

# **Section 42A Hearing Report**

## **Proposed Otago Regional Policy Statement 2021**

### **Chapter 16:**

#### **Submissions on Part 4 – Evaluation and monitoring**

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# 16. Contents

16.	Part 4 - Evaluation and Monitoring .....	3
16.1.	Introduction .....	3
16.2.	Author .....	3
16.3.	Submissions.....	3
16.4.	Analysis .....	5
16.5.	Recommendation.....	6

## 16. Part 4 - Evaluation and Monitoring

### 16.1. Introduction

1. This part of the pORPS describes the procedures for monitoring the efficiency and effectiveness of pORPS provisions, as required under section 62(1)(j) of the Resource Management Act 1991.
2. Given the relatively low number of submissions, I have elected to address them as a group rather than against the separate elements of the part.

### 16.2. Author

3. My name is James Adams and I am a Senior Policy Analyst employed by Otago Regional Council. I hold a Bachelor of Laws and a Bachelor of Arts from Otago University.
4. I have around 8 years of resource management and planning experience, based at Otago Regional Council. During this time, I have worked mainly on Regional Policy Statements, both the Partially Operative Otago Regional Policy Statement 2019 and the proposed Otago Regional Policy Statement 2021. This has included associated section 32 evaluation reports, section 42A reports and participating in Environment Court processes such as expert conferencing and mediation.
5. I have been involved in the review of the Partially Operative Otago RPS 2019 and the preparation of the pORPS 2021 since late 2019. I have been involved in drafting various sections of the pORPS, the section 32 evaluation report, and this section 42A report, as well as being involved in community, stakeholder and mana whenua engagement processes.

### 16.3. Submissions

6. Three submitters support the chapter as notified.<sup>1</sup> John Highton supports the Existing Monitoring Procedure section as notified.<sup>2</sup>
7. Toitū Te Whenua notes that the collection and sharing of data, including data and information that the regional council collects that may be of benefit to territorial authorities, could also potentially be useful to land managing public agencies such as LINZ and DOC.<sup>3</sup>
8. WAI Wanaka considers that a more balanced statement is required to include accurately and quickly monitoring and evaluating policy failures so that changes are made, and crucial lessons learned.<sup>4</sup>
9. Andy Barratt requests that the chapter be amended to review monitoring and modelling to ensure effective measurement of the right things, including for example recent

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<sup>1</sup> 00237.065 Beef + Lamb and DINZ; 00137.155 DOC; 00236.108 Horticulture NZ

<sup>2</sup> 00014.065 Highton, John

<sup>3</sup> 00101.064 Toitū Te Whenua

<sup>4</sup> 00222.020 WAI Wanaka

developments and reviews (eg Overseer), consideration of increasing soil organic matter as part of biological land management, and maintaining vegetative cover on erosion-prone land.<sup>5</sup>

10. Kāi Tahu ki Otago requests that instances of 'takata whenua' are amended to 'mana whenua'.<sup>6</sup>
11. Federated Farmers seeks several amendments to incorporate phrasing from the RMA, in particular ss 35 and 62.
12. Federated Farmers seeks amendments to the introductory text as follows:<sup>7</sup>

*ORC must monitor the efficiency and effectiveness of its RPS provisions and publish a review of the results of its monitoring every five years (minimum). The RPS needs to include the procedures for monitoring the efficiency and effectiveness its methods and policies.*

13. Federated Farmers also seeks amendments to the section regarding existing monitoring procedure, as follows:<sup>8</sup>

*ORC has policies and procedures in place to gather information and to monitor ~~and report on how well Otago's natural and physical resources are managed to carry out effectively its function under the Act.~~ These include:*

- (a) State of the Environment reporting,*
- (b) the efficiency and effectiveness of policies or other methods in the policy statement,*
- (c) the exercise of any functions, powers or duties delegated or transferred*
- (d) resource consents that have effect in the region ~~monitoring,~~*
- (e) the efficiency and effectiveness of the processes used in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness, cost, and the overall satisfaction of those persons or bodies in respect of whom the powers, functions, or duties are exercised or performed, and annual reporting against objectives in the Council's Long-term Plan.*

*[...]*

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<sup>5</sup> 00309.005 Barratt, Andy

<sup>6</sup> 00226.325 Kāi Tahu ki Otago

<sup>7</sup> 00239.181 Federated Farmers

<sup>8</sup> 00239.182 Federated Farmers

*The RMA 1991 ORPS is relevant to all decision making in the ORPS, under the RMA 1991 and must be given effect through regional and district plans. As the ORPS is given effect through regional and district plans, much of the data needed for monitoring will be gathered for the purpose of, or will be relevant to, the monitoring of regional and district plans. Information kept or maintained will not be used except for the purpose of the Act. ORC will undertake a work programme to identify data the territorial authorities collect in the course of their normal monitoring regimes and make arrangements for collection and sharing of data, including information that the regional council collects that may be of benefit to territorial authorities.*

[...]

*The ORPS needs to reflect the resource management issues of significance to iwi authorities in the region ~~needs and aspirations of tangata whenua~~ and the wider community, so tangata whenua and stakeholders will be encouraged to be involved with monitoring the provisions of the ORPS.*

14. Federated Farmers also questions how a Regional Monitoring Strategy will function at a practical level for end users, and whether it will mean two documents to interpret if it sits alongside the RPS as a non-statutory document. The submitter considers the paragraph should use the term “environmental” rather than “natural” with respect to values because it is consistent with wording used to describe the wellbeings.<sup>9</sup>

#### 16.4. Analysis

15. I agree that sharing data between agencies is desirable, so long as this is set up with proper considerations for privacy and confidentiality. However, I do not understand what specific change Toitū Te Whenua is seeking to the pORPS with regard to evaluation and monitoring. I recommend rejecting this submission.
16. I also recommend rejecting the submissions from WAI Wanaka and Andy Barratt. Neither submitter presents drafting to incorporate their views. Without this, I am unsure what would constitute a more balanced statement or measuring the right things in the submitters’ points of view.
17. Further, in WAI Wanaka’s case, I disagree that the monitoring and evaluation process is focussed on policy failures. The learning process described in the submission is already inherent in the notified pORPS wording, for example: “Specific environmental indicators will be developed to monitor the impact that ORPS policies and methods are having on Otago’s social, economic, cultural and environmental well-being, and whether they remain the most appropriate for achieving the RMA 1991’s purpose.”
18. I consider Andy Barratt’s concerns about reviewing monitoring and modelling practices are also addressed by the current wording.

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<sup>9</sup> 00239.183 Federated Farmers

19. I recommend accepting Kāi Tahu ki Otago’s submission. It expresses Kāi Tahu’s preferred terminology, which appears to me to be appropriate in this instance.
20. Regarding Federated Farmers’ submissions on the introductory text and the Existing monitoring procedure section, I consider that the existing text adequately conveys the RMA’s intent. I do not think it necessary to repeat the wording of the Act in such detail because the Act’s monitoring requirements apply regardless of the extent to which they are repeated in the pORPS. The purpose of this part is to outline the response to those requirements in the pORPS.
21. Additionally, the proposed changes to the third paragraph change the intent of the drafting to focus on the effect of the RMA rather than the pORPS and address privacy concerns that I consider do not need to be addressed in the pORPS explicitly. Accordingly, I recommend rejecting Federated Farmers submissions on the introductory text and the Existing monitoring procedure section.
22. I recommend accepting Federated Farmers’ submission on the Regional Monitoring Strategy section. I agree that consistency in this context is preferable.
23. I consider that the reasons for having a Regional Monitoring Strategy separate from the pORPS as a non-statutory document are similar to those for developing the environmental indicators outside the pORPS; this allows strategy to be more easily assessed and adapted over time. How the Regional Monitoring Strategy works in practice will be a matter to determine during its development.
24. I do not understand the submitter’s concern about having two documents rather than one. The Regional Monitoring Strategy will require implementation regardless of whether it is part of the pORPS or a separate document.

## 16.5. Recommendation

25. I recommend amending Part 4 – Evaluation and Monitoring as follows (and set out below):
  - a. By replacing every instance of “tangata whenua” with “mana whenua”.
  - b. Under Regional Monitoring Strategy, in the second paragraph, before “social, economic, cultural”, replace “~~natural~~” with “environmental”.

### **Monitoring the efficiency and effectiveness of the policy statement**

ORC must monitor the efficiency and effectiveness of its RPS provisions and publish the results every five years. The RPS needs to include the procedures for monitoring its methods and policies.

### **Existing monitoring procedure**

ORC has policies and procedures in place to gather information and to monitor and report on how well Otago’s *natural and physical resources* are managed. These include State of the Environment reporting, *resource consent* monitoring, and annual reporting against objectives

in the Council's Long-Term Plan. These policies and procedures will be reviewed and updated to reflect ORPS environmental goals (objectives) and ensure the right information is being gathered to monitor the environmental results anticipated.

The ORPS is relevant to all decision making under the RMA ~~1991~~<sup>10</sup> and must be given effect through *regional plans*<sup>11</sup> and *district plans*. As the ORPS is given effect through *regional plans*<sup>12</sup> and *district plans*, much of the data needed for monitoring will be gathered for the purpose of, or will be relevant to, the monitoring of *regional plans*<sup>13</sup> and *district plans*. ORC will undertake a work programme to identify data the *territorial authorities* collect in the course of their normal monitoring regimes and make arrangements for collection and sharing of data, including information that the regional council collects that may be of benefit to *territorial authorities*.

Specific environmental indicators will be developed to monitor the impact that ORPS policies and methods are having on Otago's social, economic, cultural and environmental well-being, and whether they remain the most appropriate for achieving the ~~RMA 1991's~~ RMA's<sup>14</sup> purpose. These environmental indicators will be developed outside of the ORPS. This approach enables the frequency or type of indicators to be amended, in order to respond to emerging issues, improved technology and best practice, changes in the local *environment*, or societal expectations. It forms part of a continuous review and reporting cycle, resulting in policy changes and adjustments as necessary.

The ORPS needs to reflect the needs and aspirations of ~~tangata whenua~~ mana whenua<sup>15</sup> and the wider community, so ~~tangata whenua~~ mana whenua<sup>16</sup> and stakeholders will be encouraged to be involved with monitoring the provisions of the ORPS.

### **Regional Monitoring Strategy**

To address the undertakings described above, ORC must develop a comprehensive integrated Regional Monitoring Strategy (RMS). This strategy will link ORC's various monitoring procedures together to reduce double handling, identify connections, and improve interrelationships, both between ORC functions and with other agencies. The strategy will help monitor the effectiveness and efficiency of the ORPS, using both quantitative and qualitative assessments, and sit alongside it as a non-statutory document.

The RMS will assist ORC with expanding its monitoring activities to respond to ORPS provisions and ensure the things measured accurately reflect policy success, including ~~natural~~ environmental,<sup>17</sup> social, economic, cultural and *historic heritage* values. It will increase transparency by stating what is monitored and why.

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<sup>10</sup> Clause 16(2), Schedule 1, RMA

<sup>11</sup> Clause 16(2), Schedule 1, RMA

<sup>12</sup> Clause 16(2), Schedule 1, RMA

<sup>13</sup> Clause 16(2), Schedule 1, RMA

<sup>14</sup> Clause 16(2), Schedule 1, RMA

<sup>15</sup> 00226.325 Kāi Tahu ki Otago

<sup>16</sup> 00226.325 Kāi Tahu ki Otago

<sup>17</sup> 00239.183 Federated Farmers

This goes hand in hand with increasing the ORC's leadership and facilitation role in several areas, including *climate change*.