

# **Section 42A Hearing Report**

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

### **Chapter 1:**

#### **Introduction and general themes**

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# 1. Introduction and general themes

## 1.1. Purpose

1. This suite of reports is prepared under the provisions of section 42A of the RMA and assesses information provided in the submissions on the Proposed Otago Regional Policy Statement 2021 (pORPS).
2. The purpose of this suite of reports is to provide the Hearing Panel with a summary and evaluation of the submissions made on the pORPS and to make recommendations on possible amendments to the policy statement in response to those submissions.
3. The recommendations are informed by the evaluation undertaken by the authors and technical information provided by technical specialists. Authors are identified for each section of this report. Throughout the text of the report, “we” and similar terms are used to identify these authors. The recommendations made on any provisions of the pORPS are recommendations of the relevant author.
4. It should be emphasised that any conclusions reached, or recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them by the submitters.

## 1.2. Abbreviations and submitter names

5. There are many abbreviations used across the suite of section 42A reports. These are set out in Table 1 below.

**Table 1: Abbreviations**

Air Plan	Regional Plan: Air for Otago
Coast Plan	Regional Plan: Coast for Otago
dNPSHPL	Draft National Policy Statement for Highly Productive Land
EEZ Act	Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
HAIL	Hazardous Activities and Industries List
HSNO	Hazardous Substances and New Organisms Act 1996
HSWA	Health and Safety at Work Act 2015
IPCC	Intergovernmental Panel on Climate Change
Kāi Tahu ki Otago IMP	Kāi Tahu ki Otago Natural Resources Management Plan 2005
LUC	Land Use Capability
NESCS	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011

NESPF	Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017
NESF	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
Ngāi Tahu ki Murihiku IMP	Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan – Te Tangi a Taura (The cry of the people) 2008
NPSFM	National Policy Statement for Freshwater Management 2020
NPSREG	National Policy Statement for Renewable Electricity Generation 2011
NPSET	National Policy Statement on Electricity Transmission 2008
NTCSA 1998	Ngāi Tahu Claims Settlement Act 1998
ORC	Otago Regional Council
pORPS 21	Proposed Regional Policy Statement 2021
RMA	Resource Management Act 1991
Section 32 Report	Section 32 Evaluation Report for the Proposed Otago Regional Policy Statement 2021
SE Regs	Resource Management (Stock Exclusion) Regulations 2020
Waste Plan	Regional Plan: Waste for Otago
Water Plan	Regional Plan: Water for Otago

6. There are also abbreviations of submitter names adopted across the suite of reports. These are set out in Table 2 below.

**Table 2: Submitter name abbreviations**

Aggregate and Quarry	Aggregate and Quarry Association
Alluvium and Stoney Creek	Alluvium and Stoney Creek
Angus and others	Angus, Alistair; Singleton, Robert; Bryant, Neville; Rivett, Ruth; Mckenzie, David and Fiona; Britton, Tania; Burrell, Marie; Young, Keri; Tayler, Kate; Afleck, Vern Angus and others
AWA	Aotearoa Water Action
Ballance	Ballance Agri-Nutrients
Beef + Lamb and DINZ	Beef + Lamb New Zealand Limited and Deer Industry New Zealand
Blackthorn Lodge	Blackthorn Lodge Glenorchy Limited
Business South	Business South Incorporated
CIAL	Christchurch International Airport Limited
Clutha DC	Clutha District Council

CODC	Central Otago District Council
COES	Central Otago Environmental Society
Contact	Contact Energy Limited
Danny Walker and Others	Danny Walker, Peter Hall, Cold Clutha Ltd and Awa Koura Mining Ltd
DCC	Dunedin City Council
DOC	Director-General of Conservation
ECan	Canterbury Regional Council (Environment Canterbury)
Federated Farmers	Federated Farmers of New Zealand
FENZ	Fire and Emergency New Zealand - Te Kei Region Otago Southland
Fish and Game	Otago Fish & Game Council and the Central Southland Island Fish & Game Council
Fisheries NZ	Fisheries New Zealand
Fonterra	Fonterra Co-operative Group Limited
Foothills Mining	Foothills Mining Ltd
Forest and Bird	Royal Forest and Bird Protection Society of New Zealand Incorporated
Fulton Hogan	Fulton Hogan Limited
Glenpanel	Glenpanel Limited Partnership
Graymont	Graymont (NZ) Limited
Greenpeace	Greenpeace Aotearoa
Harbour Fish	Harbour Fish, Southern Fantastic, and Fantastic Holdings
Heritage NZ	Heritage New Zealand Pouhere Taonga
Horticulture NZ	Horticulture New Zealand
Infinity	Infinity Investment
Kāi Tahu ki Otago	Te Rūnanga o Moeraki, Kāti Huirapa ki Puketeraki, Te Rūnanga o Ōtākou, and Hokonui Rūnaka.
LAC	LAC Properties Trustees Limited
Matakanui Gold	Matakanui Gold Limited
McArthur Ridge	McArthur Ridge Vineyard Ltd
Meridian	Meridian Energy Limited
Network Waitaki	Network Waitaki Limited
Ngāi Tahu ki Murihiku	Waihōpai Rūnaka, Te Rūnanga Ōraka Aparima and Te Rūnanga o Awarua
NZ Carbon Farming	New Zealand Carbon Farming

NZ Cherry Corp	New Zealand Cherry Corp Limited
NZ Pork	New Zealand Pork Industry Board
Oceana Gold	Oceana Gold (New Zealand) Limited
Off Road Adventures	Off Road Adventures Limited
Otago Rock Lobster	Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated
OWRUG	Otago Water Resource Users Group
PWCG	Pomahaka Water Care Group
Port Blakely	Port Blakely NZ Ltd, NZ Forestry
Port Otago	Port Otago Limited
PowerNet	PowerNet Limited
QLDC	Queenstown-Lakes District Council
Queenstown Airport	Queenstown Airport Corporation
Ravensdown	Ravensdown Limited
Rayonier	Rayonier Matariki Forests
Sanford	Sanford Limited
Sipka Holdings	Sipka Holdings Ltd
Southern Inshore Fisheries	Southern Inshore Fisheries Management Company Limited
Strath Clyde Water and others	Strath Clyde Water Ltd, McArthur Ridge Investment Group Ltd and Mount Dunstan Estates Ltd
Te Waihangā	Te Waihangā / New Zealand Infrastructure Commission
The Fuel Companies	Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited
The Telecommunications Companies	Chorus, New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand
Toitū Te Whenua	Toitū Te Whenua, Land Information New Zealand
Transpower	Transpower New Zealand Limited
Trojan	Trojan Holdings Ltd
Universal Developments	Universal Developments Hawea Limited
UCAC	Upper Clutha Angling Club
Waitaki DC	Waitaki District Council
Waitaki Irrigators	Waitaki Irrigators Collective Ltd
Waka Kotahi	Waka Kotahi NZ Transport Agency
Waterfall Park	Waterfall Park Developments Limited

Wayfare	Wayfare Group Limited
Wise Response	Wise Response Society Inc

### 1.3. Proposed Otago Regional Policy Statement 2021

7. The pORPS underpins the planning framework in Otago, directing and informing the content of both regional and district plans, and in some cases other types of plans and strategies (such as the Regional Land Transport Plan). It is therefore a critical document for the management of natural and physical resources in Otago.
8. Otago's first Regional Policy Statement became operative on 1 October 1998. In 2014 a review of that RPS was commenced with the intent of developing a new regional policy statement to replace it. Following a full review and development process, a proposed Regional Policy Statement was notified in 2015. The Council made decisions on the document in 2016 and it was made largely operative in 2019 (with the exception of Chapter 3), with all remaining provisions being made operative in 2021, excluding a package of provisions relating to port activities at Port Chalmers and Dunedin which is still under appeal.
9. There were three primary regulatory drivers for preparing the pORPS:
  - a. The requirement to implement the structure and format standards in the National Planning Standards by May 2022,
  - b. To implement the recommendations of the Minister for the Environment in response to the section 24A review of ORC's planning functions undertaken by Professor Skelton, and
  - c. To respond to a range of new and amended national direction promulgated since the pORPS 2019 was developed.
10. The first set of National Planning Standards (Planning Standards/ Standards) was gazetted in April 2019 and included a mandatory structure and format for planning documents, including regional policy statements. The Planning Standards require the structure and format standards to be implemented in regional policy statements by May 2022, or earlier if a proposed regional policy statement is notified after April 2019.
11. The structure required by the Planning Standards is significantly different to the structure adopted in the pORPS 2019. It is not possible to simply 'rearrange' its provisions into the groupings required by the Planning Standards – implementing the Standards required revisiting many of the provisions and separating parts of them into different chapters. Complying with the structural requirements of the Planning Standards required a rewrite of the pORPS 2019 which could not be undertaken without using one of the planning processes set out in Schedule 1 of the RMA.
12. In May 2019, a review of ORC's planning functions was commissioned by the Minister for the Environment and undertaken by his appointee, Honorary Professor Peter Skelton.

After receiving Professor Skelton's report and recommendations,<sup>1</sup> in November 2019 the Minister concluded that ORC's current freshwater management framework was not fit for purpose and made a number of recommendations to ORC on the future of its freshwater planning framework. These were accepted by ORC in December 2019 and included agreement to:

- a. take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits;
- b. Develop and adopt a programme of work to achieve the following:
  - i. By November 2020 [later amended to June 2021 with the Minister's approval], a complete review of the current Regional Policy Statement that is publicly notified, with the intention that it be made operative before the review of its LWRP is notified.
  - ii. By 31 December 2023, notification of a new LWRP for Otago that includes region-wide objectives, strategic policies, region-wide activity policies and provisions for each of the Freshwater Management Units, covering all the catchments within the region.
  - iii. Prepare a plan change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with the requirements in the relevant NPSFM at that time.

13. Following the release of the NPSFM 2020 in August 2020, and the introduction of the requirement to develop long-term freshwater visions that must be included in regional policy statements as objectives, the deadline for notifying a new regional policy statement was subsequently extended to June 2021 to allow for a further consultation period.

14. The new RPS must comply with national directions which have been put in place since the partially operative ORPS 2019 was developed. These include amendments to existing national policy statements and new national direction, including:

- New National Policy Statement for Freshwater Management 2020,
- New National Environmental Standard for Fresh Water 2020,
- New Regulations for stock exclusion from water bodies,
- Amendments to Regulations for the Measurement and Reporting of Water Takes,
- New National Policy Statement for Urban Development 2020.

15. In March 2020 ORC undertook a targeted review of the pORPS 2019, primarily to evaluate its compliance with higher order documents and the effectiveness of the provisions. The review found that the structure of the PORPS 2019 has led to issues with the effectiveness

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<sup>1</sup> Appendix 1 of the Section 32 Evaluation Report for the pORPS 2021  
Proposed Otago Regional Policy Statement 2021



of the provisions. The development of the pORPS is set out in chapter 2 of the Section 32 Report.

#### 1.4. Format and assessment approach

16. This section details the format and structure of this report including the reporting and evaluation approach taken to the assessment of submissions, and any assumptions made.

##### 1.4.1. Submissions & further submissions

17. The pORPS was publicly notified on 26 June 2021, with the submission period ending on 3 September 2021. 1420 submissions were received by the closing date and time and a further 43 submissions were received after this time for a total of 1463 submissions.

18. The Summary of Decisions Requested was publicly notified on 30 October 2021, with the period for making further submissions closing on 12 November 2021. Submissions with an address for service were contained in Part A (343 submissions) and submissions without an address for service in Part B (1120 submissions). 59 further submissions were received. On 16 November 2021, a summary of decisions requested by two submitters were publicly notified (known as the Corrigendum) with the period for making further submissions on those submissions closing on 1 December 2021. No further submissions were received.

##### 1.4.2. Reporting approach

19. The size of the pORPS and number of submissions means it has been necessary to produce a series of section 42A reports. The approach taken to preparing these reports is set out below:

Report	Content	Maps and appendices
1	Introduction and general themes	-
2	Submissions on Part 1: Introduction and general provisions	-
3	Interpretation (Definitions and abbreviations)	-
4	MW – Mana whenua	
5	Submissions on Part 2: Resource management overview	-
6	IM – Integrated management	-
7	AIR – Air	-
8	CE – Coastal environment	-
9	LF – Land and freshwater LF-WAI – Te Mana o te Wai LF-VM – Visions and management LF-FW – Freshwater LF-LS – Land and soils	APP1 MAP1

10	ECO – Ecosystems and indigenous biodiversity	APP2 to APP5
11	EIT – Energy, infrastructure, and transport EIT-EN – Energy EIT-INF – Infrastructure EIT-TRAN – Transport	MAP2
12	HAZ – Hazards and risks HAZ-NH – Natural hazards HAZ-CL – Contaminated land	APP6
13	HCV – Historical and cultural values HCV-WT – Wāhi tūpuna HCV-HH – Historic heritage	APP7 APP8
14	NFL – Natural features and landscapes	APP9
15	UFD – Urban form and development	APP10
16	Evaluation and monitoring	-

20. Reports 1, 2, 3, 4 and 5 are relevant to all reports as they contain the front end of the pORPS, definitions, provisions relating to mana whenua, significant resource management issues for the region, and resource management issues of significance for iwi.
21. Within each report, the assessments generally follow the structure of the pORPS, assessing the provisions contained within each chapter sequentially. Matters applicable to more than one provision are generally assessed in the ‘General themes’ set out at the beginning of each report.
22. Recommendations are made where appropriate, and these are either to retain provisions without amendment, or amend the provisions (by way of deletion, replacement with new text or addition of new text) with the amendment shown by way of strikeout and underlining in the attached copy of the pORPS. Where the authors consider that an amendment may be appropriate but consider it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. In the absence of a specific recommendation, the default position of the authors is to retain the provisions as notified in the pORPS. All recommended changes are set out in an accompanying ‘tracked changes’ versions of pORPS and have footnoted references with a submission point and submitter name that provides the scope for the recommended change.
23. The pORPS must be prepared in accordance with the relevant statutory obligation set out in the RMA. Section 61(1) RMA provides:

(1) *A regional council must prepare and change its regional policy statement in accordance with—*

(a) *its functions under section 30; and*

- (b) the provisions of Part 2; and*
- (c) its obligation (if any) to prepare an evaluation report in accordance with section 32; and*
- (d) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and*
- (da) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and*
- (e) any regulations.*

24. In addition, section 61(2) provides:

*(2) In addition to the requirements of section 62(3), when preparing or changing a regional policy statement, the regional council shall have regard to—*

- (a) any—*
  - (i) management plans and strategies prepared under other Acts; and*
  - (ii) [Repealed]*
  - (iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and*
  - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Māori customary fishing); and*
  - (iv) [Repealed]*

*to the extent that their content has a bearing on resource management issues of the region; and*

- (b) the extent to which the regional policy statement needs to be consistent with the policy statements and plans of adjacent regional councils; and*
- (c) the extent to which the regional policy statement needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012;*

25. Further obligations are imposed by section 61(2A) which reads:

*(2A) When a regional council is preparing or changing a regional policy statement, it must deal with the following documents, if they are lodged with the council, in the manner specified, to the extent that their content has a bearing on the resource management issues of the region:*

- (a) *the council must take into account any relevant planning document recognised by an iwi authority; and*
- (b) *in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—*
  - (i) *recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and*
  - (ii) *take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.”*

26. The Council must not have regard to trade competition or the effects of trade competition.

27. In addition, section 62(3) contains mandatory requirements that a regional policy statement must not be inconsistent with any water conservation order and must give effect to a national policy statement, New Zealand Coastal Policy Statement, or a National Planning Standard.

#### 1.4.3. Submissions and further submissions

28. In preparing the evaluation of the submissions and further submissions lodged on pORPS, a number of assumptions have been made.

29. Individual provisions of the pORPS received a number of submissions and to avoid identifying every submitter these have been grouped in the discussion of individual provisions. This means that individual submitters are often not identified and the reporting on submissions is often generalised [e.g. ‘a large number of submissions were received on Policy....’]. Where an amendment is recommended only a single submitter or submission point is shown. This has been done as a means of confirming that there is scope within the submissions to make the requested change, rather than identifying or prioritising particular submitters. Where provisions are recommended to be retained without amendment, there is no footnote reference to any submission point.

30. There are further submissions on a number of submission points. The further submissions have been closely reviewed along with the relevant submission point. The majority of further submissions are from original submitters. For most further submission points, the issue is clearly ‘live’ from the submitters’ original submission. On this basis, only in exceptional cases are further submission points noted.

## 1.5. Procedural and jurisdictional issues

31. Detailed analysis of jurisdictional and specific legal issues raised by submissions can be found within this section of the report, with cross-references to this analysis in the relevant planning discussion.

32. The analysis in this section covers the following matters:

- Validity of submissions
- Planning process
- Section 32 report
- Application of the Resource Management Amendment Act 2020
- Application of the NESPF
- Legal status of provisions
- Application of Treaty Articles
- Ancillary Claims

33. The content of this section has been prepared by Simon Anderson of Ross Dowling Marquet Griffin, counsel for the Council.

### 1.5.1. Validity of submissions

#### 1.5.1.1. Submissions

34. A large number of incomplete submissions were received. They did not include contact details for the submitter nor an address for service. It has been impossible to contact the people who purported to lodge these submissions. These submissions are included in the Summary of Decisions Requested as Part B to the List of Submitters. There are a large number of submissions received in a standard form produced by Greenpeace New Zealand and ten others. They have not been considered in this report.

35. The closing time for submissions was 3pm on 3 September 2021. 43 submissions were received after that time. Further submissions closed at 5pm on 12 November 2021. Four submissions were received after that time. A schedule of submissions or further submissions received after the closing date has been published on the hearing website.

36. For processing purposes, the ORC has treated these submissions and further submissions as if they had been received in time. They have been included in the summary of decisions requested. Late submissions have been open to further submissions. Late submissions and further submissions are addressed in the section 42A reports.

#### 1.5.1.2. Analysis

37. The Hearing Panel may consider that the irregularities in the incomplete submissions render them invalid. No prejudice arises to the Council in the late submissions and further submissions being received out of time and being considered by the Hearing Panel. There appears to be no prejudice to any other person. The panel may therefore grant the necessary waivers.

#### 1.5.1.3. Recommendation

38. It is recommended that the Hearing Panel hold the incomplete submissions to be invalid, and grant waiver of time for late submissions and further submissions.

#### 1.5.2. Planning process

##### 1.5.2.1. Submissions

39. Forest and Bird, Boxer Hill, Federated Farmers, and Waterfall Park seek that a conventional Schedule 1 planning process is used for those parts of the pORPS that do not relate to freshwater.<sup>2</sup> Queenstown Airport considers the pORPS should use either the conventional Schedule 1 process or a streamlined planning process for those parts that do not relate to fresh water.<sup>3</sup>
40. Rayonier and Te Waihangā consider the development of the pORPS should be delayed until the RMA reform process has been completed.<sup>4</sup> Angus and others seek suspension of the pORPS process to allow for further effective engagement with all stakeholders.<sup>5</sup>

##### 1.5.2.2. Analysis

41. A freshwater planning instrument must under section 80A of the Resource Management Act 1991 be dealt with through the freshwater planning process. However, whether the pORPS is a freshwater planning instrument has been challenged. Proceedings were brought in the High Court. The High Court has been asked to determine whether the pORPS is a freshwater planning instrument in its entirety, or only in part. The Court has reserved its decision. The ORC and the Hearing Panel will need to conform with the High Court's judgment (subject to any appeals).
42. Rayonier and Te Waihangā consider the development of the pORPS should be delayed until the RMA reform process has been completed.
43. There is no legal reason for delay. The outcome of the RMA reform process and its timing are unknown. The ORC needs to update its Regional Planning Framework to reflect recent national directions, including the National Policy Statement for Freshwater Management 2020 and the National Policy Statement for Urban Development 2020.
44. Angus and others seek suspension of the process to allow for further effective engagement with all stakeholders. This raises a question about the adequacy of consultation undertaken to date. There has been extensive consultation in developing the pORPS which is set out in detail in section 2 of the section 32 evaluation report. There has been sufficient engagement and consultation with stakeholders. Stakeholders have had the opportunity to make submissions and further submissions. Those who chose to

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<sup>2</sup> 00230.001 Forest and Bird, 00025.001 Boxer Hill, 00239.193 Federated Farmers, 00023.001 Waterfall Park

<sup>3</sup> 00313.042 Queenstown Airport, 00313.038 Queenstown Airport

<sup>4</sup> 00020.001 Rayonier Matariki Forests, 00321.099 Te Waihangā

<sup>5</sup> 00103.001 Angus and others

submit now have the opportunity to be heard on their submissions and call evidence. There is no need for suspension of the process for further engagement.

1.5.2.3. Recommendation

45. It is recommended:

- a. that the hearing should be conducted in accordance with the judgment of the High Court (when given),
- b. that the conduct of this hearing should not be delayed until the RMA reform process has been completed, and
- c. not to suspend the hearing process for further engagement with stakeholders.

1.5.3. Section 32 report

1.5.3.1. Submissions

46. Twelve submissions were received on the section 32 report.

47. The Fuel Companies seek general relief to meet the requirements of the statutory tests in section 32 of the RMA.<sup>6</sup> Business South seeks additional transparency in relation to the assumptions made in the Section 32 analysis, particularly those used to measure the economic impact of the pORPS.<sup>7</sup>

48. Most submitters consider that the section 32 report is deficient, either as a whole or in relation to particular topics:

- Transpower considers the section 32 report does not meet the requirements of section 32 of the RMA, in particular whether the objectives meet the purpose of the RMA and in relation to the level of detail in the section 32.<sup>8</sup>
- Ernslaw One opposes the pORPS and section 32 report on the basis that there is no justification for imposing further regulation beyond that already imposed as a result of the gazettal of the NESPF.<sup>9</sup>
- Oceana Gold and Straterra note that the section 32 report does not contain a cost benefit analysis specific to the effects on the minerals and mining sector as a result of the pORPS 2021.<sup>10</sup> In particular, Oceana Gold raises concern that there is no clear evidential basis or section 32 evaluation to support the Significant Natural Area criteria in APP2.<sup>11</sup>
- Waitaki DC is concerned that the section 32 analysis for the *Mana whenua* section does not clearly articulate the benefits, costs, and risks of the new provisions on the community, the economy and the environment. The submitter requests that a

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<sup>6</sup> 00510.005 The Fuel Companies

<sup>7</sup> 00408.002 Business South

<sup>8</sup> 00314.054 Transpower

<sup>9</sup> 00412.006 Ernslaw One, 00412.003 Ernslaw One, 00412.008 Ernslaw One

<sup>10</sup> 00019.002 Straterra, 00115.033 Oceana Gold

<sup>11</sup> 00115.033 Oceana Gold

revised section 32 analysis is completed for MW-P1, MW-P2, MW-P3, MW-M2 and MW-M4.<sup>12</sup>

- Otago Rock Lobster considers the section 32 report of the provisions applicable to the coastal marine area should consider the Fisheries Act 1996 as the most obvious and practical alternative for implementing controls on fishing to achieve the purpose of the RMA.<sup>13</sup>

49. Fish and Game agrees with and adopts the list of documents and legislation provided in the section 32 report, but notes that the Central South Island Sports Fish and Game Management Plan 2012 – 2022 also requires consideration.<sup>14</sup>

#### 1.5.3.2. Analysis

50. In essence the submissions make a similar point directed towards different aspects of the pORPS and the adequacy of the section 32 report. The ORC has prepared a full and comprehensive report under section 32 of the RMA. Matters such as whether objectives are the most appropriate way of achieving the purpose of the RMA, whether pORPS provisions are the most appropriate way of achieving those objectives, the appropriate level of detail, the identification of other reasonably practicable options to achieve objectives, the efficiency and effectiveness of provisions in achieving objectives, the benefits and costs of provisions and their quantification, and the risks of acting or not acting given the level of certainty or sufficiency of information are now for substantive consideration by the Hearing Panel in context of specific pORPS provisions, and taking account of submissions made, evidence called, this report and the section 32 report.

#### 1.5.3.3. Recommendation

51. The matters raised are for substantive consideration in context of the pORPS provisions referred to. Any aspect of the section 32 report considered inadequate is for submission and evidence at hearing, in context of the pORPS provisions concerned.

#### 1.5.4. Application of the Resource Management Amendment Act 2020

##### 1.5.4.1. Submission

52. Wise Response seeks to clarify whether the pORPS intends to implement the Resource Management Amendment Act 2020, and particularly the amendments which will allow consideration of the effects of an activity on climate change.<sup>15</sup>

##### 1.5.4.2. Analysis

53. The submission appears directed towards the repeal of RMA provisions (ss70A and 70B) which prevent regional councils from having regard to the effects of the discharge of greenhouse gases on climate change and prevent rules which are stricter than a national

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<sup>12</sup> 00140.006 Waitaki DC, 00140.007 Waitaki DC, 00140.009 Waitaki DC

<sup>13</sup> 00125.015 Otago Rock Lobster

<sup>14</sup> 00231.001 Fish and Game

<sup>15</sup> 00509.017 Wise Response



environmental standard to control the effects on climate change of the discharge of greenhouse gases into air.

54. These provisions are repealed with effect 30 November 2022 and in the meantime remain in full force and effect. However, the provisions relate to rules in a regional plan, and not the objectives and policies of a regional policy statement. Notification of relevant new regional plan rules is not expected to occur before 30 November 2022.

1.5.4.3. Recommendation

55. No change is recommended.

1.5.5. Application of the NESPF

1.5.5.1. Submission

56. Port Blakely seeks clarification about whether the NESPF takes precedence over the NESF in reference to forestry activities.<sup>16</sup>

1.5.5.2. Analysis

57. Regulation 7 of the NESF provides that its provisions are subject to the NESPF. Regulation 6 of the NESPF concerns rules in a plan and not the policies in the pORPS.

1.5.5.3. Recommendation

58. No change is recommended.

1.5.6. Legal status of provisions

1.5.6.1. Submission

59. LAC, Lane Hocking, Maryhill, Mt Cardrona Station, and Universal Developments seek to clarify the legal status and intention of methods, monitoring, anticipated environmental results, and principal reasons in the pORPS.<sup>17</sup>

1.5.6.2. Analysis

60. Section 62(1) RMA requires that a regional policy statement must state, among other things:
- a. The methods (excluding rules) used, or to be used to implement policies in a regional policy statement;
  - b. The principal reasons for adopting the objectives, policies and methods of implementation set out in the statement;

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<sup>16</sup> 00033.001 Port Blakely

<sup>17</sup> 00211.002 LAC, 00210.002 Lane Hocking, 00118.003 Maryhill Limited, 00014.003 Mt Cardrona, 00209.002 Universal Developments

- c. The environmental results anticipated from implementation of those policies and methods; and
  - d. The principal reasons for adopting the objectives, policies and methods of implementation as set out in the Regional Policy Statement.
- 61. These are all integral parts of a regional policy statement. The regional policy statement must be given effect to in regional and district plans in Otago.
- 1.5.6.3. Recommendation
- 62. No change is recommended.
- 1.5.7. Application of Treaty Articles
- 1.5.7.1. Submissions
- 63. Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu have sought at several points to refer to the articles of Te Tiriti o Waitangi in addition to the principles. These changes would result in statements such as:
  - a. “Under the articles and principles of Te Tiriti o Waitangi, Treaty principles the ORPS seeks to facilitate Kāi Tahu engagement [...]” (MW context)
  - b. “The principles and articles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, [...]” (MW – O1)
  - c. “Promote awareness and understanding of the obligations of local authorities in regard to the principles and articles of Te Tiriti o Waitangi,[...]” MW-P1
  - d. “Local authorities exercise their functions and powers in accordance with Treaty principles the articles and principles of Te Tiriti o Waitangi[...]” (MW-P2)
  - e. “Resource management processes and decisions reflect the principles and articles of Te Tiriti o Waitangi.” (MW-AER1 )
- 1.5.7.2. Analysis
- 64. ORC’s obligation is to take into account the principles of the Treaty of Waitangi. This is the duty imposed by section 8 RMA. Section 8 does not refer to the Treaty’s articles.
- 1.5.7.3. Recommendation
- 65. No change is recommended.
- 1.5.8. Ancillary claims
- 1.5.8.1. Submissions
- 66. Cain Whānau seeks to include references to the ancillary claims from the NTCSA.

#### 1.5.8.2. Analysis

67. The ancillary claims referred to in the submission are dealt with by Part 14 of the Ngāi Tahu Claims Settlement Act 1998. Sections 412-415 of that Act deal with claims 56 and 57, Maranuku. In each case land is vested in the ancillary claims trustees. The Ngāi Tahu Ancillary Claims Trust is constituted by sections 342-349 of the 1998 Act. Obligations are imposed on the trustees with respect to the identification of beneficiaries and the disposal of land held by them on trust.
68. Maranuku is noted as a native reserve at page 57 of the publicly notified pORPS. It is unclear whether this is the same land as described in the submission and in the Ngāi Tahu Claims Settlement Act. It is unclear whether the land which is the subject of the 1998 claim is a Māori land reserve in the sense used at pages 56-58 of the publicly notified pORPS.
69. The submitter may wish to provide further information on whether the land referred to is a reserve which should be included in the list at pages 57-58 of the pORPS.

#### 1.5.8.3. Recommendation

70. No change is recommended at this stage.

### 1.6. General themes

71. Many submitters made general submissions on the pORPS, which either related to matters relevant across the pORPS (such as formatting or terminology) or raised topics that spanned multiple chapters (such as carbon forestry). I have grouped many of these submission points due to their commonality, and therefore this section addresses the following topics:

- Purpose and philosophy of the pORPS
- Rural sectors and land uses
- Environmental limits and capacity for development
- Carbon forestry
- Extractive industries
- Effects management hierarchy
- Relationship with Kāi Tahu and use of te reo terms
- Format, drafting, and terminology
- Other submissions on the whole of the pORPS
- Submissions not considered to be on the pORPS

#### 1.6.1. Purpose and philosophy of the pORPS

##### 1.6.1.1. Introduction

72. The overall philosophy of the pORPS has been supported by some submitters and opposed by others. Those in support generally seek to retain the pORPS as notified except where specific amendments are sought elsewhere in their submissions.

73. A number of submitters consider that the philosophy underpinning the pORPS is too heavily in favour of environmental protection and does not adequately recognise or provide for the social or economic well-being of Otago's communities. Similar submissions have been made on particular chapters or provisions of the pORPS and those are addressed in relation to those parts later in this report.
74. Some submitters consider that the concept of Te Mana o te Wai should be applied across the pORPS. Te Mana o te Wai is the fundamental concept underpinning the NPSFM 2020 that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. However, other submitters consider this is a freshwater concept and should not be applied more widely.
75. There are many submissions seeking amendments to, or new, provisions that either do not seem to understand the purpose of a regional policy statement and its distinction from regional and district plans, or the role particular provisions within a regional policy statement and the distinction between these different types of provisions (for example, the role of an objective in comparison to a method).

#### 1.6.1.2. Submissions

76. Several submitters express general support for the pORPS.<sup>18</sup> A number of submitters clarify that their general support is subject to the amendments sought elsewhere in submission.<sup>19</sup> Multiple submissions seek consequential amendments across the pORPS to give effect to the relief sought.<sup>20</sup> Many of these submitters did not provide the exact details of the relief sought, rather such submissions generally sought all consequential amendments to give effect to the relief or decision sought.
77. Beef + Lamb and DINZ consider that the pORPS is a disjointed, disorientating document that makes fleeting reference to higher ideals without providing substance to give them form. The submitters consider that national regulation is either used as an almost verbatim copy or so loosely as to fail to properly implement them. They seek the following amendments:<sup>21</sup>
- Overhaul the pORPS to make resilience the foundation of all objectives, policies and methods for all aspects,
  - Overhaul the pORPS to place biodiversity as the focus of policy and build other policies around that,
  - Give better recognition of rural land and primary sector in its value to the region for social, economic, and environmental purposes,

<sup>18</sup> For example, 00409.001 Ballance, 00309.008 Andy Barratt, 00202.001 COES, 00233.001 Fonterra, 00226.023 Kāi Tahu ki Otago, 00123.001 Heritage NZ, 00508.001 Matthew Sole, 00136.001 Minister for the Environment, 00101.001 Toitū te Whenua, 00206.002 Trojan, 00411.003 Wayfare

<sup>19</sup> For example, 00137.001 DOC, 00213.001 Fonterra, 00138.001 QLDC, 00121.001 Ravensdown, 00234.002 Te Rūnanga o Ngāi Tahu, 00311.068 Trustpower, 00305.116 Waka Kotahi

<sup>20</sup> For example 00237.002 Beef + Lamb and DINZ, 00137.002 DOC, 00306.097 Meridian, 00139.041 DCC and 00235.001 OWRUG, 00509.045 Wise Response

<sup>21</sup> 00237.074 Beef + Lamb and DINZ

- The pORPS should include policies setting out the identification of values, and their location in the regional plan, and this should occur before environmental outcomes are decided,
- The pORPS should contain more directive policies which enable plans to be developed that focus on prioritising land use for the protection of productive land for food and fibre production,
- The pORPS should contain directive policies providing for an adaptive management planning framework for a catchment or sub-catchment, which allows for sustainable food production,
- The pORPS should contain policies which emphasise the importance of providing for mana whenua and communities to develop a vision for land uses in a catchment or sub-catchment, and
- The pORPS should include provisions and policies which provide for any climate accounting methods to include the benefits of carbon being sequestered in soil.

78. Federated Farmers considers that the policy direction of the pORPS is overly restrictive and prohibitive and will have significant impacts on the industries and communities within the region due to what it considers to be the almost singularly environmental and cultural focus. The submitter highlights the prevalence of “avoidance” policies which it considers will have stark and perverse consequences for the region and disregards the need to take an integrated and balanced approach to sustainable resource management. The submitter seeks that the approach taken in the pORPS is significantly reviewed and amended.<sup>22</sup>
79. Oceana Gold considers that in the absence of amendments to the pORPS to address issues raised in its submission, the pORPS will not promote the sustainable management of efficient use and development of natural and physical resources and is not the most appropriate way to achieve the purpose of the RMA, particularly when regard is had to the efficiency and effectiveness of the provisions relative to other means.<sup>23</sup>
80. Trojan and Wayfare consider that the pORPS fails to recognise and provide for the health and well-being of people and communities by not sufficiently recognising or providing for the benefits of transportation, tourism activities, and development and in particular activities that support well-being by transporting people to the natural environment.<sup>24</sup> The submitters state that people rely on access to and use of the natural environment to support their health (mental and physical) and cultural, social, and economic well-being. Trojan and Wayfare seek to insert new provisions which explicitly recognise, protect, and promote the benefits of and provide for people’s well-being, including the use of and access to the natural environment for transport, the visitor industry (including commercial recreation) and ancillary commercial and industry services. The submitters consider this should flow through each level of place in the pORPS architecture.

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<sup>22</sup> 00239.201 Federated Farmers

<sup>23</sup> 00115.037 Oceana Gold

<sup>24</sup> 00206.001 Trojan, 00411.002 Wayfare

81. CIAL submits that the pORPS must be forward looking, anticipating community needs and establishing a framework to guide future development to meet those needs.<sup>25</sup> In particular, the submitter considers that the pORPS should recognise the functional and operational constraints that strategic infrastructure must operate within, which may require that infrastructure to be located in particular areas or to operate in a particular way.
82. LAC, Lane Hocking, Mt Cardrona Station, and Universal Developments submit that the pORPS should be focused on resource management issues of regional significance and accordingly have sought numerous amendments throughout the pORPS to ensure that provisions are targeted at this regional overarching level without interfering with local resource management issues that are not regionally significant. The submitters consider that when the pORPS delves into local matters there is the risk of inefficiencies arising from added assessment requirements, inconsistent policies for resource consents and requirements to amend district plans to achieve consistency. Subject to the specific relief sought elsewhere in their submission, the submitters seek that remaining provisions be either deleted or amended to accord with the reasons for relief set out in their submissions and where any inconsistencies remain between the pORPS 2019 and the pORPS, the pORPS 2019 is reinstated.<sup>26</sup>
83. Three submissions were received in relation to the application of Te Mana o te Wai across the entire pORPS. Fish and Game considers that Te Mana o te Wai represents a paradigm shift which may be usefully applied to the entire pORPS.<sup>27</sup> Similarly, Matthew Sole considers the pORPS would be improved if the concept of Te Mana o te Wai was adopted for the whole environment.<sup>28</sup> Conversely, Federated Farmers considers that the pORPS already applies the concept and states that the application of the Te Mana o Te Wai hierarchical approval across all chapters of the pORPS goes beyond the intent of the NPSFM 2020.<sup>29</sup>
84. Mouere Station considers that the land use provisions throughout the pORPS restrict the rights of landowners but seeks no specific amendments.<sup>30</sup> Similarly, Off Road Adventures seeks provision for existing and new commercial recreation activities within Outstanding Natural Landscapes, Highly Valued Natural Landscapes, Significant Natural Areas, or within areas known to be subject to the risks of natural hazards.<sup>31</sup>
85. Fish and Game seeks amendments to recognise and provide for people's connection with the environment, including recreation in and around water and harvesting food from water bodies.<sup>32</sup>

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<sup>25</sup> 00307.042 CIAL

<sup>26</sup> 00211.001 LAC, 00210.001 Lane Hocking, 00014.002 Mt Cardrona Station, 00209.001 Universal Developments

<sup>27</sup> 00231.004 Otago Fish & Game Council and the Central South Island Fish & Game Council

<sup>28</sup> 00508.003 Matthew Sole

<sup>29</sup> 00239.194 Federated Farmers of New Zealand

<sup>30</sup> 00026.003 Mouere Station

<sup>31</sup> 00205.001 Off Road Adventures

<sup>32</sup> 00231.006 Fish and Game

#### 1.6.1.3. Analysis

86. To the extent that their specific submission points elsewhere have been recommended to be accepted or rejected, I recommend accepting the submission points in support in part.
87. I disagree with Beef + Lamb and DINZ that the pORPS is disjointed and disorientating. In my opinion, the approach adopted in the pORPS is much more directive than many regional policy statements have been traditionally, including the previous regional policy statements in Otago, and purposefully seeks to integrate the management of natural and physical resources across the region. Careful attention has been paid to the suite of national direction instruments currently in force, as well as those under development.
88. I acknowledge that in some cases, parts of higher order documents are repeated. That is generally a result of having so little discretion to deviate from the higher order document in the pORPS that it would not be efficient to attempt to rephrase the direction. I consider that is a pragmatic approach and recognises the context for the very truncated development process for the pORPS. The submitters concerns are set at a high level and the outcomes sought would significantly alter the direction and balance within the document. The focus of the pORPS is deliberately on environmental outcomes which, if achieved, will provide for the socio-economic outcomes the submitters seek. To start with those outcomes would not be sound planning and is unlikely to result in a resilient environment for all. I do not recommend accepting the submission point by Beef + Lamb and DINZ.
89. I agree with Federated Farmers that some of the policy direction in the pORPS is restrictive. That is generally in relation to parts of the environment that have significant values or in recognition of their degraded or degrading state and the need to make improvements. I do not consider this is “overly restrictive and prohibitive” but acknowledge that there will be significant impacts on some industries and communities, particularly where resources have been over-allocated for a long time.
90. I do not agree that the pORPS is required to take a balanced approach to sustainable management. I understand that the *King Salmon* decision determined that section 5 is concerned with the use, development and protection of natural resources, and that decision-makers are entitled to give priority in particular circumstances to protection.<sup>33</sup> It is evident from the state of Otago’s environment (including the degraded state of some water bodies, the polluted airsheds across Otago, and the significant loss of indigenous biodiversity) that previous approaches to resource management in the region have not put enough weight on the health of the environment. It is unfortunate that some communities will now be facing more significant impacts than they would have had issues been identified and addressed some time ago. In my view, the pORPS identifies particular natural resources which do require protection from use and development or, enhancement as a result of the effects of use and development of other natural physical resources. I do not recommend accepting the submission point by Federated Farmers.

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<sup>33</sup> See for example paragraphs [24](d), [28], [130] and [148]  
Proposed Otago Regional Policy Statement 2021

91. Oceana Gold has made many specific submission points across the pORPS on a range of topics, some of which are recommended to be accepted and others rejected. In addition to those specific requests for amendment, the submitter contends that in its present form the pORPS will not promote the sustainable management of efficient use and development of natural and physical resources and is not the most appropriate way to achieve the purpose of the RMA. Broadly, I do not agree with the submitter's points but, to the extent that the relief sought in respect of specific provisions is recommended to be accepted in other sections of this s42A report, I recommend accepting this submission point in part. The corollary of this is that to the extent that those other recommendations do not satisfy the submitters broad concerns, then I recommend that this submission point is rejected.
92. The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.<sup>34</sup> I agree with Trojan and Wayfare that the health and well-being of people and communities is part of the purpose of the RMA, but I do not consider it is the primary purpose of a regional policy statement. I consider that some of the activities referred to by these submitters (such as transporting people to the natural environment) are unlikely to be within the scope of the RMA to address while others (such as development) are best addressed through regional and district plans. I also note that the definition of sustainable management set out in s5(2) of the RMA is multi-faceted and requires a number of things to be achieved at the same time. The pORPS assembles these facets in a particular way in response to the identified resource management issues. I do not recommend accepting these submission points.
93. I consider that the pORPS is forward looking but there is a practical limitation on how much it can anticipate community needs and establish a framework to guide development to meet those needs. The *EIT* chapter addresses infrastructure, including its functional and operational constraints, and a number of amendments to those provisions are recommended. I do not recommend accepting the submission point by CIAL.
94. I do not recommend accepting the submission points by LAC, Lane Hocking, Mt Cardrona Station, and Universal Developments seeking that the pORPS 2019 prevail over the pORPS whenever there are inconsistencies and the deletion of provisions that do not accord with the submitter's submissions. In relation to freshwater management, ORC has long accepted that the pORPS 2019 does not give effect to the previous (2017) version of the NPSFM, and is even further away from giving effect to the NPSFM 2020 due to the significant shift in policy direction. Beyond that, the pORPS 2019 has also not given effect to the NPSUD 2020 or the National Planning Standards and cannot without significant amendment. In my view it would not be efficient or effective to go back to policy direction that is out-dated and not fit for purpose in some instances.
95. It is my understanding that Te Mana o te Wai is a water-centric concept that is particular to management of land and water. In my view, some aspects of Te Mana o te Wai have

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<sup>34</sup> Section 59, RMA.



been adopted in the pORPS (particularly in the *IM* chapter), however the pORPS does not attempt to apply Te Mana o te Wai more broadly than freshwater management. That said, and as I have also stated in response to submissions on IM-P2, I do not consider that section 5 of the RMA prevents prioritising the natural environment over other matters in some situations. I note that section 5(2) is explicit that “protection of natural and physical resources” forms a part of sustainable management and therefore I consider that prioritising this protective element in some instances is appropriate. I do not recommend accepting the submission points by Fish and Game, Matthew Sole, or Federated Farmers.

96. I agree with Mouere Station that many provisions in the pORPS have the potential to restrict uses of land. Generally, that is because of the effects of those uses of land on other parts of the environment and particularly on ‘public’ resources such as air and water. As the submitter has not sought specific relief, I do not recommend accepting this submission point.
97. I consider that the amendments sought by Off Road Adventures are matters for regional and district plans to address, as those planning documents deal with the management of specific activities in particular areas, including within outstanding natural landscapes and significant natural areas. I do not recommend accepting this submission point.
98. The relief sought by Fish and Game appears in the relief sought in relation to specific provisions throughout the pORPS. Insofar as some of those points have been recommended to accept and others to reject, I recommend accepting this submission point in part.

#### 1.6.1.4. Recommendation

99. I do not recommend any amendments except as provided for elsewhere in this section 42A report.

### 1.6.2. Rural sectors and land uses

#### 1.6.2.1. Introduction

100. There are many submissions by industry groups and individuals seeking more or less recognition of the rural sector and the protection of highly productive land for primary production and associated industries.

#### 1.6.2.2. Submissions

101. While no specific amendments are sought, Horticulture NZ generally considers there is a lack of recognition in the pORPS of the positive contribution the food production sector has on the mental health of growers.<sup>35</sup> Peter Glaister considers the pORPS needs to strike a balance between the needs of the environment and the needs of people for sustainably produced food but does not seek specific amendments.<sup>36</sup>

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<sup>35</sup> 00236.001 Horticulture NZ

<sup>36</sup> 00109.001 Peter Glaister

102. Federated Farmers, Gavan James Herlihy, and Edgar Parcell seek general amendments to provide greater recognition of the importance of the primary sector.<sup>37</sup> Federated Farmers also seeks amendments to recognise the roles of resource users in fulfilling the positive outcomes sought under the pORPS.<sup>38</sup> Moutere Station specifically seeks recognition of the economic contribution of agriculture<sup>39</sup> and considers the current adaptation of the pORPS will negatively impact the industry in the region.<sup>40</sup>
103. Ravensdown seeks to provide for the sustainable management of natural and physical resources by their Otago operations, while also ensuring that adverse effects on the environment are avoided, remedied or mitigated.<sup>41</sup> This is reflected in the specific amendments sought throughout the pORPS.
104. Beef + Lamb and DINZ seek particular amendments to the objectives, policies and methods related to land use and ancillary discharges to recognise and provide for dry stock sector farming operations.<sup>42</sup>
105. Conversely, some submitters consider there is too much focus on primary production. LAC, Lane Hocking, and Universal Developments consider that the rural provisions in the pORPS are too focused on recognising and providing for the primary production sector, with not enough recognition of and provision for other land uses. The submitters consider that protection of rural land per se is not a regionally significant matter and is not provided for in the RMA. They seek amendments to recognise the diversification of the rural land resource beyond the primary sector.<sup>43</sup>
106. Fonterra seeks a suite of amendments to the pORPS to recognise “regionally significant industry”. The amendments sought include a new definition of the term as follows:<sup>44</sup>
- means an economic activity based on the use of natural and physical resources in the region which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.
107. Fonterra considers this recognises the benefits of industry to the region and beyond. The submitter also seeks to include reference to “regionally significant industry” in the definition of “regionally significant infrastructure” by including the following additional clause in the definition:
- (13) infrastructure necessary to enable the operation of regionally significant industry.
108. Fonterra considers this provides for the significant investment made by operators.
109. Fonterra then seeks to include reference to “regionally significant industry” through new provisions and amendments to existing provisions. The submitter seeks to introduce a

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<sup>37</sup> 00239.197 Federated Farmers, 00104.003 Gavan James Herlihy, 00032.001 Edgar Parcell

<sup>38</sup> 00109.001, 00239.198 Federated Farmers

<sup>39</sup> 00026.002 Moutere Station,

<sup>40</sup> 00026.001 Moutere Station

<sup>41</sup> 00121.002 Ravensdown

<sup>42</sup> 00237.001 Beef and Lamb

<sup>43</sup> 00211.054 LAC, 00210.054 Lane Hocking, 00209.054 Universal Developments.

<sup>44</sup> 00233.006 Fonterra

new significant resource management issue for the region focusing on the dependence of the region's social and economic well-being on:

- resource use and the need to provide for that use within sustainable limits, and
- the importance of regionally significant industry and infrastructure to economic and social well-being and the need to protect it from the effects of reserve sensitivity.<sup>45</sup>

110. This new issue is intended to recognise the benefits of, and provide for, resource use including ensuring that rural and regionally significant industry is supported through planning policy and decision-making. The submitter states that the issues in the pORPS paint a wholly negative picture of resource use, while the reality is that resource use is vital to economic and social well-being.

111. A new objective is also sought in the IM chapter, as follows:<sup>46</sup>

IM-O5 – Regionally significant industry and infrastructure

The social, economic and cultural well-being of Otago's communities is enabled through the appropriate protection, use and development of regionally significant infrastructure and regionally significant industry.

112. This objective is intended to recognise the need to manage the physical resources of significance to the region when those resources, and the economic and social value they represent, are at risk. The submitters considers that the pORPS should not actively seek to promote the protection, use and development of physical resources, and notes that the pORPS should go beyond recognising regionally significant infrastructure, to also recognise industry.

113. Finally, Fonterra seeks to amend UFD-P4, which facilitates the expansion of existing urban areas, by amending clause (2) as follows:<sup>47</sup>

(2) will not result in inefficient or sporadic patterns of settlement and residential growth and will manage the interface between sensitive activities and industrial activities by avoiding reverse sensitivity effects on, in particular, regionally significant industry.

114. The submitter considers this amendment manages the potential for reserve sensitivity effects at the residential/industrial interface.

1.6.2.3. Analysis

115. The purpose of a regional policy statement is to achieve the purpose of the RMA by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.<sup>48</sup> I do not consider that the mental health of growers is a matter that the

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<sup>45</sup> 00233.018 Fonterra

<sup>46</sup> 00233.022 Fonterra

<sup>47</sup> 00233.042 Fonterra

<sup>48</sup> Section 59, RMA

pORPS needs to address and therefore do not recommend accepting the submission point by Horticulture NZ.

116. I agree with Peter Glaister that the pORPS needs to strike a balance between the needs of the environment and the needs of people for sustainably produced food. I consider this is what the pORPS does and therefore do not recommend accepting this submission point.
117. I acknowledge the importance of primary production to Otago's regional economy, however as a philosophical position the pORPS has chosen not to provide policy direction on specific industries or economic uses of resources. Instead, it focuses on the outcomes sought from the sustainable management of resources and on putting in place management frameworks to protect or otherwise manage those resources, so that where the resource is available, use can occur (regardless of what that use is). For this reason, I do not recommend accepting the submission points by Federated Farmers, Gavan James Herlihy, Edgar Purcell, or Moutere Station seeking greater recognition of primary production.
118. The submission points by Ravensdown and Beef + Lamb broadly describe the specific amendments sought by the submitters on a range of provisions in the pORPS. I therefore recommend accepting these submissions in part, insofar as other specific amendments sought by the submitters have been recommended to be accepted throughout the pORPS.
119. It is not clear from the submissions of LAC, Lane Hocking, and Universal Developments which provisions the submitters consider contain too much focus on primary production. I note that the UFD chapter contains direction on a range of rural land uses other than primary production. Without further clarification, I do not recommend accepting these submission points.
120. In relation to the new definition sought by Fonterra, it is unclear how an activity would be determined to have "benefits that are significant at a regional or national scale" and I am concerned that the lack of clarity about this requirement could allow for inclusion of activities based only on economic benefits, such as contribution to regional or national GDP. In my opinion, the suite of amendment sought by Fonterra would elevate "regionally significant industry" to the same category as "regionally significant infrastructure". In some instances, regionally significant infrastructure is provided an alternative pathway for managing adverse effects in order to recognise their importance to the well-being of people and communities. While I acknowledge that some industries also contribute to well-being by way of their social and economic benefits, I do not consider that these two types of activities are congruent. At a high level, I do not recommend accepting this suite of amendments as a policy package. I note that the amendments sought by Fonterra in relation to the SRMR, IM, and UFD chapters are evaluated in the reports on those chapters.

#### 1.6.2.4. Recommendation

121. I do not recommend any amendments except as provided for elsewhere in this section 42A report.

#### 1.6.3. Environmental limits and capacity for development

##### 1.6.3.1. Introduction

122. There are a range of submissions on the terminology of and need for environmental limits in the pORPS, including general submissions as well as submissions made on particular provisions that are related to, or have common reasoning to, the general submissions.

##### 1.6.3.2. Submissions

123. The Yellow-eyed Penguin Trust seeks unspecified amendments which give effect to mandatory legislation and provide strong outcome statements to ensure sufficient protection of the natural environment, indigenous species and their habitats.<sup>49</sup>

124. Matthew Sole and Wise Response seek general amendments which identify, understand and set benchmarks across Otago's environmental limits to inform a stewardship approach and measure progress towards environmental goals.<sup>50</sup> Wise Response also supports:<sup>51</sup>

- efficient and sustainable management and use of environmental resources,
- living within the biophysical capacity of the environment, and
- prioritising behaviour modification over managing the environmental effects of activities.

125. Fish and Game highlights that multiple provisions within the pORPS use wording akin to limits, such as "environmental limits", "limits", "bottom lines", or "environmental constraints." Fish and Game submits that "environmental limits" is most suitable as it aligns with commonly used terminology and that clear and consistent language should be used in the pORPS.<sup>52</sup>

126. Waitaki Irrigators seeks to include a definition for the term "threshold" in response to use of the term in IM-M1(6) but does not propose wording.<sup>53</sup> The submitter considers a definition would provide some certainty to applications for a range of activities and states that without a definition it is not clear how thresholds are different to limits. A number of further submissions support this request, stating reasons of clarity and to improve guidance as to how it relates to limits.<sup>54</sup>

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<sup>49</sup> 00120.001 Yellow-eyed Penguin Trust

<sup>50</sup> 00508.002 Matthew Sole, 00509.003, 00509.001 Wise Response,

<sup>51</sup> 00509.006, 00509.009, 00509.011 Wise Response

<sup>52</sup> 00231.009 Fish and Game

<sup>53</sup> 00231.015 Waitaki Irrigators

<sup>54</sup> FS00239.035 Federated Farmers, FS00609.202 Fish and Game, FS00231.108 OWRUG

127. There are a number of references to these types of terms in the *IM – Integrated management* chapter. Fish and Game and Forest and Bird seek to include a new clause in IM-P4 that relates to environmental limits as follows:<sup>55</sup>
- (5) measures cumulative effects on the environment and requires their proactive management, and
  - (6) identifies and implements environmental limits in at least the following matters:
    - (a) air,
    - (b) coastal waters,
    - (c) estuaries,
    - (d) freshwater,
    - (e) wetlands, and
    - (f) soil.
128. IM-P12 refers to “environmental bottom lines”. Blackthorn Lodge, Fish and Game, Meridian, Trojan, Wayfare submit that the term “environmental bottom line” should be replaced with “environmental limits” because not all of the types of provisions applicable to this policy will be framed as bottom lines.<sup>56</sup>
129. IM-P14 refers to identifying and complying with “limits” and “thresholds”. A number of submitters seek to delete IM-P14 for the following reasons:
- The concept of environmental limits is uncertain in the context of the pORPS and the policy may prevent activities occurring beyond undefined limits.<sup>57</sup>
  - There is no certainty as to what is meant by the term “limits” or what is “degraded” or how these are intended to be developed or implemented.<sup>58</sup>
  - The policy does not provide certainty about how, when, where, or who will set limits, how regularly and by what process those are reviewed and how this provides for responsive planning.<sup>59</sup> The submitters note limits are also applicable to human uses.
130. IM-M1(6) requires regional and district plans to establish clear thresholds for, and limits on, activities that have the potential to adversely affect healthy ecosystem services and intrinsic values. There are a number of submissions on this clause that will be affected by what the term “environmental limit” means and whether an environmental limit and a threshold are the same. In particular, Waitaki Irrigators submits that the concept of thresholds could provide some certainty to applicants seeking permits for various

<sup>55</sup> 00231.034 Fish and Game

<sup>56</sup> 00119.003 Blackthorn Lodge, 00231.038 Fish and Game, 00306.025 Meridian, 00206.019 Trojan, 00411.030 Wayfare

<sup>57</sup> 00315.017 Aurora Energy, 00314.012 Transpower

<sup>58</sup> 00318.010 Contact, 00320.014 Network Waitaki, 00115.012 Oceana Gold, 00511.014 PowerNet, 00313.007 Queenstown Airport, 00122.006 Sanford, 00221.002 Silver Fern Farms

<sup>59</sup> 00118.014 Maryhill, 00211.008 LAC, 00210.008 Lane Hocking, 00014.014 Mt Cardrona Station, 00209.008 Universal Developments

activities if it is understood what the term means and how thresholds are to be implemented. The submitter seeks a definition for the term “threshold” and guidance for those preparing regional and district plans as to how they are to be implemented and how they differ from limits.<sup>60</sup> No specific wording is provided.

1.6.3.3. Analysis

131. I consider that the pORPS complies with all relevant statutory requirements and that the objectives set out in the pORPS describe an appropriate level of protection for the natural environment. I do not recommend accepting the submission point by Yellow-eyed Penguin Trust.
132. The relief sought by Matthew Sole and Wise Response to identify and set ‘benchmarks’ across Otago’s environmental limits is somewhat unclear. Whether or not the pORPS sets environmental limits appears to be debated between submitters in other chapters. I consider this matter relies on addressing other submission points on this topic, which I have set out below.
133. I agree with Fish and Game that there is some inconsistency in the terminology used throughout the pORPS. I have reviewed the pORPS and found a range of terms used. I consider that the following terms have particular meanings or contexts that differ from the more general concept described by Fish and Game:
- “Threshold” is used in the definition of exceedance and CE-M3.
  - “Ambient air quality limits” is used in AIR-P1, AIR-P2
  - “Housing bottom line” is used in UFD-P2, UFD-M1, UFD-M2, and APP10.
  - “Abstraction limit” is used in the Context section of SRMR-I5,
  - “Limit” is used in the definition of over-allocation, LF-VM-P6, LF-VM-PR2, LF-FW-P7, LF-FW-M6, LF-FW-PR3, and LF-FW-AER4.
  - “National bottom line” is used in the definition of degraded.
134. The definition of “exceedance” comes from the NESAQ and describes when a contaminant exceeds its threshold concentration in an airshed. “Threshold concentration” is defined in the NESAQ. Similarly, CE-M3 refers to contaminant concentration thresholds not being exceeded. I consider the term “threshold” is appropriate in those contexts. The NESAQ contains “ambient air quality standards” which I consider to be comparable to “ambient air quality limits”.
135. “Housing bottom lines” is a term used in clause 3.6 in the NPSUD and has a particular meaning. I consider its use in the UFD chapter is therefore appropriate.
136. “Abstraction limit” is a commonly understood term in freshwater management and is not used in an objective, policy, or method therefore I consider it should remain as notified. Where “limit” has been used in the LF chapter, and in the definition of over-allocation, it is italicised because it is defined in the pORPS, adopting the definition from the NPSFM (meaning either a limit on resource use or a take limit). As the term has a specific meaning

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<sup>60</sup> 00213.014 Waitaki Irrigators  
Proposed Otago Regional Policy Statement 2021

and is used within a specific content, I consider these references should remain as notified.

137. There are a range of other terms used to describe what I consider to be a common concept, in line with the submission by Fish and Game:

- “Environmental limit” is used in EIT-EN-O2, EIT-EN-M1, EIT-INF-O4, EIT-TRAN-O10, EIT-TRAN-P23, and EIT-TRAN-M7.
- “Limit” is used in IM-P14, CE-O5, CE-P11, and CE-M3.
- “Threshold” is used alongside “limit” in the *Environmental* section of SRMR-I11, IM-P14, IM-M1(6), IM-PR1, and IM-AER1.
- “Environmental bottom line” is used in IM-P12, and CE-E1.
- “Biophysical limit” is used in the *SRMR* Introduction.

138. In my opinion, these terms are being used interchangeably to describe either quantitative or qualitative standards whereby use beyond that standard may result in negative outcomes for the environment. I understand that to be the same concept referred to by Fish and Game. I agree with the submitter that if the same concept is being referred to, it should be referred to consistently by the same term.

139. “Environmental limit” and “limit” are the most commonly used terms to describe this concept. I agree with Fish and Game that this is the most suitable term to use. I note that this term is used in the exposure draft of part of the Natural and Built Environments Bill (NBEB) that was considered by Parliament’s Environment Committee, alongside public submissions on the draft, during 2021. The Committee released its report on this draft in November 2021 which included considerable examination of the term “environmental limits” and the definition included in the NBEB (Environment Committee, 2021). Relevantly to this report, the Environment Committee’s report included revised drafting of the following sections of the NBEB:

- 12A Purpose of environmental limits,
- 12B Environmental limits in national planning framework
- 12C Environmental limits in plans
- 12D Form of environmental limits

140. In my opinion, clauses 12A to 12C are relevant to the operation of the NBEB and the new planning framework it establishes but are not especially helpful to informing the use of the term “environmental limits” in the pORPS.

141. I consider clause 12D describes more closely the concept referred to in the pORPS and provides, in my opinion, the type of certainty sought by submitters in relation to the use of these types of terms:

12D Form of environmental limits

- (1) An environmental limit may be expressed, in relation to the natural environment or a specified part of that environment, as—
  - (a) the minimum biophysical state; or
  - (b) the maximum amount of harm or stress that may be permitted.



- (2) An environmental limit may be—
  - (a) qualitative or quantitative;
  - (b) set at different levels for different circumstances and locations;
  - (c) set in a way that integrates more than 1 of the aspects of the natural environment listed in section 12B(1).
- (3) In subsection (1)(a), biophysical means relating to biotic or abiotic physical features.

142. I note that this section narrows the application of the term “environmental limit” to the natural environment which is defined in the NBEB as the resources of land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (where native to New Zealand or introduced) and their habitats, and ecosystems and their constituent parts. Looking at the way the various terms have been used in the pORPS, it appears that they are intended to focus on these types of matters. However, I am aware that there are other types of restrictions on parts of the environment that are also sometimes referred to as limits. For example, the requirement in Policy 13(1)(a) to avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character. The *CE* and *NFL* chapters of the pORPS set out ‘minimum standards’ for those parts of the environment in a similar way to the NZCPS. I do not consider these would be considered environmental limits, however that does not prevent those types of management approaches being adopted in the pORPS.

143. I consider clause 12D of the NBEB as recommended for amendment by the Environment Committee could be adapted into a definition as follows:

**environmental limit** means, in relation to natural resources:

- (1) the minimum biophysical state (where biophysical means relating to biotic or abiotic physical features); or
- (2) the maximum amount of harm or stress that may be permitted; and
- (3) may be:
  - (a) qualitative or quantitative;
  - (b) set at different levels for different circumstances and locations; or
  - (c) set in a way that integrates more than 1 natural resource.

144. In the drafting above, I have referred to “natural resources” instead of the “natural environment.” The latter is a term defined in the NBEB but not in the RMA or the pORPS (although I acknowledge that some submitters have sought to include such a definition). In my view, “natural resources” aligns better with the language of the RMA. “Natural and physical resources” are defined in section 2 of the RMA as:

***Natural and physical resources*** includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures

145. In my opinion, structures are physical resources, but the remainder are all natural resources.

146. It is my preliminary view that this addresses the issues raised by Fish and Game across the pORPS as well as the submission points set out above on IM-P12, IM-P14, and IM-M1. However, it would be helpful to hear from these submitters in their evidence about whether this definition addresses their concerns and, if not, what alternative solution they prefer. At this stage, I recommend accepting in part the submission point by Fish and Game and rejecting the submission point by Wise Response to define “threshold”. I have addressed the remaining submission points under the provisions to which they relate.

#### 1.6.3.4. Recommendation

147. I recommend the following amendments:

- a. Including a definition of “environmental limit” as set out above,
- b. Retaining references to “environmental limit” in EIT-EN-O2, EIT-EN-M1, EIT-INF-O4, EIT-TRAN-O10, EIT-TRAN-P23, and EIT-TRAN-M7,
- c. Replacing references to “limit” with “environmental limit” in IM-P14, CE-O5, CE-P11, and CE-M3,
- d. Deleting “threshold” and replacing “limit” with “environmental limit” in the *Environmental* section of SRMR-I11, IM-P14, IM-M1(6), IM-PR1, and IM-AER1,
- e. Replacing “environmental bottom line” with “environmental limit” in IM-P12 and CE-E1, and
- f. Replacing “biophysical limit” with “environmental limit” in the *SRMR* introduction.

#### 1.6.4. Plantation and carbon/permanent forestry

##### 1.6.4.1. Introduction

148. There are many submissions relating to the management of plantation forestry and carbon/permanent forestry, including how the pORPS recognises forestry and how different types of forestry are managed.

##### 1.6.4.2. Submissions

149. Port Blakely and Ernslaw One seek that the pORPS recognises that forestry provides a long-term net-positive ecosystem service, including the sequestration of carbon if managed correctly.<sup>61</sup> Ernslaw One considers that the pORPS fails to recognise that afforestation and the spatial extension of new plantation land area, as well as the consequent displacement of pastoral agriculture, will bring multiple ecosystem services and benefits.<sup>62</sup>

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<sup>61</sup> 00033.005 Port Blakely, 00412.013 Ernslaw One

<sup>62</sup> 00412.013 Ernslaw One

150. Rayonier Matariki submits that the pORPS only deals with plantation forestry and not the planting of trees for carbon or shelter belts and amenity plantings. The submitter seeks that the pORPS include provisions for other tree plantings, not just plantation forestry, but does not propose any particular provisions.<sup>63</sup>
151. Jim Hopkins seeks that the pORPS is more prescriptive when it comes to managing carbon forestry conversions or gives councils greater powers to restrict their expansion in unsuitable areas, including in dry catchments. The submitter does not seek specific amendments.<sup>64</sup>
152. As part of its relief sought to introduce a new significant resource management issue for the region, OWRUG states that “widespread establishment of carbon forestry may adversely affect water availability, and irreversibly remove land from food production.”<sup>65</sup>
153. For similar reasons to Jim Hopkins, Waitaki DC has sought a range of amendments throughout the pORPS to better recognise the issues with carbon forestry and clarify how the activity should be managed. These amendments include:
- A new definition of carbon forestry,<sup>66</sup>
  - A new significant resource management issue for the region focused on carbon forestry,<sup>67</sup>
  - Incorporating reference to carbon forestry into LF-LS-M12 so that district plans are required to control the establishment of new or any spatial expansion of existing carbon forestry,<sup>68</sup>
  - Adding a new clause (1)(c) in LF-LS-M12 requiring district plans to manage land use practices that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater,<sup>69</sup>
  - Adding a new clause (1)(d) in LF-LS-M12 requiring district plans to prioritise the use of highly productive land for primary production ahead of other land uses including carbon forestry, and<sup>70</sup>
  - Adding reference to carbon forestry in NFL-P5(1) and ECO-M5(6) so that the provisions (on limiting wilding pine spread) specifically reference carbon forestry.<sup>71</sup>
154. In relation to the relief sought by Waitaki DC, the further submission by NZ Carbon Farming seeks that:<sup>72</sup>
- careful consideration be given to the consequences of including a definition of carbon forestry in the pORPS, and

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<sup>63</sup> 00020.002 Rayonier

<sup>64</sup> 00420.023 Jim Hopkins

<sup>65</sup> 00235.058 OWRUG

<sup>66</sup> 00140.002 Waitaki DC

<sup>67</sup> 00140.012 Waitaki DC

<sup>68</sup> 00140.023 Waitaki DC

<sup>69</sup> 00140.023 Waitaki DC

<sup>70</sup> 00140.023 Waitaki DC

<sup>71</sup> 00140.031, 00140.026 Waitaki DC

<sup>72</sup> FS00602.008 NZ Carbon Farming

- all relief sought by Waitaki DC be disallowed except the amendments to ECO-M5(6) and NFL-P5(1) which NZ Carbon Farming seeks further amendments to.
155. Federated Farmers and Kāi Tahu ki Otago seek the same amendment as Waitaki DC described in the third point above.<sup>73</sup> Federated Farmers also seek to amend SRMR-I2 to include reference to the risks of climate change mitigation actions, and specifically carbon offsetting, including the further drying out of catchments, increased risk of wildfire, fragmentation of pastoral systems, increased pest numbers, and a resultant decline in rural communities.<sup>74</sup> The further submission of NZ Carbon Farming seeks that the relief sought by Federated Farmers and Kāi Tahu ki Otago be disallowed.<sup>75</sup>
156. Beef + Lamb and DINZ seek to amend the definition in the pORPS of “primary production” to specifically exclude forestry for the purposes of carbon sequestration.<sup>76</sup> The further submission by NZ Carbon Farming seeks that careful consideration be given to the consequences of an explicit exclusion being included in the definition.<sup>77</sup>
157. QLDC seeks to include a new policy in the *ECO* chapter for controlling the impacts of carbon sequestration on indigenous biodiversity by avoiding planting species which are invasive or a naturalised weed or likely to become either, and supporting carbon sequestration planting initiatives which improve or enhance indigenous biodiversity.<sup>78</sup> This relief is supported in the further submission by NZ Carbon Farming with amendments. That submitter seeks that the impacts are controlled by requiring planting to be established and managed so as not to cause the spread or invasion of pest plants or pest animals.
158. Also in the *ECO* chapter, Federated Farmers seeks to include reference to a “gap” remaining around carbon forestry in ECO-E1.

#### 1.6.4.3. Analysis

159. Carbon forestry is an emerging resource management issue in New Zealand, including in Otago. The term “carbon forestry” generally refers to the planting of permanent forests, with the goal of sequestering carbon – often to generate carbon credits. Carbon forestry can include both exotic and indigenous species. Exotic species tend to accrue carbon faster than indigenous species given their growth rate, but generally have a shorter life cycle. In comparison, indigenous species accrue carbon at a slower rate, but over a much longer period.
160. The key difference between carbon forestry and plantation forestry is the lack of harvesting. Harvesting is one of the highest risk components of plantation forestry, given the large-scale soil disturbance and associated discharges to water, as well as the lack of ground cover while new seedlings establish. In comparison, carbon forestry is planted

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<sup>73</sup> 00226.209 Kāi Tahu ki Otago

<sup>74</sup> 00239.021 Federated Farmers

<sup>75</sup> FS00602.017 NZ Carbon Farming

<sup>76</sup> 00237.004 Beef + Lamb and DINZ

<sup>77</sup> FS00602 NZ Carbon Farming

<sup>78</sup> 00138.039 QLDC

with no intention of harvesting, meaning the environmental risks relate to the forestry in situ.

161. Carbon forestry is currently incentivised primarily through the Emissions Trading Scheme (ETS). The ETS sets up a market in New Zealand for domestic greenhouse gas emissions, with the intention of reducing New Zealand's total carbon emissions. The market puts a price on emissions units (NZU; also referred to as carbon credits), with emitters able to purchase NZUs from sequesterers, in order to offset their emissions. As emitter demand for NZUs increases, the value of NZUs increases, incentivising activities that generate NZUs. Forestry earns NZUs while standing as the trees sequester carbon. The ETS applies to both plantation forestry and carbon forestry. Carbon forests are considered as part of the Permanent Forest Sink Initiative<sup>79</sup> and are forests that cannot be clear-felled for at least 50 years. If the trees are felled, the NZUs are required to be surrendered, and in some cases, a deforestation penalty paid.
162. In 2018, the Government established the One Billion Trees programme. The goal of the programme was to plant one billion trees in New Zealand by 2028 and Te Uru Rākau is a new agency tasked with boosting tree planting numbers and received \$120 million from the Provincial Growth Fund to give grants to landowners planting trees. Their goal was to fund two-thirds native trees which are paid at a higher rate than exotics as they cost more to plant. The agency has received criticism for subsidising the planting of too much radiata pine, and they have since estimated that it more likely to be a 70% exotic, 30% native split over the course of the One Billion Tree programme.

#### Impacts of carbon forestry

163. There is limited research into the effects of carbon forestry as it is a relatively new industry. Below is a summary of the potential benefits and costs of carbon forestry, which I acknowledge is high-level and largely unquantified.

Benefits	Costs
Environmental	
<ul style="list-style-type: none"> <li>• Utilisation of marginal land that is not suitable for pastoral systems.</li> <li>• Stabilisation of erosion prone land.</li> <li>• Conversion of carbon dioxide to oxygen.</li> <li>• Sequestration of carbon.</li> <li>• Attenuation of flood waters.</li> <li>• Improvements in nearby aquatic environments.</li> <li>• Reduction in stock numbers and methane emissions where established on pastoral land.</li> <li>• Increase in indigenous biodiversity, including new habitat for native species.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduction in the availability of productive pastoral land.</li> <li>• Use of more water, resulting in a decrease in surface run-off and surface water flows, particularly in water short catchments.</li> <li>• Increase in fire risk, when compared to pastoral land uses.</li> <li>• Increase in pest incidences due to minimal management</li> <li>• Reduction in biodiversity, dependent on previous land use.</li> <li>• Increased prevalence of wilding pines, which increase the spread of adverse effects.</li> </ul>
Economic (Harrison & Bruce, 2019)	

<sup>79</sup> This term will be replaced by "permanent post-1989 forest" on 1 January 2023.

<ul style="list-style-type: none"> <li>• Income generation for forestry owners, with carbon forestry Net Present Value &gt; plantation forestry Net Present Value.</li> <li>• Diversification for farms with areas of marginal land</li> <li>• Climate resilience for farming operations</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of pastorally generated income, and income for supporting industries and community services.</li> </ul>
Social	
<ul style="list-style-type: none"> <li>• Contribution to a carbon neutral economy and meeting global climate commitments.</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of job opportunities and likely decline in rural communities where pastoral land is converted.</li> <li>• Change in landscape values and natural character that support recreation and other values.</li> <li>• Increase in reliance on carbon offsetting over outright carbon reduction.</li> </ul>
Cultural	
<ul style="list-style-type: none"> <li>• Increase in indigenous biodiversity, including new habitat for native species.</li> <li>• Opportunities for more integrated management systems</li> <li>• Opportunities for diversification of the Māori economy</li> </ul>	<ul style="list-style-type: none"> <li>• Reduction in indigenous biodiversity, though dependent on previous land use.</li> <li>• Inconsistency with Te Mana o Te Wai, where forestry may not prioritise the health and well-being of waterbodies and freshwater ecosystems.</li> <li>• Policies which may lock whānau into intergenerational agreements on how to manage their land (impacting rangatiratanga for future generations)</li> </ul>

164. Broadly, carbon forestry has positive and negative impacts. On the positive side, carbon forestry assists with climate change mitigation, can increase income generation for land owners, and may assist with improving water quality where it displaces more intensive agricultural activities. On the negative side, carbon forestry can use significant amounts of groundwater which can adversely affect flows and levels further downstream, potentially affecting water takes (and, in some cases, irrigation reliability). It can also significantly affect rural communities as fewer employment opportunities are available in comparison to more traditional pastoral farming and increase fire risk in dry areas.

165. I am aware that carbon forestry has been a contentious issue in Otago recently. A series of media articles in 2021 highlighted the concerns arising after the sale of Hazeldean, a 2,590 hectare sheep, beef and deer farm near Tokarahi in North Otago to NZ Carbon Farming. The new owner plans to plant about 1,500 hectares in permanent pine forest to mitigate climate change through carbon credits. Those articles included the following:

- The local community described developments such as Hazeldean as creating an “ecological disaster” for the Kakanui River and North Otago due to the clearance of native vegetation, potential for wetlands drying up, reduced flow in the river, reduced water quality, plantation debris into the river system during heavy rain events, and the potential for a haven for pests. (Rae, 2021)
- Fish and Game spokesperson Ray Grubb stated that “A very real concern is the effect of pines on in-stream flows. Research has established rainwater run-off is

diminished by up to 40% by pine plantations.” (Rae, Carbon farming worries B+LNZ, 2021)

- Beef + Lamb NZ considers there is a “growing chorus of voices against unchecked carbon farming” and that “urgent solutions are needed before more damage is done to rural communities.” (Rae, 2021)

166. Following concerns raised by the public, and a site visit, ORC’s Strategy and Planning Committee resolved to lobby central government to ensure sufficient standards are in place to manage the land use change, impacts, and risks associated with carbon forests (Otago Regional Council, 2021).

#### Current regulatory framework

167. While there is no specific direction in the current suite of national direction instruments for managing carbon forestry, the Ministry for Primary Industries has recently released a discussion document for managing afforestation and is seeking feedback until 22 April 2022 (Ministry for Primary Industries, 2022). The paper discusses the importance of afforestation for New Zealand meeting its climate change targets and other environmental benefits (erosion control, species habitat, reduced risk of sediment and nutrient loss to waterways) while also recognising the chain of impacts an increasing NZU price has had on higher rates of afforestation.

168. This has resulted in an increase in permanent exotics forests which, as has been stated by numerous submitters, may displace pastoral farming and production, as well as indigenous forests (Ministry for Primary Industries, 2022). The paper also points to the long-term risks of large areas of exotic planting being left with little on-going management, highlighting issues like animal pests, disease, fire and wilding conifer spread.

169. The paper also discusses how to achieve better outcomes from afforestation, and covers a couple of the key issues raised by submitters, such as:

- The exclusion of exotic forests from registering as permanent post-1989 category in the NZ ETS
- Whether to adjust how carbon accounting applies to forests on remote and marginal land for harvest
- Opportunities for improving incentives for indigenous afforestation.

170. Three broad options for managing permanent forests are presented, as follows:

- Option 1: Status quo
- Option 2: Excluding exotic forestry from registering as post-1989 permanent forest
- Option 3: Option 2, with exceptions for exotic species under particular criteria or conditions

171. The intention is that, should option 2 or 3 be chosen, these changes would be introduced by January 2023, with the possibility of any exceptions under option 3 being introduced via secondary legislation or a moratorium being put in place immediately while exceptions are worked through (Ministry for Primary Industries, 2022). While this is not

directly relevant to the pORPS, I consider that it demonstrates that further policy direction on the management of carbon or permanent forestry is being actively considered currently, contributing to the uncertainty about the extent to which the pORPS should or can.

172. Carbon or permanent forestry is specifically excluded from the NESPF as that instrument only applies to plantation forestry which is defined as “a forest deliberately established for commercial purposes, being– (a) at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted ...” Presumably if a forest was established as a carbon forest but later harvested, it would at that point come within the scope of the NESPF.

173. A review of the NESPF was published in May 2021 and noted that (Te Uru Rākau, 2021, p. 64):

*“The NES-PF only applies to forests planted for harvest, so forests planted with no intent to harvest (whether for restoration or carbon value) remain within the rule-making authority of councils. However, some of the potential adverse effects of permanent forests are like those of plantation forests, including the potential for wilding spread, shading of roads and dwellings and mechanical land preparation.*

*Not including permanent exotic forests in the NESPF may result in councils having to develop and maintain separate rules to manage them, or situations where clear rules do not exist. There is a risk that this may create unnecessary complexity and make it difficult for some resource users to understand what they need to do to comply with the RMA.”*

174. The Ministry for the Environment’s website states that “[w]e are currently undertaking further analysis on the matters raised in the review.” (Minsitry for the Environment, 2021). It is not clear whether that includes the discussion above regarding carbon forestry.

175. Policy 3 of the NPSFM requires managing freshwater in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments. For carbon forestry in dry or water short catchments, the NPSFM will be particularly relevant.

176. I understand that the Minister of Forestry has confirmed that there are four major pieces of work underway to address concerns around the increasing amount of sheep and beef farmland being sold and converted to carbon farming: (Smyth, 2022)

- Reviewing the process for overseas investors purchasing farms to convert to forestry,
- Testing the premise that only native forestry should be allowed in the permanent forest category of the ETS (which comes into force on 1 January 2023),
- Better determining the carbon returns (sequestration rates) of native species to make them more financially appealing, and
- Making changes to the NESPF to give local councils the right to plan where trees should and should not be planted.



177. In February 2022, a paper was published titled *Managing forestry land-use under the influence of carbon: the issues and options* (Yule, 2022). That paper highlighted the lack of strategic planning for carbon forestry and that planning documents were the primary vehicle for restricting the use of land for that purpose, but acknowledged that there is no consistency approach to managing the activity currently. At the time of writing, a workshop was scheduled for 2 March 2022 between a range of key stakeholders, including the Minister of Forestry, councils, forestry interests, Beef + Lamb NZ and Local Government New Zealand.
178. As it currently stands, there is little national direction relevant to carbon forestry and councils have the ability to manage the activity, like any other land use, through planning documents. Carbon forestry is an activity that is relevant to the functions of both regional councils and territorial authorities. Under section 30(1) of the RMA, regional councils are responsible for:
- (c) *the control of the use of land for the purpose of—*
    - (i) *soil conservation;*
    - (ii) *the maintenance and enhancement of the quality of water in water*
    - (iii) *the maintenance of the quantity of water in water bodies; and*
    - (iv) *the maintenance and enhancement of ecosystems in water bodies.*
    - (v) *the avoidance or mitigation of natural hazards*
    - (vi) *the control of discharges of contaminants to land or water*
179. As outlined above, there are potential risks to water quantity and quality as a result of land being used for carbon forestry and it is within the scope of ORC's functions to manage land for those purposes, as well as any discharges from carbon forestry sites. There is some research that explores the possibility of increased fire risk due to large-scale forestry blocks (particularly if they are unmanaged) which specifically emphasise Otago as being at risk (Parliamentary Commissioner for the Environment, 2019):
- “The modelling suggests that any increase in forest area would be strongly skewed to three regions – Canterbury, Otago and Manawatu-Wanganui. Significantly, the two South Island regions are predicted to become more vulnerable to extreme fire risk, further underlining the risks that a heavy reliance on forest sinks might carry.”*  
(p.11)
180. Under section 31 of the RMA, territorial authorities are responsible for the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biological biodiversity. This provides a much wider scope for managing land uses than regional councils. District plans can address effects of activities on, for example, indigenous biodiversity, natural character, landscape values, and more general social and economic well-being considerations.

181. Ultimately, both regional councils and territorial authorities have the ability to manage some of the effects of carbon forestry.

#### Carbon forestry and the pORPS

182. Carbon forestry is not specifically addressed in the pORPS, however many of its effects will be managed under various provisions across the pORPS. For example, the use of land to achieve environments outcomes for freshwater, and the protection of natural features and landscapes and significant natural areas. Given the uncertainty about the effects of carbon forestry, and the community opposition to it occurring in North Otago, I do not consider it is appropriate to include the type of recognition sought by Port Blakely and Ernslaw One and do not recommend accepting those submission points. I note that the pORPS has, as a rule, not sought to indicate any type of priority for different industries or activities in relation to decisions on use of resources.
183. I do not consider that the planting of trees for shelter belts and amenity plantings is an issue that needs to be addressed in the pORPS, which is focused on setting out the integrated management of natural and physical resources across the region. Provisions for those types of activities are best included in regional or district plans.
184. I agree with Rayonier Matariki and Jim Hopkins that, given the potential impacts of carbon forestry, the pORPS should address the activity more specifically. However, I do not consider that standalone provisions are needed for carbon forestry. Given its effects are already managed in various parts of the pORPS, I consider that the approach sought by Waitaki DC to amend a range of existing provisions is preferable. I recommend accepting the submission points by Rayonier Matariki and Jim Hopkins in part.
185. To support the relief sought in other provisions, Waitaki DC seeks to include a definition of carbon forestry to the pORPS. While that has become the main term used to describe permanent forestry plantations, I note that the ETS uses the term “permanent forests”. In my opinion, that is a clearer term than carbon forestry and removes the need for a definition as it is self-evident what a permanent forest is. I recommend accepting this submission, and the further submission by NZ Carbon Farming, in part.
186. The significant resource management issues for the region were developed through consultation with the community and workshops with ORC councillors. I acknowledge that those processes occurred prior to carbon forestry emerging as a particular issue for Otago, however I do not consider that a submission by one submitter is the appropriate basis on which to identify an additional significant resource management issue for the region. That said, there are a number of existing issues that may also be relevant to carbon forestry. TBC
187. I agree with Waitaki DC, Federated Farmers, and Kāi Tahu ki Otago that it is appropriate for district plans to manage the establishment of new, or any spatial extent of, both plantation forestry and carbon forestry where this is necessary to give effect to an objective developed under the NPSFM. This will assist with ensuring that regional and district plans are working together to achieve those objectives. I recommend accepting those submission points and amending LF-LS-M12(1)(a).

188. As set out above, it is the function of regional councils to control land for the purpose of maintaining the quantity of water in water bodies and coastal water. I do not consider it would be appropriate for district plans to also manage this type of land use as sought by Waitaki DC. It is the regional council that monitors and holds information on water quantity in water bodies, and the regional plan is the relevant planning document in the region for managing water quantity. It is also within the regional plan that environmental outcomes for the values identified in the region's FMUs and rohe will be identified as well as corresponding provisions to set target attribute states and limits on resource use. I do not recommend accepting this submission point.
189. I agree with Waitaki DC and Beef + Lamb and DINZ that there is an issue with the use of the term "primary production" as it applies to highly productive land. This is addressed in section 1.4.8 of this report which recommends using a narrow term that excludes forestry (both plantation and carbon).
190. In relation to NFL-P5 (which controls the effects of wilding conifers on outstanding natural features and landscapes), I agree with Waitaki DC that it is the planting of particular conifer species that is the issue, regardless of whether that planting is for plantation or carbon forestry. Arguably the risk is greater with carbon forestry as the planting is permanent. NFL-P5 as notified relies on a range of definitions from the NESPF which do not apply to carbon forestry. To ensure that the effects of both types of forestry are captured by this policy, I recommend amending clause (1) to read "avoiding the planting and replanting of plantation forestry and permanent forestry with conifer species listed in APP5 within..."
191. ECO-P9 controls the effects of wilding conifers on indigenous biodiversity and mirrors NFL-P5. For consistency, I recommend making the same amendments to ECO-P9(1) as I have recommended above in relation to NFL-P5.
192. In my opinion, the notified wording of ECO-M5 is not limited to plantation forestry and therefore does not require any amendment to achieve the outcome sought by Waitaki DC. I do not recommend accepting this submission point. The relief sought by QLDC to introduce a new policy on carbon sequestration has been addressed in *Report 10: ECO – Ecosystems and indigenous biodiversity*. For the same reasons, I agree that the new policy should not be included.
193. I do not consider that the specific relief sought by Federated Farmers is appropriate as the statement that there is a "gap" around carbon forestry is timebound – the current "gap" the submitter considers exists may not always exist. However, as a result of the amendment that I recommend above to ECO-P9, I consider a minor amendment is required to ECO-E1 to replace "afforestation" in the third paragraph with "the planting of conifer species". I therefore recommend accepting this submission in part.

#### 1.6.4.4. Recommendation

194. I recommend the following amendments:
- a. Including reference to permanent forestry in LF-LS-M12(1)(a),

- b. Replacing the first part of NFL-P5(1) and ECO-P9(1) to require avoiding the planting and replanting of plantation forests and permanent forests with conifer species listed in APP5, and
- c. Amending ECO-E1 to replace the term “afforestation” with “planting and replanting”.

#### 1.6.5. Mining and other extractive industries

##### 1.6.5.1. Introduction

195. Many submissions were received regarding the recognition of mining and other extractive industries. These included general submissions on the topic as well as submissions seeking the inclusion of new suites of provisions specifically to manage this activity.

##### 1.6.5.2. Submissions

196. Several submitters seek general recognition of the value of the extraction industry specifically to Otago.<sup>80</sup> Tony Sewhoy specifically seeks relief to incorporate land deemed for mineral exploration and extraction processing.<sup>81</sup> Many other submitters request amendments to recognise and provide for the functional needs of certain mineral extraction activities constrained by physical requirements.<sup>82</sup> Oceana Gold seeks to delete the unnecessarily restrictive “avoidance” approach in respect of mineral extraction.<sup>83</sup>
197. Many submitters seek to include a package of new provisions to recognise the economic value of mineral extraction and processing activities to the Otago region:<sup>84</sup>

#### Objective X.X

Sufficient land is managed and protected for economic production.

#### Policy X.X.1

Manage activities in rural areas and support the region’s economy and communities, by:

- a) Enabling primary production and other rural activities that support that production;
- b) Providing for mineral exploration, extraction and processing

<sup>80</sup> For example, 00022.030 Graymont, 00010.001 Phillip Joostens, 00021.003 Matakanui Gold, 00115.007 Oceana Gold, 00108.001 Tony Sewhoy

<sup>81</sup> 00108.002 Tony Sewhoy

<sup>82</sup> For example, 00016.001 Alluvium and Stoney Creek, 00322.047, 00322.048 Fulton Hogan, 00021.001 Matakanui Gold, 00015.001 Aggregate and Quarry, 00019.003, 00019.004 Straterra, 00017.023 Danny Walker and Others

<sup>83</sup> 00115.036 Oceana Gold

<sup>84</sup> For example, 00006.001, 00006.002, 00006.003, 00006.004 Brent & Kelly Duncan, 00008.001, 00008.002, 00008.003, 00008.004 Foothills Mining Ltd, 00004.01, 00004.02, 00004.03, 00004.04 Daniel Gerber, 00105.001, 00105.002, 00105.003, 00105.004 Stuart Liddicoat, 00002.001, 00002.002, 00002.003, 00002.004 Mokihinui Gold Ltd, 00011.001, 00011.002, 00011.003, 00011.004 David van der Zwet

### Policy X.X.2

To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists

### Policy X.X.3

Manage adverse effects from the exploration, extraction and processing of minerals, by:

- a) Giving preference to avoiding their location in the following:
  - i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;
  - iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;
  - iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;
  - v. Outstanding natural character in areas beyond the coastal environment;
  - vi. Outstanding natural features and landscapes beyond the coastal environment;
  - vii. Outstanding water bodies or wetlands;
  - viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;
- b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:
  - i. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature,
  - ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,
  - iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;
  - iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;
  - v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.

198. Straterra and Graymont seek similar amendments to the above regarding the recognition and management of adverse effects and reverse sensitivity.<sup>85</sup>
199. The reasons provided for including these provisions varies across the many submissions seeking their inclusion but can be summarised as a general position that the pORPS has not appropriately recognised the importance of this industry to Otago, particularly for economic well-being.
200. Similarly to these submitters, Matakanui Gold states that there is a significant policy gap for the recognition of and provision for mining in the pORPS, as it is an important component of the region's social and economic wellbeing and should be recognised as an important activity to the region. The submitter states that mineral extraction is not a suitable component of primary production, as it relates to either highly productive land (under Policy LF-LS-P19) or the rural area (under Policy UFD-P7) which seeks to enable primary production (including mining) on land or soils identified as highly productive.
201. The submitter seeks to include a new section on mining in the EIT chapter Matakanui Gold considers that it must be recognised that mining, similar to energy, infrastructure and transport, has functional needs and operational constraints. By inserting a suite of provisions specific to mining, the submitter states that provision can be made for the activity while also managing its adverse effects on the environment. The submitter seeks to include containing a suite of provisions that set out a policy framework for mining, as follows:<sup>86</sup>

**EITM-MIN-O1 Provision of mining**

Mining is provided for to enable the people and communities of Otago to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth within the region within environmental limits.

**EITM-MIN-P1 Mineral resources in Otago**

Have regard to the importance and economic value of high-quality gold, gravel, rock and other minerals.

**EITM-MIN-P2 Managing mining**

Manage mining to support the region's economy and communities, by:

- (1) Providing for mineral exploration, extraction and processing; and
- (2) Recognising the functional needs and operational needs of these activities;
- (3) Minimising the loss of significant soils;
- (4) Restricting the establishment of incompatible activities in proximity to mining activities that are likely to lead to reverse sensitivity effects;

**EITM-MIN-P3 Locating and managing effects of mining**

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<sup>85</sup> 00019.001 Straterra, 00022.031 Graymont

<sup>86</sup> 00021.010 to 00021.018 Matakanui Gold Limited

- (1) Giving preference to avoiding their location in all of the following:
- (a) significant natural areas,
  - (b) outstanding natural features and landscapes,
  - (c) natural wetlands,
  - (d) outstanding water bodies,
  - (e) areas of high or outstanding natural character,
  - (f) areas or places of significant or outstanding historic heritage,
  - (g) wāhi tapu, wāhi taoka, and areas with protected customary rights,
  - (h) areas of high recreational and high amenity value,
  - (i) Areas subject to significant natural hazard risk.
- (2) Where it is not practicable to avoid locating in the areas listed in (1) above because of the functional needs or operational needs of that activity manage adverse effects as follows:
- (a) Seeking to avoid adverse effects on the values that contribute to the significant or outstanding nature of (1) (a)-(c);
  - (b) Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature of (1)(d)-(i);
  - (c) Minimise any increase in natural hazard risk through mitigation measures;
  - (d) If adverse effects on indigenous biological diversity cannot be practicably remedied or mitigated, consider first biological diversity offsetting, and then biological diversity compensation; and
  - (e) Consider environmental compensation if adverse effects, other than on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;
- (3) Avoiding adverse effects on the health and safety of the community;
- (4) Avoiding, remedying, or mitigating adverse effects on other values including areas of high or outstanding natural character in order to maintain their values;
- (5) Considering biological diversity offsetting or compensating for residual adverse effects on other values;
- (6) Reducing unavoidable adverse effects by:
- i. Staging development for longer term activities; and
  - ii. Progressively rehabilitating the site, where possible;

Where there is a conflict with any other policy in this regional policy statement, this policy prevails.

### **EITM-MIN-M1 – Regional plans**

Otago Regional Council must prepare or amend and maintain its regional plans to:

- (1) Manage the adverse effects of mining activities that:
  - (a) are in the beds of lakes and rivers, or
  - (b) are in the coastal marine area, or
  - (c) involve the taking, use, damming or diversion of water or, and
  - (d) involve the discharge of water or contaminants.

### **EITM-MIN-M2 – District plans**

Territorial authorities must prepare or amend and maintain their district plans to:

- (1) Require a strategic approach to the provision of mining,
- (2) manage the subdivision, use and development of land to ensure mining can develop to meet increased demand, and
- (3) manage the adverse effects of mining.

### **EITM-MIN-E2 – Explanation**

Gold was historically significant to New Zealand , and especially to Otago, after the arrival of Europeans. Gold mining still contributes to the economy.

The policies in this section recognise the importance of mining to communities and provide for the continued operation of existing mining and the development of new mining where adverse effects are managed.

Mining relies on particular resource requirements or specific locations, and decisions on allocating natural and physical resources shall make provision for the functional or operational needs of mining.

To ensure mining is able to be planned for, and used effectively and efficiently, the objectives and policies require that the benefits of mining are recognised, and the potential adverse effects of incompatible activities on mining are restricted.

### **EIT-MIN-PR2 – Principal reasons**

Mining in Otago is fundamental to the health and safety of communities, and their social and economic well-being and functioning. The nature of mining, particularly gold deposits means there are often both operational and functional constraints which dictate where mining can occur.

The scale and type of activities involved in mining are such that adverse effects on the environment are likely and, at times, significant. Efforts are required to reduce effects, including rehabilitation, careful operation management during the life of the mine.

There are instances however, when residual effects cannot be avoided, in which case effects should be remedied or mitigated and offsetting or compensation may be necessary if it meets any criteria set. Given the potential for adverse effects, it



is important that local authorities monitor and enforce the standards set in plans and on resource consents and designations.

The policies in this chapter give effect to the NPSFM and recognise mining has benefits for the wider Otago region and nationally. Implementation of the provisions will occur through the regional and district plan provisions.

#### Anticipated environmental results

**EITM-MIN-AER1** Mining is provided for while sustainably managing natural and physical resources.

**EITM-MIN-AER2** Mining is protected from reverse sensitivity effects caused by incompatible activities.

**EITM-MIN-AER3** The adverse effects associated with mining are minimised.

202. To assist with the interpretation of these provisions, the submitter also seeks to include a definition of mining as follows:

mining has the same meaning as the Crown Minerals Act as set out in the box below:

(a) means to take, win, or extract, by whatever means,–

(i) a mineral existing in its natural state in land; or

(ii) a chemical substance from a mineral existing in its natural state in land; and

(b) includes–

(i) the injection of petroleum into an underground gas storage facility; and

(ii) the extraction of petroleum from an underground gas storage facility; but

(c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a)

203. As a consequential amendment, the submitter seeks to amend the title of the chapter to “EIT – Energy, infrastructure, ~~and~~ transport, and mining”.

204. The reasoning provided by Matakānui Gold is that mining is an important component of Otago’s social and economic well-being and should be recognised as an important activity to the region which like energy, infrastructure and transport can have functional needs and operational constraints.

#### 1.6.5.3. Analysis

205. As I have stated above in relation to rural land uses more generally, as a philosophical position the pORPS has not sought to provide policy direction on specific industries or economic uses of resources. Instead, it focuses on the outcomes sought from the sustainable management of resources and on putting in place management frameworks

to protect or otherwise manage those resources, so that where the resource is available, use can occur (regardless of what that use is). For this reason, I do not recommend including an additional chapter in the pORPS specifically for mining. In my opinion, if alternative pathways are required then those should be provided for within the relevant chapters of the pORPS.

206. In relation to the amendments sought by Matakanui Gold to the EIT chapter, I note that some of these are affected by the requirements of the National Planning Standards. Mandatory direction 3 in 2: *Regional Policy Statement Structure Standard* states that unless otherwise specified, chapters and sections that are grey in Table 2 must be included in the regional policy statement if relevant, in the order shown. “Energy, infrastructure and transport” is shown in grey and is relevant to the pORPS. Mandatory direction 4 then states that if a chapter in Table 2 is included, its associated heading must also be included. In my opinion, that prevents the Council from amending the EIT chapter title to include mining as sought by Matakanui Gold. Mandatory direction 5, however, states that local authorities must add sections and subsections within chapters where appropriate to organise related provisions. In my opinion, this could provide for a mining section within the EIT chapter. However, for the reasons I have set out in response to including a new standalone chapter for mining in the pORPS, I do not consider that there is sufficient justification for this currently.
207. The amendments sought by the submitters are wide-ranging and seek to essentially ‘exempt’ mining and extractive industries from the policy frameworks in the pORPS for:
- Areas of significant indigenous vegetation and significant habitats of indigenous fauna (CE and ECO),
  - Outstanding natural features and landscapes, including seascapes, (CE and NFL)
  - Outstanding natural character (CE and LF),
  - Outstanding water bodies and wetlands (LF),
  - Places or areas containing historic heritage of regional or national significance.
208. I do not consider that any of the relevant submissions have provided sufficient justification to warrant this type of exemption. The matters listed above comprise the majority of Otago’s most significant and valued natural and physical resources and any proposal to provide for those to be negatively affected should be very carefully considered. There is a range of policy frameworks in the pORPS for managing adverse effects on these matters, and it is not clear from the submissions whether all of those policy frameworks are equally as restrictive of mining activities or whether the issue as identified by the submitters is predominantly in relation to one or other matter. I note that the submission of Oceana Gold specifically highlights the provisions in the ECO chapter and helpfully sets out, in detail, the issues that arise from the application of those provisions to Macraes Mine.
209. Matakanui Gold identifies that mining is included in the definition of primary production and that there is therefore a pathway for mining on highly productive land as part of the provisions of the LF-LS and UFD chapters which is problematic. I agree with the submitter and have discussed this issue in section 1.6.7. In that section, I have recommended replacing “primary production” with “food and fibre production” so that mining is

excluded from the policy framework set out for highly productive land. I acknowledge that potentially leaves a 'gap' with regard to provision for mining, although I consider that mining was inadvertently captured in these provisions by the use of the term "primary production" rather than as a deliberate policy choice.

210. I acknowledge that extractive industries have a functional need to locate in particular areas due to the location of the minerals or aggregates and that this make it difficult, if not impossible in some cases, for them to avoid locating in areas of significance. This has been recognised by the Minister for the Environment recently in relation to the constraints imposed by the NESF on activities occurring in or around wetlands. In that case, in late 2021 the Government consulted on policy proposals to provide consenting pathways for quarrying and mining activities due to their locational constraints. At the time of writing, no amendments had been formally made to the NESF as a result of this consultation and therefore it is not clear how or whether the Government has decided to include such a pathway.

211. My preliminary position on the submissions seeking a separate policy framework for managing mining is that further justification is needed to demonstrate the issues that arise from the application of all of the policy frameworks that the submitters seek an 'exemption' from. If, on the basis of that justification, additional policy direction is required I consider that should be targeted to the provisions where there is evidence demonstrating that amendments should be made. In my opinion, introducing a new policy framework as sought by the submitters should be explored only as a last resort.

#### 1.6.5.4. Recommendation

212. I do not recommend any changes at this stage.

#### 1.6.6. Effects management hierarchy

##### 1.6.6.1. Introduction

213. There are a range of submissions on the use of effects management hierarchies, both generally and in relation to specific provisions. This section analyses those submissions.

##### 1.6.6.2. Submissions

214. OWRUG and Aurora Energy<sup>87</sup> seek to add a new definition of "effects management hierarchy (other matters)" as follows:

**Effects management hierarchy (other matters)** means an approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of an, outstanding natural feature or landscape, outstanding water body (excluding natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wahi

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<sup>87</sup> 00315.014 Aurora Energy, 00235.125 OWRUG  
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tapuna, wahi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:

- (1) Adverse effects are avoided where practicable,
- (2) Where adverse effects cannot be avoided, they are minimised where practicable,
- (3) Where adverse effects cannot be minimised, they are remedied where practicable,
- (4) Where adverse effects cannot be remedied, they are mitigated to the extent practicable,
- (5) Where more than minor adverse effects cannot be avoided, minimised, remedied or mitigated offsetting and/or environmental compensation must be considered, where appropriate.

215. Aurora Energy submits that the existing definition of “effects management hierarchy” only applies to rivers and natural inland wetlands, however the term can apply to managing adverse effects on other natural resources. The submitter considers that effects management hierarchies are particularly important tools for managing infrastructure because infrastructure often has functional or operational needs that mean it must be located in a particular place or affect the type of mitigation measures that can be applied. In addition to the above new definition, Aurora Energy<sup>88</sup> also seeks any further other or consequential relief to provide an appropriate effects management regime for infrastructure in sensitive locations, including such locations set out in sections 6 and 7 RMA.
216. Similarly to Aurora Energy, OWRUG considers it would be appropriate to allow infrastructure developments to access an effects mitigation hierarchy. OWRUG also seeks to amend ECO-P6 so that there is consistency between the effects management hierarchies.
217. PowerNet and Network Waitaki<sup>89</sup> also seek a new definition of “effects management hierarchy (other matters)”. The proposed definition is identical to that suggested above but also includes an additional sentence as follows:
- If offsetting and/or environmental compensation is not appropriate the activity itself is to be avoided.
218. DOC seeks amendments to the definition of ‘effects management hierarchy’ in ECO-P6 so it is consistent with the definition in clause 3.21 of the NPSFM.<sup>90</sup>
219. Forest and Bird considers that “minimise” does not provide clear direction on what is needed in order to reach minimisation and a consistent approach to applying effects management hierarchies is required across the pORPS which emphasises avoiding

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<sup>88</sup> 00315.014 Aurora

<sup>89</sup> 00511.012 PowerNet, 00320.012 Network Waitaki

<sup>90</sup> 00137.009 Director-General of Conservation

adverse effects in the first place.<sup>91</sup> The submitter notes the directiveness of the NZCPS meaning the effects management hierarchies are neither appropriate nor applicable within the coastal environment and seek amendments of other chapters as necessary.<sup>92</sup>

220. Te Waihanga seeks clarification regarding the management approach applied across the pORPS.<sup>93</sup> The submitter highlights the tension between a holistic, integrated management (ki uta ki tai) approach which manages the environment and resources in Otago versus a hierarchy of obligations approach which places the environment ahead of people.

#### 1.6.6.3. Analysis

221. The pORPS uses effects management hierarchies in a number of places as a management tool for achieving the outcomes desired while providing avenues for development and use of resources. In the LF and ECO chapters, the term “effects management hierarchy” specifically is used to describe a particular sequence of management actions. In other places in the pORPS, there are provisions that include an effects management hierarchy (i.e. by requiring management steps to be taken in a specified order) but these provisions do not specifically use the term “effects management hierarchy” (for example, EIT-INF-P13, HCV-WT-P2, NFL-P2).
222. Aurora Energy, OWRUG, PowerNet, and Network Waitaki seek to include a definition that describes, broadly, what an effects management hierarchy is and sets out an effects management hierarchy for all activities affecting particular natural and physical resources. I am not opposed to describing the concept in principle, however I have considerable difficulty with the implications of the definition proposed. From what I understand, this definition would replace the policy direction across a number of chapters of the pORPS with the effects management hierarchy set out in the definition for all activities. In my opinion, the submitters have not provided sufficient evidence to demonstrate that this amendment is more efficient and effective at achieving the (various) relevant objectives of the pORPS than the notified provisions.
223. As an example, the definition proposed by the submitters would alter the policy direction in EIT-INF-P13. The policy as notified differentiates nationally and regionally significant infrastructure from infrastructure generally and requires avoiding, as a first priority, particular areas, and then when there is a functional or operational need of that infrastructure that means avoiding those areas is not possible, an alternative pathway for managing effects is set out. Under the submitters’ proposal, all infrastructure would be treated in the same way and managed under an effects management hierarchy based largely on “practicability” of management tools. I do not consider the submitters have provided sufficient evidence to justify this significant shift in policy direction or demonstrate that the requirements of higher order documents (including the NPSFM and NZCPS) have been met. Any ‘wholesale’ changes that alter policy direction throughout the pORPS that has been drafted in consideration of higher order documents and within

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<sup>91</sup> 00230.003 Forest and Bird

<sup>92</sup> 00230.045 Forest and Bird

<sup>93</sup> 00321.009 Te Waihanga

the context of their own topic-specific policy frameworks should be considered very carefully.

224. I consider there is merit in including a definition of “effects management hierarchy” generally as I appreciate this term is relatively new and may not be well-understood. I recommend including the following definition:

**Effects management hierarchy** means an approach to managing the adverse effects of an activity.

225. On this basis, I recommend accepting in part the submission points by Aurora Energy, OWRUG, PowerNet, and Network Waitaki.

226. Mandatory direction 6 in *14: Definitions standard* in the National Planning Standards requires that where a term is used in more than one context, local authorities must, in their *Definitions* chapter, add the context in which the term is defined in brackets after the term name. For example, “bed (in relation to lakes, rivers and the sea).” This is relevant to this discussion due to the use of the terms “effects management hierarchy” in the LF and ECO chapters. In those contexts, while the broad concept is the same (i.e. the application of a management tool) the specific hierarchy and requirements are different. In my opinion, to comply with the National Planning Standards, the effects management hierarchies used in the LF and ECO chapters need to be differentiated from the definition above in the manner set out in *14: Definitions standard*.

227. Before considering the submissions, it is important to understand why these terms are used in the LF and ECO chapters and why they are used differently. The LF section incorporates the “effects management hierarchy” as that term is defined in the NPSFM in relation to the management of rivers and natural wetlands. It has also adopted the approach set out in the NPSFM of including the hierarchy in a definition. This hierarchy is considerably less stringent than the effects management hierarchy referred to in the ECO chapter (described below). To address this, the ECO hierarchy is applied instead of the LF hierarchy for effects on indigenous biodiversity. This occurs in LF-FW-P9 and LF-FW-P13.

228. The ECO chapter adopts an effects management hierarchy as a way of maintaining indigenous biodiversity. The hierarchy is set out in ECO-P6 and is referred to as the “biodiversity effects management hierarchy.” It is supported by two appendices setting out the criteria for using biodiversity offsets and biodiversity compensation. In my opinion, the amendment sought by DOC to refer to the freshwater effects management hierarchy in the ECO chapter instead of the content of ECO-P6 would significantly reduce the stringency of these provisions and I do not consider the submitter has provided sufficient evidence to justify this. I do not recommend accepting this submission point.

229. In my opinion, it is unhelpful that these effects management hierarchies are expressed differently in the two chapters: in LF-FW the hierarchy is contained in a definition whereas in ECO it is contained in a policy. I understand the approach in LF-FW reflects the direction in the NPSFM, however in my opinion it is generally preferable for management tools to be describes in policies (as a course of action to achieve an objective) rather than in definitions. I note that *Quality Planning* advises avoiding “writing definitions in such a way so that they become a de facto rule or contain matters that

would be better expressed as a rule (by containing thresholds, standards, or terms for example).” (Quality Planning, n.d.) In my view, while this guidance is focused on rules, the general principle can be applied to other types of management approaches, such as effects management hierarchies.

230. I consider that implementing the direction in the National Planning Standards regarding differentiating between terms used in different contexts requires amending the approach adopted in the notified pORPS for use of the freshwater effects management hierarchy, and specifically by moving that hierarchy out of a definition and into a policy in much the same way as the ECO chapter. Lower order plans (including regional policy statements) are not required to adopt definitions from national policy statements. I consider that the effects management hierarchy set out in the NPSFM for rivers and natural inland wetlands can be implemented in the pORPS without necessarily having to incorporate the definition as per the NPSFM. For clarity, the definition of this term in the NPSFM is:

***effects management hierarchy**, in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:*

- (a) adverse effects are avoided where practicable; and*
- (b) where adverse effects cannot be avoided, they are minimised where practicable; and*
- (c) where adverse effects cannot be minimised, they are remedied where practicable; and*
- (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; and*
- (e) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; and*
- (f) if aquatic compensation is not appropriate, the activity itself is avoided*

231. I note that in the pORPS, this definition is applied to all natural wetlands, not only natural inland wetlands. I consider that this direction should be moved into a new policy LF-FW-P13A as follows:

**LF-FW-P13A – Effects management hierarchy in relation to natural wetlands and rivers**

The *effects management hierarchy* (in relation to natural wetlands and rivers) referred to in LF-FW-P9 and LF-FW-P13 is an approach to managing adverse effects of activities that requires that:

- (a) adverse effects are avoided where practicable,
- (b) where adverse effects cannot be avoided, they are minimised where practicable,

- (c) where adverse *effects* cannot be minimised, they are remedied where practicable,
- (d) where more than minor residual adverse *effects* cannot be avoided, minimised, or remedied, *aquatic offsetting* is provided where possible,
- (e) if *aquatic offsetting* of more than minor residual adverse *effects* is not possible, *aquatic compensation* is provided,
- (f) if *aquatic compensation* is not appropriate, the activity itself is avoided.

232. Matters (a) to (f) set out the effects management hierarchy and are the same in both the NPSFM definition and my recommended new policy above. I have drafted a new chapeau to reflect that this is a policy relied on in other policies, rather than a definition as it is expressed in the NPSFM.
233. As well as my substantive recommendations above, consequential amendments are also recommended. I have set these out below.
234. A number of provisions in the pORPS use the term “minimise”. I consider that whether that is the most appropriate term, and whether the direction is clear enough, is a matter to consider in relation to each use of the term. There are many submission points raising similar matters in relation to the use of this term. Similarly, there are effects management hierarchies adopted in various parts of the pORPS. Where those have been drafted, this has occurred with careful consideration of all relevant national direction instruments. Where an effects management hierarchy is not adopted, it has not been considered appropriate in order to achieve the objectives. I note that there are many submissions on those specific provisions and those submission points are evaluated separately, in relation to the specific provision. I recommend accepting this submission in part.
235. There is no ‘one’ management approach adopted in the pORPS. Each chapter or section addresses a particular topic in the way considered to be most efficient and effective at achieving the relevant objectives. There is a range of relevant national direction instruments that the pORPS must implement which also affect the management approaches adopted for different types of resources. I do not consider that, as a whole, the pORPS places the environment ahead of people. Where there are provisions that institute a hierarchy, this is either in response to national direction or to address ongoing degradation of resources. I do not recommend accepting this submission.

#### 1.6.6.4. Recommendation

236. In summary, the full suite of changes I recommend are:
- Replacing the freshwater-specific definition of “effects management hierarchy” in the *Definitions* section with the general description as proposed above,
  - In accordance with the National Planning Standards, including two new terms in the *Definitions* section of the pORPS: effects management hierarchy (in relation to natural wetlands and rivers) and effects management hierarchy (in relation to indigenous biodiversity) that refer readers to LF-FW-P13A and ECO-P6 respectively,



- Amending the cross-references in LF-FW-P9(1) and (2) and LF-FW-P13(1) and (2) to refer to Policy LF-FW-P13A instead of to the deleted freshwater-specific definition of “effects management hierarchy”.

#### 1.6.7. Primary production and other associated terms

##### 1.6.7.1. Introduction

237. There are a range of terms used across the pORPS to refer to rural or primary sector activities, including:

- Agriculture (Description of the region, SRMR-I1, SRMR-I3, SRMR-I4, SRMR-I5, SRMR-I6, SRMR-I7, SRMR-I9, SRMR-I10)
- Farming activities (AIR-P5, CE-PR1)
- Primary production (Definitions, SRMR-I6, LF-LS-O11, LF-LS-P19, LF-LS-E4, LF-LS-PR4, UFD-P7),
- Food production (SRMR-I8, CE-PR1, LF-VM-O2, LF-VM-O3, LF-VM-O4, LF-VM-O6)
- Rural industry (SRMR-I8, CE-PR1, UFD-P7)

238. In addition, there are many references in the SRMR section to specific farming activities that fall within these broader terms, such as dairy farming, cropping, viticulture, forestry, and aquaculture.

239. “Agriculture”, “farming activities”, “food production”, and “rural industry” are not defined in the pORPS. “Primary production” is defined as per the mandatory definition in the National Planning Standards. Rural industry is italicised, indicating a definition, but there is no definition included in the pORPS. I note that the term is defined in the National Planning Standards.

240. There are a number of submissions on or relating to the use of these terms, both generally throughout the pORPS as well as in relation to their use in specific provisions.

241. The submissions on these terms are discussed as follows:

- General submissions on terminology,
- Farming activities,
- Primary production,
- Food production, and
- Rural industry.

##### 1.6.7.2. Submissions

###### General submissions on terminology

242. OWRUG submits that the food and fibre sector is a significant part of the national and regional economy that accounts for 75% of New Zealand’s merchandise exports and is particularly important in Otago. The submitter states that as compared to the national average of 6.2%:

- in the Central Otago district, primary industries make up 14.6% of GDP,

- in the Clutha district, agriculture, forestry and fishing make up 32.1% of GDP, and
- in the Waitaki district, agriculture, forestry and fishing make up 32.5% of GDP.

243. OWRUG seeks to include a definition for the food and fibre sector as follows:<sup>94</sup>

**food and fibre sector** includes the primary sector production industries (excluding mining), the related processing industries and services industries along the value chain from producer to final consumer including transporters, storage, distribution marketing and sales.

244. The submitter also seeks to replace all references to “agriculture” with “food and fibre sector”.<sup>95</sup>

#### Farming activities

245. “Farming activities” is used in AIR-P5 and CE-PR1. In relation to AIR-P5, Horticulture NZ and NZ Pork seek to replace the term with “primary production”. Neither submitter provides particularly clear reasoning for this.

#### Primary production

246. Three submitters support the definition of primary production<sup>96</sup> and six seek amendments. Matakanui Gold Limited, Alluvium and Stoney Creek, and Danny Walker and others seek to amend the definition to remove mining, quarry and forestry activities, or otherwise not give preference to these activities occurring on highly productive land.<sup>97</sup> This reflects the use of the term in a number of provisions in the LF-LS section that

247. Kāi Tahu ki Otago seeks to delete the definition and replace it with a term that is clearly limited to outdoor agricultural, pastoral and horticultural activities.<sup>98</sup> The submitter considers that the National Planning Standards definition is not consistent with the way the term is used in the pORPS provisions relating to highly productive land because it includes a range of activities that do not rely on highly productive land, including mining, quarrying, forestry, and production of commodities within buildings. This is supported by the further submissions of Beef + Lamb NZ, Te Rūnanga o Ngāi Tahu, and Ngāi Tahu ki Murihiku and opposed by Fulton Hogan, Federated Farmers, Horticulture NZ, and OWRUG. The opposition is generally to using a term not defined in the Planning Standards.

248. Ngāi Tahu ki Murihiku seeks that references to primary production differentiate forestry activities, particularly where the term is used in relation to highly productive land.<sup>99</sup>

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<sup>94</sup> 00235.008 OWRUG

<sup>95</sup> 00235.035 OWRUG

<sup>96</sup> 00322.002 Fulton Hogan, 00115.001 Oceana Gold, 00122.002 Sanford

<sup>97</sup> 00021.002 Matakanui Gold Limited, 00016.009 Alluvium Limited and Stoney Creek Mining, 00017.007 Danny Walker and others

<sup>98</sup> 00226.033 Kāi Tahu ki Otago

<sup>99</sup> 00223.094 Ngāi Tahu ki Murihiku

249. Beef + Lamb and DINZ seek to specifically exclude forestry for the purposes of carbon sequestration.<sup>100</sup> The submitters consider that extractive industries, agriculture, forestry, fisheries, and aquaculture all share a common characteristic in that they produce a primary product, whereas forestry for the purposes of carbon sequestration does not produce a primary product. This is supported by the further submissions of Ernslaw One and Waitaki DC and opposed by Rayonier Matariki, and OWRUG. NZ Carbon Farming and Federated Farmers also made further submissions on this point but remained neutral.
250. Federated Farmers supports the use of the term “primary production” in LF-LS-O11.<sup>101</sup>
251. Waitaki DC seeks to use the term “primary production” instead of referring to agriculture and mining in the *Description of the region* because “primary production” includes these activities as well as viticulture and horticulture.<sup>102</sup>

#### Use of the term “food production”

252. Federated Farmers seeks a range of amendments to the freshwater visions in LF-VM:
- Include a new clause in LF-VM-O2 regarding “food production and activities associated with the primary sector”,
  - Amending LF-VM-O3(6) and LF-VM-O4(8) to replace “food production” with “primary production”, and
  - Including a new clause referring to “primary production” in LF-VM-O5, LF-VM-O6, and LF-FW-O8.

#### Use of the term “rural industry”

253. Fonterra, Silver Fern Farms, Trojan, and Wayfare seek to define the term “rural industry” as it is used in the UFD chapter.<sup>103</sup>
254. All four submitters note the term is defined in the National Planning Standards and seek that the definition set out in the Planning Standards is incorporated into the pORPS:<sup>104</sup>

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

means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on *primary production*.

255. As an alternative to the above, Trojan and Wayfare propose a different definition based on the definition of “Rural Industrial Activity” used in the Queenstown District Council Proposed District Plan:<sup>105</sup>

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<sup>100</sup> 00237.004 Beef and Lamb

<sup>101</sup> 00239.093 Federated Farmers

<sup>102</sup> 00140.001 Waitaki DC

<sup>103</sup> Fonterra 00213.007, Silver Fern Farms 00221.001, Wafare 00411.019 and Trojan 00206.012

<sup>104</sup> Fonterra 00213.007, Silver Fern Farms 00221.001, Wafare 00411.019 and Trojan s 00206.012

<sup>105</sup> <https://www.qldc.govt.nz/media/kzconrci/pdp-chapter-02-definitions-oct-2021.pdf> “Rural Industrial Activity: Means the use of land and buildings for the purpose of manufacturing, fabricating, processing,

rural industry means the use of land and buildings for the purpose of manufacturing, fabricating, processing, packing and/or storage of goods and materials grown or sourced outside the urban environment and the storage of goods, materials and machinery associated with commercial contracting undertaken outside the urban environment.

#### 1.6.7.3. Analysis

256. I agree with submitters that there are a range of different terms used across the pORPS to describe what appear to be the same, or very similar, activities. Where terms are used in objectives, policies, and methods, I consider it is important that those terms are appropriate for their context and clear in application as these provisions will be implemented in lower order plans. In my view, the terminology used in other parts of the pORPS is less important as these parts will not be informing the development of plan provisions (or only in an indirect manner). On that basis, the terms I will examine most closely are “farming activities”, “primary production”, “food production”, and “rural industry”. Whether “food and fibre sector” as sought by OWRUG is a suitable substitution for these terms will depend on how and why these terms are used in the pORPS.
257. Farming activities are not defined in the pORPS. The dictionary definition is:<sup>106</sup>
- the practice of agriculture or aquaculture*
258. Primary production is a term with a mandatory definition in the National Planning Standards which is carried through to the pORPS. The definition is:
- means:*
- (a) *any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and*
  - (b) *includes initial processing, as an ancillary activity, of commodities that result from the listed activities in (a);*
  - (c) *includes any land and buildings used for the production of the commodities from (a) and used for the initial processing of the commodities in (b); but*
  - (d) *excludes further processing of those commodities into a different product.*
259. AIR-P5 requires managing the effects of discharges to air beyond the boundary of the property of origin from activities that include, but are not limited to, farming activities (amongst others). In this context, I consider that “primary production” is an appropriate substitution. The policy is not limited only to the activities specified, meaning that although “primary production” may include more activities than “farming activities”, that has not extended the scope or application of the policy. I note that it is recommended to accept the submission points by Horticulture NZ and NZ Pork in relation to AIR-P5.

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packing and/or storage of goods and materials grown or sourced within the Rural Zone and the storage of goods, materials and machinery associated with commercial contracting undertaken within the Rural Zone.” accessed 17 January 2022

<sup>106</sup> <https://www.merriam-webster.com/dictionary/farming>

260. “Primary production” is used predominantly in the LF-LS and UFD chapters.<sup>107</sup> The relevant provisions from these chapters use the term in relation to the management regime for highly productive land. In essence, the provisions collectively seek to protect highly productive land, including by prioritising its use for primary production. In that context, as highlighted by submitters, “primary production” is problematic because it includes activities that generally do not need or seek to operate on highly productive land, such as mining and quarrying. I agree with submitters that these activities should be not prioritised on highly productive land. I note that the draft NPSHPL largely adopts the Planning Standards definition of primary production but excludes mining, quarrying, and aquaculture. For completeness, I also consider that it is illogical to prioritise highly productive land for aquaculture.
261. Kāi Tahu ki Otago submits that “primary production” is also problematic because it refers to ancillary activities such as initial processing, as well as the land and buildings used for producing commodities and initial processing. While I agree that those activities on their own do not rely on highly productive land, they are integral to the land-based activities. For example, crops are generally washed and packaged for transport on-site and the facilities used for this need to be located where the crops are grown. I do not recommend accepting this submission point.
262. Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, Matakanui Gold, Alluvium and Stoney Creek, and Danny Walker and others seek to exclude all forestry activities on the basis that forestry activities do not rely on highly productive land. While I agree with the submitters that forestry can occur on less productive (and sometimes marginal) land, I do not consider it can only occur on that type of land. LF-LS-P19(1)(a) states that one of the criteria to be used to identify highly productive land is the capability and versatility of the land based on the Land Use Capability (LUC) classification system. I note that that system specifically includes reference to the suitability of land for “production forestry” in LUC classes 1 to 5 (Lynn, et al., 2009). The submitters have not provided evidence for their relief sought or an assessment of the costs and benefits. Without further evidence, I do not recommend accepting these submission points. The submitters may wish to address this in their evidence on this topic.
263. Beef + Lamb and DINZ seek to exclude forestry for the purposes of carbon sequestration on the basis that it is not a productive activity in the same way as the other activities included in the definition of primary production. I have discussed this activity (carbon or permanent forestry) in section 1.6.4 of this report. For the reasons set out in that section, and the references I have noted above to “production forestry” in the LUC classes, I agree that permanent forestry is not productive and that it would not be a good use of highly productive land to prioritise its use for permanent forestry. I recommend accepting this submission point.
264. Overall, I do not consider “primary production” is an appropriate term to use in the provisions in the LF and UFD chapters where it is part of the management of highly productive land. In my opinion, mining, quarrying, and permanent forestry should be

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<sup>107</sup> LF-LS-O11, LF-LS-P19, LF-LS-E4, LF-LS-PR4, UFD-P7, UFD-P8.  
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excluded from the activities being prioritised on highly productive land. I note that OWRUG has sought to include a new definition for the term “food and fibre sector” to use this term instead of “primary production” in the provisions relating to highly productive land. I have some difficulties with the definition as sought:

- While it excludes mining, it includes quarrying and permanent forestry which do not produce food or fibre,
- It includes aquaculture which is not a land use,
- The remainder of the definition includes a significantly broader range of supporting or ancillary activities than the definition of production (for example, transporters, storage, distribution, marketing, and sales).

265. In my opinion, “primary production” is not the appropriate term to use in the context of highly productive land and that an alternative term and definition would be more effective in achieving the desired outcome (protection of highly productive soils). Given that OWRUG has sought “food and fibre sector” and this is generally consistent with the activities to be captured by the term, I recommend accepting this submission in part and using the term “food and fibre production”. However, I consider that an alternative definition would be preferable to the definition sought by OWRUG for this term. In my view, the definition of “food and fibre sector” could mirror the definition of “primary production” but exclude aquaculture, mining, quarrying, and permanent forestry activities, and make minor grammatical improvements as follows:

**food and fibre production means:**

- (a) any agricultural, pastoral, horticultural, or plantation forestry activities;
- (b) includes, as an ancillary activity, the initial processing of commodities that result from the activities listed in (a); and
- (c) includes any land and buildings used for (a) and (b); but
- (d) excludes further processing of those commodities into a different product.

266. I consider that “production” is a more accurate description of the activities captured by the definition above than “sector”. Adopting the majority of the definition of “primary production” means that it is only the specific production activities that is amended, rather than the scope and nature of any ancillary activities. I recommend that the term “primary production” in LF-LS-O11, LF-LS-P19, LF-LS-E4, LF-LS-PR4 and UFD-P7 is replaced with “food and fibre production”.

267. I note that “primary production” is also used in SRMR-I6, however it is used in an explanation of the economic impact of declining water quality rather than in relation to highly productive land. On this basis, I do not consider the term needs to be amended.

268. Waitaki DC’s relief sought to use the term “primary production” in the *Description of the region* has been addressed in section **Error! Reference source not found.** of this report and is recommended to be accepted.

269. In addition to the new term and definition, OWRUG seeks to replace all references to “agriculture” with “food and fibre sector.” In my view, each instance of the term “agriculture” needs to be reviewed to determine whether “food and fibre production” (as I recommend) is an appropriate substitution, noting that this term includes forestry activities that are generally not captured by the term “agriculture”. The term is used predominantly in the *SRMR – Significant resource management issues for the region of the pORPS* and therefore the use of the terminology has been considered in *Report 5: Submissions on Issues*.
270. “Food production” is a term used in four of the freshwater visions contained in the *LF-VM* section of the *LF* chapter. The reasons for its use are set out and the submission points by Federated Farmers to replace the term with “primary production” are evaluated in section 7.8.3 of *Report 9: LF – Land and freshwater*. “Food production” is also used in impacts descriptions in *SRMR-I8* and in *CE-PR1* as part of the principal reasons for *CE* chapter. I do not consider that those references are problematic given they are used in explanatory material rather than provisions.
271. “Rural industry” is not defined in the pORPS but is defined in the National Planning Standards as:
- means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.*
272. In my opinion, this term relates to businesses that support primary production, rather than the primary production itself. For example, transportation services or contracting. I note that this term is used in three places in the pORPS: twice as part of explanatory material and once within policy *UFD-P7*. The submissions on the use of this term in *UFD-P7* are addressed in *Report 12: UFD – Urban form and development*. In summary, it is recommended to accept the submissions seeking to include the definition of “rural industry” from the National Planning Standards.
- 1.6.7.4. [Recommendations](#)
273. I recommend the following amendments:
- a. Replace “farming activities” in *AIR-P5* with “primary production”, and
  - b. Replace “primary production” with “food and fibre production” in *LF-LS-O11*, *LF-LS-P19*, *LF-LS-E4*, *LF-LS-PR4*, *UFD-P7*
- 1.6.8. [Habitats of trout and salmon](#)
274. Fish and Game considers that the pORPS fails to give effect to the directions regarding the habitats of trout and salmon set out in section 7 of the RMA and Policies 9 and 10 of the NPSFM. The submitter seeks a range of amendments to provisions on this basis.
275. Fish and Game notes that sports fish and game birds are highly valued by many New Zealanders and international tourists as sources of food and recreational opportunities. The submitter states that these species are also highly valued by some Māori, who see

them as an expression of evolving culture in the wake of diminished traditional mahinga kai resources.

#### 1.6.8.1. Submissions

276. Fish and Game considers that there are cases where the protection of trout and salmon habitat is consistent with protection of habitat of indigenous species. For example, the protection of an area that is habitat to both trout and eel will improve water quality and quantity of habitat for both species. Therefore, Fish and Game seeks relief that achieves two key points:<sup>108</sup>

- protects water bodies and freshwater ecosystems (including the habitat of trout and salmon) from the impacts of land use and restores them where they are degraded, and
- develops a framework for considering when protecting the habitat of trout and salmon is consistent with protecting the habitat of indigenous species and assists in managing species interactions where they are of concern.

277. In conjunction with the above general relief, Fish and Game seek a suite of specific amendments for the LF – Land and freshwater chapter, as follows:

- insert a new clause in LF-WAI-P3:<sup>109</sup>  
(3a) sustains and restores the habitats of trout and salmon species associated with the water body, insofar as this is consistent with ECO-P11,
- insert an overarching vision for all of Otago, LF-VM-OA2, which includes the following clause:<sup>110</sup>  
(7) the habitat of trout and salmon is protected and restored, and trout and salmon are able to migrate easily within and between catchments, insofar as each goal is consistent with that of indigenous species
- insert a new clause in LF-FW-O8:<sup>111</sup>  
(4a) trout and salmon can migrate easily and their habitats are protected and restored, insofar as this is consistent with that of indigenous species,
- insert a new clause in LF-FW-P7:<sup>112</sup>  
(2a) the habitats of trout and salmon associated with water bodies are protected and restored, including by providing for fish passage, insofar as it is consistent with ECO-P11
- Amend clause 1(b)(iv) of LF-FW-P9:<sup>113</sup>

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<sup>108</sup> 00231.002 Fish and Game, 00231.003 Fish and Game

<sup>109</sup> 00231.047 Fish and Game

<sup>110</sup> 00231.05 Fish and Game

<sup>111</sup> 00231.053 Fish and Game

<sup>112</sup> 00231.055 Fish and Game

<sup>113</sup> 00231.056 Fish and Game



the effects of the activity on indigenous biodiversity and the habitat of trout and salmon are managed by applying ~~either~~ ECO – P3, ECO – P6 or ECO-P11 (whichever is applicable), and

- Insert a new clause in LF-FW-P10:<sup>114</sup>  
(1a) an increase in the extent and quality of habitat for trout and salmon, insofar as it is consistent with ECO-P11
- Amend clause (1)(b)(i) in LF-FW-P13:<sup>115</sup>  
(1)(b)(i) for effects on indigenous biodiversity and the habitat of trout and salmon, ~~either~~ ECO-P3, ~~or~~ ECO-P6 or ECO-P11 (whichever is applicable), and
- Insert a new clause in LF-FW-P14<sup>116</sup>  
(3a) restore the habitat of trout and salmon, insofar as it is consistent with ECO-P11,
- Insert a new clause in LF-FW-M6(4):<sup>117</sup>  
(ca) the protection, including the potential for restoration, of trout and salmon habitat, insofar as it is consistent with ECO-P11,

278. The submitter also seeks amendments to the *ECO – Ecosystems and indigenous biodiversity* chapter:

- Insert a new objective ECO-O4:<sup>118</sup>  
**ECO-O4 – Trout and salmon**  
The habitat of trout and salmon in Otago is protected and restored in a manner that is consistent with the protection of habitats of indigenous freshwater species.
- Insert references to the habitats of trout and salmon in the chapeau and clause (4) of ECO-P10,<sup>119</sup>
- Insert a new policy ECO-P11:  
**ECO-P11 – Trout and salmon**  
The habitat of trout and salmon will be protected, including fish passage, and restored, insofar as this is consistent with the protection and restoration of habitat for indigenous species, including by:  
(1) using the method set out in ECO-M9 to identify water bodies, or parts of water bodies, where the protection and restoration of trout and salmon habitat is and isn't consistent with that of habitat for indigenous species,  
(2) in areas identified in (1) as being consistent:

<sup>114</sup> 00231.057 Fish and Game

<sup>115</sup> 00231.058 Fish and Game

<sup>116</sup> 00231.059 Fish and Game

<sup>117</sup> 00231.060 Fish and Game

<sup>118</sup> 00231.070 Fish and Game

<sup>119</sup> 00231.074 Fish and Game

- (a) when considering consent applications, applying the biodiversity effects management hierarchy in ECO-P6(1) – (5) to the habitat of trout and salmon, and
  - (b) consider the habitat of trout and salmon as part of the health, well-being and resilience of freshwater ecosystems, and
  - (3) when making decisions affecting areas identified in (1) as not being consistent, have particular regard to the recommendations of the Department of Conservation, the Fish and Game Council relevant to the area, Kai Tahu, and species interaction management plans developed under ECO-M9.
- Insert a new method ECO-M9:
 

**ECO-M9 – Identifying and managing species interactions between trout and salmon and indigenous species**

Local authorities will engage with the Department of Conservation, the relevant Fish and Game Council and Kai Tahu, as groups with statutory or cultural obligations to manage indigenous species and trout and salmon to:

  - (1) identify areas where the protection and restoration of trout and salmon habitat is consistent with that of the habitat of indigenous species,
  - (2) identify areas where the protection and restoration of trout and salmon habitat is not consistent with that of the habitat of indigenous species, such that it requires management, and
  - (3) for areas identified in (2), encourage the joint production a [sic] species interaction management plan, which will:
    - (a) determine information needs to manage the species,
    - (b) determine short, medium, and long term objectives,
    - (c) determine appropriate management actions that support identified objectives and account for habitat needs, and
    - (d) use tools available within the Conservation Act 1987, where appropriate.
- Make consequential amendments to reflect the new provisions sought above in ECO-M4 and ECO-PR1.

#### 1.6.8.2. Analysis

279. Section 6(c) of the RMA requires recognising and providing for the protection of significant habitats of indigenous fauna, whereas section 7(h) requires that particular regard is given to the protection of the habitat of trout and salmon. This differentiation is reflected in Policies 9 and 10 of the NSPFM, which require:

- Protecting the habitats of indigenous freshwater species (Policy 9), and

- Protecting the habitat of trout and salmon insofar as this is consistent with Policy 9 (Policy 10).
280. I agree with Fish and Game that the pORPS as notified does not specifically refer to the habitats of trout and salmon and it is unclear how the distinction above is provided for through the pORPS provisions.
281. Fish and Game proposes a suite of amendments to address this issue. I consider that a general issue about the management approach arises from this suite as well as specific issues in relation to the amendments sought to particular provisions. I have therefore structured my analysis below as follows:
- Management approach.
  - Amendments sought to the LF chapter.
  - Amendments sought to the ECO chapter.

#### Management approach

282. The amendments sought by Fish and Game to both the LF and ECO chapters seek variously to sustain, protect, and/or restore the habitats of trout and salmon. The direction in section 7(h) of the RMA and in Policy 9 of the NPSFM is to protect these habitats. I do not consider that there is a statutory basis for requiring restoration of these habitats in particular. I note that this distinction is highlighted in the further submissions of Kāi Tahu ki Otago, Te Rūnanga o Ngāi Tahu, Contact, Meridian, and OWRUG who variously point out that the amendments sought go beyond the requirements of Policy 10 of the NPSFM.<sup>120</sup>
283. That said, I consider there are other provisions in the LF chapter that will contribute to the restoration of the habitats of trout and salmon. For example:
- LF-WAI-P1 requires prioritising, first, the health and well-being of water bodies and freshwater ecosystems in all management of freshwater,
  - The freshwater visions in LF-VM set out a range of long-term outcomes for Otago's FMUs that would assist with protecting the habitats of trout and salmon,
  - LF-FW-P7(1) requires maintaining or, where degraded, improving the health and well-being of water bodies,
  - LF-FW-P12 requires protecting the significant and outstanding values of outstanding water bodies (noting that one of the criteria for identifying these values relates to recreation),
  - LF-FW-P13 requires preserving the natural character of lakes and rivers and their beds and margins, and
  - LF-FW-P14 requires promoting actions to restore natural character where this has been reduced or lost

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<sup>120</sup> FS00226 Kāi Tahu ki Otago, FS00234 Te Rūnanga o Ngāi Tahu, FS00318 Contact, FS00306 Meridian, FS00235 OWRUG

284. In my opinion these provisions, while not specifically providing for the habitats of trout and salmon, will indirectly have benefits for those habitats as a result of generally maintaining or improving the health and well-being of water bodies.

Amendments to the LF chapter

285. I agree with the further submission of Kāi Tahu ki Otago that the amendment sought by Fish and Game to LF-WAI-P3 introduces stronger provision for the habitat of trout and salmon than set out in the NPSFM and the distinction between section 6 and 7 matters in the RMA. In addition, I consider that this policy is focused on outlining the principles underpinning an integrated approach to managing land and freshwater, rather than policy direction on the management of particular habitats. I am aware that clause (3) refers to the habitats of mahika kai and indigenous species, however in my opinion that links to LF-WAI-P2(3) and reflects the importance of mahika kai to Kāi Tahu rakatirataka.
286. I have addressed the new region-wide vision sought by Fish and Game in section 7.6.2.1 of *Report 7: LF – Land and freshwater*. In summary, it is not clear how this vision relates to the FMU and rohe specific visions and the submitter has not clarified what consequential amendments it considers are necessary to those visions as a result of including a new region-wide vision. I have not recommended accepting the submission point.
287. There are two parts to the new clause sought to be included in LF-FW-O8: fish passage and habitat protection and restoration. Regarding fish passage, clause 3.26 of the NPSFM requires regional plans to include a mandatory policy regarding fish passage. This policy is not limited to native fish and therefore I agree that it is appropriate to provide for the migration of trout and salmon. However, for the reasons I have set out previously, I do not consider it is appropriate to both protect and restore the habitats of trout and salmon as sought by the submitter. In my opinion, the level of detail sought by the submitter is not appropriate in an objective (particularly the distinction between habitats of trout and salmon and habitats of indigenous species). Instead, I recommend amending clause (4) so that the outcome sought for fish migration applies to all fish, not only native fish. I therefore recommend accepting this submission point in part. I acknowledge that this objective does not specifically refer to the habitats of trout and salmon, however it does set out the outcome sought for the health of water generally which, in my opinion, includes the habitats of trout and salmon.
288. I agree with Fish and Game that LF-FW-P7 is the appropriate place to recognise the habitats of trout and salmon but I do not agree with the submitter's wording. I agree that protection is required by the NPSFM but not restoration. I have addressed the submitter's request to include a new ECO-P11 later in this section and have not recommended including the policy sought. On that basis, I consider that the qualification on protecting the habitats of trout and salmon should align with Policies 9 and 10 of the NPSFM and therefore should reference LF-FW-P7(2). I recommend accepting this submission point in part.
289. In LF-FW-P9 and LF-FW-P13, Fish and Game seeks to amend a clause cross-referencing provisions that manage the protection and maintenance of indigenous biodiversity by

also including reference to the habitat of trout and salmon and the ECO policy sought by the submitter. I do not recommend accepting the relief seeking that additional policy and therefore do not recommend accepting this submission point. I note that the further submission by Te Rūnanga o Ngāi Tahu highlights that matters in Part 2 of the RMA are not managed in isolation and that section 6(e), 7(a), and 8 must also be considered alongside section 7(h).

290. As reasoning for the relief sought to include a new clause (1a) in LF-FW-P10, Fish and Game states that it seeks relief that will require an increase in the extent and quality of habitat for trout and salmon in a manner that is consistent with NPSFM Policies 9 and 10. For reasons previously explained, I do not agree that the NPSFM requires an increase in the extent and quality of habitat for trout and salmon. I recommend rejecting this submission point.
291. In relation to LF-FW-P14, I do not consider that the amendment sought is necessary. In my opinion, the actions set out in clauses (1) to (5) would contribute to improving the habitat of trout and salmon. As set out previously, I do not consider that restoration of the habitats of trout and salmon is required by the NPSFM.
292. Clause (4) of LF-FW-M6 sets out the matters that environmental flow and level regimes must provide for. As notified, these matters relate to water body health and well-being, indigenous species, cultural values, and drinking water supplies. In my opinion, that reflects the content of the compulsory values set out in Appendix 1A of the NPSFM. I note that 'fishing' is listed in Appendix 1B of the NPSFM as an additional value that must be considered when identifying values for FMUs but is not compulsory. The description of the 'fishing' value in Appendix 1B specifically references trout and salmon. As this value is not compulsory, and formal identification of values in Otago's FMUs has not yet occurred, I do not consider it would be appropriate to require environmental flow and level regimes to provide for the protection of the habitats of trout and salmon. In my view, the LWRP is not prevented from considering this matter when determining environmental flow and level regimes, however it is not *required* to provide for it. I recommend rejecting this submission point.

#### Amendments sought to the ECO chapter

293. The ECO chapter is focused on indigenous biodiversity and responds to the requirements set out in sections 6(c), 30(1)(ga), and 31(1)(b)(iii). I do not consider that expanding the scope of this chapter to incorporate the habitats of trout and salmon is appropriate for this reason. Those habitats are relevant to freshwater management primarily, as set out in the NPSFM, and I consider that any provisions for their management are best located in that chapter. Additionally, the proposed amendments would require the development of a new management plan which will necessarily have cost implications for councils, however no evaluation of the costs and benefits of the proposal are provided by the submitter. I do not consider that sufficient evidence has been provided to warrant including these amendments. I do not recommend accepting these submission points.

#### 1.6.8.3. Recommendation

294. I recommend the following amendments:

- a. Deleting “native” in LF-FW-O8(4),
- b. Including a new clause (2a) in LF-FW-P7 as follows:

(2a) the habitats of trout and salmon are protected, including by providing for fish passage, insofar as protection is consistent with (2),<sup>121</sup>

#### 1.6.9. Relationship with Kāi Tahu and use of te reo Māori

##### 1.6.9.1. Introduction

295. Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku both seeks amendments relating to the use of te reo Māori. Throughout the pORPS, while several other submitters seek that a glossary of te reo terms is included.

##### 1.6.9.2. Submissions

296. References to the relationship with Kāi Tahu in the context of partnership are generally supported by Kāi Tahu ki Otago,<sup>122</sup> however amendments are sought to:

- refine the definition of mana whenua values (including concepts such as mana, whakapapa, mauri, rakatirataka, kaitiakitaka, and mātauraka) from the perspective of mana whenua,<sup>123</sup>
- improve references to role of mana whenua in resource management processes and decision-making to ensure thorough engagement,<sup>124</sup> and
- reinstate the map of Native Reserves (currently Schedule 1D of the Partially Operative RPS) and cross-reference it from the Mana Whenua chapter.<sup>125</sup>

297. Ngāi Tahu ki Murihiku seek amendments which clearly recognise the role of partnership between Kāi Tahu and Otago Regional Council that has resulted in co–development of text and provisions within the pORPS 21.<sup>126</sup>

298. In relation to the use of te reo Māori generally in the pORPS, Kāi Tahu ki Otago seeks the following:<sup>127</sup>

- To correct Te Reo that does not adhere to accepted orthographic conventions for Te Reo Māori, including correct use of tohutō (macrons), and initial capitalisation.
- To express the strong preference for Kā Rūnaka that Māori place names are rendered to reflect the traditional names. Kā Rūnaka wish to see historic

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<sup>121</sup> 00231.055 Fish and Game

<sup>122</sup> 00226.001, 00226.004 Kāi Tahu ki Otago

<sup>123</sup> 00226.002, Kāi Tahu ki Otago

<sup>124</sup> 00226.003 Kāi Tahu ki Otago

<sup>125</sup> 00226.329 Kāi Tahu ki Otago

<sup>126</sup> 00223.001 Ngāi Tahu ki Murihiku

<sup>127</sup> 00226.024 Kāi Tahu ki Murihiku

misspellings of place names like Taiari (Taieri) and Waipōuri (Waipori) amended, and the use of tohutō in place names such as Waikōuaiti normalised in the pORPS.

- To better express Kāi Tahu perspectives, for example, through the use of language that reflects Kāi Tahu worldviews and through reframing descriptions to reflect Māori ways of sharing information.

299. Similarly, Ngāi tahu ki Murihiku has identified that macrons are needed on the first two “ā” in “Tāwhirimātea” and Yellow-eyed Penguin Trust seeks to amend “Maori” to “Māori”.<sup>128</sup>

300. To assist with implementation and understanding of te reo terms used, Horticulture NZ, Federated Farmers and Waitaki DC request the pORPS is amended to include a glossary of te reo terms.<sup>129</sup>

#### 1.6.9.3. Analysis

301. Ngāi Tahu ki Murihiku – what are they seeking? Check submission. Probably not necessary to recognise co-development in the pORPS – has been explained in the s32.

302. I understand that the refinements sought by Kāi Tahu ki Otago to better define mana whenua values and improve references to the role of mana whenua in resource management processes throughout the pORPS are set out in the submitter’s detailed submission points on particular provisions. Insofar as those individual submission points are recommended to be accepted or rejected, I recommend accepting these submission points. For the same reasons, I recommend accepting in part the submission point by Ngāi Tahu ki Murihiku. I note the submission point by Kāi Tahu ki Otago seeking reinstatement of the Native Reserves map from the pORPS 2019 is recommended to be accepted.

303. I agree that te reo Māori used in the pORPS should be corrected where it does not adhere to accepted orthographic conventions and recommend accepting the submission points by Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, and Yellow-eyed Penguin Trust. Where misspellings have been identified across the pORPS, I recommend correcting those however I acknowledge that, due to the size of the document and the limited expertise in Te Reo Māori within the team of reporting officers, some inaccuracies may remain. If the submitters identify any further misspellings in the s42A report version of the pORPS, they may wish to highlight those in their evidence.

304. I agree with Kāi Tahu ki Otago that using the correct spelling for Māori place names, including Taiari and Waipōuri, recognises the connection of mana whenua with those areas. It is my understanding that using Māori place names is an important way of telling stories of past ancestors and important events, helping to record history and legends. I note that in relation to the Taieri / Taiari River, the Kāi Tahu ki Otago Natural Resources Management Plan 2005 states that:

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<sup>128</sup> 00223.085b Ngāi Tahu ki Murihiku, 00120.008 Yellow-eyed Penguin Trust

<sup>129</sup> 00239.192 Federated Farmers of New Zealand; 00236.111 Horticulture New Zealand; 00140.003 Waitaki District Council

“The name “Taieri” was originally spelt “Tai-ari” and had three different meanings; “to smash or pulp”, “shining river” and “tide on the eleventh night of the moon.” (Section 3.10)

305. Kā Huru Manu, the Ngāi Tahu Cultural Mapping project, has collated and mapped traditional place names and associated stories within the Ngāi Tahu rohe. In relation to Taieri / Taiari and Waipori / Waipōuri the Ngāi Tahu Atlas, as this mapping project is known, states the following:

- “Taiari is the correct spelling for the Taieri River located in Otago. From its source, the Taiari River flows almost entirely around Pātearoa (the Rock & Pillar Range) before discharging into Te Tai-o-Āraiteuru (the Otago coastline). The wider Taiari area is a major mahika kai resource with the coastal area, inland waterways and surrounding hills providing an abundance and variety of kai. In the evidence gathered for the 1879 Royal Commission of Inquiry into the Ngāi Tahu land claims, Ngāi Tahu kaumātua recorded Taiari specifically as a kāinga mahinga tuna and kāinga nohoanga (settlement). The lower Taiari area and the river mouth was also an important area of occupation, especially the Maitapapa kāinga located at nearby Henley. In 1844 a 2,300-acre native reserve was situated on the north bank of the Taiari River as part of the Otago Deed of Purchase.”<sup>130</sup>
- “Waipōuri is the correct spelling for the Waipori River which rises in Te Papanui (the Lammerlaw Range), and flows southeast before joining the Taieri River near Henley.”<sup>131</sup>

306. Schedule 96 of the Ngāi Tahu Claims Settlement Act 1998 sets out formally amended place names but does not include the Taieri River or Waiholā/Waipori wetlands. I note that the relevant statutory acknowledgement in Schedule 70 uses the name “Waiholā/Waipori wetland”.

307. Section 32(1) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 requires that if there is an official geographic name for a geographic feature or Crown protected area, that name must be used in all official documents. According to the New Zealand Gazetteer, the name “Taieri River” is not official and the river does not have an official name. However, there are many other names in the area that use Taieri and are official names:

- Taieri Gorge/Outram Glen Scenic Reserve
- Taieri Island/Moturata
- Taieri Lake Recreation Reserve
- Taieri Mouth Recreation Reserve
- Taieri Rapids Scenic Reserve
- Taieri River Scenic Reserve

308. Similarly, while the Waipori/Waiholā Wetlands do not have an official name in the New Zealand Gazetteer, there are nearby official names that use the spelling “Waipori”:

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<sup>130</sup> Ngāi Tahu Atlas, retrieved from <https://www.kahurumanu.co.nz/atlas>

<sup>131</sup> Ngāi Tahu Atlas, retrieved from <https://www.kahurumanu.co.nz/atlas>



- Waipori Falls Scenic Reserve
- Waipori/Waiholā Wildlife Management Reserve
- Lake Waipori Wildlife Management Reserve

309. Although not specifically highlighted by Kāi Tahu ki Otago, I understand that Pomahaka / Poumāhaka falls into the same category as Taieri / Taiari and Waipori / Waipōuri. The Ngāi Tahu Atlas states:

*Poumāhaka is the correct spelling for the Pomahaka River, which flows from Kōpūwai (the Old Man Range) into Mata-au (the Clutha River) just north of Iwikatea (Balclutha). One meaning given for Poumāhaka is that posts (pou) were driven into the river banks, supporting snares across the river at the optimal height to catch wild ducks.<sup>132</sup>*

310. As with the other rivers, the Pomahaka / Poumāhaka is not an official name according to the New Zealand Gazetteer, but there is a related official name (Pomahaka River Recreation Reserve).

311. I understand that in early 2019, ORC began using the correct spelling “Manuherekia” instead of “Manuherikia” on the basis that the correct spelling was preferred by Kāi Tahu.<sup>133</sup> Similarly to Taieri / Taiari and Waipori / Waipōuri, the Manuherekia River does not have an official name in the New Zealand Gazetteer but there are nearby place names adopting the misspelled Manuherikia.

312. I consider that there is no legal requirement to use either the misspelled current names or the correct Te Reo names. Given the significance of Māori place names to mana whenua, the requirement in MW-M2(1) for local authorities to consult Kāi Tahu to determine appropriate naming for places of significance in Otago, and the Council’s previous decision to adopt the correct spelling of Manuherekia, in my opinion this submission point should be accepted. However, I acknowledge that this would create inconsistencies given that all current maps and documents use the misspelled names and it would ordinarily be a decision of Council to make these types of decisions to correct names. There are also likely to be strong community connections with the misspelled names.

313. I consider there are potentially two alternatives to accepting in full the relief sought by Kāi Tahu ki Otago. One alternative is to refer to both spellings, for example “Taieri / Taiari”. I appreciate that this is somewhat repetitive and may not fully deliver the outcome sought by Kāi Tahu ki Otago.

314. As another alternative, the Council could work with Kāi Tahu to identify all incorrect place names across the region and make decisions on naming conventions outside of this process. While that would be preferable from a consistency perspective, once the wording of the pORPS is confirmed it will likely be many years before there is another opportunity to revisit place names used in this document. Amending place names would require a Schedule 1 change process, which there is unlikely to be capacity for in addition

<sup>132</sup> Ngāi Tahu Atlas, retrieved from <https://www.kahurumanu.co.nz/atlas>

<sup>133</sup> <https://www.thenews.co.nz/news/preference-for-rivers-maori-spelling/>

to the council's future plan making workload. Alternatively, the change could be implemented in the pORPS, and then progressively implemented alongside existing plan making projects to be undertaken in the coming years.

315. While also a category of misspelling, but not as significant as those discussed above, I have reviewed the use of place names across the pORPS and compared them against a range of sources, including the Ngāi Tahu Atlas, the NTCSA, and relevant iwi management plans. I consider that a number of place names do not have correct tohūtō, as set out below.

**Table 3: Tohūtō corrections**

Name used in pORPS	Corrected
Karitane (p.7, 114)	Karitāne
Koputai (p.57)	Kōpūtai
Kopuwai (p.6)	Kōpūwai
Mapoutahi (p.114)	Māpoutahi
Muaūpoko Otago Peninsula (p.48)	Muaupoko
Oamaru (p. 7, 33, 60, 69, 114)	Ōamaru
Orokonui Inlet (p.114)	Ōrokonui Inlet
Otakou (p. 114)	Ōtākou
Purakanui (p.57, 114)	Pūrākaunui
Waikouaiti (p. 48, 56-58, 114)	Waikōuaiti
Wanaka (p. 6, 7, 33, 71)	Wānaka

316. I recommend accepting in part the submission point by Kāi Tahu ki Otago and correcting the use of tohūtō in the above. As before, if the submitter identifies any other incorrect tohūtō in place names, it would assist if these are highlighted in the submitter's evidence.
317. I appreciate that it is important readers of the pORPS can understand the language used and that the use of te reo may make that more difficult for some readers. I note that many te reo terms are included in the glossary of the pORPS 2019. This approach was discussed with Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku during the development of the pORPS 2021 and it is my understanding that their preference was not to include a glossary in the pORPS 2021 because of the difficulties that can arise when trying to translate a te reo term into English and the risk that terms are too narrowly defined. Instead, narrative descriptions of the environmental management perspectives and values of Kāi Tahu have been included in the *Mana whenua* section in Part 1 of the pORPS 2021. This section provides an explanation of, and context for, a range of te reo terms and concepts used throughout the pORPS 2021. Cognisant of my discussions with Kāi Tahu previously, I consider this is a more culturally appropriate form of assistance than a glossary.

318. That being said, I note that a number of te reo terms are defined in the *Definitions* section and that, where it is possible, te reo terms are accompanied by an English translation in the pORPS. For example, in the section titled *Relationship of Kāi Tahu with their rohe*:

Mana whenua hold traditional customary authority and maintain contemporary relationships within an area determined by whakapapa (genealogical ties), resource use and ahikāroa (the long burning fires of occupation).

319. While I do not recommend including any further te reo terms in the *Definitions* section in response to these submissions, I recommend incorporating English translations for te reo terms in provisions where it is possible and appropriate to do so. I note that a definition of the term “mahika kai” has been recommended in *Report 4: MW – Mana whenua*.

#### 1.6.9.4. Recommendation

320. I recommend the following amendments:

- a. Correcting the use of tohutō and initial capitalisation where required on te reo terms and place names,
- b. Using “Taiari”, “Waipōuri”, and “Poumāhaka” instead of “Taieri”, “Waipori”, and “Pomahaka”,
- c. Including English translations of te reo terms where it is possible and appropriate to do so.

#### 1.6.10. Format, drafting, and terminology

##### 1.6.10.1. Introduction

321. Several submissions seek changes to the formatting, drafting style and terminology used in the pORPS. The amendments sought are largely intended to improve useability, consistency and clarity.

##### 1.6.10.2. Submissions

322. To support easier navigation of the pORPS Fish and Game request formatting provision codes so they can be navigated to via search functions on common internet browsers and pdf viewers.<sup>134</sup> Similarly, Port Otago request that a unique identifier highlights provisions which apply or do not apply in the coastal environment and relevant explanatory text.<sup>135</sup> Waitaki DC seek amendment of formatting in line with National Planning Standards.<sup>136</sup> In particular they request that each chapter, policy, rule and method begin with 1.

323. The Yellow-eyed Penguin Trust seeks that all sections of the pORPS 21 are consistent, well integrated and effectively linked. Fish and Game supports Parts 1 and 2 of the pORPS but considers substantial changes could be made to aid in readability. Specific relief has not

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<sup>134</sup> 00231.097 Fish and Game

<sup>135</sup> 00301.058 Port Otago

<sup>136</sup> 00140.004 Waitaki DC

been sought as the submitter considers that these changes would be best proffered by the Council.<sup>137</sup>

324. A number of submissions were received relating to the terminology used in the PORPS 21. Broadly, these submissions seek to either clarify the use of particular terms or replace them with alternatives that are clearer and more explicit.
325. Jim Hopkins seeks unspecified amendments to use quantifiable, measurable terms instead of spiritual concepts that are not necessarily universally shared.<sup>138</sup> Fish and Game seek to remove ambiguous and unclear wording and replace with consistent, directive terms.<sup>139</sup> Sipka Holdings and Glenpanel seek amendments to improve the clarity and workability of the provisions to achieve the purpose of their submission.<sup>140</sup>
326. Business South seeks that the use of “avoid” is clarified throughout the pORPS 2021. Trojan and Wayfare consider a range of terms such as “significant”, “sustainable”, and “bottom line” are too vague and should be replaced.<sup>141</sup> Matthew Sole considers that the terms “sustain”, “encourage”, “promote”, “practicable”, and “wherever possible” do not provide clear direction and undermine the effectiveness of the provision.<sup>142</sup> No specific amendments are sought. Horticulture NZ seeks clarity on what “significant values and features” are considered to be for specific activities.<sup>143</sup>
327. The Yellow-eyed Penguin Trust identifies that “harbour” is incorrectly spelled “harbor” throughout the pORPS.<sup>144</sup>
328. Fish and Game, Trojan, and Wayfare seek to delete and redraft all of the explanations, principal reasons and anticipated environmental results for clarity.<sup>145</sup> The submitters consider that as currently drafted they are too long with potential to confuse users, however no preferred drafting examples have been provided.

#### 1.6.10.3. Analysis

329. I understand the issue raised by Fish and Game relates to the use of ‘en dashes’ in provision numbering in the pORPS 2021. Standard 10 of the National Planning Standards sets out the requirements for formatting provisions in policy statements and plans. Mandatory directions 18, 19, and 38 are particularly relevant to the pORPS and require the following:

- ...chapters, excluding chapters in the *Introduction and general provisions*, *Evaluation and monitoring*, and *Appendices and maps* parts, must be identified with a unique identifier consisting of the key two to five letters of the chapter title

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<sup>137</sup> 00231.096, 00231.012 Otago Fish & Game Council and the Central South Island Fish & Game Council

<sup>138</sup> 00420.003 Jim Hopkins

<sup>139</sup> 00231.005 Fish and Game

<sup>140</sup> 00402.018 Sipka Holdings Ltd; 00405.018 Glenpanel

<sup>141</sup> 00206.004 Trojan, 00411.009 Wayfare

<sup>142</sup> 00508.004 Matthew Sole

<sup>143</sup> For example, 00408.008 Business South, 00236.112 Horticulture NZ, 00231.005 Fish and Game, 00508.004 Sole Matthew, 00230.002 Forest and Bird, 00420.003 Jim Hopkins

<sup>144</sup> 00120.007 Yellow-eyed Penguin Trust

<sup>145</sup> 00231.099 Fish and Game, 00206.003 Trojan, 00411.007 Wayfare

in capital letters, a space, an en-dash, a space, and the chapter title. For example, MIN – Mining.<sup>146</sup>

- ...sections, excluding chapters in the *Introduction and general provisions*, *Evaluation and monitoring*, and *Appendices and maps* parts, must be identified with a unique identifier consisting of the key two to five letters of the chapter title in capital letters, a space, an en-dash, a space, then the key two to five letters of the section title in capital letters, an en-dash, a space, and the section title. For example, CE – PA – Public access.<sup>147</sup>
- When used in chapters and zone sections, issues, objectives, policies, rules, methods, principal reasons and anticipated environmental results must be numbered using the relevant chapter or zone section unique identifier, a hyphen, then the first letter(s) of the provision type, and then a sequential number. For example, RMIA-I1.<sup>148</sup>
- When used in sections, issues, objectives, policies, rules, methods, principal reasons and anticipated environmental results must be numbered using the relevant chapter or zone section unique identifier, a hyphen, then a unique identifier consisting of the key two to five letters of the section title in capital letters, a hyphen, then the first letter(s) of the provision type, and then a sequential number. For example, CE-PA-O1.<sup>149</sup>

330. I note that the pORPS has incorrectly used en dashes instead of hyphens in the provision identifiers, which has contributed to difficulties with searching that are highlighted by Fish and Game. I recommend accepting this submission point.
331. I consider it is clear from the context of the provisions whether they apply in the coastal environment or not and therefore do not recommend accepting the submission point by Port Otago.
332. Waitaki DC considers that the numbering of objectives and policies differ from other draft and proposed plans released under the National Planning Standards and recommends aligning the pORPS provisions with the Standards, specifically by ensuring each chapter objective, policy, rule, and method begins with 1. Mandatory direction 41 in Standard 10 (Format) of the National Planning Standards states that:
- Provision types included in each chapter must be sequentially numbered from the beginning of the chapter. Section and sub-section headings must not restart the chapter numbering sequence.
333. I consider that the relief sought by Waitaki DC would not implement this mandatory direction and therefore recommend rejecting this submission point.
334. Jim Hopkins, Fish and Game, Sipka Holdings, and Glenpanel have not identified the terms that their submission points relate to. In response to other submissions, amendments

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<sup>146</sup> Mandatory direction 18, Standard 10 (Format standard), National Planning Standards

<sup>147</sup> Mandatory direction 19, Standard 10 (Format standard), National Planning Standards

<sup>148</sup> Mandatory direction 37, Standard 10 (Format standard), National Planning Standards

<sup>149</sup> Mandatory direction 37, Standard 10 (Format standard), National Planning Standards

have been recommended to improve the clarity of provisions therefore I recommend accepting these submission points in part.

335. The term “avoid” has been used in the context of specific provisions. To the extent that submitters have sought to amend the use of the term “avoid” in those provisions, I consider that its use has been clarified and therefore recommend accepting the submission point by Business South in part.
336. Trojan and Wayfare have made a number of specific submission points seeking amendments to wording throughout the pORPS 2021, including the terms highlighted in these submission points. Those have been evaluated against the particular provision they relate to rather than across the pORPS. In some cases, recommendations have been made to amend the wording in question therefore I recommend accepting these submission points. I do not recommend accepting the submission point by Matthew Sole as no specific amendments are sought and it is unclear what the submitter would consider to be more effective terms.
337. A number of submitters have commented on the use of the term “environmental limits” and I have evaluated those submissions in *Report 1: Introduction and general themes*.
338. I agree with the Yellow-eyed Penguin Trust that the spelling of harbour should be corrected and recommend accepting the submission point.

#### 1.6.10.4. Recommendation

339. I recommend the following amendments:
- a. Change all references of “harbor” to “harbour”, and
  - b. Reformatting all provision identifiers in the pORPS 2021 so that they are compliant with the National Planning Standards.

#### 1.6.11. Other submissions on the whole of the pORPS

##### 1.6.11.1. Introduction

340. This section covers submissions received that are on the whole of the pORPS but are not captured by the previously discussed themes.

##### 1.6.11.2. Submissions

341. This section of the report addresses those submissions that are considered to be applicable of the whole of the pORPS.
342. Several submitters seek general amendments to meet statutory obligations, including:
- to achieve the purpose of the RMA, particularly in regard to promoting sustainable management and efficient use and development of natural and physical resources,<sup>150</sup>

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<sup>150</sup> 00115.034, 00115.035 Oceana Gold, 00510.002 The Fuel Companies  
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- deleting and redrafting the pORPS 21 to give effect to the NPSFM, NESF<sup>151</sup> and NZCPS,<sup>152</sup> and
  - to adequately give effect to NPSREG, specifically by:<sup>153</sup>
    - providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities,
    - having particular regard to the need to locate the renewable electricity generation activity where the renewable energy resource is available, and
    - having regard to offsetting measures or environmental compensation, including measures or compensation that benefit the local environment and community affected.
343. Ernslaw One and FENZ support the provisions relating to particular matters of interest which enable collaborative engagement with stakeholders.<sup>154</sup> Business South reinforce the importance of having effective communication for the business community and seek provision of summary documents to support effective engagement.<sup>155</sup>
344. Kāi Tahu ki Otago considers that climate change needs to be further integrated across the whole pORPS to provide a clearer and stronger direction.<sup>156</sup> Wise Response seeks specific amendments across the pORPS which incorporate the use of the national net zero-carbon target for assessing what policies are necessary, realistic, a priority and sustainable in the medium and longer term.<sup>157</sup>
345. Terry Wilson considers all references to the “principles of Te Tiriti o Waitangi” should be replaced with “the treaty of Waitangi”.<sup>158</sup> This submitter also considers all instances where “Treaty Partnership” is mentioned should be deleted from the pORPS 2021.<sup>159</sup>
346. Federated Farmers considers the policy direction of the pORPS is overly restrictive and prohibitive and represents a major change for Otago but there is no acknowledgement of the transitional arrangements required to support communities through the change. The submitter seeks that a new chapter addressing transitional matters is included.<sup>160</sup>
347. Two submitters seek amendments which provide a consistent approach to dates when actions are required.<sup>161</sup> Dunedin City Council specifically request that dates and timeframes:
- are realistic and achievable and based on current work programme priorities,
  - allow for amendments by mutual agreement, and

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<sup>151</sup> 00412.017 Ernslaw One, 00306.086 Meridian

<sup>152</sup> 00510.003 The Fuel Companies

<sup>153</sup> 00306.086 Meridian

<sup>154</sup> 00412.011 Ernslaw One, 00219.001 FENZ

<sup>155</sup> 00408.001 Business South

<sup>156</sup> 00226.006 Kāi Tahu ki Otago

<sup>157</sup> 00509.002 Wise Response

<sup>158</sup> 00419.001 Terry Wilson

<sup>159</sup> 00419.003 Terry Wilson

<sup>160</sup> 00239.201 Federated Farmers

<sup>161</sup> 00140.005 Waitaki DC, 00139.002 DCC

- align with any replacement legislation introduced through the Resource Management System reform.<sup>162</sup>

348. Ngāi Tahu ki Murihiku seek amendments which provide clear guidance about how to achieve objectives in situations where mapping is intended but has not yet occurred and when targets or limits are required but have not yet been set.<sup>163</sup> The submitter highlights instances where there is currently a gap in guidance, for example relating to over-allocation of water quantity in particular, and for the period of time that limits are not set for an FMU or part of an FMU. FENZ support similar relief to enable joint planning activities.<sup>164</sup>

349. FENZ are supportive of the pORPS 21 approach to identifying places of significance and endorse regular review and publication of significant built and natural places within planning documents.<sup>165</sup>

#### 1.6.11.3. Analysis

350. Where submitters have sought unspecified relief to meet statutory obligations, this is generally supported by specific relief sought on provisions throughout the pORPS which has been addressed in the reports on those particular chapters.

351. The support from Ernslaw One and FENZ is noted and I recommend accepting those submission points.

352. I agree with Business South that effective communication is important but consider that the production of summary documents is an operational decision for ORC and is therefore out of scope of this process. I do not recommend accepting this submission point.

353. Elsewhere in its submission, Kāi Tahu ki Otago has sought specific amendments to a range of provisions in the pORPS to address their concern. Those submission points have been evaluated in relation to the provision to which they relate. Many submitters have sought changes throughout the pORPS to better highlight the challenges of climate change which have also been evaluated against particular provisions. I recommend this submission is accepted in part.

354. I do not agree with the amendments sought by Terry Wilson. Section 8 of the RMA requires all persons exercising functions and power to “take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”. Based on this directive, the amendment sought is inconsistent with the RMA. In relation to the second amendment sought, the pORPS has been developed in partnership with Kāi Tahu the iti and tangata whenua of Otago. The partnership between Otago Regional Council and Kāi Tahu is an important and valuable relationship that is evident throughout the pORPS 2021.

355. I understand the concern raised by Ngāi Tahu ki Murihiku and consider that this is a matter addressed in each instance that mapping is required. Ultimately, there is always

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<sup>162</sup> 00139.002 DCC

<sup>163</sup> 00223.003 Ngāi Tahu ki Murihiku

<sup>164</sup> 00219.006 FENZ

<sup>165</sup> 00219.007 FENZ, 00239.195 Federated Farmers



a lag between policy direction coming into effect and implementation occurring. In my view, the pORPS has sought to be clear about any interim framework applying before mapping or identification occurs. There are also provisions in the IM chapter regarding decision-making and precautionary approaches. I do not recommend accepting this submission point.

356. The submission point by FEN does not seek particular amendments. I recommend accepting this submission point.

1.6.11.4. [Recommendation](#)

357. I do not recommend any amendments.