

# **Section 42A Hearing Report**

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

### **Chapter 3:**

#### **Definitions and abbreviations**

**Lisa Hawkins**



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## 3. Interpretation (Definitions and abbreviations)

### 3.1. Introduction

1. The interpretation section contains a list of definitions used throughout the pORPS. Many of these definitions have been sourced from higher order documents, although where necessary for the Otago context new definitions have been included. Throughout the document defined terms or words have been italicised where they have the same meaning as contained in Part 1. They are to provide clarity to their meaning within provisions.

### 3.2. Authors

#### 3.2.1. Lisa Hawkins

2. I am Team Leader RPS, Air and Coast employed by Otago Regional Council. I hold a Bachelor of Urban and Regional Planning from The University of South Australia and a Graduate Diploma in Public Health from The University of Melbourne.
3. I have over 19 years of planning experience, with the last five within resource management in New Zealand. Majority of my experience has been working in the public sector in the fields of strategy and policy development, working for Local and Territorial Authorities (UK and Australia), Regional Councils and State Government (Australia). I have experience in policy analysis, drafting provisions and implementation.
4. I have been involved in the review of the pORPS 2019 and the preparation of the pORPS since November 2019. I have provided leadership and oversight for the programme and provision drafting, the section 32 evaluation report, and chapter contribution for this section 42A report.

### 3.3. General themes

5. This section of the pORPS sets out the definitions of terms which are used in the pORPS and where a specific definition is necessary to aid understanding of the document. The list includes definitions which are statutory definitions used in higher order documents or legislation, and those which have a specific meaning for the pORPS. The structure of this section follows that of the National Planning Standards - Definitions Standard in that when a definition has been sourced from another document, the definition is included in full, rather than the reader having to review back to the parent document.
6. Submissions received on the definitions broadly fell into four categories:
  - a. retain as notified,
  - b. changes requested to statutory definitions,
  - c. changes to definitions specific to the pORPS, and
  - d. new definitions.

7. As such this section of the report has been broken down into these sections, but it should be noted that all changes to definitions specific to the pORPS have been dealt with in the relative section of this report, as set out in the paragraph below.
8. It should also be noted that where definitions are integral to a specific chapter of the pORPS and are related to other submission points being considered within that chapter, these definitions have been dealt with in the specific section of this report but are referenced below in section 3.7.

### 3.3.1. General submissions

9. The following definitions are fully supported by submissions that seek they be retained as notified, there are no submissions requesting amendment, deletion or support dependant on other consequential amendments. Set out below is the list of definitions and submitters:
  - Additional infrastructure<sup>1</sup>
  - Kāika<sup>2</sup>
  - Kaitiakitanga or Kaitiakitaka<sup>3</sup>
  - Local authority<sup>4</sup>
  - Mana whenua<sup>5</sup>
  - Mineral<sup>6</sup>
  - Operational Need<sup>7</sup>
  - Small and community scale distributed electricity generation<sup>8</sup>
  - Te Ture Whenua Māori land<sup>9</sup>
  - Threatened species<sup>10</sup>
  - Wetland<sup>11</sup>
10. A number of submitters provided general comments on the definition section. These include support to retain as notified, except where specific amendments are sought<sup>12</sup>; or

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<sup>1</sup> 00102.002 Ara Poutama Aotearoa the Department of Corrections, 00315.001 Aurora Energy Limited

<sup>2</sup> 00226.028 Kāi Tahu ki Otago

<sup>3</sup> 00226.29 Kāi Tahu ki Otago

<sup>4</sup> 0013.003 ECan

<sup>5</sup> 00226.030 Kāi Tahu ki Otago

<sup>6</sup> 00022.001 Graymont (NZ) Limited

<sup>7</sup> 00321.006 New Zealand Infrastructure Commission, 00511.007 PowerNet Ltd, 00305.004 Waka Kotahi, 00315.008 Aurora Energy Limited

<sup>8</sup> 00306.010 Meridian Energy

<sup>9</sup> 00226.036 Kāi Tahu ki Otago

<sup>10</sup> 00230.018 Forest and Bird

<sup>11</sup> 00230.022 Forest and Bird

<sup>12</sup> 00237.003 Beef + Lamb and DINZ

amend, delete, or include new definitions required to give effect to the submission provided<sup>13</sup>.

11. Fish and Game requests the definitions section to be refined and made smaller so that it is easier to use<sup>14</sup>. Whilst the submitter didn't provide specific wording to implement the relief sought, they did acknowledge this would need to be done within the bounds of the National Planning Standards.

### 3.3.2. Analysis

12. In considering the submission points of submitters<sup>15</sup> across the pORPS consideration has been given to whether any recommendations would require changes to definitions. Where this has been appropriate these recommendations have been made in the relevant sections of this report, and as such no change is necessary within this section.
13. Whilst I acknowledge the point made by Fish and Game, in that the definition list within the pORPS is long, I consider it appropriate to support the policy direction of the pORPS. Further it has been developed in accordance with the Planning Standards and as such no amendments to make it short are possible. I therefore do not recommend accepting this submission point.

### 3.3.3. Recommendations

14. I do not recommend any amendments.

## 3.4. Editorial amendments

15. A review of the submissions across the pORPS, including those in this section, has identified editorial errors. Specific to definitions this applies to terms not being italicised to indicate their definition. These editorial errors have been identified and will be amended in the pORPS, as required by the National Planning Standards.
16. In addition, errors have also been identified in the e-plan version of the pORPS where linking through to definitions is incorrect or missing. These errors will be rectified as necessary.
17. Throughout the pORPS there are some terms incorrectly referenced, which has resulted in the defined term not able to be correctly attached. These include:
  - 'Nationally and Regionally Significant Infrastructure' should correctly be amended to 'Nationally Significant Infrastructure' and 'Regionally Significant Infrastructure'
  - 'Functional and Operational Need' should correctly be amended to 'Functional Need' and 'Operational Need'.

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<sup>13</sup> 00118.004 Maryhill Limited, 00014.004 Mt Cardrona Station, 00211.003 LAC, 00210.003 Lane Hocking, 00209.003 Universal Developments

<sup>14</sup> 00231.098 Fish and Game

<sup>15</sup> 00237.003 Beef + Lamb and DINZ, 00118.004 Maryhill Limited, 00014.004 Mt Cardrona Station, 00211.003 LAC, 00210.003 Lane Hocking, 00209.003 Universal Developments

- 'District and Regional Plan' should correctly be amended to 'District Plans' and 'Regional Plans'

18. Where these terms have been used in the pORPS they have been amended to reflect their correct terminology as a change under Clause 16(2), Schedule 1, RMA.

### 3.5. Statutory definitions

#### 3.5.1. Introduction

19. These definitions are those which are sourced from other statutory documents including legislation. Within the pORPS they have been directly copied in full and have not been subject to amendment. As a general rule, amendments to statutory definitions are deemed inappropriate in order to maintain consistency with higher order directions and legislation.

#### 3.5.2. Afforestation

##### 3.5.2.1. Introduction

20. As notified, the definition for Afforestation reads:

##### **Afforestation**

has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (as set out in the box below)

- |   |
|---|
| <p>(a) means planting and growing plantation forestry trees on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but</p> <p>(b) does not include vegetation clearance from the land before planting</p> |
|---|

##### 3.5.2.2. Submission

21. Federated Farmers requests an amendment to the definition of 'Afforestation' and they provide specific wording to implement the relief sought. They request to define the term as 'Afforestation for plantation forestry'<sup>16</sup>. The submitter acknowledges that the definition is from the NESPF, but considers this creates confusion as it relates solely to plantation forestry, whereas carbon forestry is an increasing activity across NZ.

##### 3.5.2.3. Analysis

22. I do not consider it appropriate to change the definition itself and to move away from as it applies in the NESPF. Clause a) within the definition clearly states that this definition applies to plantation forestry. Further, plantation forestry is defined in the pORPS as having the same meaning as the NESPF. I consider this removes any confusion as to the definition relating to plantation forestry. Whilst I can appreciate the concern over the

<sup>16</sup> 00239.007a Federated Farmers



gap which appears to be created when considering NESPF in the context of Carbon Forestry, I'm not sure how the request would provide any further clarity than already contained in the body of the definition. I therefore recommend not accepting this submission point.

#### 3.5.2.4. Recommendation

23. No change is recommended, retain as notified.

#### 3.5.3. Aquaculture activities

##### 3.5.3.1. Introduction

24. As notified, the definition for Aquaculture activities reads:

##### **Aquaculture activities**

has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)

- (a) means any activity described in section 12 done for the purpose of the breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed for harvest if the breeding, hatching, cultivating, rearing, or ongrowing involves the occupation of a coastal marine area; and
- (b) includes the taking of harvestable spat if the taking involves the occupation of a coastal marine area; but
- (c) does not include an activity specified in paragraph (a) if the fish, aquatic life, or seaweed—
  - (i) are not in the exclusive and continuous possession or control of the person undertaking the activity; or
  - (ii) cannot be distinguished or kept separate from naturally occurring fish, aquatic life, or seaweed; and
- (d) does not include an activity specified in paragraph (a) or (b) if the activity is carried out solely for the purpose of monitoring the environment

##### 3.5.3.2. Submission

25. Kāi Tahu Ki Otago requests an amendment to the definition of 'aquaculture activities', to clarify that the definition does not capture traditional food culture activity undertaken by Kāi Tahu, usually inside mātaihai reserves or taiāpure<sup>17</sup>. They provide specific wording to implement the relief sought.

Aquaculture activities

...

<sup>17</sup> 00226.025 Kāi Tahu ki Otago

- d. does not include an activity specified in paragraph (a) or (b) if:
  - i. the activity is carried out solely for the purpose of monitoring the environment, or
  - ii. the activity involves customary food culturing on structures undertaken by mana whenua for non-commercial purposes.

#### 3.5.3.3. Analysis

- 26. The term ‘aquaculture activities’ in the pORPS has the same meaning as that contained within the RMA. Aquaculture Activities (as a definition) is used within the pORPS in RMIA-CE-I3 (in relation to the ability for whānau to carry out customary harvest) and CE-P1 (providing for the development and operation of). As not specifically stated within the submission point, I can only assume that the concern of the submitter relates to the definition being restrictive for traditional food gathering activities. However, if this is not the case I welcome the submitter providing further information during the hearings process.
- 27. In the context in which this term is used within the pORPS I consider it appropriate to retain the definition set out in the RMA without creating an exception for such activities, specifically as policy CE-P1 is an active policy which provides for aquaculture activities. Customary food culturing is not restricted. The provision of a pathway to enable customary activities within the coastal environment might be better dealt with within a policy rather than via a definition. Should the submitter be of the same mind, I would welcome further discussion on this approach. I therefore recommend not accepting this submission point.

#### 3.5.3.4. Recommendation

- 28. No change is recommended, retain as notified.

#### 3.5.4. Environment

##### 3.5.4.1. Introduction

- 29. As notified, the definition for Environment reads:

##### **Environment**

has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)

includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) amenity values; and
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are

#### 3.5.4.2. Submission

30. Wise Response requests a new definition of 'environment'. They do not provide reasoning for this, but do include specific wording to implement the relief sought<sup>18</sup>.

##### Ecological processes and biotic and abiotic complexes

#### 3.5.4.3. Analysis

31. As there is already a definition included in the pORPS, I have assumed the request intends to replace, or amend the definition already provided. The pORPS includes the definition of 'environment' as contained in the RMA, and which is also included in the definitions list in the Planning Standards.
32. The Definitions Standard within the Planning Standards requires local authorities to use the same definition as defined in the Planning Standards where it is to be used in the same context. Consideration can be given to amendments to a defined term if it is a subcategory of, or has a narrower application than, a defined term in the definitions list. I do not consider it appropriate for the pORPS to apply a narrower meaning as requested by Wise Response. Environment as it is used within the pORPS is wider than requested by the submitter, and I consider the existing definition in the pORPS to be appropriate. I therefore recommend not accepting this submission.

#### 3.5.4.4. Recommendation

33. No change is recommended, retain as notified.

#### 3.5.5. Functional Need

##### 3.5.5.1. Introduction

34. As notified, the definition for Functional need reads:

##### **Functional need**

has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)

means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment
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##### 3.5.5.2. Submissions

35. Waka Kotahi<sup>19</sup> and Aurora<sup>20</sup> seek to retain the definition as notified.

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<sup>18</sup> 00509.022 Wise Response

<sup>19</sup> 00305.001 Waka Kotahi

<sup>20</sup> 00315.005 Aurora

36. Network Waitaki<sup>21</sup> seeks to amend the definition as follows, or other relief to give effect to this submission point:

*“has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below).*

*means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment, taking into account the efficiency of the proposal or activity.”*

37. NZIC<sup>22</sup> seeks to amend the definition to include a criterion of feasibility, practicality and cost-effectiveness, noting this is to an extent already covered by “operational need” for infrastructure.

38. PowerNet<sup>23</sup> seeks to amend the definition as follows, or other relief to give effect to this submission point:

*“means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment, taking into account the efficiency of the proposal or activity.”*

#### 3.5.5.3. Analysis

39. *Functional Need* as defined in the pORPS has the same meaning as in Standard 14 of the National Planning Standards 2019 and as such it has been reflected in full from the Standards, and I do not consider it appropriate to amend the definition. Section 14(1) of the National Planning Standards requires that local authorities *must* use the definition as defined in the standards.

40. I consider the proposed amendment to insert “taking into account the efficiency of the proposal or activity” would compromise the definition by causing it to be subject to considerable interpretation.

41. I also do not agree with the NZIC submission as I consider the amendment contradicts the intent of the definition by having “need” being subject “to concepts of feasibility, practicality and cost-effectiveness”. This would also leave the definition open to considerable interpretation.

42. Accordingly I do not recommend accepting the submission in relation to this definition.

#### 3.5.5.4. Recommendation

43. I do not recommend any amendments to the definition *functional need*.

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<sup>21</sup> 00320.003 Network Waitaki

<sup>22</sup> 00321.003 Te Waihangā

<sup>23</sup> 00511.005 PowerNet

### 3.5.6. Lifeline utilities

#### 3.5.6.1. Introduction

44. As notified, the definition for Lifeline utilities reads:

<b>Lifeline utilities</b>	means utilities provided by those entities listed in Schedule 1 of the Civil Defence Emergency Management Act 2002
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#### 3.5.6.2. Submission

45. Port Otago seeks to amend the definition for ‘lifeline facilities’ to include reference to ‘commercial port activities’ within the chapeau of the definition<sup>24</sup>. They seek this amendment to resolve the uncertainty which is created by the list of entities within Schedule 1 of the Civil Defence Emergency Management Act 2002. This Act lists locations of port-related commercial activities undertaken by ‘the port company’ (as defined in section 2(1) of the Port Companies Act 1988). Port Chalmers is listed, but Dunedin is not, albeit they are owned and operated by the entity listed. Port Otago provides specific wording to implement the relief sought, and to avoid doubt as to whether the Port Otago facilities at Dunedin are regarded as a lifeline utility under the RPS:

means utilities provided by those entities listed in Schedule 1 of the Civil Defence Emergency Management Act 2002, and for the avoidance of doubt includes all commercial port activity.

46. Three submitters request the definition be retained as notified<sup>25</sup>.

#### 3.5.6.3. Analysis

47. Whilst I can appreciate the complexity of the issue at the heart of the submitter’s request, I do not consider it to be the role of the pORPS to resolve an issue of this nature by way of altering a definition that is legislative. I therefore recommend not accepting this submission point.

#### 3.5.6.4. Recommendation

48. No change recommended, retain as notified.

### 3.5.7. Public transport

#### 3.5.7.1. Introduction

49. As notified, the definition for Public transport reads:

<b>Public transport</b>	has the same meaning as in clause 1.4 of the National Policy Statement for Urban Development 2020 (as set out in the box below)
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<sup>24</sup> 00301.005 Port Otago

<sup>25</sup> 00315.007 Aurora Energy Limited, 00305.003 Waka Kotahi, 00510.008 The Fuel Companies

<p>means any existing or planned service for the carriage of passengers (other than an aeroplane) that is available to the public generally by means of:</p> <p>(a) a vehicle designed or adapted to carry more than 12 persons (including the driver), or</p> <p>(b) a rail vehicle, or</p> <p>(c) a ferry</p>
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#### 3.5.7.2. Submission

50. QLDC seeks to have the definition of ‘public transport’ amended to provide more certainty as to what constitutes a planned ‘public transport’ service<sup>26</sup>. No specific wording is provided to implement the relief sought, but they do suggest a planned *public transport* service should only include services where there is a high degree of certainty of the service being delivered on an ongoing basis.

#### 3.5.7.3. Analysis

51. The definition ‘public transport’ within the pORPS, reflects that contained within the NPSUD. I do not consider it appropriate to amend a statutory definition. The use of ‘public transport’ within the pORPS is varied and beyond a simple focus on delivery, which is the context of the request from QLDC. Further, refining the definition could narrow its application within the existing provisions in the pORPS, and I do not consider the requested amendment to substantially improve its understanding or application within the pORPS. I therefore recommend not accepting this submission point.

#### 3.5.7.4. Recommendation

52. No change recommended, retain as notified.

### 3.5.8. Receiving environment

#### 3.5.8.1. Introduction

53. As notified, the definition for Receiving environment reads:

**Receiving environment**

has the same meaning as in in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)

<p>includes, but is not limited to, any water body (such as a river, lake, wetland or aquifer) and the coastal marine area (including estuaries)</p>
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<sup>26</sup> 00138.125 QLDC

#### 3.5.8.2. Submission

54. Ravensdown seeks to have the definition of 'receiving environment' deleted from the pORPS, and any consequential amendments then made<sup>27</sup>. Ravensdown identifies this definition has come from the NPSFM, and as such applies to freshwater receiving bodies. The submitter considers, in the context of broader resource management, the concept of 'receiving environment' is applicable to other activities, and as such the definition within the pORPS is too narrow and is not appropriate.

#### 3.5.8.3. Analysis

55. 'Receiving environment' is only used within the Mana Whenua (as it relates to the coastal environment), the Coastal Environment and the Land and Freshwater chapters of the pORPS, and relates to water bodies. I therefore consider the application of the definition in the pORPS to be entirely appropriate. I recommend not accepting this submission point.

#### 3.5.8.4. Recommendation

56. No change recommended, retain as notified.

#### 3.5.9. Sensitive activities

##### 3.5.9.1. Introduction

57. As notified, the definition for Sensitive activities reads:

**Sensitive activities**

has the same meaning as in the Interpretation section of the National Policy Statement on Electricity Transmission 2008 (as set out in the box below)

includes schools, residential buildings and hospitals

##### 3.5.9.2. Submission

58. Fonterra seeks to have the definition of sensitive activities replaced, as they consider it to be too narrow in its application<sup>28</sup>. They state it needs to provide for a full range of activities that are sensitive, and for the purposes of managing incompatible activities and the potential for reverse sensitivity. They provide specific wording to implement the relief sought:

Sensitive activities includes the following:

- Residential activity
- visitor accommodation
- community facility
- educational facility

<sup>27</sup> 00121.009 Ravensdown

<sup>28</sup> 00233.009 Fonterra

- health care facility

59. A number of further submissions support the amendment sought, predominantly as the existing term is considered to be narrow in its application for a RPS and it needs to be broader for the purpose of managing reverse sensitivity.<sup>29</sup>

#### 3.5.9.3. Analysis

60. Sensitive activities is used within the pORPS in the EIT and UFD Chapters<sup>30</sup>. Within EIT the term is used in the context of minimising effect on sensitive activities. Within UFD it is used in the context of defining appropriate locations where sensitive activities can occur within rural areas. I appreciate the reasoning behind the submitters request in that the definition is narrow, however in the context of its application within the EIT chapter this is appropriate, principally as it reflects the definition from the NPSET.

61. However, within the UFD chapter the definition may warrant being broadened. Firstly the submitter links the use of the term to the potential for reverse sensitivity effects. In my opinion they are related but not necessarily connected terms. Reverse sensitivity defines the effect that may occur, whereas sensitive activity describes activities which are sensitive to an effect, of which may this include reverse sensitivity effects. To improve clarity around the application of reverse sensitivity, I recommend in this report the inclusion of a definition. This is dealt with in section 3.6.13, and it may go some way to address the concerns of the submitter regarding the potential for the reverse sensitivity effects.

62. With regard to the submitter request to expand the list of activities considered to be a 'sensitive activity', I am not convinced this is the best approach. Whilst I agree the existing definition is too narrow for its application in a rural setting through UFD-04 and UFD-P7, to list specific land uses also runs the risk of activities being left out. Rather I consider an approach to define 'sensitive activities' but not list activities themselves, would enable District Councils to interpret and implement the UFD provisions to respond to the sensitive activities that may be specific to their District.

63. I therefore recommend accepting this proposal in part in that I agree a broader application of the sensitive activities should apply to the UFD Chapter, but rather than accepting the requested wording by the submitter, I recommend including a definition that is broader in nature.

#### 3.5.9.4. Recommendation

64. I recommend making the following amendments to the definition of sensitive activities:

<sup>29</sup> FS00208.003 AgResearch Limited, FS00237.027 Beef + Lamb and DINZ, 00221.008 Silver Fern Farms, 00510.021 The Fuel Companies, 00236.013 Horticulture NZ

<sup>30</sup> EIT-INF-P14, EIT-INF-P166, EIT-INF-M5, UFD-O4, UFD-P7, UFD-PR



Sensitive activities (in relation to the EIT Chapter)	Where used in the EIT chapter, has the same meaning as in the Interpretation section of the national Policy Statement on Electricity Transmission 2008 (as set out in the box below)
	Includes, schools, residential buildings and hospitals
Sensitive activities (in relation to the UFD Chapter)	Where used in the UFD chapter, means activities that are affected by the adverse effects of a lawful activity.

### 3.5.10. Taxa

#### 3.5.10.1. Introduction

65. As notified, the definition for Taxa reads:

<b>Taxa</b>	has the same meaning as in the Glossary of the New Zealand Coastal Policy Statement 2010 (as set out in the box below)
	Named biological classification units assigned to individuals or sets of species (eg species, subspecies, genus, order, variety)

#### 3.5.10.2. Submission

66. Forest and Bird support the use of the term Taxa in the pORPS, however they seek an amendment to the definition to make it clear that this definition applies throughout the region and not just to the coastal environment<sup>31</sup>. No specific wording is provided to implement the relief sought.

#### 3.5.10.3. Analysis

67. Taxa is used within the Coastal Environment Chapter and in APP2 and APP3<sup>32</sup>. The definition included in the pORPS is drawn from the glossary of the NZCPS. I can see how this implies a restriction to its use within the coastal environment only, albeit this is just the source of the definition. APP2 and APP3 both apply to biodiversity in a broader sense across the whole region, and therefore apply the definition more broadly. To improve clarity, I therefore recommend accepting this submission point.

#### 3.5.10.4. Recommendation

68. I recommend amending the definition for Taxa as set out below:

<sup>31</sup> 00230.017 Forest and Bird

<sup>32</sup> CE-P5 Coastal Indigenous Biodiversity, APP2 – Significance criteria or indigenous biodiversity, APP3 – Criteria for biodiversity offsetting

Taxa	has the same meaning as in the Glossary of the New Zealand Coastal Policy Statement 2010 (as set out in the box below), <u>and in this RPS applies to the whole region</u>
	<div>Named biological classification units assigned to individuals or sets of species (eg species, subspecies, genus, order, variety)</div>

### 3.5.11. Waste

#### 3.5.11.1. Introduction

69. As notified, the definition for Waste reads:

<b>Waste</b>	has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (as set out in the box below)
	<div>means substances or objects that are disposed of or intended to be disposed of</div>

#### 3.5.11.2. Submission

70. Ravensdown seeks to have the definition of waste deleted and replaced with the definition from the Waste Minimisation Act 2008<sup>33</sup>. They make the point that the pORPS currently draws the definition of waste from the NESAQ 2004 and that this connected to the specific activities that are regulated within the legislation. They consider the waste is generated from a large range of activities and therefore the current definition is too narrow and as such request the definition from the waste Minimisation Act be included:

**Waste -**

- (a) means any thing disposed of or discarded; and
- (b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and
- (c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded

#### 3.5.11.3. Analysis

71. Waste is a well-used term within the pORPS being used in Part 1, SRMR, RMIA, LF, EIT and HAZ chapters<sup>34</sup>, although it should be noted that it is only italicised within the HAZ chapter

<sup>33</sup> 00121.013 Ravensdown

<sup>34</sup> Part 1 cross boundary matters, SRMR-I2, SRMR-I4, SRMR-I6, SRMR-I8, SRMR-I9, SRMR-I10, RMIA-WAI-I5, RMIA-MKB-I1, RMIA-CE-I2, LF-FW-P15, EIT-EN-P9, HAZ-CL-O3, HAZ-CL-P16, HAZ-CL-P17, HAZ-CL-P18, HAZ-CL-

and as such an editorial amendment should occur. In light of, this I agree with the submitter that the definition from the NESAQ is not appropriate and its application too narrow for the use in the pORPS.

72. I consider the requested amendment provides a definition that is broad in its interpretation and application and can be applied across the pORPS. Further it is a definition that would provide for further refinement specific to types of waste within Regional or District Plans if the need arose. I therefore recommend accepting this submission point.

#### 3.5.11.4. Recommendation

73. I recommend deleting the existing definition of waste and replacing it with the following:

Waste	<p>has the same meaning as in the Waste Minimisation Act 2008 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p><u>(a) means any thing disposed of or discarded; and</u></p> <p><u>(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and</u></p> <p><u>(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded</u></p> </div>
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### 3.6. New definitions

74. The following are new definitions requested by submitters, and as such they often have consequential amendments throughout the pORPS. Where this is the case the consequential amendments have been identified.

#### 3.6.1. Agriculture intensification

##### 3.6.1.1. Submissions

75. Beef + Lamb and DINZ seek to include a definition for ‘Agriculture intensification’ noting that it is used within page 77 (SRMR – 16) in relation to contribution to nutrient leaching, and as it stands the pORPS is without guidance on what constitutes intensification.<sup>35</sup>

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M6, HAZ-CL-M6, HAZ-CL-M7, HAZ-CL-M8, HAZ-CL-M9, HAZ-CL-E2-Explanation, HAZ-CL-PR2, HAZ-CL-AER6, HAZ-CL-AER7

<sup>35</sup> 00237.006 Beef + Lamb and DINZ

#### 3.6.1.2. Analysis

76. No specific definition is provided by Beef + Lamb and DINZ, rather just a suggestion that relevant agriculture groups are consulted with. I consider 'intensification' to be a term widely used within resource management across a variety of different contexts and is generally well understood to be the 'action of making things more intense'. At the level at which an RPS provides policy guidance I believe this understanding to be sufficient and not warrant a specific definition as it relates to agriculture. Further, in the absence of a specific amendment to implement the relief sought, I recommend not accepting this submission point.

#### 3.6.1.3. Recommendation

77. I recommend no change.

### 3.6.2. Biophysical capacity

#### 3.6.2.1. Submissions

78. Wise Response requests the addition of biophysical capacity to the pORPS<sup>36</sup>. This is in support of the overall tenor of their submission which focusses on a concern that the use of resources is out of step with biophysical processes and capacity, and that there is a need to focus on rebuilding biophysical capacity.

#### 3.6.2.2. Analysis

79. It is difficult to ascertain from the submission whether a specific amendment has been requested to implement the relief sought or whether Wise Response has provided a list of things to be considered in doing so. In the absence of clarity, I consider it to be the later. Nevertheless, this is not a term that is currently used within the pORPS, but has been requested by Wise Response in a number of submission points on the IM and LF chapters<sup>37</sup>. These submissions points are recommended to not be accepted in the IM and LF chapters, and as such the term is not to be introduced to the pORPS.
80. Further, whilst I understand the basic premise of 'biophysical capacity' to mean the 'maximum level of use a specific resource, system or bounded area can sustain', I am unsure of how this term improves on existing and well recognised terms in the pORPS such as environmental limits. Through consideration of submissions on the Integrated Management Chapter, a recommendation of this report is to include a definition for the term 'environmental limits', based on that which has been included in the exposure draft of the Natural and Built Environment Bill<sup>38</sup>. The purpose of this definition is to protect either or both the ecological integrity of the natural environment and human health, and in doing so may be formulated as the "minimum biophysical state of the natural

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<sup>36</sup> 00509.019 Wise Response

<sup>37</sup> 00509.080, 00509.032, 00509.032, 00509.074, 00509.088, 00509.089 all Wise Response

<sup>38</sup> S.7 – Environmental Limits <https://environment.govt.nz/assets/publications/Natural-and-Built-Environments-Bill-Exposure-Draft.pdf>

environment or part of that environment, and the maximum amount of harm or stress that may be permitted on the natural environment or on a specified part of that environment”. I consider including a definition for ‘environmental limits’ in the pORPS will address some of the points of concern raised by Wise Response.

81. For the reasons outlined above I recommend not accepting this submission point.

3.6.2.3. Recommendation

82. I recommend no change.

3.6.3. Ecological processes

3.6.3.1. Submissions

83. Wise Response seeks a new definition for ‘Ecological processes’ noting that ecosystems create patterns that become apparent at a systems level but not at a component level.<sup>39</sup>

3.6.3.2. Analysis

84. Ecological processes is not a term that has been used in the pORPS. Wise Response has introduced this term in two submission points where they seek amendments to IM-P1 and LF-FW-P10<sup>40</sup>. Both of these submission points have been recommended to not be accepted<sup>41</sup>, and as such there is no consequential need to include a definition of ‘Ecological Processes’ in the pORPS.

3.6.3.3. Recommendations

85. I recommend no change.

3.6.4. Efficiency

3.6.4.1. Submissions

86. AWA seeks to have efficiency defined as it relates to water use, their reasoning drawing on clause 3.28 from the NPSFM (2020)<sup>42</sup>. In relation to water allocation, this clause requires Regional Councils to make or change their Regional Plan(s) to include criteria for ... ‘(1 b) deciding how to improve and maximise the efficient allocation of water (which includes economic, technical, and dynamic efficiency). AWA cites LF – FW(6) as the relevant provision in the RPS where defining ‘efficiency’ would assist its reading.

87. AWA seeks the following definition be included in the pORPS, which addresses their concerns that there is a tendency for only technical efficiency to be considered when assessing applications for water permits, and that a greater focus should be on

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<sup>39</sup> 00509.020 Wise Response

<sup>40</sup> 00509.033 Wise Response, 00509.077 Wise Response

<sup>41</sup> Section 6.12.2 of Chapter 6 – IM – Integrated Management, and Section 9.7.11. of Chapter 9 – LF – Land and Freshwater

<sup>42</sup> 00502.006 AWA

opportunity costs or non-monetary value. They call for ORC to direct the Regional Plan to understand which uses of water can deliver the best value to the community, including enabling activities that do not contribute to reducing Green House Gas emissions.

Efficiency in relation to the use of water includes economic, technical, and dynamic efficiency, where 'economic efficiency' means maximizing the value (including non-monetary value) to communities from the use of water, including reduced GHG emissions.

#### 3.6.4.2. Analysis

88. I consider that the concerns of AWA that technical efficiency often dominates an assessment process to be somewhat overcome by Clause 3.28 in the NPSFM, where it states efficient allocation is to include economic, technical and dynamic efficiency. And as this Clause specifically directs Regional Plans to make changes to include this approach, consent application decision-making should reflect this as changes to Regional Plans are made. Further refinement at the RPS level is not necessary.
89. In consideration of the amendment to further define 'economic efficiency' within the relief sought, I consider this to potentially risk narrowing the focus of what is commonly understood to be a broad definition in 'economic efficiency'. Two further submissions received are also of the opinion that a definition for efficiency should remain broad<sup>43</sup>. And whilst I agree with the role of efficient water use in contributing towards reducing greenhouse gas emissions, I consider this to more appropriate as a policy direction than a definition.
90. Further, I consider the request from AWA to consider opportunity costs or non-monetary value within a definition of efficiency to be more appropriately suited to a Regional Plan, not a Regional Policy Statement. This is supported by the NPSFM itself requiring clause 3.28 to be implemented through Regional Plans. A Regional Plan sets the rules by which an application for resource consent will be assessed, and it is totally appropriate that policy direction at this level may consider elements such that AWA have identified. I therefore recommend not accepting this submission point.

#### 3.6.4.3. Recommendation

91. I recommend no change.

#### 3.6.5. Environmental compensation

##### 3.6.5.1. Submissions

92. QLDC seeks to have a definition of 'Environmental Compensation' added to the pORPS, although their submission does not include reasoning for this request, nor specific relief sought.<sup>44</sup>

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<sup>43</sup> FS00609.30 Fish and Game, FS00235.074 OWRUG

<sup>44</sup> 00138.029 QLDC

#### 3.6.5.2. Analysis

93. Environmental Compensation is not a term which is used in the pORPS. Compensation is a term that is used and applies to aquatic compensation, which is defined in the pORPS, and biodiversity compensation, which is described with in APP4 – Criteria for Biodiversity Compensation. It is not clear from the submission why ‘environmental compensation’ is needed in addition, nor if it was intended to actually be different to the aquatic or biodiversity compensation which in my opinion are adequately addressed. In the absence of a specific amendment to implement the relief sought, I do not recommend accepting this submission.

#### 3.6.5.3. Recommendation

94. I recommend no change.

#### 3.6.6. Essential Human Health

##### 3.6.6.1. Submissions

95. Horticulture NZ seeks to add ‘Essential human health’ to the definition list, to provide clarity to what is being managed in respect of human health within the pORPS<sup>45</sup>. Horticulture NZ draws on Section 5 of the RMA, and its reference to health and safety as part of defining what sustainable management means. The request is linked to other submission points by Horticulture NZ where they request amendments to provisions to include ‘Essential human health’.

##### 3.6.6.2. Analysis

96. Essential human health is not a term that is used within the pORPS, and as such Horticulture NZ has made submission points for its inclusion in the SRMR<sup>46</sup> (Introduction, SRMR-I1, SRMR-I11 and a new SRMR), and IM-M4<sup>47</sup>, of which this submission point to have it defined is consequential. In these instances, in the relevant section of this report, the Horticulture NZ submission points are recommended to not be accepted. Hence ‘essential human health’ is not introduced into the pORPS, and a definition is not required. Further, to define ‘essential human health’ implies that there is a distinction between ‘essential’ and ‘non-essential’, and that there are elements of human health that are less important. I do not consider refining the term ‘human health’ adds greater value in understanding s5, than what ‘human health’ does. It may even risk narrowing the focus of achieving human health too much. I therefore recommend not accepting this submission point.

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<sup>45</sup> 00236.011 Horticulture NZ

<sup>46</sup> 00236.033, 00236.021, 00236.022, 00236.032 – all Horticulture NZ

<sup>47</sup> 00236.040 Horticulture NZ

3.6.6.3. Recommendation

97. I recommend no change.

3.6.7. Minimise

3.6.7.1. Submissions

98. Four submitters seek to have the term ‘minimise’ defined within the pORPS. Fish and Game states that the directive nature of the document could be improved if minimise was defined<sup>48</sup>. Blackthorn, Wayfare and Trojan do not provide reasoning for the request, other than it’s currently not defined in the pORPS<sup>49</sup>.

99. All four submitters provide specific wording to implement the relief sought. The wording requested by all four is the same:

Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.

3.6.7.2. Analysis

100. Minimise is a common term that is well used and understood within resource management. Further, I do not consider the specific wording provided to add any additional clarity than its use and understanding as a common term with ordinary meaning. It is used widely within the pORPS and in a variety of contexts and to define it could be overly restrictive.

101. Further, and specific to its use within the pORPS, where this term has been used in an objective, policy or method, an action of how to ‘minimise’ it is often qualified within that objective, policy or method. For example:

**LF–LS–P18 – Soil erosion**

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (1) implementing appropriate and effective management practices to retain topsoil in-situ and minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure,
- (2) maintaining vegetative cover on erosion-prone *land*, to the extent practicable, and
- (3) promoting activities that enhance soil retention.

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<sup>48</sup> 00231.017 Fish and Game

<sup>49</sup> 00119.035 Blackthorn Lodge, 00411.015 Wayfare, 00206.009 Trojan



102. There are a number of further submissions on this submission point, with Transpower identifying itself as being neutral on the request of the four submitters.<sup>50</sup> Greenpeace and Waka Kotahi support its inclusion to improve clarity<sup>51</sup>. However, there is also opposition to its inclusion, for reasons of concern that it would be too restrictive and is a common and well understood term.<sup>52</sup>

103. In my view, the combination of it being a common term, with a common meaning, and the structure of the provisions in the pORPS where it is qualified where it needs to be, I do not believe it necessary to define the term. I do not see the value this would add to the pORPS. I recommend not accepting these submission points and accepting the further submissions in opposition.

#### 3.6.7.3. Recommendation

104. I recommend no amendment.

#### 3.6.8. Natural Capital

##### 3.6.8.1. Submissions

105. Trojan and Wayfare submit that whilst they support the use of the term ‘natural capital’, they do so only if a definition is provided<sup>53</sup>. Neither submitter provides specific wording to implement the relief sought, nor do they identify their reasoning for why a definition is deemed necessary.

##### 3.6.8.2. Analysis

106. Natural capital is used twice in the pORPS, once in the economic context of SRMR-I4 and once in the economic context of SRMR-I7. Both instances of the term relate to the loss of natural capital as a result of an action or in-action in relation to resource management. The first occurrence (SRMR-I4) is set out below:

*While potentially providing short term commercial returns, poorly managed urban growth and development may result in long term impacts including:...*

- *increased capital and operational costs for infrastructure which can foreclose other more suitable investments or spending, increased costs from less efficient spatial arrangements (such as increased transportation and infrastructure costs to both users and operators), and loss of valued natural capital and future opportunities;*

107. The second use (SRMR-I7) is set out below:

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<sup>50</sup> FS00314.002 Transpower, FS00314.010 Transpower, FS00314.032 Transpower

<sup>51</sup> FS00407.039 Greenpeace, FS00305.007 Waka Kotahi

<sup>52</sup> FS 00235.079/.080/.081 OWRUG, 00115.022/.023 /.024 Oceana Gold, 00233.005 Fonterra, 00318.011 Contact, 00239.028 Federated Farmers, 00226.563/.484 Kāi Tahu ki Otago

<sup>53</sup> 00411.100 Wayfare, 00206.081 Trojan

*Short-term impacts of loss of productivity or increased costs of pest management occur and longer-term impacts of net loss of natural capital in the region over time are also of concern.*

108. I consider the text surrounding this term, and more broadly in the relevant SRMR issue, provides the reader with a good understanding of how to define the term in the context of which it is being used. Further 'natural' and 'capital' are two words that are well understood with their ordinary meaning applied, and they retain the same meaning when combined in the manner used in the pORPS. I therefore consider it not necessary to define the term.

109. Without specific wording from Trojan and Wayfare that would suggest an alternative approach to this term from that of its ordinary meaning, it is difficult to understand how a definition would add value to the pORPS. I therefore recommend not accepting this submission point.

#### 3.6.8.3. Recommendation

110. I recommend no amendment.

#### 3.6.9. Pest

##### 3.6.9.1. Submissions

111. Federated Farmers and Wayfare both request 'pest' to be defined. Federated Farmers requests that the definition within the Biosecurity Act 1993 is inserted into the RPS<sup>54</sup>. Federated Farmers make the request to provide clarity that a weed is not the same as a pest.

112. Wayfare requests the definition as used in the Regional Pest Management Plan be included.<sup>55</sup> Wayfare does not provide a reason in support of their request.

##### 3.6.9.2. Analysis

113. Pest is a term used widely within the pORPS, particularly within the SRMR and RMIA chapters, but also as you would expect, within provisions in the LF and ECO chapters. Both submitters are essentially asking for the same thing, as the definition within the Biosecurity Act 1993 is 'means an organism specified as a pest in a pest management plan'. As this is a term which does have a specific meaning directed from the Biosecurity Act, and which links with the ORC Pest Management Plan 2019 -2029, I support its inclusion within the pORPS. I therefore recommend accepting these submission points.

##### 3.6.9.3. Recommendation

114. I recommend the following definition be added to the pORPS:

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<sup>54</sup> 00239.007b Federated Farmers

<sup>55</sup> 00411.017 Wayfare

Pest	<p>has the same meaning as in the section 2 of the Biosecurity Act 1993 (as set out in the box below)</p> <div> <p>means as organism specified as a pest in a pest management plan.</p> </div>
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### 3.6.10. Precautionary approach

#### 3.6.10.1. Submissions

115. Fish and Game seeks to have ‘precautionary approach’ defined in the pORPS<sup>56</sup>. They are concerned that a lack of a definition could hinder the effective use of the concept. They provide specific wording, which has drawn on the NPSFM 2020, section 1.6.

Precautionary approach means an approach that:

(a) avoids not acting due to uncertainty about the quality or quantity of the information available, and

(b) interprets uncertain information in a way that best supports the health, wellbeing and resilience of the natural environment.

116. Waitaki Irrigators also seeks to have a definition included in the pORPS<sup>57</sup>. They specifically raise this request within their opposition to IM-P15 and identify a lack of a clear definition not only within this policy but in its application across the whole pORPS. Without a definition the submitter considers the pORPS lacks clarity on how a precautionary approach is to be applied. They request specific wording to implement the relief sought. They draw on the inclusion of precautionary approach as a ‘implementation principle’ within the Exposure Draft of the Natural and Built Environments Bill:

Precautionary approach means an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty.

#### 3.6.10.2. Analysis

117. The phrase ‘precautionary approach’ is used in objectives, policies and methods across the pORPS.<sup>58</sup> Within the HAZ-NH-P5 the application of a precautionary approach applies narrowly to natural hazard risk and is qualified within the policy by adopting an avoidance or adaptive management response to diminish risk and uncertainty. I therefore consider

<sup>56</sup> 00231.018 Fish and Game

<sup>57</sup> 00213.013 Waitaki Irrigators

<sup>58</sup> IM-P15; CE-M3, CE-M4; LF-WAI-P3; ECO-P3, HAZ-NH-P5, HAZ-NH-M2, HAZ-NH-M3, HAZ-NH-M4

the use of precautionary approach within this policy and related provisions<sup>59</sup> to be self-explanatory and not in need of a definition.

118. In relation to the use of 'precautionary approach' in the remainder of the pORPS, there is consistency to how it is used, and it is largely driven by IM-P15. It should be noted that there are a number of submissions on IM-P15 in relation the application of a 'precautionary approach', and how this policy relates to IM-P6 – Acting on best available information. This has resulted in a recommendation in this report<sup>60</sup> to combine these two policies, with the 'precautionary approach' focussing on managing uncertainties, and the remainder of the policy focussed on informing decision making. This re-drafting provides further clarity as to the application of a the 'precautionary approach' principle.
119. CE-M3, CE-M4 and ECO-P3 link back to IM-P15 and generally apply a 'precautionary approach' where there is limited information available and uncertainty about potential adverse effects. HAZ-NH-M2, although not linked back to IM-P15, applies the 'precautionary approach' in the context of where effects are uncertain as it relates to natural hazards and climate change.
120. In my view the use of 'precautionary approach' is consistent with the resource management approach across the pORPS, in that it applies an environmentally conservative approach to decision-making. In relation to whether to define the term, I consider it to be a concept that has long been required through the NZCPS, and although its application in other contexts maybe less well-known, there is sufficient practice and case law to inform its application.
121. Further, in assessing the specific wording provided by each submitter I consider the following:
- The specific relief sought by Fish and Game focusses heavily on uncertain information, rather than uncertain effects. In considering the existing wording of IM-P6 and IM-P15, and that of the proposed amendment to combine these two policies, I consider 'precautionary approach' to be applied to managing uncertainties (defined rather broadly) rather than the more constrained 'informing decision making'. It is an under-pinning principle to be applied when a range of circumstances present themselves. I therefore do not consider the specific wording appropriate.
  - The Waitaki Irrigators specific relief focuses on managing effects, however as it is drawn from the Exposure Draft of the Natural and Built Environments Bill it would be pre-emptive to incorporate into the pORPS. Further, a precautionary approach is a principle of planning, it does not preclude making a decision, but informs a decision when certain circumstances present themselves. The re-drafting of provisions in the IM chapter clarify this and therefore I do not believe it necessary to adopt the definition as requested.

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<sup>59</sup> HAZ-NH-M3 and HAZ-NH-M4 implement this policy, with HAZ-NH-E1 and HAZ-NH-PR1 providing relevant explanation and principal reasoning

<sup>60</sup> IM-P15, Section 6.26.3 of Report 06 – IM

122. I therefore recommend not accepting these submission points.
- 3.6.10.3. Recommendation
123. I do not recommend any amendments.
- 3.6.11. Restoration
- 3.6.11.1. Submissions
124. Wise Response requests a definition for ‘restoration’ be included in the pORPS, although they do not provide any reasoning for this request<sup>61</sup>. They do provide specific wording to implement the relief sought.
- Restoration – re-establish species or habitat by direct action (Ulrich, 2021)
- 3.6.11.2. Analysis
125. I consider restoration to be a common term that is well used and its ordinary meaning well understood within resource management. It a term that is widely used within the pORPS, and across a variety of different contexts including hydrological processes, natural features and landscapes, wetands, cultural values etc <sup>62</sup>, not just applying to species and habitats. To define it could introduce restriction or confusion in its application across the different contexts. I do not believe defining the term would be helpful to the pORPS and therefore recommend not accepting the submission.
- 3.6.11.3. Recommendation
126. I do not recommend any amendments.
- 3.6.12. Restore
- 3.6.12.1. Submissions
127. Fish and Game requests a definition for ‘restore’ be included in the pORPS<sup>63</sup>. The submitter supports the intent of using the term in the pORPS, as reflecting their long-sought restoration of degraded environments and ecosystems. However, in their experience they consider the term a difficult one to implement as it is often unclear what standard restoration should aim for. They consider it appropriate to include a definition at the RPS level.
128. The submitter provides specific wording to implement the relief sought.
- Restore means to return to a state of good health, well-being and resilience.

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<sup>61</sup> 00509.023 Wise Response

<sup>62</sup> Including: NFL-P4, NFL-M4, CE-O3, CE-P4, CE-P6, CE-M5, LF-FW-P9, LF-FW-P10, ECO-02, ECO-M8

<sup>63</sup> 00231.019 Fish and Game

129. Fish and Game considers the wording to have been developed so that restoration is not required when the object of restoration is already in a state of good health, well-being and resilience. In their view this supports the directive language being used. Fish and Game also seeks consequential changes throughout the pORPS so that uncertain language can be replaced with certain directions.

#### 3.6.12.2. Analysis

130. I consider the term restore to be a common term, and that its ordinary meaning is well understood. Within the pORPS 'restore' / 'restored' is used widely across a range of contexts (including natural character, wetlands, access)<sup>64</sup> and to define it could be too restrictive. Where there needs to be a more definitive approach in relation to a desired outcome that has been identified within the RPS, it is entirely appropriate for specific provisions to provide that detail without the restriction of a defined term. Within the pORPS there are some provisions, such as LF-FW-09, where the provision itself begins to define what 'restore' might mean in the context of that provision. Further leaving the word undefined provides the opportunity for a nuanced approach through regional and district plans that may need to respond to particular circumstances and localities. I consider this approach to be entirely appropriate and consistent with the drafting approach within the pORPS.
131. Further I do not consider the requested wording to definitively describe 'restore' with terms included (such as 'good health', 'well-being' and 'resilience') being of a subjective nature themselves and also reflecting common language. In my opinion I do not consider the requested wording to be helpful or add value to the pORPS which is desired by the submitter.
132. I recommend not accepting this submission.

#### 3.6.12.3. Recommendation

133. I do not recommend any amendments.

#### 3.6.13. Reverse sensitivity

##### 3.6.13.1. Submissions

134. Fonterra and Waka Kotahi both request a definition for 'reverse sensitivity' be added to the pORPS. For Fonterra 'reverse sensitivity' is a key issue for many rural and industrial operations, and given it is a well-used term throughout the pORPS they consider it appropriate to include a definition, and provide specific wording<sup>65</sup>. Similarly, Waka Kotahi identifies 'reverse sensitivity' as being a key concern for them. They draw on the definition contained in the pORPS2019 as a suggestion for consideration.<sup>66</sup>

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<sup>64</sup> Including LF-FW-WAI-O1, LF-WAI-P3, LF-VM-O2, LF-FW-09, LF-FW-P14, CE-O1, CE-P4, CE-M5

<sup>65</sup> 00213.005 Fonterra

<sup>66</sup> 00305.005 Waka Kotahi

135. There are a number of further submissions which support either Fonterra (4 further submissions)<sup>67</sup> or Waka Kotahi (12 further submissions)<sup>68</sup> in their requests to include the definition.

#### 3.6.13.2. Analysis

136. Given 'reverse sensitivity' is a term that is well used within the pORPS and one which would benefit from being applied consistently I agree with both submitters that a definition should be included.

137. As identified above both submitters provide specific wording to implement the relief sought. Fonterra provide the following:

*means the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment of other activities which are sensitive to the adverse environmental effects being generated by the pre-existing activity.*

138. Waka Kotahi provides the following from the Partially Operative Otago RPS 2018:

*The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the established activity.*

139. Whilst there are strong similarities between both requested definitions, there are important differences. I note these as being:

- Fonterra adds 'compromised' as a description of the effect an existing activity may have;
- Waka Kotahi includes the 'intensification' of activities as having a potential impact.
- Fonterra qualifies the sensitivities to the existing activity as '...adverse environmental effects being generated by the pre-existing activity'.
- Fonterra introduces 'pre-existing activity' to describe the 'established activity'.

140. To deal with the Fonterra submission first, I consider the word 'compromised'<sup>69</sup> to be subjective in nature in that its meaning introduces a 'risk' of an effect occurring. 'Curtailed'<sup>70</sup> and 'constrained'<sup>71</sup> are terms which more clearly describe a measurable

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<sup>67</sup> FS00237.026 Beef + Lamb and DINZ, FS00510.018 The Fuel Companies, FS00239.000, FS00235.104 OWRUG

<sup>68</sup> FS00208.002 AgResearch Limited, FS00221.006 Silver Fern Farms, FS00322.005 Fulton Hogan, FS00510.019 The Fuel Companies, FS00304.011 New Zealand Defence Force, FS00314.017 Transpower, FS00318.014 Contact, FS00236.008 Horticulture NZ, FS00609.204 Fish and Game, FS00235.105 OWRUG, FS00320.0101 Network Waitaki, FS00306.005 Meridian

<sup>69</sup> Compromised – to risk having a harmful effect on something [COMPROMISE | meaning in the Cambridge English Dictionary](#)

<sup>70</sup> Curtailed – to stop something before it is finished, or to reduce or limit something [CURTAIL | meaning in the Cambridge English Dictionary](#)

<sup>71</sup> Constrained –forced to do something against your will [CONSTRAINED | meaning in the Cambridge English Dictionary](#)

outcome of a negative effect and therefore I consider them to adequately describe the effects considered in relation to 'reverse sensitivity'. No detail is provided by Fonterra as to why it is important to specify sensitivity to 'adverse environmental effects' and not just to the existing activity. In addition, none of the further submissions received provide any specific support for this part of the definition. I could assume that it is because the submitter considers some affects to have already been anticipated by other plan provisions, and therefore those beyond would be deemed adverse. I would welcome clarification on this from the submitter for it to be included in a definition. But I do recognise that qualifying that it is the effects of an existing activity which a new activity is sensitive to is an important part of defining reserve sensitivity. The introduction of 'pre-existing activity' uses a different term to the initial description of 'established activity' and is therefore not consistent.

141. The inclusion of 'intensification' of activities in the definition by Waka Kotahi drew specific support from further submissions.<sup>72</sup> It would seem reasonable that effects from the intensification of existing activities may give rise to reverse sensitivity effects.
142. I therefore recommend accepting the Fonterra and the Waka Kotahi submissions in part, in that a definition be included in the pORPS, but for a combination of the two requests be created to define reverse sensitivity.

#### 3.6.13.3. Recommendation

143. I recommend including a definition for reverse sensitivity as follows:

<u>Reverse sensitivity</u>	<u>The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the effects of the established activity.</u>
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#### 3.6.14. Rural Research Activities

##### 3.6.14.1. Submissions

144. AgResearch seeks to have a definition for 'Rural research activities' inserted into the pORPS.<sup>73</sup> This to ensure that existing and future rural research activities are not constrained by reverse sensitivity effects, and to ensure rural research activities are clearly provided for as an essential and appropriate activity. The inclusion of a definition is a consequential change to a number of other requests made to the pORPS.
145. The submitter provides the following specific wording to implement the relief sought:
- Rural research activities:
- Land, buildings and facilities used for research and development associated with primary production activities, including (but not limited to) buildings and structures housing animals, field trials, education facilities, conference facilities, laboratories, pilot plants for research

<sup>72</sup> FS00510.018 The Fuel Companies, FS00320.011 Waitaki Network

<sup>73</sup> 00208.003 AgResearch



purposes, staff and administrative offices and facilities, visitor facilities, field days, and any ancillary activities and accessory buildings.

#### 3.6.14.2. Analysis

146. As mentioned above the request to include a definition is consequential to a number of other requests by the submitter. Specifically, these request include inserting the term into provisions within the LF and UFD chapters<sup>74</sup>. The consideration of these related submission points are dealt with in the subsequent chapters. The requests have been recommended to not be accepted, for the following reasons:

- Activities that relate to rural land uses are being covered by using a general term in the pORPS. This term is 'Primary Production', however due to submissions relating to this term a recommendation is made to change this to 'food and fibre'<sup>75</sup>. The definition of food and fibre incorporates a range of land uses which would cover activities such as are included in the request to define Rural research activities.
- Further to the inclusion of a definition to cover a number of rural land uses, there is no need to add a specific reference one type of activity. This approach doesn't add value to the provisions where the submitter seeks to include it.
- The concern regarding reverse sensitives is addressed by a suite of relevant policies in the UFD chapter<sup>76</sup>. The clarity of these policies is further enhanced by the inclusion of a definition for reverse sensitivities<sup>77</sup>.

147. As the consequential requests to include the definition in provisions in LF and UFD are recommend to be rejected, there is then no need to include a definition. I recommend not accepting this submission point.

#### 3.6.14.3. Recommendation

148. I do not recommend any amendments.

### 3.6.15. Te Tiriti o Waitangi

#### 3.6.15.1. Submissions

149. Jim Hopkins requests that the definition of Te Tiriti o Waitangi from the exposure draft of the Natural and Built Environments Bill be included into the pORPS<sup>78</sup>. By not including this definition, the submitter considers there is a risk the pORPS is not in accord with Crown intentions and may create potential future conflicts relating to which principles in which document are considered.

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<sup>74</sup> LF-LS-P19, LF-LS-E4, UFD-O4, UFD-P7, UFD-P8

<sup>75</sup> Report 01- Introduction and General Themes, section 1.6.8

<sup>76</sup> UFD-P4, UFD-P6, UFD-P7, UFD-P8

<sup>77</sup> Section 3.6.13 of this report

<sup>78</sup> 00420.006 Jim Hopkins

3.6.15.2. Analysis

150. The interpretation which the submitter has requested is yet to be enacted, and therefore I consider it inappropriate to include this definition at this time.

3.6.15.3. Recommendation

151. I do not recommend any amendments.

3.6.16. Tipping point

3.6.16.1. Submissions

152. Beef + Lamb and DINZ submit that the use of ‘tipping point’ within SRMR could cause uncertainty and inconsistency in its application, given it may have several nuanced meanings depending on where its meaning is derived, for example in ecological, planning, or legal terms<sup>79</sup>.

153. Beef + Lamb and DINZ do not provide a specific wording that would implement the relief sought, and which would overcome their concerns of it being a term that could have many applications.

3.6.16.2. Analysis

154. I do not consider it necessary to include a definition for tipping point. Tipping point is a term that can have many applications, and I believe it to be a term that is generally well understood in its ordinary meaning<sup>80</sup>. Further, its use in SRMR-I11 refers to that general ‘point in time’ and combination of events and circumstances, and not to a specific ‘tipping point’ or limit that might be passed. I therefore recommend not accepting the submission point.

3.6.16.3. Recommendation

155. I do not recommend any amendments.

3.6.17. Waterways

3.6.17.1. Submissions

156. DCC requests ‘waterways’ be defined within the pORPS for clarity purposes. They do not suggest specific wording to implement the relief sought.<sup>81</sup>

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<sup>79</sup> 00237.008 Beef + Lamb and DINZ

<sup>80</sup> Tipping point – the time at which a change or an effect cannot be stopped  
<https://dictionary.cambridge.org/dictionary/english/tipping-point>

<sup>81</sup> 00139.005a DCC

#### 3.6.17.2. Analysis

157. The term ‘waterways’ is used in the pORPS, in Part1, SRMR, RMIA, MW and CE-PR. It is not used within an objective, policy or method. The context for its use is in describing features, or a combination of features within Otago, of which waterways are one. Terms which are defined in the pORPS such as *Water body*, *Rivers* and *Freshwater* are often used alongside the term waterways. In reviewing its use within the pORPS, and in considering the terms which have been defined, it has been used as a general term to describe bodies of water, without the limitations of a definition.<sup>82</sup> Some of these instances have referred to the Freshwater reforms of 2020, where waterways was a general term used to describe the context of the reforms.<sup>83</sup> Also, it has been used as an encompassing term of both fresh and coastal water<sup>84</sup>. The use of the term therefore has numerous contexts, most of which are clear when reading the surrounding paragraphs. In some instances, there may be the opportunity to replace the term with a defined term within the pORPS, and I welcome such suggestions from the submitter if this would assist in implementing the crux of the relief sought.
158. I therefore do not consider it appropriate to define the term, and recommend this submission point not be accepted.

#### 3.6.17.3. Recommendation

159. I do not recommend any amendments.

#### 3.6.18. 1990 mean sea level (Otago Metric Datum)

##### 3.6.18.1. Submissions

160. Federated Farmers requests consideration of whether the Dunedin Vertical Datum (DVD 1958) plus 100m remains appropriate or whether reference to the new NZ Vertical Datum 2016 should be utilised, as this is the official vertical datum for New Zealand<sup>85</sup>. They do not provide a specific relief sought.

##### 3.6.18.2. Analysis

161. 1990 mean sea level (Otago Metric Datum) does not appear to be used within the pORPS. Its inclusion in the interpretations list seems to have been in error and perhaps a hangover from the pORPS2019, where this definition was included. Given it is not used within the pORPS, I recommend it be deleted from the definitions list and therefore recommend accepting the submission point from Federated Farmers in part.

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<sup>82</sup> pORPS - Part1 – Statutory context, MW – Wāhi Tūpuna, SRMR-I4, SRMR-I6 (impact snapshot), RMIA-WAI-I5, RMIA-WTU-I1

<sup>83</sup> pORPS: Context sections -, SRMR-I5, SRMR-I6

<sup>84</sup> pORPS – RMIA-CE-I1, RMIA-CE-13, CE-PR1

<sup>85</sup> 00239.006 Federated Farmers

### 3.6.18.3. Recommendation

162. I recommend deleting the definition of 1990 mean sea level (Otago Metric Datum) from the PORPS.

## 3.7. Submissions on definitions addressed in other chapters

163. Numerous submissions on definitions have been incorporated into the discussion in domain or topic specific chapters of this s42A Report as they relate to other submission points, or are critical to other considerations within those chapters. Below is a list of those definitions and the relevant section of this report. Please refer to these sections for further detail.

Report	Definitions addressed
1 – Introduction and general themes	Carbon forestry Effects management hierarchy Food and fibre sector Mining Primary production Regionally significant industry Threshold
2 – Submissions on Part 1: Introduction and general provisions	N/A
3 – Interpretation (Definitions and abbreviations)	(as per the contents of this chapter)
4 – MW – Mana whenua	Mahika kai Mātauraka Nohoaka Rakatirataka Papakaika
5 – Submissions on Issues (SRMR and RMIA)	N/A
6 – IM – Integrated management	Natural environment Integrated resource management
7 – AIR – Air	Ambient air Polluted Airshed
8 – CE – Coastal environment	N/A
9 – LF – Land and freshwater	Community drinking water supply Constructed wetlands Degraded Highly productive land Limits on resource use

	Loss of values Natural hazard works Off-stream storage of surface water Other infrastructure Primary production Reticulated system Specified infrastructure Stormwater system operator Wastewater system operator Water sensitive urban design / water sensitive design
10 – ECO – Ecosystems and indigenous biodiversity	Biodiversity offsetting Ecological district Effects management hierarchy Enhancement Indigenous fauna Indigenous species Indigenous flora Naturally rare Net Ecological gain Significant natural area
11 – EIT – Energy, infrastructure, and transport	Additional infrastructure Commercial port activities Distribution network Electricity sub-transmission infrastructure Infrastructure National grid Nationally significant infrastructure New infrastructure, Operation and maintenance of infrastructure, Upgrade and development of existing infrastructure Regionally significant infrastructure Renewable electricity generation activities Significant electricity distribution infrastructure Ski area infrastructure Telecommunication and radiocommunication facilities Upgrade
12 – HAZ – Hazards and risks	Hard protection structure Major hazard facility

	Residual risk Resilient or resilience Risk Vulnerability
13 – HCV – Historical and cultural values	Cultural heritage values Wāhi tūpuna
14 – NFL – Natural features and landscapes	Afforestation Highly valued natural features and landscapes
15 – UFD – Urban form and development	Urban area Rural area Rural industry Key civic public spaces Affordability
16 – Evaluation and monitoring	N/A

164. There are also new definitions recommended from other sections of this report, which are consequential to chapter specific submission points. These include:

New Definitions	pORPS Chapter
Climate change adaptation	IM
Climate change mitigation	IM
Limits on resource use	LF-FW
Take limits	LF- FW
Rural Industry	UFD
Land resource dependant primary production	UFD
Occupancy	ECO

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