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Sent: Wednesday, 1 September 2021 11:01 a.m.
To: RPS
Cc: Steve Tuck
Subject: Proposed Otago Regional Policy Statement 2021 - submission by Silver Fern Farms
Attachments: Silver Fern Farms - submission on Otago RPS 1 9 21.docx; Silver Fern Farms - submission on Otago RPS 1 9 21.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Submission - Sector stakeholder

Attention: ORC Policy Team

Please find attached (MS Word version and PDF version) a submission by **Silver Fern Farms** with respect to the Proposed Otago Regional Policy Statement 2021.

Please acknowledge receipt in due course.

Regards

Sharon (on behalf of Steve Tuck)

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FORM 5

**SUBMISSION ON NOTIFIED PROPOSAL FOR
POLICY STATEMENT OR PLAN, CHANGE OR VARIATION**

Clause 6 of Schedule 1, Resource Management Act 1991

To Otago Regional Council

Name Silver Fern Farms

1. **This is a submission on the Proposed Otago Regional Policy Statement June 2021 (“proposed RPS”).**

2. **Silver Fern Farms could not gain an advantage in trade competition through this submission.**

3. **The specific provisions of the proposal that this submission relates to are:**

Silver Fern Farms’ overall submission is summarised in paragraph 4 below. It’s submissions on various provisions of the proposed RPS, and the specific relief sought, is then set out in the table at **Appendix A**.

4. **Background and issues that inform Silver Fern Farms’ position on the proposed RPS**

Silver Fern Farms is a large meat processing and exporting company which operates 14 processing plants throughout New Zealand. On an annual basis, Silver Fern Farms processes 30% of New Zealand’s lamb, beef and venison, sourced from 16,000 sheep, beef and deer farms.

During the peak processing season, Silver Fern Farms employs over 7,000 people nationwide (permanent and seasonally). Silver Fern Farms’ annual turnover for the 2018/2019 season was \$2.4 billion, with an operating profit of \$70.7M after tax. As a partially owned co-operative company, profits are returned to the community through the farmer shareholders, with a portion retained for growth and capital upgrades, including environmental improvements.

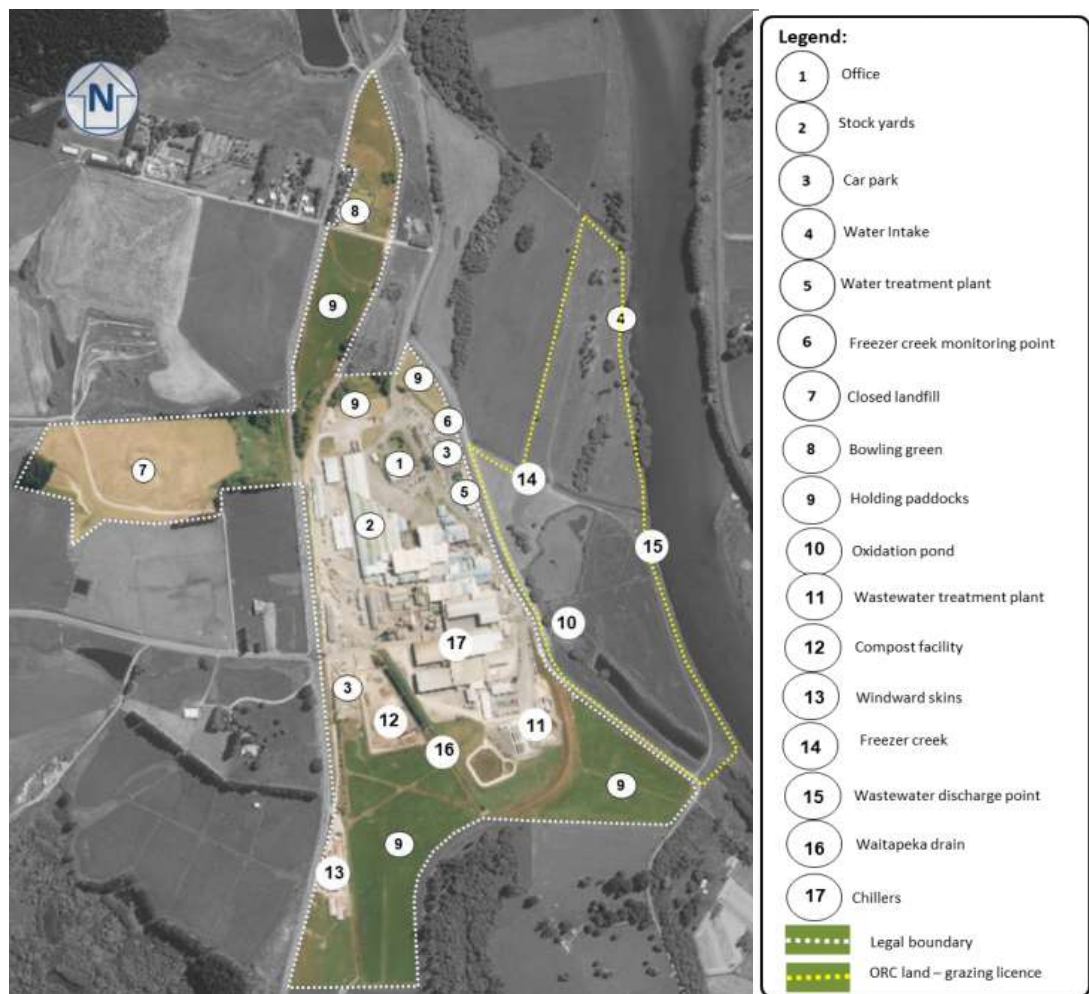
In Otago, Silver Fern Farms operate the Finegand Processing Plant (“**the Plant**”). The Plant is sited on a landholding of 48 hectares at 72 Yorston Road, approximately 3.5 kilometres south of Balclutha, in the Clutha District. Silver Fern Farms leases a further 21 hectares on the eastern side of the Plant from the Otago Regional Council (“**ORC**”) for grazing.

All processing of stock killed at the Plant is carried out on-site. Processed carcasses and meat cuts are refrigerated and stored in large on-site chillers and freezers. Stock is held in yards prior to slaughter. Stock yards are located at the north end of the site and are regularly cleaned. The key operational features of the Plant include:

- Stockyards;
- Meat processing (slaughtering) facilities;
- A wastewater treatment plant;
- A composting plant;
- A closed landfill site; and
- Boiler operations.

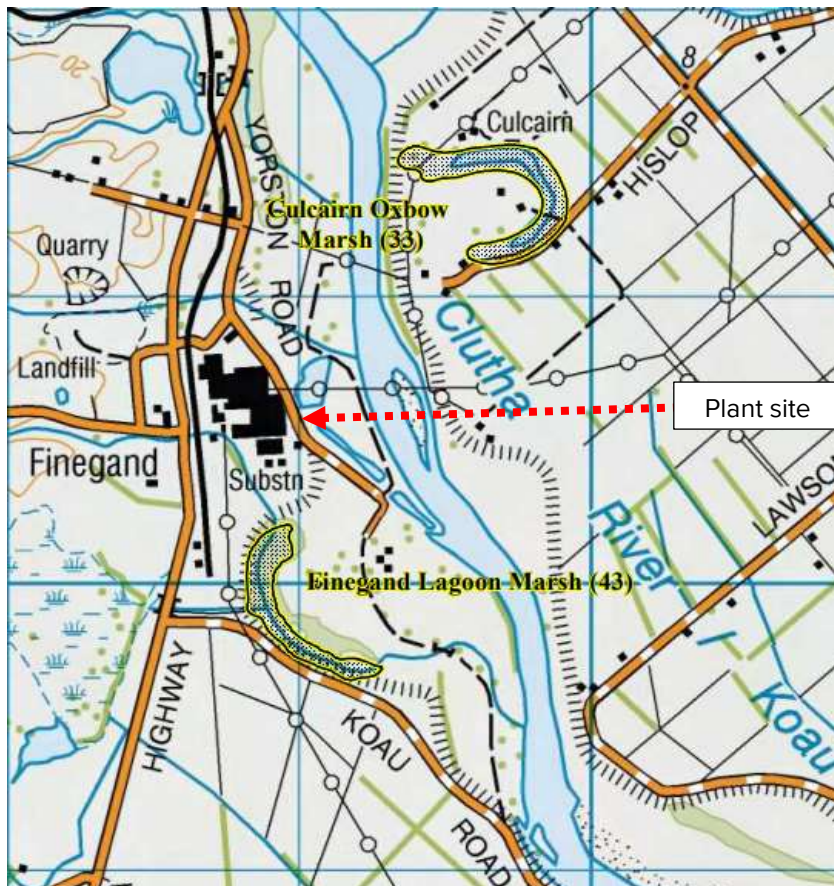
The configuration of the Plant and site is shown in Figure 1.

Figure 1: Silver Fern Farms Finegand Plant



The Plant is on the western (true right) bank of the Koau branch of the Clutha River (“**Clutha River**”). Immediately north of the Plant is a small, unnamed tributary of the Clutha River, informally known as Freezer Creek. South of the Plant is the Finegand Lagoon Marsh (“**Finegand Marsh**”) which has recognised and scheduled regional significance. The Waitepeka River flows into the western side of the Finegand Marsh and out of the south-eastern end, where it joins the Clutha River (Koau branch). The Waitepeka drain flows into the northern end of the Finegand Marsh. These features are shown in Figure 2.¹

Figure 2: Adjacent waterways and waterbodies



The Plant is Silver Fern Farms’ largest integrated meat processing site, and one of the largest such sites in New Zealand. It has been operating at its current location for over 100 years and is a key component of the agriculture sector in Balclutha and the Otago region. The Plant operates six days per week, for over 16 hours per day during the peak of the processing season, and for ten months of the year (with July and August being the off-season). On an annual basis, the Plant processes approximately 1.5 million sheep and lambs, and 100,000 cattle, producing 3,233 containers of products for export in 2019.

¹ Regional Plan: Water for Otago. Schedule 9 Regionally Significant Wetland, no.43, Map F38.

The Plant's workforce during the peak of the processing season is approximately 1,200 – 1,300 people, including approximately 10% of the population of Balclutha (4,170 people). As such, the Plant is a key economic asset to the Clutha District and Otago region.

Noting reference above to Silver Fern Farms' investment in environmental improvements, approximately \$12 million was invested into comprehensively upgrading the wastewater system at the Plant between 2006 and 2009. This upgrade was to ensure that the quality of the Plant's wastewater discharges could meet the tightening environmental limits imposed by ORC's *Regional Plan: Water for Otago* ("**Water Plan**"). The upgrades were successful in treating key contaminants and improving the quality of wastewater discharges from the Plant. The composting system at the Plant was also relocated and upgraded to improve the way odours are managed in the vicinity of the Plant.

The Plant operates under 15 resource consents issued by ORC. These authorise:

- Wastewater discharges to the Clutha River and Finegand Marsh;
- Discharges of contaminants to air;
- Discharges of leachate to land;
- Discharges of organic matter to land; and
- The taking of water from the Clutha River.

In 2020, Silver Fern Farms applied to replace existing consents expiring in May 2021. At the time of this submission, those consent applications remain under assessment by ORC.

Given the above background, Silver Fern Farms is a significant business at regional and national levels. It employs large workforces at sites throughout New Zealand and generates substantial employment and economic activity. In this context, Silver Fern Farms has an interest in any proposed RPS provisions that might influence or affect its ability to continue operating its flagship Plant or constrain future opportunities to expand or upgrade the Plant.

Since 2019, the resource management system has been expanded by the:

- Introduction of the National Planning Standards 2019;
- Introduction of the National Policy Statement for Freshwater Management 2020 and National Environmental Standards for Freshwater Management 2020;
- Introduction of the National Policy Statement for Urban Development 2020; and
- Circulation of draft National Policy Statements for Indigenous Biodiversity and for Highly Productive Land, both of which are scheduled for gazettal in late 2021.

These national planning instruments set out numerous standardised provisions and procedures, including the range and purposes of planning controls able to be applied by territorial authorities, the management of land with significant ecological values, freshwater management, land supply for residential and business growth, the protection of valuable rural land for production purposes, and procedures to offset or compensate for adverse ecological effects.

Silver Fern Farms has concerns about, and opposes, some provisions of the proposed RPS which, in Silver Fern Farms' view:

- Are misaligned with (including by inappropriately applying more onerous requirements than) applicable national planning instruments.
- Inappropriately require the unqualified avoidance of all adverse effects.
- Are insufficient to manage potential adverse effects and/or achieve relevant higher-order objectives of the proposed RPS.
- Are uncertain as to interpretation and / or implementation.
- May implement unduly onerous, and potentially unworkable, constraints on the ability to use and develop land except for a select range of purposes.

Silver Fern Farms is particularly concerned that the ecological significance criteria in Appendix 2 to the proposed RPS set a low test for land to qualify as a Significant Natural Area (“**SNA**”) under Policy ECO-P2. Consequently, Policies ECO-P3 – ECO-P6 largely prohibit the development of SNAs (excepting a small number of activities) regardless of any resource management merits or environmental gains associated with the proposal.

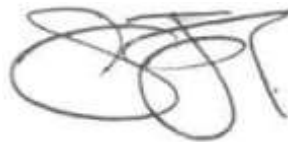
The upshot is that widespread areas of land may be inadvertently and inappropriately classified as SNAs and made subject to significant constraints on use and development. The broad formulation of the above-mentioned provisions may require areas that are otherwise ecologically unremarkable to be classified as SNAs on the basis of a temporary or ad hoc presence of an indigenous species – such as the use of land or structures within a highly modified environment as a temporary resting or hiding place.

In Silver Fern Farms' view, the proposed RPS provisions relating to SNAs need to be reconsidered to ensure that any provisions that are confirmed do not result in unworkable outcomes for the community and businesses, such as the Plant.

5. Various other amendments, set out in **Appendix A**, are necessary to ensure that the ongoing operation of the Plant is appropriately recognised and provided for in the proposed RPS.
6. Silver Fern Farms considers that without amendments to address and give effect to the above issues and the matters set out in **Appendix A**, the proposed RPS:

- Will not promote the sustainable management or efficient use and development of natural and physical resources.
- Is not the most appropriate way to achieve the purpose of the Resource Management Act 1991 (“**RMA**”), particularly when having regard to the efficiency and effectiveness of the provisions relative to other means.
- The proposed RPS does not represent sound resource management practice, particularly with respect to planning for significant business activities in Otago.

7. Silver Fern Farms does wish to be heard in support of its submission. If others make a similar submission, Silver Fern Farms will consider presenting a joint case with them at any hearing.



Signature

By its authorised agents, Mitchell Daysh Limited

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1 September 2021

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Note to person making submission

If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

APPENDIX A

Provision	Position	Reasons	Relief sought
Interpretation - Definitions			
<p>“rural industry”</p>	<p>Define “rural industry” in accordance with the definition given in the National Planning Standards 2019.</p>	<p>The use of land for the Finegand Plant is consistent with the definition of “rural industry” in the National Planning Standards 2019.</p> <p>The term “rural industry” is not defined in the proposed RPS. However, the term appears at SRMR–I8, CE–PR1, and sub-clauses (4) and (6) of UFD–P7 – Rural Areas.</p> <p>The two latter instances form parts of purposive policy directives to “facilitate” rural industry in rural areas and “restrict the establishment of” activities that may adversely affect rural industry in rural areas.</p> <p>The relief sought by Silver Fern Farms in relation to policy UFD–P7 – Rural Areas is set out later in this table. Whether or not that relief is granted, Silver Fern Farms considers it necessary to define “rural industry” in the proposed RPS to enable the implementation of UFD–P7 – Rural Areas.</p>	<p>Define “rural industry” in the proposed RPS in accordance with the definition given in Standard 14 of the National Planning Standards 2019 (below):</p> <p>rural industry means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.</p>
IM – Integrated Management			
<p>IM–P14 – Human impact</p> <p>Preserve opportunities for future generations by:</p> <p>(1) identifying limits to both growth and adverse effects of human activities beyond which the environment will be degraded,</p> <p>(2) requiring that activities are established in places, and carried out in ways, that are within those limits and are compatible with the natural capabilities and capacities of the resources they rely on, and</p> <p>(3) regularly assessing and adjusting limits and thresholds for activities over time in light of the actual and potential environmental impacts.</p>	<p>Oppose.</p>	<p>The term “growth” has several possible interpretations and as such, this Policy is unclear. Based on Section 32 report paragraph 225, it is inferred that the term may relate to “urban” growth rather than (for example) “economic” growth.</p> <p>Furthermore, the RPS provides no substantive direction about the interpretation and application of the term “limits” to land uses.</p> <p>Silver Fern Farms considers the proposed drafting of this policy to be uncertain and therefore opposes its inclusion in the RPS.</p>	<p>Delete this policy.</p>
AIR – Air			
<p>AIR–P3 – Providing for discharges to air</p> <p>Allow discharges to air provided they do not adversely affect human health, amenity and mana whenua values and the life supporting capacity of ecosystems.</p>	<p>Support.</p>	<p>Silver Fern Farms agrees that it is appropriate for the proposed RPS to explicitly provide for discharges to air where the effects of such discharges can be managed.</p>	<p>Retain this policy.</p>
<p>AIR–P5 – Managing certain discharges</p> <p>Manage the effects of discharges to air beyond the boundary of the property of origin from activities that include but are not limited to:</p> <p>(1) outdoor burning of organic material,</p>	<p>Support.</p>	<p>As set out in relation to AIR-P4, Silver Fern Farms considers that a strict avoidance requirement is inappropriate. Silver Fern Farms supports Policy AIR-P5 because it is appropriate to “manage the effects” of air discharges that encroach beyond source site boundaries.</p>	<p>Retain this policy as proposed.</p>

Provision	Position	Reasons	Relief sought
<p>(2) agrichemical and fertiliser spraying,</p> <p>(3) farming activities,</p> <p>(4) activities that produce dust, and</p> <p>(5) industrial and trade activities.</p>			
LF – Land and Freshwater			
<p>LF-WAI-P1 – Prioritisation</p> <p>In all management of fresh water in Otago, prioritise:</p> <p>(1) first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these,</p> <p>(2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and</p> <p>(3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p>	Oppose in part.	<p>LF-WAI-P1(2) conflates recreational and economic uses of water (“<i>harvesting resources and bathing</i>”) with the health needs of people. This departs from the hierarchy of obligations stated for Te Mana o te Wai at NPSFM clauses 2.1 and 1.3(5), and issue SRMR-15 (Context)) of the proposed RPS.</p> <p>The hierarchy for Te Mana o te Wai stated in the NPSFM provides for economic and recreational uses of water as third tier matters.</p> <p>As such, Silver Fern Farms considers that this policy should be amended to place references to recreational and economic uses of water in sub-clause (3), consistent with the NPSFM use hierarchy.</p>	<p>Amend sub-clauses (2) and (3) of this policy as follows [<i>entire provision not shown here</i>]:</p> <p>(2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and</p> <p>(3) third, the ability of people and communities to provide for their social, economic, and cultural well-being (<u>through immersive activities such as harvesting resources and bathswimming</u>), now and in the future.</p>
<p>LF-WAI-P4 – Giving effect to Te Mana o te Wai</p> <p>All persons exercising functions and powers under this RPS and all persons who use, develop or protect resources to which this RPS applies must recognise that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding Te Mana o te Wai, and must be given effect to when making decisions affecting fresh water, including when interpreting and applying the provisions of the LF chapter.</p>	Oppose in part.	Silver Fern Farms opposes this policy to the extent that it opposes components of LF-WAI-P1, as cross-referenced in this policy.	Amend policies LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 as described in the preceding rows of this table.
LF-VM – Visions and Management			
<p>LF-VM-O2 – Clutha Mata-au FMU vision</p> <p>In the Clutha Mata-au FMU:</p> <p>(1) management of the FMU recognises that:</p> <p>(a) the Clutha Mata-au is a single connected system ki uta ki tai, and</p> <p>(b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,</p> <p>(2) fresh water is managed in accordance with the LF-WAI objectives and policies,</p> <p>(3) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</p> <p>(4) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,</p> <p>(5) indigenous species migrate easily and as naturally as possible along and within the river system,</p>	Oppose in part.	<p>NPSFM Clause 3.8(3)(b) (Identifying FMUs and special sites and features) requires regional councils to identify primary contact sites (if present) in each FMU. NPSFM Clause 3.27 (Primary contact sites) subsequently requires primary contact sites to be monitored for risk to human health and suitability for the activities that occur in them.</p> <p>Appendix 3 (National target for primary contact) to the NPSFM seeks:</p> <p><i>... to increase proportions of specified rivers and lakes that are suitable for primary contact (that is, that are in the blue, green and yellow categories) to at least 80% by 2030, and 90% no later than 2040, but also to improve water quality across all categories.</i></p> <p>The nuances of these NPSFM provisions are not reflected in LF-VM-O2(7)(c)(iii) which appears to require the</p>	<p>Amend LF-VM-O2(7)(c)(iii) as follows:</p> <p>(iii) <i>land management practices reduce discharges of nutrients and other contaminants to water bodies <u>are managed to ensure downstream primary contact sites so that they are safe for human contact,</u></i></p>

Provision	Position	Reasons	Relief sought
<p>(6) the national significance of the Clutha hydro-electricity generation scheme is recognised,</p> <p>(7) in addition to (1) to (6) above: <i>[Clauses (a) and (b) not shown].</i></p> <p>(c) in the Lower Clutha rohe:</p> <p>(i) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible,</p> <p>(ii) the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,</p> <p>(iii) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(iv) there are no direct discharges of wastewater to water bodies, and</p> <p>(8) the outcomes sought in (7) are to be achieved within the following timeframes:</p> <p>(a) by 2030 in the Upper Lakes rohe,</p> <p>(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and</p> <p>(c) by 2050 in the Manuhereki rohe.</p>		<p><u>entirety</u> of <u>all</u> water bodies to be managed to a level that is safe for primary contact.</p> <p>Silver Fern Farms does not consider that this proposed provision is:</p> <ul style="list-style-type: none"> Aligned with the NPSFM “National target for primary contact”. Aligned with Policy LF–FW–P7(3) (Fresh water) of the proposed RPS, which accurately reflects the “National target for primary contact”. Practicable, given the spatial extent of all water bodies and range of human and non-human influences on water quality. 	
LF–FW – Fresh Water			
<p>LF–FW–P15 – Stormwater and wastewater discharges</p> <p>Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:</p> <p>(1) except as required by LF–VM–O2 and LF–VM–O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and</p> <p>(2) requiring:</p> <p>(a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,</p> <p>(b) all stormwater to be discharged into a reticulated system, where one is available,</p> <p>(c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,</p> <p>(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,</p>	Oppose in part.	<p>Paragraph 393 of the Section 32 report indicates that LF–FW–P15 will underpin the development of future Land and Water Regional Plan provisions.</p> <p>Silver Fern Farms considers that LF–FW–P15(2)(b) may preclude the realisation of environmental improvements available through the onsite capture and re-use of stormwater. The policy would also preclude “direct and indirect” discharges of <u>treated</u> stormwater to the environment when a reticulated system is available.</p> <p>Silver Fern Farms considers that the policy requires amendment to provide more flexibility for stormwater management system designs to enable reuse and discharges of stormwater where adverse effects can be managed, and positive effects can be realised.</p>	Amend LF–FW–P15(2) to enable consideration for the positive effects of stormwater management including on-site attenuation and treatment of stormwater flows.

Provision	Position	Reasons	Relief sought
<p>(e) stormwater and wastewater discharges to meet any applicable water quality standards set for FMUs and/or rohe, and</p> <p>(f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and</p> <p>(3) promoting the reticulation of stormwater and wastewater in urban areas.</p>			
LF-LS – Land and Soil			
<p>LF-LS-P19 – Highly productive land</p> <p>Maintain the availability and productive capacity of highly productive land by:</p> <p>(1) Identifying highly productive land based on the following criteria:</p> <p>(a) the capability and versatility of the land to support primary production based on the Land Use Capability classification system,</p> <p>(b) the suitability of the climate for primary production, particularly crop production, and</p> <p>(c) the size and cohesiveness of the area of land for use of primary production, and</p> <p>(2) prioritising the use of highly productive land for primary production ahead of other land uses, and</p> <p>(3) managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD-P4, UFD-P7 and UFD-P8.</p>	Support in part.	<p>Silver Fern Farms supports the inclusion of LF-LS-P19, particularly sub-clause (3).</p> <p>However, Silver Fern Farms seeks minor amendments to this policy in alignment with its submissions on policies UFD-P4, UFD-P7 and UFD-P8 of the proposed RPS.</p>	<p>Amend sub-clause (3) of this policy as follows:</p> <p>(3) manag-restricting urban development in rural areas, <u>particularly areas of highly productive land including rural lifestyle and rural residential areas</u>; in accordance with UFD-P4, UFD-P7 and UFD-P8.</p>
<p>LF-LS-P21 – Land use and fresh water</p> <p>Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</p> <p>(1) reducing direct and indirect discharges of contaminants to water from the use and development of land, and</p> <p>(2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater.</p>	Oppose in part.	<p>The term “reducing” in LF-LS-P21(1) is an uncertain and all-inclusive requirement.</p> <p>Silver Fern Farms considers that the policy should be amended to provide flexibility in cases where a discharge cannot practicably be reduced, but adverse effects on the receiving environment of the contaminants entrained in discharge are avoided or appropriately mitigated (e.g., through treatment).</p>	<p>Amend as follows:</p> <p>LF-LS-P21 – Land use and fresh water</p> <p>Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</p> <p>(1) <u>managing the adverse effects of reducing</u> direct and indirect discharges of contaminants to water from the use and development of land, and</p> <p>(2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater.</p>
ECO – Ecosystems and Indigenous Biodiversity			
<p>ECO-P2 – Identifying significant natural areas and taoka</p> <p>Identify:</p>	Oppose in part.	<p>Silver Fern Farms understands the intent of the proposed policy framework for SNAs and supports (and undertakes) actions to support thriving biodiversity.</p>	<p>Delete ECO-P2 or, amend the policy to ensure that:</p>

Provision	Position	Reasons	Relief sought
<p>(1) the areas and values of significant natural areas in accordance with APP2, and</p> <p>(2) indigenous species and ecosystems that are taoka in accordance with ECO-M3.</p>		<p>However, it is concerned that the broad scope of proposed RPS Appendix 2 (Significance criteria for indigenous biodiversity) (“APP2”) in combination with policies ECO-P2 and ECO-P3 will produce inadvertent and irrational planning outcomes.</p> <p>If the broad framing of ecological significance criteria in APP2 (discussed later in this table) are applied in accordance with ECO-P2(1), much of Otago may be subject to SNA classification.</p> <p>Furthermore, ECO-P2 is non-specific about the manner in which SNAs are to be identified.</p>	<p>1. Land identified in accordance with Appendix 2 is appropriate for management as a Significant Natural Area; and,</p> <p>2. The identification of Significant Natural Areas is implemented through detailed mapping included in district and regional plans.</p>
<p>ECO-P3 – Protecting significant natural areas and taoka</p> <p>Except as provided for by ECO-P4 and ECO-P5, protect significant natural areas and indigenous species and ecosystems that are taoka by:</p> <p>(1) avoiding adverse effects that result in:</p> <p>(a) any reduction of the area or values (even if those values are not themselves significant) identified under ECO-P2(1), or</p> <p>(b) any loss of Kāi Tahu values, and</p> <p>(2) after (1), applying the biodiversity effects management hierarchy in ECO-P6, and</p> <p>(3) prior to significant natural areas and indigenous species and ecosystems that are taoka being identified in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with IM-P15.</p>	Oppose.	<p>Pursuant to ECO-P3 (and particularly given the ECO-P3(3) emphasis on a precautionary approach), land within SNAs will be precluded from <u>all</u> use and development that does not satisfy policies ECO-P4 and ECO-P5. Those policies are highly restrictive.</p> <p>The formulation of ECO-P3(1)(a) to require the avoidance of “...any reduction of the area or values (even if those values are not themselves significant)” will likely prevent many opportunities for the use and (re)development of land in an SNA regardless of the context such as:</p> <ul style="list-style-type: none"> ▪ Whether the area or value (e.g., structure) in question is in a highly modified environment. ▪ Whether positive environmental effects could be realised by modifying the area or values – for example land remediation or demolition/alteration of buildings to facilitate an otherwise appropriate resource management outcome. 	Delete ECO-P3.
UFD – Urban Form and Development			
<p>UFD-O4 – Development in rural areas</p> <p>Development in Otago’s rural areas occurs in a way that:</p> <p>(1) avoids impacts on significant values and features identified in this RPS,</p> <p>(2) avoids as the first priority, land and soils identified as highly productive by LF-LS-P19 unless there is an operational need for the development to be located in rural areas,</p> <p>(3) only provides for urban expansion, rural lifestyle and rural residential development and the establishment of sensitive activities, in locations identified through strategic planning or zoned within district plans as suitable for such development; and</p> <p>(4) outside of areas identified in (3), maintains and enhances the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector and rural communities.</p>	Oppose	<p>While it supports a strategic approach to the development of rural areas, Silver Fern Farms opposes the unqualified requirement to avoid “impacts” on significant values and features under UFD-O4(1).</p> <p>It notes that UFD-O4(2) does not recognise the distinction between “highly productive land” (discrete areas) and land in a “rural area” (the wider rural environment).</p> <p>The proposed amendment to sub-clause (3) aligns with the National Planning Standards terminology which applies standard naming and descriptions for rural zones. This terminology enables the term “rural residential” to be deleted, in reliance on the term “rural lifestyle”.</p>	Amend UFD-O4 – Development in rural areas to remove the requirement to avoid any “impacts” under sub-clause (1) and to clarify the spatial application of sub-clause (2).

Provision	Position	Reasons	Relief sought
<p>UFD-P4 – Urban expansion</p> <p>Expansion of existing urban areas is facilitated where the expansion:</p> <ol style="list-style-type: none"> (1) contributes to establishing or maintaining the qualities of a well-functioning urban environment, (2) will not result in inefficient or sporadic patterns of settlement and residential growth, (3) is integrated efficiently and effectively with development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way, (4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents, (5) manages adverse effects on other values or resources identified by this RPS that require specific management or protection, (6) avoids, as the first priority, highly productive land identified in accordance with LF–LS–P19, (7) locates the new urban/rural zone boundary interface by considering: <ol style="list-style-type: none"> (a) adverse effects, particularly reverse sensitivity, on rural areas and existing or potential productive rural activities beyond the new boundary, and (b) key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future development infrastructure expansion and connectivity beyond the new boundary does not need to be provided for, or (c) reflects a short or medium term, intermediate or temporary zoning or infrastructure servicing boundary where provision for future development infrastructure expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated. 	Support in part.	<p>Silver Fern Farms supports this policy requirement for urban expansion to be preceded by a formal strategic planning process, thereby restricting the adverse effects of ad-hoc urban expansion on rural activities.</p> <p>It is suggested that a minor amendment is necessary to link sub-clause (7)(c) of this policy correctly with the policy preamble. The term “reflects” does not flow from the text in the preamble nor that at sub-clause (7).</p>	Amend this policy to ensure sub-clause (7)(c) links appropriately to the policy preamble.
<p>UFD-P7 – Rural Areas</p> <p>The management of rural areas:</p> <ol style="list-style-type: none"> (1) provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS, (2) outside areas identified in (1), maintains the productive capacity, amenity and character of rural areas, (3) enables primary production particularly on land or soils identified as highly productive in accordance with LF–LS–P19, (4) facilitates rural industry and supporting activities, (5) directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD–P8, (6) restricts the establishment of residential activities, sensitive activities, and non-rural businesses which could adversely affect, including by 	Support in part.	<p>Sub-clauses (6) and (7) to UFD–P7 –Rural Areas duplicate the policy directions to “restrict” or “limit” the establishment of incompatible uses in rural areas. Silver Fern Farms considers that these sub-clauses can be rationalised for clarity.</p> <p>Sub-clause (7) solely relies on operational need as a justification for “...the establishment of residential activities, sensitive activities, and non-rural businesses” in rural areas.</p> <p>This does not anticipate, or assist, an assessment of adverse effects associated with the introduction of incompatible urban activities into the rural environment.</p>	<p>Amend as follows:</p> <p>UFD–P7 – Rural Areas</p> <p>The management of rural areas:</p> <ol style="list-style-type: none"> (1) provides for the maintenance and, wherever possible, enhancement of <u>significant</u> important features and values identified by this RPS, (2) outside areas identified in (1), maintains the productive capacity, amenity and character of rural areas, (3) enables primary production particularly on land or soils identified as highly productive in accordance with LF–LS–P19,

Provision	Position	Reasons	Relief sought
<p>way of reverse sensitivity, the productive capacity of highly productive land, primary production and rural industry activities, and</p> <p>(7) otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate an operational need to be located in rural areas.</p>		<p>As such, the drafting formulation is unlikely to achieve objective UFD-O2(6) which seeks that:</p> <p>“The development and change of Otago’s urban areas: [...]</p> <p>(6) minimises conflict between incompatible activities,”</p> <p>Silver Fern Farms seeks amendments to ensure UFD-P7 clearly requires proposals for incompatible land uses in rural areas to be considered in terms of the avoidance or (where avoidance is not achievable) management of adverse effects on rural productivity and activities.</p>	<p>(4) facilitates rural industry and supporting activities,</p> <p>(5) directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8,</p> <p>(6) restricts the establishment of residential activities, sensitive activities, and non-rural businesses which could adversely affect, including by way of reverse sensitivity, the productive capacity of highly productive land, primary production and rural industry activities, and</p> <p>(7) otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate <u>both</u>:</p> <p>(a) <u>an operational need to be located in rural areas; and</u></p> <p>(b) <u>methods to avoid adverse effects, including by way of reverse sensitivity, on rural productive capacity and amenity values, or where avoidance is not practicable, adequate remediation or mitigation.</u></p>
<p>UFD-P8 – Rural lifestyle and rural residential zones</p> <p>The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:</p> <p>(1) the land is adjacent to existing or planned urban areas and ready access to employment and services is available,</p> <p>(2) despite the direction in (1), also avoids land identified for future urban development in a relevant plan or land reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential,</p> <p>(3) minimises impacts on rural production potential, amenity values and the potential for reverse sensitivity effects to arise,</p> <p>(4) avoids, as the first priority, highly productive land identified in accordance with LF-LS-P16,</p> <p>(5) the suitability of the area to accommodate the proposed development is demonstrated, including</p> <p>(a) capacity for servicing by existing or planned development infrastructure (including self-servicing requirements),</p> <p>(b) particular regard is given to the individual and cumulative impacts of domestic water supply, wastewater disposal, and stormwater management including self-servicing, on the receiving or supplying environment and impacts on capacity of development infrastructure, if provided, to meet other planned urban area demand, and</p>	Support in part.	<p>Silver Fern Farms seeks amendments to the drafting of sub-clause (3) to UFD-P8 to ensure that the potential adverse effects of converting rural areas to a Rural Lifestyle Zone are subject to similar tests as required by Policy 4.5.1(h) of the operative RPS 2019.</p> <p>Policy 4.5.1(h) of the partly operative RPS 2019 states:</p> <p>“Provide for urban growth and development in a strategic and co-ordinated way, including by:</p> <p><i>[content not shown here]</i></p> <p>h) Restricting urban growth and development to areas that avoid reverse sensitivity effects unless those effects can be adequately managed”.</p> <p>The proposed RPS downgrades this test to a requirement that “the potential for reverse sensitivity effects” be “minimised”.</p> <p>Given the significant benefits associated with, and the undesirability of reverse sensitivity effects on, rural land uses, it is considered appropriate to retain policy direction to avoid adverse effects in the first instance.</p>	<p>Amend as follows:</p> <p>UFD-P8 – Rural lifestyle and rural residential zones</p> <p>The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:</p> <p>(1) the land is adjacent to existing or planned urban areas and ready access to employment and services is available,</p> <p>(2) despite the direction in (1), also avoids land identified for future urban development in a relevant plan or land reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential,</p> <p>(3) minimises impacts on rural production potential, amenity values and the potential for reverse sensitivity effects to arise <u>adverse effects, including by way of reverse sensitivity, on rural productive capacity and amenity values are avoided or where avoidance is not practicable, are adequately remedied or mitigated,</u></p> <p><i>[content not shown here]</i></p>

Provision	Position	Reasons	Relief sought
<p>(c) likely future demands or implications for publicly funded services and additional infrastructure, and</p> <p>(6) provides for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS.</p>			
<p>UFD–M2 – District plans</p> <p>Territorial authorities must prepare or amend their district plans as soon as practicable, and maintain thereafter, to:</p> <p><i>[content not shown here]</i></p> <p>(3) ensure that urban development is designed to:</p> <p><i>[content not shown here]</i></p> <p>(e) minimise the potential for reverse sensitivity effects to arise, by managing the location of incompatible activities, and</p> <p><i>[content not shown here]</i></p>	Support.	Silver Fern Farms supports the use of a formal strategic planning process to manage potential reverse sensitivity effects including through the separation of incompatible land uses.	Retain this policy.
Appendices			
<p>Appendix 2 – Significance criteria for indigenous biodiversity</p> <p>An area is considered to be a significant natural area if it meets any one or more of the criteria below:</p> <p>Representativeness</p> <p>(a) An area that is an example of an indigenous vegetation type or habitat that is typical or characteristic of the original natural diversity of the relevant ecological district or coastal marine biogeographic region. This may include degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas.</p> <p>(b) An indigenous marine ecosystem (including both intertidal and sub-tidal habitats, and including both faunal and floral assemblages) that makes up part of at least 10% of the natural extent of each of Otago’s original marine ecosystem types and reflecting the environmental gradients of the region.</p> <p>(c) An indigenous marine ecosystem, or habitat of indigenous marine fauna (including both intertidal and sub-tidal habitats, and including both faunal and floral components), that is characteristic or typical of the natural marine ecosystem diversity of Otago.</p> <p>Rarity</p> <p>(d) An area that supports:</p> <p>(i) An indigenous species that is threatened, at risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region, or</p> <p>(ii) Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent nationally, regionally or within a relevant land environment, ecological</p>	Oppose in part.	<p>As noted in submission points above on policies ECO-P3 and ECO-P4, Silver Fern Farms considers that the broad framing of the significance criteria for indigenous biodiversity in Appendix 2 (“APP2”) will likely require large areas of Otago to be classified as Significant Natural Areas - potentially including highly modified areas that cannot sensibly be so classified.</p> <p>APP2 clauses (d) (Rarity); (f) (Distinctiveness) and (g)(iii) (Ecological context) require the following to be classified as SNAs:</p> <ul style="list-style-type: none"> ▪ Any areas that “support” indigenous flora/fauna. ▪ Any area that “provides habitat for” indigenous flora/fauna. ▪ Any areas that are “...important for indigenous fauna during some part of their life cycle, either regularly or on an irregular basis, e.g., for feeding, resting, nesting, breeding, spawning or refuges from predation” <p>The terms “support”, “habitat”, “important for” are open to interpretation as they are not defined in the proposed RPS.</p> <p>The inclusion of these uncertain terms in, plus the broad framing (APP2(g)(iii) is a particular example) of, APP2 may require urban areas, areas of weed infestation, and buildings to be classified as SNAs under ECO-P2 if these areas were found to provide temporary support, resting or hiding places for an indigenous species meeting the criteria of (using the “Rarity” criterion for example) being “...threatened, at risk, or uncommon, nationally or within</p>	Amend Appendix 2 – Significance criteria for indigenous biodiversity to ensure the significance criteria for indigenous biodiversity are specific and targeted to avoid the inclusion of inappropriate areas within SNAs.

Provision	Position	Reasons	Relief sought
<p>district, coastal marine biogeographic region or freshwater environment including wetlands, or</p> <p>(iii) Indigenous vegetation and habitats within originally rare ecosystems, or</p> <p>(iv) The site contains indigenous vegetation or an indigenous species that is endemic to Otago or that are at distributional limits within Otago.</p> <p>Diversity</p> <p>(e) An area that supports a high diversity of indigenous ecosystem types, indigenous taxa or has changes in species composition reflecting the existence of diverse natural features or gradients.</p> <p>Distinctiveness</p> <p>(f) An area that supports or provides habitat for:</p> <p>(i) Indigenous species at their distributional limit within Otago or nationally, or</p> <p>(ii) Indigenous species that are endemic to the Otago region, or</p> <p>(iii) Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a result of an unusual environmental factor or combinations of factors.</p> <p>Ecological context</p> <p>(g) The relationship of the area with its surroundings (both within Otago and between Otago and the adjoining regions), including:</p> <p>(i) An area that has important connectivity value allowing dispersal of indigenous flora and fauna between different areas, or</p> <p>(ii) An area that has an important buffering function that helps to protect the values of an adjacent area or feature, or</p> <p>(iii) An area that is important for indigenous fauna during some part of their life cycle, either regularly or on an irregular basis, e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation, or</p> <p>(iv) A wetland which plays an important hydrological, biological or ecological role in the natural functioning of a river or coastal ecosystem.</p>		<p>an ecological district or coastal marine biogeographic region”.</p> <p>This scenario is illustrated by mobile indigenous species like birds, bats, and insects. The proposed RPS provisions do not recognise the difference between unmodified and highly modified environments. The provisions are focussed on the presence of indigenous species regardless of the character/extent of modification present in the environment the species is occupying.</p> <p>This issue is compounded by the obligation to include areas only occupied temporarily / on an ad hoc basis (e.g., resting or hiding places – these might include aerials and transmission lines for example).</p> <p>Paragraph 442 of the Section 32 report notes that the APP2 criteria are comparable to criteria in the draft National Policy Statement for Indigenous Biodiversity (“NPSIB”).</p> <p>However, the Summary of Submissions on the draft NPSIB records that 40% of submissions with a specific position on the appropriateness of the draft NPSIB ecological significance criteria were negative. A further 14% considered the ecological significance criteria to be only “somewhat” appropriate.</p> <p>Subsequently, the Ministry for Environment has delayed gazettal of the NPSIB, while its project team develops an ‘exposure draft’ for further testing of the drafting.</p> <p>Recent examples in Northland and the West Coast of the use of similar criteria to map SNAs resulted in significant complexity and ultimately, modified approaches were adopted.</p> <p>Given the foregoing, Silver Fern Farms seeks amendment of the APP2 significance criteria to minimise the risk of inadvertent outcomes from arising through SNA identification processes and management regimes.</p>	
<p>Appendix 3 – Criteria for Biodiversity Offsetting</p> <p>(1) Biodiversity offsetting is not available if the activity will result in:</p> <p>(a) the loss of any individuals of Threatened taxa, other than kānuka (<i>Kunzea robusta</i> and <i>Kunzea serotina</i>), under the New Zealand Threat Classification System (Townsend et al, 2008), or</p> <p>(b) reasonably measurable loss within the ecological district to an At Risk-Declining taxon, other than manuka (<i>Leptospermum</i></p>	Oppose.	<p>Silver Fern Farms opposes the restrictions on the use of offsetting specified in Appendix 3.</p> <p>The restrictions are depart from RMA section 104(1)(ab) which states that a consent authority “must” have regard to:</p> <p>“any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse</p>	Amend Appendix 3 – Criteria for Biodiversity Offsetting to align the circumstances in which biodiversity offsetting can be considered with either recommended best practice for offsetting or any direction arising from the NPSIB process.

Provision	Position	Reasons	Relief sought
<p>scoparium), under the New Zealand Threat Classification System (Townsend et al, 2008).</p> <p><i>[remainder not shown here]</i></p>		<p>effects on the environment that will or may result from allowing the activity”.</p> <p>Furthermore, RMA section 104(1)(b)(iii) requires a consent authority “must” have regard to any relevant provisions of a National Policy Statement.</p> <p>While not yet operative, the draft NPSIB provides some direction about when only precludes consideration of biodiversity offsetting should be precluded from consideration – being circumstances when:</p> <ol style="list-style-type: none"> 1. the biodiversity in question cannot be offset due to irreplaceability or vulnerability. 2. there are no feasible / socially acceptable options to realise the offset in an acceptable time. 3. the adverse effects on biodiversity are unknown or uncertain but are potentially “significantly adverse”. 	