that will drive decision making on applications for resource consent, regional and district plans and the regional coastal plan.
- [60] The purpose of this PORPS 2021 is to give effect to Minister Parker's recommendations, to achieve compliance with the National Planning Standards, and to give effect to all national policy direction.
- [61] Further, the PORPS 2021 fulfils Council's objectives of leading environmental management in Otago, in partnership with mana whenua; promoting collaboration with territorial authorities and others to achieve resilient and sustainable communities; and promoting a healthy and resilient environment whose capacity for sustaining life and ecosystem health is enhanced and sustained.

Financial Considerations

- [62] The PORPS 2021 will be funded from existing budgets and proposed annual plan budgets. The costs to-date have largely been staff and consultant time. Going forward, there will be costs associated with notification, hearing costs and costs of managing any appeals that may result.
- [63] The costs of the PORPS 2021 being heard by the Freshwater Hearings Panel have been budgeted in the proposed Long-Term Plan.
- [64] Should Council decide not to proceed with notification, and request further work on the instrument, that work is not budgeted. Any changes to the PORPS 2021 will require expenditure to make the changes, check for integration and consistency across the document and require amendments to or rewriting of the Evaluation Report.

Significance and Engagement Considerations

- [65] Notifying the PORPS 2021 will trigger ORC's Significance and Engagement Policy (SEP) as this document is likely to have potentially significant impacts on territorial authorities (in terms of their own district plans and resource consents they may hold), many resource consent holders, and operators of nationally and regionally significant infrastructure across the region because of the changes in approach to resource management signalled in the PORPS 2021.
- [66] The development of the PORPS 2021 in its pre-notification stage has been in accordance with, and notification of the PORPS 2021 will be undertaken in accordance with, the formal process prescribed by Schedule 1 to the Resource Management Act 1991 (RMA), through which our Iwi partners, other key stakeholders and affected or interested parties can participate. If Council is satisfied that the PORPS 2021 is a freshwater planning instrument, then participation beyond making submissions will be governed by the process outlined in Appendix A. If not, then the normal RMA First Schedule process will be followed.
- [67] Both the freshwater planning process and the First Schedule process satisfy the requirements of the Significance and Engagement Process.

Legislative and Risk Considerations

- [68] As a result of several national instruments coming into force recently, the partially operative RPS no longer gives effect to Central Government direction. In addition, the partially operative RPS does not comply with the National Planning Standards, a situation that is required to be remedied by May 2022 and which would require a substantial rewrite of the present document, followed by public notification.
- [69] The PORPS 2021 establishes the policy foundation for the forthcoming LWRP and for future air and coast plan reviews. In addition, it provides clear direction to district councils in respect of their obligations under the national policy statement on urban development. Each of these subsequent plans will require time to develop; the PORPS 2021 will allow a more efficient and effective transition towards the future regime.

- [70] The plan making process underpinning the development of the PORPS 2021 has several risks associated with it.
- a. The first risk is achieving an instrument that fulfils its' and Council's statutory obligations under the RMA. Staff advice is that the PORPS 2021 achieves this outcome, but there will always be a potential for others to take a contrary view.
 - b. The second, particularly given the newly introduced freshwater planning process, concerns the potential for the PORPS 2021 to become disintegrated and misaligned if submissions on it are not heard by a single hearing authority. The mitigation of this risk flows from an affirmation that the whole PORPS 2021 is a freshwater planning instrument.
 - c. Finally, and related to the second, there is a risk of legal challenge to Council promoting the PORPS 2021 as a freshwater planning instrument.
- [71] In reality, there are limited opportunities to mitigate any of these risks. Plan making is a public participatory process.
- [72] There is also a risk that, by not notifying, the Minister for the Environment exercises further powers and directs notification, or further Ministerial intervention.

Climate Change Considerations

- [72] Recognition of climate change and its effects on the health and wellbeing of the people and environment of Otago is one of the regionally significant issues to which the PORPS 2021 responds. It provides an overarching framework for consideration of single and multiple effects of climate change both in the immediate and longer-term futures and it establishes a multifaceted approach to the issue of climate change itself.
- [73] Because cause and effect, regarding climate change, are not necessarily linear, the PORPS 2021 takes a more holistic, integrated approach which is threaded throughout the domains and topics covered by the instrument.

Communications Considerations

- [74] Once the PORPS 2021 is notified and enters the formal statutory process there is no specific communication required aside from the public notices in newspapers circulating within the region and the adjoining regions, and making the document available for inspection on Council's website and at the offices and public libraries of the territorial authorities within the region.
- [75] Notification of the PORPS 2021 will be served on those listed in Attachment 1. In addition, the public notice will be placed in the Otago Daily Times, and supplementary public notices will be placed in local newspapers to refer people to the website. Additional communications activities, including promotion on social media, will also be undertaken to ensure people know that it has been notified.
- [76] In addition to what is required by the RMA, Communications staff will ensure that the community is aware of the process, timelines and how to submit, through the various media channels normally used by Council.

NEXT STEPS

- [77] If Council considers the PORPS 2021 to be a Freshwater Planning Instrument and adopts both the PORPS and the s32 Evaluation Report for notification, the PORPS 2021 will be publicly notified on Saturday 26 June 2021 and submissions on the proposal invited. The period for making submissions will expire on Friday 3 September 2021.
- [78] At the conclusion of the period for making submissions, Council is required to prepare a summary of the decisions requested, publicly notify the availability of that summary, and call for further submissions (in support of or opposition to those original submissions). It is anticipated that the period for making further submissions will occur during October 2021.
- [79] Annexure 1 provides further detail on the freshwater hearings process.

ATTACHMENTS

1. Persons & Organisations to be specifically advised of public notification of PORPS 2021
[3.1.1 - 5 pages]

Annexure 1 - Freshwater hearing process

- [1] If Council considers the PORPS 2021 is a freshwater planning instrument, then once notified, the procedural steps are as follows:
 - a. Period for making submissions (in this case 50 working days)
 - b. Summarising of decisions requested
 - c. Notification of the availability of a summary of decisions requested and a period for making further submissions (the statutory 10 working days)

- [2] If Council is satisfied that the PORPS 2021 is a freshwater planning instrument, not later than 6 months after public notification Council is required to submit the following documents to the Chief Freshwater Commissioner:
 - a. the PORPS 2021.
 - b. the Section 32 Evaluation Report.
 - c. the submissions on the freshwater planning instrument received by the closing date for submissions.
 - d. the regional council's summary of the decisions requested by submitters.
 - e. any further submissions on the freshwater planning instrument received by the closing date for further submissions.
 - f. any submissions received after the closing date for submissions or further submissions.
 - g. any information about when the submissions described in paragraph (g) were received.
 - h. the planning documents that are recognised by an iwi authority and lodged with the regional council.
 - i. any other relevant information.

- [3] At least 20 working days prior to submitting these documents Council must advise the Chief Freshwater Commissioner of its intention to submit them.

- [4] As soon as practicable after receiving the documents described above, the Chief Freshwater Commissioner must convene a freshwater hearings panel. The function of the hearings panel is to hear submissions on the PORPS 2021, and to make recommendations to Council following the conclusion of the hearing. In conducting the hearing, the hearings panel has the same duties and powers as Council.

- [5] Council attendance at the hearing is compulsory to assist the panel in one or more of the following ways:
 - a. to clarify or discuss matters in the PORPS.
 - b. to give evidence.
 - c. to speak to submissions or address issues raised by them.
 - d. to provide any other relevant information as requested by the panel.

- [6] The freshwater hearings panel must provide its recommendations to the Council in one or more written reports. Each report must include:
 - a. the panel's recommendations on the provisions of the freshwater planning instrument covered by the report and identify any recommendations that are out of scope of the submissions made in respect of those provisions.

- b. the panel's recommendations on the provisions and matters raised in submissions made in respect of the provisions covered by the report.
- c. the panel's reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to:
 - (i) the provisions of the freshwater planning instrument to which they relate; or
 - (ii) the matters to which they relate.

- [7] When it receives the recommendations of the freshwater hearings panel, Council must:
- a. decide whether to accept or reject each recommendation of the freshwater hearings panel.
 - b. for each rejected recommendation that is within the scope of submissions, decide an alternative solution, which:
 - (i) may or may not include elements of both the freshwater planning instrument as notified and the freshwater hearings panel's recommendation in respect of that part of the freshwater planning instrument.
 - (ii) must be within the scope of the submissions.
 - c. for each rejected recommendation that is outside the scope of submissions, decide an alternative solution, which may be within or outside the scope of submissions.
 - d. include an assessment of each alternative solution to a rejected recommendation in the further evaluation report required under section 32AA.

- [8] Appeals against Council's decisions on the recommendations is limited to those decisions that reject recommendations⁶.

- [9] The standard RMA First Schedule process has the following basic steps:
- a. Public notification, submissions, further submissions.
 - b. Hearings.
 - c. Decisions of Council – no later than 2 years after public notification.
 - d. Appeals to the Environment Court.

- [10] If Council does not consider the PORPS 2021 is a freshwater planning instrument in its entirety, then in addition to the process set out in paragraphs 37 to 42 above, a separate RMA First Schedule process for the balance will need to occur. By not determining that the PORPS 2021 is a freshwater planning instrument the PORPS 2021 will be broken into parts with some being heard by the Freshwater Hearings Panel and others being heard by a separate hearings panel.

⁶ Compared with the standard process where all decisions of Council are open to appeals to the Environment Court

Attachment 1

Persons & Organisations to be specifically advised of public notification of PORPS 2021

Government Ministries

Minister for Agriculture, Biosecurity, Food Safety and Rural Communities
Ministry for Primary Industries
Minister for Environment
Ministry for the Environment
Minister of Conservation
Department of Conservation

Iwi

Te Ao Mārama Incorporated
Te Runanga o Ngai Tahu
Aukaha

Local Authorities

Queenstown Lakes District Council
Central Otago District Council
Clutha District Council
Dunedin City Council
Waitaki District Council
Southland Regional Council
Canterbury Regional Council
Central Otago District Council
Clutha District Council
Dunedin City Council
West Coast Regional Council

Public Libraries

Owaka Public Library
Tapanui Public Library
Alexandra Public Library
Clyde Public Library
Cromwell Public Library
Maniototo Community Library
Roxburgh Public Library
Millers Flat School/Community Library
Omakau Community Library
Dunedin City Library
Mosgiel Library and Service Centre
Port Chalmers Library and Service Centre

Waikouaiti Library
Blueskin Bay Library
South Dunedin Community Pop-up
Arrowtown Library
Glenorchy Library
Hawea Library
Kingston Public Library
Queenstown Library
Wanaka Library
Frankton Library
Makarora School/Community Library
Hampden Library
Oamaru Public library
Palmerston Public Library

Other Stakeholders

Beef and Lamb New Zealand
Central Otago Environmental Society Inc
Dairy NZ
Deer Industry New Zealand
Environmental Defence Society
Federated Farmers of New Zealand
Federated Farmers Otago
Fish and Game Central South Island
Fish and Game Otago
Forest and Bird Protection Society
Heritage New Zealand
Horticulture NZ
Public Health South
The Southern District Health Board
Rural Women New Zealand
Guardians of Lake Wanaka
Guardians of Lake Hawea
Guardians of Lake Dunstan
Wise Response Inc.
Central Otago Environmental Society

Nationally & Regionally Significant Infrastructure

Pioneer Energy
Contact Energy
Meridian Energy
Trustpower Ltd
Aurora Energy
Genesis
Transpower
Port of Otago

Dunedin International Airport Limited
New Zealand Transport Agency
Kiwirail
Kiwirail Holdings Ltd
OtagoNet
The Power Company
The New Zealand Defence Force
Queenstown Airport Corporation Limited

RPS Reference Group Members

Note: Duplications have been removed

Air

Jeremy Baker, Cosy Homes Charitable Trust
Brigid Buckley, Fonterra Limited, Christchurch
Scott Mossman, Fulton Hogan, Dunedin
Ian Longley, NIWA, Auckland
Bernard Farrington, Oculus Architectural Engineering, Arrowtown
Dr Michael Butchard, Public Health South, Southern DHB, Dunedin
Danielle Smith, Public Health South, Southern DHB, Dunedin
Francisco Barraza, University of Otago, Dunedin

Natural Character and Natural Features and Landscape

Kim Reilly, Federated Farmers of New Zealand, Dunedin
Casey Cravens, Wild Angler Ltd; Otago Anglers' Association; NZ Southern Rivers, Dunedin
Fergus Sutherland, Otago
Grahame Sydney, Otago
Jillian Sullivan, Otago
Mary Sutherland, Otago
Neville Peat, Otago

Natural Hazards and Risks

Daniel Druce, Contact Energy Limited, Dunedin
Abha Sood, NIWA, Wellington
Tom Scott, Southern DHB, Dunedin
Jason Harvey-Wills, rda consulting, Dunedin
Gary Bennetts, Teviot Orchard Company Ltd, Roxburgh
Stephen Knight-Lenihan, University of Auckland, Auckland
Christina Riesselman, University of Otago, Depts. of Geology and Marine Science, Dunedin
Nima Taghipouran, WSP, Dunedin

Historical and Cultural Values

Sue Patterson, Arrowtown Promotion and Business Assn Inc, Arrowtown
Graye Shattky, Central Otago Heritage Trust, Alexandra
Ian Butcher, Ian Butcher Architect Ltd, Oamaru
Jackie St John, Oceana Gold (New Zealand) Limited, Dunedin
Robin Miller, Origin Consultants Ltd, Queenstown
David Pirie, Southern DHB, Dunedin

Karen Greig, University of Otago, Dunedin
Gerald Carter, Waitaki Whitestone Geo Park, Halswell

Urban Form and Development

Scott Willis, Blueskin Energy Ltd, Dunedin
Campbell McNeill, Everyday Studio Ltd, Dunedin
Claire Freeman, Geography Department University of Otago, Dunedin
Sheila Watson, Heritage New Zealand Pouhere Taonga, Christchurch
Andrew Shand, Southern DHB, Dunedin
Garth Falconer, Reset Urban Design, Wanaka
Anne Salmond, Salmond Architecture Ltd, Wanaka
Gordon Roy, University of Otago, Dunedin
James Berghan, University of Otago, Dunedin
Margaret Macleod, Queenstown
Charlotte Flaherty, Dunedin

Coastal Environment

Bronwyn Bain, Wanaka
Hendrik Schultz, Department of Conservation, Dunedin
Simon Davies, Federated Farmers of New Zealand, Milton
Chanel Skye Ngatokorua Gardner, Harbour Fish, Dunedin
Mike Beentjes, National Institute of Water and Atmospheric Research Ltd (NIWA), Dunedin
Elisabeth Slooten, Otago University, Dunedin
Rebecca McGrouther, Port Otago Limited, Dunedin
Carol Scott, Southern Inshore Fisheries Management Co Ltd, Nelson
Wayne Stephenson, University of Otago, Dunedin
Trudi Webster, Yellow-eyed Penguin Trust, Dunedin

Ecosystems and Indigenous Biodiversity

Matthew Sole, Alexandra
Neil Cullen, Waihola
Richard Bowman, Lake Hayes
Michael Thorsen, Ahika Consulting Ltd, Dunedin
Janice Lord, Botany Department, University of Otago, Dunedin
Bruce McKinlay, Department of Conservation, Dunedin
Sue Maturin, Dunedin
Don Robertson, Wanaka
Niall Watson, Otago Fish and Game Council, Dunedin
Nancy Latham, Wanaka

Energy, Infrastructure and Transport

Peter Dowden, Bus Users Support Group Ōtepoti-Dunedin
Alison Paul, Oceana Gold (New Zealand) Limited, Dunedin
Susan Krumdieck
University of Canterbury and Transition HQ, Christchurch

Integrated Management

Hilary Lennox, Ahika Consulting, Cromwell

Ken Gimblett, Boffa Miskell, Christchurch
Janet Stephenson, Centre for Sustainability, University of Otago, Dunedin
Murray Brass, Department of Conservation, Dunedin
Jenny Grimmett, Down to Earth Planning Ltd, Ida Valley
Kate Scott, Landpro Ltd, Central Otago
Nigel Paragreen, The Otago Fish and Game Council, Dunedin
Kevin Wood, University of Otago, Dunedin

Land and Freshwater

Ken Gillespie, Manuherekia
Hanna Stalker, Hampden
Roddy Henderson, NIWA, Christchurch
Helen Trotter, Otago Fish and Game Council, Dunedin
Lloyd McCall, Pomahaka Water care Group, Otago South River care, Queenstown
Rosemarie Nelson, Southern DHB, Dunedin
Gill Naylor, Rural Women New Zealand, Alexandra
Dr Marc Schallenberg, University of Otago, Dunedin
Geoff Crutchley, Upper Taieri Catchment Group, Puketoi
Dugald MacTavish, Wise Response Society Inc, Palmerston