

Background document – Freshwater Planning Instrument

Prepared for information purposes only

30 September 2022

Purpose of this document

This document has been prepared for information purposes only.

The provisions now forming the Freshwater Planning Instrument (FPI) are set out in the table below. These provisions were originally notified in June 2021. Submissions were made on them, and officers prepared section 42A reports responding to those submissions and recommending changes to the provisions. As a result of the High Court declaratory proceedings, ORC had to determine what parts of the pRPS make up a FPI as described in the court's judgment. The court directed that the FPI comprising those provisions must be re-notified by the ORC. Consequently, the submissions and further submissions and section 42A reports relating to those submissions now have no status.

Persons who wish to be heard on the FPI or any part of it must make a submission (and/or where eligible, a further submission), whether or not they previously submitted on that provision or matter. In due course a new s42A report for the FPI will be prepared and circulated.

The Council is aware that considerable effort went into preparing those submissions and for officers to respond to them. There was also considerable effort involved in parties attending pre-hearing meetings held in July 2022 and preparing further evidence from officers as a result of those meetings. All of that material has been compiled into this background document to assist parties now making new submissions on the FPI provisions. This document has no legal standing, but it does contain all of the work done by submitters and officers since June 2021 when the pRPS was notified. It is hoped that submitters will be assisted by this.

| Package | Components |
|----------------|--|
| Interpretation | Definitions: Certified freshwater farm plan Drinking water National Objectives Framework Natural Hazard works Other infrastructure Over-allocation Specified infrastructure Specified rivers and lakes Wetland utility structure |
| SRMR | SRMR-I5 SRMR-I6 SRMR-I9 |
| RMIA-WAI | RMIA-WAI-I1 RMIA-WAI-I3 |
| LF-WAI | LF-WAI-O1 – Te Mana o te Wai LF-WAI-P1 – Prioritisation LF-WAI-PR1 – Principal reasons – Paragraph 1 LF-WAI-AER2 |
| LF-VM | LF-VM-O2 – Clutha Mata-au FMU vision LF-VM-O3 – North Otago FMU vision LF-VM-O4 – Taieri FMU vision LF-VM-O5 – Dunedin & Coast FMU vision LF-VM-O6 – Catlins FMU vision LF-VM-P5 – Freshwater Management Units (FMUs) and rohe LF-VM-P6 – Relationship between FMUs and rohe LF-VM-E2 – Explanation |
| LF-FW | LF-FW-O8 – Fresh water LF-FW-O9 – Natural wetlands |

| | |
|-------|--|
| | LF-FW-P7 – Fresh water LF-FW-P9 – Protecting natural wetlands LF-FW-P10 – Restoring natural wetlands LF-FW-P15 – Stormwater and wastewater discharges LF-FW-M6 – Regional plans LF-FW-M7 – District plans LF-FW-M8 – Action plans LF-FW-E3 – Explanation (paragraph 2) LF-FW-E3 – Explanation (paragraph 5) LF-FW-PR3 – Principal reasons LF-FW-AER4 - AER11 |
| LF-LS | LF-LS-P18 – Soil erosion LF-LS-P21 – Land use and fresh water LF-LS-M11 – Regional plans LF-LS-AER14 |
| Maps | MAP1 |

NO LEGAL STATUS

Contents

| | |
|--------------------------------------|-----|
| 1. Interpretation – definitions..... | 6 |
| 2. SRMR-I5..... | 8 |
| 3. SRMR-I6..... | 21 |
| 4. SRMR-I9..... | 37 |
| 5. RMIA-WAI-I3 | 42 |
| 6. LF-WAI-O1..... | 43 |
| 7. LF-WAI-P1..... | 50 |
| 8. LF-WAI-PR1 | 63 |
| 9. LF-WAI-AER2 | 65 |
| 10. LF-VM-O2 | 67 |
| 11. LF-VM-O3 | 91 |
| 12. LF-VM-O4 | 103 |
| 13. LF-VM-O5 | 121 |
| 14. LF-VM-O6 | 131 |
| 15. LF-VM-P5 and MAP1 | 139 |
| 16. LF-VM-P6..... | 143 |
| 17. LF-VM-E2..... | 148 |
| 18. LF-FW-O8 | 149 |
| 19. LF-FW-O9 | 161 |
| 20. LF-FW-P7..... | 168 |
| 21. LF-FW-P9..... | 179 |
| 22. LF-FW-P10..... | 190 |
| 23. LF-FW-P15..... | 194 |
| 24. LF-FW-M6..... | 214 |
| 25. LF-FW-M7..... | 230 |
| 26. LF-FW-M8..... | 237 |
| 27. LF-FW-E3 | 238 |
| 28. LF-FW-PR3..... | 242 |
| 29. LF-FW-AER4 to LF-FW-AER11..... | 244 |
| 30. LF-LS-P18..... | 248 |
| 31. LF-LS-P21..... | 251 |
| 32. LF-LS-M11..... | 256 |

NO LEGAL STATUS

1. Interpretation – definitions

There are nine definitions forming part of the FPI. Some of these definitions did not receive any submissions and therefore were not addressed in any section 42A reports. Others with submissions were addressed in relation to the provision to which they relate. The table below sets out how each definition is addressed.

| Term | Explanation |
|--------------------------------|---|
| Certified freshwater farm plan | No submissions received. |
| Drinking water | No submissions received. |
| National Objectives Framework | No submissions received |
| Natural hazard works | Addressed in section 20.1 of this document. |
| Other infrastructure | Addressed in section 20.1 of this document. |
| Over-allocation | Addressed in section X |
| Specified infrastructure | Addressed in section 20.1 of this document. |
| Specified rivers and lakes | No submissions received. |
| Wetland utility structure | No submissions received. |

1.1. Over-allocation

Relevant excerpts from section 9.3.3 (Other general submissions) of *Report 9: LF – Land and freshwater*.

1.1.1.1. Introduction

1. Many submitters have made general submissions on the LF chapter that canvas a range of topics. This section outlines and evaluates the relief sought in those submission points.

1.1.1.2. Submissions

...

2. Ngāi Tahu ki Murihiku seeks to recognise that over-allocation is a significant issue of concern for mana whenua in the region and to provide further clarification in the pORPS regarding the management of over-allocation (both water quality and quantity), including how to recognise over-allocation when limits have not been set in an FMU or part of an FMU.¹ Ngāi Tahu ki Murihiku seeks further clarification within the pORPS regarding the management of dams and weirs.²

...

¹ 00223.004 Ngāi Tahu ki Murihiku

² 00223.005 Ngāi Tahu ki Murihiku

1.1.1.3. Analysis

...

3. I agree with Ngāi Tahu ki Murihiku that over-allocation is a significant issue for the region. I consider that the provisions in the LF chapter address this in a number of ways. Firstly, the LF-WAI sets out how to give effect to Te Mana o te Wai in Otago, which will not be possible as long as there is over-allocation of resources. Similarly, the freshwater visions in LF-VM will not be achieved as long as over-allocation is present. The LF-FW section contains more specific direction, including in LF-FW-P7(5) to phase out existing over-allocation and avoid future over-allocation as well as in LF-FW-M6(5)(b) to include methods and timeframes for phasing out over-allocation. I acknowledge that this likely does not provide the level of detail or certainty sought by the submitter, however in my experience resolving over-allocation is a highly complex and contentious matter that takes time to resolve. The methods and timeframes for resolving over-allocation will depend on the circumstances of each situation, which I consider is recognised by the pORPS. I therefore do not recommend accepting the submission point by Ngāi Tahu ki Murihiku.

...

1.1.1.4. Recommendation

4. I do not recommend any amendments.

2. SRMR-15

2.1. Previous section 42A report content

2.1.1. SRMR-15 – Freshwater demand exceeds capacity in some places

2.1.1.1. Introduction

1. SRMR-15 considers the issue of freshwater usage in the region and the tensions between demand, ecological capacity, economic utilities, and social wellbeing. This issue primarily addresses the demand for water resources rather than the quality of those water resources. Water quality is considered as a separate issue.

2.1.1.2. Submissions

2. A total of 33 submissions have been received in relation to SRMR-15, including one submission from Forest and Bird seeking it be retained as notified.³ The remaining submissions seek a broad range of amendments across the whole of SRMR-15 and these are summarised below.

Statement

3. WDC identifies the term ‘water-short catchments’ is referred to in SRMR-15 and other resource management issue statements within the pORPS but notes a definition for this term is lacking and seeks amendments to address this.⁴
4. Lynne Stewart and OWRUG consider that the Statement presents a tension between environmental and economic freshwater goals in the region despite earlier commentary within the pORPs that highlights economic goals can only be met if environmental standards are first upheld. To address this matter Lynne Stewart seeks insertion of the following text to the first sentence:

In *water-short catchments*, *freshwater* availability may not be able to meet competing demands from the health and well-being needs of the *environment*, the health and well-being needs of people, and the ability of people and communities to provide for their social, economic and cultural well-being ecological capacity may not allow for consumptive uses to be met.⁵
5. Horticulture NZ⁶ and OWRUG⁷ seek the following similar wording amendment to the first sentence to recognise that rural land-uses are responding to increasing food production demands and climate change:

³ 00230.024 Forest and Bird

⁴ 00140.013 WDC

⁵ 00030.001 Lynne Stewart, 00202.003 OWRUG

⁶ 00236.026 Horticulture NZ

⁷ 00235.038 OWRUG

In *water*-short catchments, *freshwater* availability may not be able to meet competing demands from the health and well-being needs of the ~~environment~~freshwater, the health and well-being needs of people, and the ability of people and communities to provide for their social, economic and cultural well-being. Many of these catchments are also experiencing urban growth, changes in rural *land* uses, ~~and to meet food and fibre supply demands~~from growing populations and the need to implement change to respond to climate change, including increased demand for hydro-electric generation.

Context

6. Three submitters seek amendments related to the matter of 'deemed permits'.⁸ DCC⁹ and John Highton¹⁰ both support reference to this issue, but raise concern there is no clear identification of this matter as a key issue for Otago. They seek amendments to the text which elaborate this issue further, noting locations most affected¹¹ and detailing policy and plan processes involved.¹²
7. Federated Farmers considers most of Otago's catchments have evolved in their resource management practice voluntarily and references to deemed permits and a 'permissive water resource management regime' is unhelpful.¹³ They therefore seek the following specific amendments to the Context which delete references to deemed permits and further amend text to support clarification:

Freshwater, including *rivers* and streams, *lakes*, *groundwater* systems, and *wetlands*, is a finite resource, critical to the environment, society and the economy. In Otago, access to, allocation, and *use of freshwater* reflects current demands and historical development and associated demands, with "deemed permits" (water permits under the RMA 1991) and a permissive water resource management regime. ~~The deemed permits originated from mining licences issued under historic mining legislation and which enable water to continue to be used for a range of uses until October 2021.~~

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, recreation, other social and cultural uses, irrigation and other economic uses. *Freshwater* resources in some places are reaching, or are beyond, their sustainable ~~abstraction~~replenishment limits. However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs, and critical to that is the need to provide for sufficient transitioning for any required change in resource use.

⁸ 00139.018 DCC, 00014.008 John Highton, 00239.024 Federated Farmers

⁹ 00139.018 DCC

¹⁰ 00014.008 John Highton

¹¹ 00139.018 DCC

¹² 00014.008 John Highton

¹³ 00239.024 Federated Farmers

On 3 September 2020, new National Environmental Standards for Freshwater (NESF) and a new National Policy Statement for Freshwater Management (NPSFM)¹⁴ came into force. They have a goal of improving freshwater quality within five years, reversing past ~~damage~~ degradation and bringing New Zealand's freshwater resources, waterways and ecosystems to a healthy state within a generation. The NPS-FM also clarified the need to provide first for the health and well-being of water bodies and freshwater ecosystems; then health and needs of people (such as drinking water); and ~~finally then~~ the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

8. Ngāi Tahu ki Murihiku believes the Context requires further discussion regarding the overallocation of water resources in Otago.¹⁵ They also advise the text as notified incorrectly interprets the hierarchy of obligations with the NPS-FM by referring to 'balancing' when legislation requires 'prioritisation' and seeks specific wording amendments to the second paragraph as follows:

... *Freshwater* resources in some places are reaching, or are beyond, their sustainable abstraction limits. However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to ~~achieve a balance of~~ prioritise protection of the mauri of water bodies, meet the health needs of people, and provide for economic, ~~environmental~~, social and cultural ~~needs well-being~~.¹⁶

9. Wayfare also considers the use of the word 'balancing' is inappropriate in this context and seeks the following text amendments to the same paragraph:

Freshwater, including *rivers* and streams, *lakes*, groundwater systems, and *wetlands*, is a finite non-exclusive resource, critical to the natural environment, society and the economy. ...

... However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to achieve a sustainable outcome ~~balance of economic, environmental, social and cultural needs~~.¹⁷

10. QLDC¹⁸ and AWA¹⁹ consider the Context fails to acknowledge that different water uses impact the environment in different ways and seek wording amendments to address this omission. They also seek insertion of explanatory text to the second paragraph to highlight Council's legislative powers in managing this issue.²⁰

¹⁴ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

¹⁵ 00223.044 Ngāi Tahu ki Murihiku

¹⁶ 00223.044 Ngāi Tahu ki Murihiku

¹⁷ 00411.106 Wayfare

¹⁸ 00138.005 QLDC

¹⁹ 00502.001 AWA

²⁰ 00138.005 QLDC, 00502.001 AWA

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, irrigation and other economic uses. Some of these uses have largely beneficial effects on the environment and communities; in contrast, others uses of water can have unacceptable adverse effects. *Freshwater* resources in some places are reaching, or are beyond, their sustainable abstraction limits. ~~However,~~ There continues to be debate in the community about how historical *freshwater* allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs. The RMA enables regional councils to add rules to their plans to allocate water amongst competing activities. This approach will be adopted in the Regional Water Plan.

11. Horticulture NZ,²¹ NZ Pork²² and OWRUG²³ highlight the interrelationship between water and food production, noting population growth increases food supply and demand and is essential for human health. These submitters seek insertion of a reference to food production acknowledging the importance of this issue.
12. OWRUG also raises concern that the pORPS fails to acknowledge the long-term complexities of managing water use issues on the community, whilst still giving effect to the NPS-FM and recognising other climate change challenges.²⁴ They seek further amendments to the second paragraph as follows:

... However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs. Whatever the outcome of those debates there will need to be significant change implemented over appropriate timeframes to adjust to the new allocation regime. Managing this transition carefully will be necessary to manage the impacts that will affect the social, economic and cultural wellbeing, including mental health of the community.
13. Toitū Te Whenua raises concern that the issue of arid and semi-arid environments resulting from decisions surrounding water allocation has been overlooked and seeks discussion of this within the text.²⁵
14. Beef + Lamb and DINZ consider the NPS-FM and the NESF have been misinterpreted and do not agree with the statement, '*they have a goal of improving freshwater quality within 5 years*'.²⁶ Rather, they understand the goal is to halt further decline of freshwater from 2017, which requires Council to identify where improvements are required and set a timeframe in which they must respond. They therefore seek deletion of the reference from the text.

²¹ 00236.026 Horticulture NZ

²² 00240.008 NZ Pork

²³ 00235.039 OWRUG

²⁴ 00235.039 OWRUG

²⁵ 00101.015 Toitū Te Whenua

²⁶ 00237.011 Beef + Lamb and DINZ

15. UCAC submits comment regarding the term ‘healthy state’ as part of the goals of the NPS-FM and NESF.²⁷ They consider the term provides an important benchmark which needs a quantifiable and measurable definition and seeks amendments to this effect.
16. Ernslaw One²⁸ and Rayonier²⁹ state the Context fails to recognise the controls introduced by the NESPF on plantation forestry and seeks amendments to:
 - Insert reference to the NESPF,
 - Detail the effect of these regulations, and
 - Explain and justify where plan provisions may be more stringent.

Environmental

17. Federated Farmers considers the Environmental commentary is unnecessarily detailed and seeks the following specific text amendments to provide a more succinct dialogue:

Freshwater abstraction can reduce *water* level or flow and connections between different *water bodies*. This can negatively impact freshwater ecosystems by affecting *freshwater* habitat, water quality, water quantity, and ecological processes. ~~size and the shape and condition of the *water body*, including *bed*, *banks*, *margin*, *riparian vegetation*, *connections to groundwater*, *water chemistry* (for example by increasing concentrations of pollutants), and interaction between species and their habitat.~~³⁰

18. To align SRMR-15 with the Te Mana o te Wai priority on the health and well-being of water bodies and freshwater ecosystems, Fish and Game seeks insertion of the following text:

Freshwater abstraction can reduce *water* level or flow and connections between different *water bodies*. This can negatively impact ecosystems by affecting *freshwater* habitat size and the shape and condition of the *water body*, including *bed*, *banks*, *margin*, *riparian vegetation*, *connections to groundwater*, *water chemistry* (for example by increasing concentrations of pollutants), and interaction between species and their habitat. The sum of these impacts affects the overall health, well-being and resilience of the water body. How much an ecosystem is affected by taking *freshwater* is determined by departure from natural flow regimes, taking into account magnitude, frequency, timing, duration and rate of change, and ecosystem capacity to recover.³¹

19. OWRUG considers the Environmental commentary is incomplete as it omits to acknowledge that certain catchments have been irrevocably modified with subsequent value to the community.³² They seek the following amendment:

²⁷ 00220.001 UCAC

²⁸ 00412.005 Ernslaw One

²⁹ 00020.006 Rayonier

³⁰ 00239.024 Federated Farmers

³¹ 00231.026 Fish and Game

³² 00235.042 OWRUG

How much an ecosystem is affected by taking *freshwater* is determined by departure from natural flow regimes, taking into account magnitude, frequency, timing, duration and rate of change, and ecosystem capacity to recover.

However, in parts of Otago the flow regime that exists has been significantly altered due to the establishment of dams for water storage and hydro-electricity generation. In many cases these structures have been in place for many years (i.e. 80 to 100 years) and have values (including environmental, social and economic values) associated with them. These factors will in some instances affect the degree to which natural flow regimes can or should be restored. Further, exotic freshwater species, particularly salmonids are widespread with Otago's waterbodies. They are valued by the community as a source of food and for their sports fishing values. However, they also can have adverse effects on indigenous species. In some cases flow regimes induced by abstractions have protected indigenous species from predation. Changes to flow regimes will need to be carefully managed to ensure that these interactions do not give rise to significant loss of vulnerable indigenous species. These factors will in some instances affect the degree to which natural flow regimes can or should be restored.

20. Toitū Te Whenua considers the text as notified fails to consider the effect of land use change on the quality of freshwater resources available in some areas, citing high concentration levels of nitrogen from agricultural practices. They seek amendments to reflect this.³³
21. Lauder Creek Farming seeks provision of a clear definition for 'natural flow regimes'.³⁴ The reason for this amendment has not been provided.

Economic

22. Waitaki Irrigators recognises that a future lack of freshwater can be mitigated by efficiency and innovation.³⁵ Storage and water harvesting will be required to support climate change adaptation, not solely for urban expansion and seeks the following specific wording amendment after the third sentence:
- Lack of *freshwater* can negatively impact economic output of those industries that rely on *water* in the production process. To varying degrees these impacts can be mitigated through *water* efficiency measures and innovation. New and additional freshwater storage may also be required in the future.³⁶
23. With regard to freshwater being recognised as 'a factor of production' three submitters raise concern that commentary does not specifically reference:
- 'Industry, including rural industry',³⁷ and

³³ 00101.016 Toitū Te Whenua

³⁴ 00406.002 Lauder Creek Farming

³⁵ 00213.003 Waitaki Irrigators

³⁶ 00213.003 Waitaki Irrigators

³⁷ 00213.017 Fonterra

- 'Tourism (for example water supply for visitor destinations and snowmaking).³⁸

Social

24. With reference to 'ensuring appropriate freshwater supply for human use is available as part of planned urban growth', FENZ consider this includes availability of water for firefighting.³⁹ They seek involvement in determining what is safe, suitable, and appropriate development from the emergency services/fire perspective.
25. Federated Farmers raises concern that the text concentrates on freshwater requirements as part of 'urban growth' and highlights rural communities also require 'appropriate freshwater supply'. They seek the following amendments to the first sentence:
- Ensuring appropriate *freshwater* supply for human use is available as part of planned urban growth, and to support rural communities and households, is essential.
26. Trojan⁴⁰ and Wayfare⁴¹ seek amendments to the first paragraph to add reference to providing for people's wellbeing and to improve the readability of the sentence.

General

27. The Minister for the Environment considers the issue of over-allocation and deemed mining permits is insufficient and seeks the addition of a discussion about this issue.⁴² Although he does not clarify which part of the SRMR this statement relates to, I consider that it is most relevant to SRMR-15.
28. OWRUG seeks amendments related to recognising the importance of water for food and fibre production across the Environmental, Economic and Social impact snapshots as follows⁴³:
- a. Environmental (final sentence)

... How much an ecosystem is affected by taking *freshwater* is determined by departure from natural flow regimes, taking into account magnitude, frequency, timing, duration and rate of change, species composition and ecosystem capacity to recover.⁴⁴
 - b. Economic (first sentence)

Freshwater in the Otago region is a factor of production that directly contributes to human needs (urban *water* supply and food production), agriculture food and fibre production (including irrigation), hydro-electric power supply, and mineral extraction.⁴⁵

³⁸ 00206.083 Trojan, 00411.107 Wayfare

³⁹ 00219.014 FENZ

⁴⁰ 00206.084 Trojan

⁴¹ 00411.109 Wayfare

⁴² 00136.002 Minister for the Environment

⁴³ 00235.040, 00235.041 OWRUG

⁴⁴ 00235.040 OWURG

⁴⁵ 00235.040 OWURG

- c. Add to the Social impact snapshot

...

Many communities in Otago are heavily reliant on the food and fibre sector which generates significant economic activity, as well as providing product to both the domestic and export market. Reduction in water allocation will adversely impact on the productive capacity of the food and fibre sector with significant downstream economic consequences. These economic consequences will manifest as reduced social cohesion in small communities as people move away to find other sources of employment, or the availability of locally grown food diminishes. However, there are also opportunities for increased employment associated with the transition to new land use types that may be precipitated by changes to allocation regimes and/or climate change adaption. Managing this transition carefully will be necessary to manage the impacts that will arise for the social, economic and cultural wellbeing, including mental health of the community and seeking out opportunities that will improve these well-beings. In order to address these issues, providing certainty to resource users, including the food and fibre sector and a clear and integrated transition framework is necessary.⁴⁶

2.1.1.3. Analysis

Statement

29. In regard to the request to add a definition for water-short catchments, I do not agree that this is necessary in relation to the issues statement. As part of providing a statement of the issue in relation to freshwater demand, I consider that the meaning of 'water-short catchments' is sufficiently clear. The matter of defining or identifying these catchments can be addressed at the regional plan level if appropriate.
30. The remaining submissions seeking amendments to the Statement for SRMR-5 are not appropriate in my opinion because they either seek a level of detail greater than is necessary for the SRMR chapter, or amendments that are too specific or restrictive relative to the broader terms provided in the existing narrative.

Context

31. In regard to the submissions seeking amendments to the statements about deemed permits, I do not consider that any of the requested amendments are necessary. Firstly, I consider that further elaboration on deemed permits is not required for the issues statement. The Context already acknowledges the impact that deemed permits have had on the allocation and use of water in the region and make a brief statement about their history. This is an appropriate level of detail for the issues statement in my opinion. I note that the reference to deemed permits is intended to provide historical context but given that they no longer apply (as of October 2021), it is not useful to detail specific problem areas associated with deemed permits in this body of text.

⁴⁶ 00235.041 OWRUG

32. Equally, I do not agree with Federated Farmers that the historical context should be deleted, as it provides useful context for the current situation in Otago with respect to water allocation.
33. In regard to the other amendments to the Context sought by Federated Farmers I agree that 'degradation' is a more appropriate word than 'damage' and I recommend adopting this change. I do not consider that the other changes sought improve the wording or convey the same intent and do not recommend adopting the remainder of the submission.
34. I also consider that Ngāi Tahu ki Murihiku makes a valid point in regard to the NPS-FM hierarchy of obligations and agree that their suggested amendments more correctly interpret the prioritisation required under the Te Mana o te Wai framework. Therefore, I recommend adopting this submission.
35. Beef and Lamb seeks to remove the reference to a five-year timeframe goal, however the goal is set out as a national direction through the NPSFM. It is not recommended to remove this reference.
36. UCAC seeks a quantified and measurable definition for 'healthy state'. In my opinion it is more appropriate to set the parameters of what is considered a healthy state respective to specific aspects of the environment in subsequent regional plans. Any broad definition provided in the context of the existing narrative will not accurately capture all the nuances and parameters across all aspects of the environment. Therefore, it is not recommended to provide an overarching, hard definition for what constitutes a 'healthy state' at this time.
37. Ernslaw One and Rayonier seek reference to the NESPF 2017, including an explanation of the effect of these regulations in relation to plan provisions. I do not consider that this is relevant to the issues statements and is more a matter to be taken into account when preparing the regional and district plans. I do not recommend adopting this submission.

Environmental

38. Federated Farmers seeks to delete text from the Environmental impact snapshot. In my opinion the matters they seek to delete are all relevant in terms of impacts of changing levels and flows on water bodies, and I do not recommend adopting this submission.
39. In regard to inserting a definition for natural flow regimes, I do not consider that this is necessary to define the environmental issues in relation to water demand and is a matter that could be addressed in the regional plan.
40. The remaining submissions on the Environmental impact snapshot seek a level of detail that is not appropriate for a statement of the issue, is already covered more generally in the existing text, or they seek amendments about solutions and responses to the issue, and I do not recommend adopting these amendments.

Economic

41. Fonterra seeks reference to 'industry' in the first sentence of the Economic impact snapshot and I agree that this is relevant, and I recommend adopting this submission.

42. The amendment sought by Waitaki Irrigators is more relevant to solutions and responses to the issue, rather than a statement about the issue itself, and I do not recommend adopting this submission.
43. I do not consider that any amendments need to be made in relation to the reference to tourism, as I consider that this is already covered by the first two sentences which already acknowledge water supply more generally, and freshwater assets relevant to tourism and commercial recreation.

Social

44. I agree with FENZ that freshwater supply for human use includes water for firefighting purposes, but do not consider any amendments are needed to explicitly reference this particular use, noting that no other human uses are explicitly referenced.
45. Federated Farmers seeks to add reference to freshwater being available for rural communities and households. I consider that this is adequately covered by the first sentence of the Social impact snapshot which acknowledges that an appropriate freshwater supply for human use is essential.
46. Finally, I agree with Trojan and Wayfare that reduced environmental flows can impact on people's wellbeing, but I consider that this is covered more generally by the statement about reduced environmental flows impacting on social and cultural values, and I do not consider that any amendments are necessary.
47. OWRUG's submission seeking to add a significant body of text to the social section provides some insights into potential impacts, both negative and positive, on communities as a result of less water availability. However, considering the SRMR section is issue focused, in my opinion it is not appropriate to discuss the potential benefits as it detracts from the purpose of the statement and adds no additional value. I do not recommend adopting this submission.

2.1.1.4. Recommendation

48. I recommend the following amendments:
- a. In the Context:
 - i. Amend the final sentence of the second paragraph as follows:

However, there continues to be debate in the community about how historical freshwater allocations can be adjusted to ~~achieve a balance of~~ prioritise protection of the mauri of water bodies, meet the health needs of people, and provide for economic, environmental, social and cultural needs well-being.⁴⁷
 - ii. Amend the second sentence of the last paragraph as follows:

They have a goal of improving *freshwater* quality within five years, reversing past ~~damage~~ degradation⁴⁸ and bringing New Zealand's

⁴⁷ 00223.044 Te Ao Marama

⁴⁸ 00239.024 Federated Farmers

freshwater resources, waterways and ecosystems to a healthy state within a generation.

- b. In the Economic impact snapshot, amend the first sentence as follows:

Freshwater in the Otago region is a factor of production that directly contributes to human needs (urban water supply) agriculture, industry,⁴⁹ hydro-electric power supply, and mineral extraction.

- c. In the Social impact snapshot, amend the first sentence as follows:

Ensuring appropriate freshwater supply for human use is available is essential, including⁵⁰ as part of planned urban growth ~~is essential~~.⁵¹

⁴⁹ 00213.017 Fonterra

⁵⁰ 00206.084 Trojan, 00411.109 Wayfare

⁵¹ 00206.084 Trojan, 00411.109 Wayfare

2.2. Draft supplementary evidence

New issue statement recognising the ways in which people interact with the environment

Recommendation to be amended

1. One of the key issues identified in Fish and Game's submission is the need to recognise human interaction with waterbodies⁵². It notes that people engage with the environment in different ways, and that when the environment is healthy and well, people can contribute to their health and well-being needs by connecting with the environment.
2. Fish and Game submitted that the SRMR chapter does not discuss the way in which people in Otago interact with the environment for recreation, or otherwise value its amenity values, and gain wellbeing from it. It seeks an additional significant resource management issue, discussing the ways in which people interact with the environment in Otago for recreation and amenity⁵³.
3. In my section 42A report I did not recommend the addition of a new issue statement recognising the ways in which people interact with their environment⁵⁴. In my opinion this is not a significant resource management issue in its own right. However, after considering the Fish and Game submission further, and with the benefit of direct discussion on this request, I recommend amendments to SRMR-I5 and SRMR-I6 to respond to this submission point.

Explanation

4. I agree with Fish and Game that how people interact with the environment is linked to well-being, and that connection with the environment is not limited to recreational use. I have reconsidered SRMR-I5 and SRMR-I6 which deal with freshwater quantity and quality issues. I consider that the social impact snapshots for these issues could be expanded to acknowledge all of the ways people interact with freshwater bodies, and the impact of these interactions on well-being.

Recommended amendments

5. I recommend the following amendments to SRMR-I5:

⁵² 00231.006 Fish and Game

⁵³ 00231.022 Fish and Game

⁵⁴ Paragraphs 550 – 551 of my Section 42A report.

Amend the Social impact snapshot as follows:

Ensuring appropriate *freshwater* supply for human use is ~~available~~ essential, ~~including~~ as part of planned urban growth ~~is essential~~. It is possible this may require consideration of additional *freshwater* storage in the future. The region's *freshwater* assets also support ~~a range of recreation uses, for example camping, fishing, water sports, and swimming. These values are strongly linked to~~ environmental, human health and well-being, landscape and aesthetic⁵⁵ values, ~~and as such, reduced~~ environmental flows have a corresponding negative impact on social and cultural values, and people's wellbeing.⁵⁶

6. I recommend the following amendments to SRMR-I6:

a. Amend the first paragraph of the Social impact snapshot as follows:

~~For the wider community, water is a source of kai and of recreation including swimming, fishing and water sports.~~⁵⁷ Otago's *rivers, lakes*, estuaries and bays are important destinations for recreational use including swimming, fishing and *water* sports. Eighty-two per cent of Otago's *rivers* and *lakes* are swimmable. Water is also a source of kai.⁵⁸ Where *water* quality cannot support these activities, the health and wellbeing lifestyle of those living in Otago and their interaction with water⁵⁹ is impacted.

⁵⁵ 00231.022 Fish and Game

⁵⁶ 00231.022 Fish and Game

⁵⁷ 00231.022 Fish and Game

⁵⁸ 00231.022 Fish and Game

⁵⁹ 00231.022 Fish and Game

3. SRMR-16

3.1. Previous section 42A report content

3.1.1. SRMR-16 – Declining water quality has adverse effects on the environment, our communities, and the economy

3.1.1.1. Introduction

49. SRMR-16 considers the issues associated with declining water quality on the environment, economic utility of water resources, and social wellbeing.

3.1.1.2. Submissions

50. A total of 31 submissions have been received in relation to SRMR-16, including one submission from Forest and Bird seeking it be retained as notified.⁶⁰ The remaining submissions seek a broad range of amendments across the whole of SRMR-16 and these are summarised below.

Statement

51. COES⁶¹ and Lynne Stewart⁶² consider water extraction for irrigation purposes causes a lack of flushing and dilution of discharge, impacting water quality. They seek amendments for this to be acknowledged in the opening Statement.

52. Federated Farmers highlights the efforts of the rural communities to improve water quality and seeks greater acknowledgment of these.⁶³ Specifically they seek the following wording amendment to the first paragraph:

While the pristine areas of Otago generally maintain good *water* quality, some areas of Otago demonstrate poorer quality and declining trends in *water* quality which can often be attributed to *discharges* from *land use* intensification (both rural and urban) and *land* management practices. Some areas are seeing the beginnings of a turnaround with some improving trends, but there is still much work to be done.

53. OWRUG considers the Statement is too general and fails to recognise pest incursion and lower intensity land-use activities as contributors to deteriorating water quality and seeks amendments to the first paragraph to reflect this as follows:⁶⁴

While the pristine areas of Otago generally maintain good *water* quality, some areas of Otago demonstrate poorer quality and declining trends in *water* quality

⁶⁰ 00230.025 Forest and Bird

⁶¹ 00202.004 COES,

⁶² 00030.002 Lynne Stewart

⁶³ 00239.025 Federated Farmers

⁶⁴ 00235.043 OWRUG

which can be attributed to discharges from land use activities (both rural and urban), land management practices and aquatic pest species.

54. John Highton agrees that water quality has declined and considers this is in part due to the poor management of Council.⁶⁵ He seeks amendments to reflect this.
55. Trojan⁶⁶ and Wayfare⁶⁷ consider minor editorial amendments are required to support clarification and seek to insert 'very' as a qualifier in the opening sentence:

While the pristine areas of Otago generally maintain very good water quality, ...

Context

56. COES⁶⁸ and Lynne Stewart⁶⁹ consider the extraction of water for irrigation should also be acknowledged as a contributing factor to deteriorating water quality, particularly in dryer parts of Central Otago and seek amendments to reflect this.
57. OWRUG⁷⁰ and Horticulture NZ⁷¹ both support the identification of a wide range of environmental health factors and seek specific amendments to reference human 'health and' survival to support clarification of the context.
58. OWRUG also considers the notified text requires the following amendment to the last sentence in the first paragraph:

Population growth and poorly managed land-use intensification in urban and rural environments has impacted the quality of *water*, ...⁷²

59. Furthermore, while supportive of references to the NPS-FM and NESF, OWRUG considers these should be elaborated on and seeks the following additional text to be included at the end of the Context:

The direction in this higher order document is significant and will precipitate changes within the Otago Region. The direction of travel required by these documents has broad community support, however the detail regarding the degree of change and over what timeframe remain as points of contention within some communities. Whatever the outcome affected communities face a period of significant change which will be very challenging and may have adverse consequences for people and communities. This transition requires careful management in order to maintain social, cultural and economic wellbeing, including mental wellbeing.⁷³

⁶⁵ 00014.009 John Highton

⁶⁶ 00206.086 Trojan

⁶⁷ 00411.111 Wayfare

⁶⁸ 00202.005 COES

⁶⁹ 00030.003 Lynne Stewart

⁷⁰ 00235.044 OWRUG

⁷¹ 00236.027 Horticulture NZ

⁷² 00235.044 OWRUG

⁷³ 00235.044 OWRUG

60. Federated Farmers queries the use of the term, 'reverse past damage' as written in the notified text, highlighting its use is inconsistent with the NPS-FM.⁷⁴ For accuracy and clarification they seek the following text amendment to the third paragraph:

On 3 September 2020, new National Environmental Standards (NESF) and a new National Policy Statement (NPSFM)⁷⁵ came into force to improve *water* quality within five years; and reverse past ~~damage~~ degradation as soon as practicable, and bring New Zealand's *freshwater* resources, waterways and ecosystems to a healthy state within a generation.

61. Rayonier highlights the Context fails to recognise the controls introduced by the NESPF on plantation forestry and seeks amendments to insert reference to this and detail regarding the effect of its regulations. Additionally, they seek further explanation and justification where plan provisions may be more stringent.⁷⁶
62. Wayfare⁷⁷ seeks the following editorial amendments to support clarification:

- a. First sentence of Context:

The health of *water* is vital for the health of the natural environment, people and the economy. ...

- b. Last sentence of first paragraph

... Population growth and land-use intensification in urban and ~~rural~~ non-urban environments has impacted the quality of *water*, increasing contamination from nutrients and sediment.

- c. Second sentence of second paragraph

... Some of the biggest adverse impacts on *water* quality in Otago are considered to come from agriculture and urbanisation, through diffuse *discharges* and point source *discharges*.

Environmental

63. COES⁷⁸ and Lynne Stewart⁷⁹ understand that the Manuherekia River has some of the most rapidly deteriorating water quality indicators in Otago and raise concern that no mention is made of this. They seek amendments to the text to address this matter.
64. Additionally, in reference to the issue of sedimentation, COES⁸⁰ and Lynne Stewart⁸¹ acknowledge the notified text cites urban development as a major generator of sediment

⁷⁴ 00239.025 Federated Farmers

⁷⁵ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

⁷⁶ 00020.007 Rayonier

⁷⁷ 00411.112 Wayfare

⁷⁸ 00202.006 COES

⁷⁹ 00030.004 Lynne Stewart

⁸⁰ 00202.007 COES

⁸¹ 00030.004 Lynne Stewart

into lakes and rivers in Central Otago' but they consider sediment generated from intensive agriculture is greater and seek amendments to expand the text.

65. Similarly, Rayonier considers 'pastureland or farming' also contribute to the generation of sediment not just agriculture intensification as noted in the text and seeks amendments to recognise this as a contributor before agriculture intensification.⁸²
66. City Forests states including plantation forestry in the list of activities that contribute to sedimentation in Otago without qualification is inaccurate and seeks wording amendments to support accuracy and qualify that 'poorly managed' forestry harvesting 'may' contribute to sedimentation.⁸³
67. Federated Farmers opposes the ordering of the paragraphs contained within the Environmental snapshot discussion, stating 'it is ideological rather than fact-based'.⁸⁴ The submitter also notes the 'State of the Environment Surface Water Quality in Otago 2006 to 2017' report is cited but consider the wording of the pORPS does not accurately reflect this report as written.⁸⁵ They seek the following text amendments to the first two paragraphs to improve alignment:

Despite the region's lakes and rivers being highly valued by Otago communities, reports indicate there are reasons for concern in specific areas about water quality and its trends with consequent potential impact on ecosystems and people.

Water quality across Otago is variable with some areas such as the Upper Clutha and the Taieri having excellent water quality, with other areas, such as urban streams in the Dunedin locale, intensified catchments in North Otago and some tributaries of the Pomahaka having poorer water quality. River water quality is best at river and stream reaches located at high or mountainous elevations under predominantly native vegetation cover, ~~and mostly good in the upper areas of large river catchment and outlets from large lakes.~~ These sites tend to be associated with the upper catchments of larger rivers (e.g. Clutha River/Matau - Au, Taieri River and Lindis River) and the outlets from large lakes (e.g. Hawea, Wakatipu and Wanaka).

Water quality is generally poorer in smaller low-elevation streams and coastal shallow lakes where they receive water from upstream pastoral areas or urban catchments. For example, catchments such as the Waiareka Creek (North Otago), Kāikorai Stream (Dunedin), and sub-catchments within the lower Clutha catchment, have some of the ~~worst~~ poorest water quality in the region. The Waikouaiti River has the best water quality of the lowland site. ...

68. With regard to stock entering water bodies, Federated Farmers notes that work to determine the state of the freshwater resource and contaminant sources is yet to be undertaken in Otago and believe citing a 'science staff survey, 2020' with no other

⁸² 00020.004 Rayonier

⁸³ 00024.001 City Forests Limited

⁸⁴ Federated Farmers (not captured on SODR)

⁸⁵ 00239.025 Federated Farmers

supporting information is both inappropriate and unsatisfactory.⁸⁶ They therefore seek deletion of the paragraph in its entirety.

69. Beef + Lamb and DINZ also seek deletion of specific references to stock access and winter grazing, highlighting these activities are regulated under the Resource Management (Stock Exclusion) Regulations 2020 and Intensive Winter Grazing Regulations under the NESF.⁸⁷
70. If not deleted in its entirety, Beef + Lamb and DINZ seek acknowledgment within the text that stock access and winter grazing are regulated under the Resource Management Stock Exclusion Regulations 2020 and National Environment Standard for Freshwater as part of the wider Essential Freshwater Package 2020.⁸⁸ Additionally, they consider the effects of urban development should be further described and distinguished to the same extent as agriculture.⁸⁹
71. OWRUG echoes submissions which highlight the inadequacy of the text to accurately reflect the 'State of the Environment Surface Water Quality in Otago 2006 to 2017' report relied upon.⁹⁰ They recognise the impact of aquatic pests have been overlooked in relation to water quality indicators and consider linking water quality issues to agricultural intensification is an oversimplification.⁹¹ They seek the following specific wording amendments:
- a. Opening sentence
Despite the region's *lakes* and *rivers* being highly valued by Otago communities, reports indicate there are reasons for concern about *water* quality and its trends in some areas with consequent potential impact on ecosystems and people.
 - b. Second last sentence of second paragraph
... Otago's central lakes are impacted by increased population, urban development, aquatic pests and tourism demand; ...
 - c. Last sentence of paragraph 7
... Activities such as agricultural ~~intensification-land-use~~, mining, and forestry also contribute.
 - d. Paragraph 8
Poorly managed Agricultural intensification-land-use also contributes to nutrients (nitrogen and phosphorus) leaching into underlying *groundwater* or running off into surface *water bodies*, and can also increase the risk of *E.coli* contamination from animal waste.

⁸⁶ 00239.025 Federated Farmers

⁸⁷ 00237.012 Beef + Lamb and DINZ

⁸⁸ 00237.012 Beef + Lamb and DINZ

⁸⁹ 00237.012 Beef + Lamb and DINZ

⁹⁰ OWRUG (not captured on SODR)

⁹¹ 00235.045 OWRUG

72. Lloyd McCall⁹² and PWCG⁹³ consider citing data taken from 'between 2006 and 2017' is outdated and seek amendments which reference the most recent water quality testing information available.
73. Horticulture NZ recognises that water is necessary to meet essential human health needs and seeks amendments to recognise health and safety issues associated with water quality, including drinking, sanitation, and food production.⁹⁴
74. Toitū Te Whenua considers reference to 'agricultural intensification' is insufficient and seeks amendments to provide greater context to the specific agricultural activities in Otago that are driving the degradation of water quality, such as irrigation and unregulated fertiliser uses.⁹⁵

Economic

75. Federated Farmers notes the data cited has been sourced from the United States Environmental Protection Authority and seeks amendments to draw on contextualised New Zealand data to support validity⁹⁶ and seeks wording amendments to the first paragraph as follows:

Water pollution (from contaminants, nutrients, chemicals, pathogens and sediment) can have far-reaching *effects* potentially impacting the primary sector, tourism, property values, commercial fishing, recreational businesses, and many other sectors that depend on clean *water*.⁹⁷

76. OWRUG and Horticulture NZ consider the Economics discussion fails to acknowledge the interconnection between water pollution and human health needs and seek the following amendment to the first paragraph:

Water pollution (from nutrients, chemicals, pathogens and sediment) can have far-reaching *effects* potentially impacting tourism, property values, commercial fishing, recreational businesses, human health, food production and many other sectors that depend on clean *water*.⁹⁸

77. To support decision making which does not 'sacrifice economic for environmental outcomes', Toitū Te Whenua seeks greater consideration of the economic benefits of certain activities affecting water quality.⁹⁹

Social

78. Federated Farmers cites data from Land, Air, Water, Aotearoa (LAWA) – River Quality which indicates water quality in Otago lakes and rivers is better than other regions and

⁹² 00319.001 Lloyd McCall

⁹³ 00207.001 PWCG

⁹⁴ 00236.027 Horticulture NZ

⁹⁵ 00101.017 Toitū Te Whenua

⁹⁶ Federated Farmers (not captured on SODR)

⁹⁷ 00239.025 Federated Farmers

⁹⁸ 00235.046 OWRUG, 00236.027 Horticulture NZ

⁹⁹ 00101.018 Toitū Te Whenua

seeks the following amendments to the third sentence of the first paragraph to acknowledge this:

... Eighty-two per cent of Otago's rivers and lakes are swimmable, which is very high on a nationwide comparison. However, ~~W~~where water quality cannot support these activities, the lifestyle of those living in Otago is impacted.¹⁰⁰

79. Horticulture NZ¹⁰¹ and OWRUG¹⁰² note the Social impacts discussion covers freshwater needs with regard to essential urban growth needs and recreational uses. Horticulture NZ seeks amendments to insert additional discussion on water as an essential human health need and its link to food production.¹⁰³

80. OWRUG similarly seeks reference to human health needs as well as amendments to acknowledge the social and cultural benefits arising from clean water.¹⁰⁴ They seek the following specific text amendments:

~~For the wider community, w~~Water is a source of kai for harvesting and food production. and~~Water is also a source of~~ recreation, including swimming, fishing and water sports. Otago's rivers, lakes, estuaries and bays are important destinations for recreational use including swimming, ~~fishing~~ and water sports. Eighty – two per cent of Otago's rivers and lakes are swimmable. Where water quality cannot support these activities, the lifestyle of those living in Otago is impacted. Thriving rural communities are also supported by the use of good quality water for food and fibre production.

~~Where water quality reduces~~ is degraded the taoka habitats and species supported by the water may be adversely affected and the mauri of the water reduced. and the habitats and species it supports, therefore also negatively affecting mahika kai and taoka species and places. This Loss of mahika kai and taoka species ~~constitutes~~ is a loss of Kāi Tahu culture, affecting the intergenerational transfer of knowledge handed down from tūpuna over hundreds of years; and ~~it culminates in~~ a loss of rakatirataka and mana.

81. Ngāi Tahu ki Murihiku seeks amendments which correct and clarify cultural references and seeks the following text amendment to the final sentence:

... This constitutes a loss of Kāi Tahu culture, affecting the intergenerational transfer of knowledge handed down from tūpuna over hundreds of years; and it culminates in ~~loss~~ diminishing of rakatirataka and mana.¹⁰⁵

¹⁰⁰ 00239.025 Federated Farmers

¹⁰¹ Horticulture NZ (not captured on SODR)

¹⁰² 00235.047 OWRUG

¹⁰³ Horticulture NZ (not captured on SODR)

¹⁰⁴ 00235.047 OWRUG

¹⁰⁵ 00223.045 Ngāi Tahu ki Murihiku

General

82. Trojan¹⁰⁶ and Wayfare¹⁰⁷ consider SRMR-I6 heading requires the following minor editorial amendments to support clarification and interpretation:

Declining *water* quality has adverse *effects* on the natural *environment*, our communities, and the economy.

83. Yellow-eyed Penguin Trust raises concern that SRMR-I6 fails to consider the concept of ki uta ki tai, highlighting that declining water quality has impacts on the coastal and marine environments as well as freshwater.¹⁰⁸ They seek amendments to the text to reflect this.
84. Horticulture NZ seeks amendments to link the impact snapshot to the FMU vision statements whereby innovative and sustainable land and water management practices support food production and improve resilience to the effects of climate change.

3.1.1.3. Analysis

Statement

85. Several submitters request that the issue statement is amended to include reference to other factors contributing to poor water quality, including aquatic pest species, low flows in water bodies and poor management from the Council. I note that there are many contributing factors to declining water quality in Otago and that the issue statement is a concise summary of the key influences. The submissions from COES¹⁰⁹ and Lynne Stewart¹¹⁰ correctly identify that lower flows in waterbodies (as a result of abstraction) may exacerbate poor water quality. I note that SRMR-I6 typically describes the causes of poor water quality, and that SMRM-I5 addresses the relationship between low flows and water quality. I do not consider that SMRM-I6 needs to repeat the content of SMRM-I5, and therefore, do not recommend these submissions are accepted.
86. The relationship between pest species and water has been highlighted in SRMR-I3, and without further evidence about the particular impacts of pest species on water quality, I do not recommend accepting the submission from OWRUG¹¹¹ to include reference to pest species as a contributor to deteriorating water quality. I also do not consider that it is appropriate to highlight the role the regional council has played in relation to the current state of water quality, over and above any other group or industry. I do not recommend accepting submissions requesting this addition.¹¹²
87. I consider that the request from Federated Farmers¹¹³ to acknowledge the efforts of the rural communities to improve water quality has merit, however the amendments sought by the submitter do not appear to achieve that outcome. The specific amendments

¹⁰⁶ 00206.085 Trojan

¹⁰⁷ 00411.110 Wayfare

¹⁰⁸ 00120.017 Yellow-eyed Penguin Trust

¹⁰⁹ 00202.004 COES,

¹¹⁰ 00030.002 Lynne Stewart

¹¹¹ 00235.043 OWRUG

¹¹² 00014.009 John Highton

¹¹³ 00239.025 Federated Farmers

sought by the submitter include a statement about water quality trends and a statement describing actions required to resolve the issue. Firstly, it is my view that it is inappropriate to include commentary about water quality trends without an evidence base. Without verification, I do not recommend this submission point is accepted. Secondly, I do not recommend accepting any submissions that include actions to resolve the issue statement. The resolution of the issue occurs through various objectives, policies and methods set out in subsequent chapters of the RPS.

88. I consider the amendment sought by Trojan¹¹⁴ and Wayfare¹¹⁵ to insert 'very' as a qualifier in the opening sentence results in a better reflection of the water quality in the pristine areas of Otago. I recommend these submissions are accepted.

Context

89. Similar to the submission on the Statement for SRMR-I6, COES¹¹⁶ and Lynne Stewart¹¹⁷ consider the extraction of water for irrigation should also be acknowledged as a contributing factor to deteriorating water quality. For the reasons set out in the above section on the Statement, I recommend rejecting this submission point.
90. I recommend accepting the submissions from OWRUG¹¹⁸ and Horticulture NZ¹¹⁹ where they seek reference be included to human health. This amendment represents an improvement to the description of the issue, and better aligns with known effects of poor water quality (i.e. poor water quality may impact human health without necessarily impacting on human survival).
91. I do not agree with the submission point from OWRUG¹²⁰ requesting amendment to the last sentence in the first paragraph to quality land uses impacting the quality of water as being "poorly managed". From my understanding, the loss of contaminants to water is not always related to poorly managed land use, as there may be circumstances where certain land uses are incompatible with achieving good water quality outcomes, irrespective of whether that land use is well or poorly managed. I do not recommend accepting this submission point. In regard to OWRUG's request for more substantive additions to the context statement in relation to the NPS-FM and NESF, I consider there is merit in acknowledging that the direction in these higher order documents is significant and will result in changes in the region. However, I do not consider it is appropriate to include in an issue statement a description of the actions required to resolve the issue, or the impacts of those future actions on the community. I recommend rejecting the submission from OWRUG.¹²¹

¹¹⁴ 00206.086 Trojan

¹¹⁵ 00411.111 Wayfare

¹¹⁶ 00202.005 COES

¹¹⁷ 00030.003 Lynne Stewart

¹¹⁸ 00235.044 OWRUG

¹¹⁹ 00236.027 Horticulture NZ

¹²⁰ 00235.044 OWRUG

¹²¹ 00235.044 OWRUG

92. Federated Farmers queries the use of the term, ‘reverse past damage’ as written in the notified text, highlighting its use is inconsistent with the NPS-FM.¹²² I recommend accepting the submission from Federated Farmers in part, as it provides better alignment with the requirements of the NPS-FM.
93. Rayonier highlights the Context fails to recognise the controls introduced by the NESPF on plantation forestry and seeks amendments to insert reference to this and detail regarding the effect of its regulations. Additionally, they seek further explanation and justification where plan provisions may be more stringent.¹²³ As I have outlined for SRMR-15, I do not consider that it is necessary to refer to the NESPF in the issues statements, as it a matter to be taken into account when preparing the regional and district plans. I do not recommend adopting this submission.
94. Wayfare¹²⁴ seeks several editorial amendments to support clarification of the context statement. While the amendments suggested will not necessarily change the intent of the statement, they may be inconsistent with terminology used elsewhere in the RPS. I do however recommend adopting the amendments sought by the submitter to the second sentence of the second paragraph: “... Some of the biggest adverse impacts on *water* quality in Otago are considered to come from...” . I consider that the addition of the word “adverse” appropriately qualifies the types of effects that are described in the paragraph.

Environmental

95. Federated Farmers opposes the ordering of the paragraphs, stating ‘it is ideological rather than fact-based’.¹²⁵ I note that the order of the paragraphs in this section of the RPS is not intended to represent a hierarchy or order of priorities. I do not recommend any changes to the order of the paragraphs in response to this submission.
96. Several submitters raise concerns about the description of water quality in Otago and, in particular, how it aligns with the “State of the Environment Surface Water Quality in Otago 2006 to 2017’ report. I agree with submitters¹²⁶ that the wording used in the issue statement could better align with the report cited and recommend accepting the submissions in part. In this instance, I recommend that the wording suggested by OWRUG is adopted.
97. In response to the submitters¹²⁷ that state data taken from between 2006 and 2017 is outdated, I note that this information was the best information available at the time the PORPS 2021 was prepared. I do not recommend any amendments to the references in response to these submissions. I also do not recommend including more specific examples of deteriorating water quality in the issues statement, unless that information

¹²² 00239.025 Federated Farmers

¹²³ 00020.007 Rayonier

¹²⁴ 00411.112 Wayfare

¹²⁵ Federated Farmers (not captured on SODR)

¹²⁶ OWRUG (not captured on SODR)

¹²⁷ 00319.001 Lloyd McCall; 00207.001 PWCG

can be verified and referenced. Without these references, I do not recommend accepting the submissions from COES¹²⁸ and Lynne Stewart¹²⁹.

98. Several submitters seek amendments to the paragraph describing the causes of sedimentation, either by including reference to other types of land uses or placing less emphasis on specific industry types. The submissions from COES¹³⁰ and Lynne Stewart¹³¹ consider that sediment generated from intensive agriculture is greater and seeks amendments to reflect their understanding. Without specific information supporting this position, I do not recommend accepting this submission point.
99. In response to the submission from City Forests¹³² seeking amendments to qualify that ‘poorly managed’ forestry harvesting ‘may’ contribute to sedimentation, I note that similar types of amendments could be relevant to all industry types. I do not consider it is appropriate to make amendments to place less emphasis on one industry type, over and above other industries. I recommend rejecting this submission point.
100. I agree with the submission from Rayonier that it is not just agriculture intensification that contributes to sediment in waterways, as there may be existing agricultural land uses that have a similar effect. I consider that “agriculture intensification” is likely a typographical error, and that the correct reference should be “agricultural land-use”. I recommend accepting Rayonier’s submission in part,¹³³ and accepting the submission from OWRUG.¹³⁴ I consider that these amendments are likely to address the concerns raised by Toitū Te Whenua¹³⁵ regarding the reference to ‘agricultural intensification’.
101. I note that the adverse effects of stock entering waterbodies is well understood, hence the introduction of stock exclusion regulations at the national level. I consider it is still appropriate to retain reference to this as an issue for, and contributing factor to, poor water quality, regardless of the information source. I recommend the submission from Federated Farmers¹³⁶ be rejected.
102. While stock access and winter grazing are activities managed by national regulations¹³⁷, there may be a need to introduce additional restrictions or rules that are more appropriate in the Otago region, and necessary to achieve freshwater outcomes. I also note that many landowners are yet to comply with the regulations, and therefore the effects from these activities are still relevant to this issue. I therefore recommend rejecting the submissions from Beef + Lamb and DINZ seeking that specific reference to

¹²⁸ 00202.006 COES

¹²⁹ 00030.004 Lynne Stewart

¹³⁰ 00202.007 COES

¹³¹ 00030.004 Lynne Stewart

¹³² 00024.001 City Forests Limited

¹³³ 00020.004 Rayonier

¹³⁴ 00235.045 OWRUG

¹³⁵ 00101.017 Toitū Te Whenua

¹³⁶ 00239.025 Federated Farmers

¹³⁷ Resource Management (Stock Exclusion) Regulations 2020 and Intensive Winter Grazing regulations under the NESF

stock access and winter grazing are deleted, or if not deleted, that the regulations are acknowledged in the text¹³⁸.

103. I also disagree with the request from Beef + Lamb and DINZ to distinguish the effects of urban development to the same extent as agriculture.¹³⁹ It is unclear from the submissions what further amendments are requested to provide for the relief sought, however I consider that the Environmental impact snapshot already provides a description of the effects of urban development on water quality and no further amendments are necessary. I recommend these submissions are rejected.
104. I consider that it is unclear from Horticulture NZ's submission what specific amendments would be required to amend the Environmental Impact snapshot to recognise health and safety issues associated with water quality. Without further information, I recommend rejecting this submission point.¹⁴⁰
105. Without further evidence or information about the relationship between pest species and water quality, I do not recommend accepting the submission from OWRUG¹⁴¹ to include reference to pest species as a contributor to deteriorating water quality.

Economic

106. In response to Federated Farmers request to include New Zealand specific citation, I consider the economic impacts of degraded water quality are likely to be consistent with those experienced globally. I note that the information on the benefits and costs for the Essential Freshwater package contains New Zealand specific information on the costs of poor water quality, however without any specific requests to include this document as a reference, I recommend rejecting the submission¹⁴².
107. Several submitters request amendments to the types of industries and sectors affected by water pollution, by including reference to human health, the primary sector and food production. I do not consider that it is necessary to expand on the list included in the Economic Impact Statement on the basis that the list is non-exhaustive by referring to "and many other sectors that depend on clean water". I do not recommend accepting these submissions.¹⁴³
108. Toitū Te Whenua seeks amendments that provide greater consideration of the economic benefits of certain activities affecting water quality.¹⁴⁴ In my view, such amendments would pre-empt the outcome of any regional plan review process to implement the NPS-FM and Te Mana o Te Wai, and strays into the resolution of the issue. I do not recommend this submission is accepted.

¹³⁸ 00237.012 Beef + Lamb and DINZ

¹³⁹ 00237.012 Beef + Lamb and DINZ

¹⁴⁰ 00236.027 Horticulture NZ

¹⁴¹ 00235.045 OWRUG

¹⁴² Federated Farmers (not captured on SODR)

¹⁴³ 00235.046 OWRUG, 00236.027 Horticulture NZ; 00239.025 Federated Farmers

¹⁴⁴ 00101.018 Toitū Te Whenua

Social

109. Several submitters on the Social Impact Statement request amendments to include reference to the other social aspects of rural communities affected by water quality, including food production and human health. I consider these points of detail and clarification are suitable amendments, and recommend these submissions are accepted in part.¹⁴⁵
110. I do not recommend accepting the submission from Federated Farmers¹⁴⁶ requesting to amend the text to state that water quality in many parts of the region is ‘very high’ compared to the rest of the nation. In my view, this statement detracts from the issue that water quality is declining and subject to cumulative degradation. Additionally, this section deals with Otago’s significant resource management issues and should not be subject to comparisons regarding a wide variety of other regional contexts, situations and factors.
111. I recommend the submission from Ngāi Tahu ki Murihiku is accepted, on the basis that it provides a more appropriate reference to the cultural impacts associated with poor water quality.¹⁴⁷

General

112. Regarding the submissions from Trojan¹⁴⁸ and Wayfare¹⁴⁹, I disagree that the SRMR-I6 heading requires an editorial amendment to refer to the “natural environment”. The impact of poor water quality extends to the broader environment, as captured by the RMA definition of the *environment*, and I therefore recommend these submissions are rejected.
113. The submission from Yellow-eyed Penguin Trust¹⁵⁰ requests that SRMR-I6 includes reference to the impacts of declining water quality on the coastal and marine environments. I agree with the submitter that including this reference would be a better reflection of the concept of ki uta ki tai, however it is unclear from the submission what specific amendments would be required. Without further clarification from the submitter, I do not recommend accepting the submission point.
114. Horticulture NZ seeks amendments to link the impact snapshot to the FMU vision statements whereby innovative and sustainable land and water management practices support food production and improve resilience to the effects of climate change. I note the FMU Visions are driven solely by the NPSFM and considered community driven aspirations for specific rohe. It does not add value to cross reference the FMU visions in the SRMR section that deals with the description of significant regional issues. I do not think it is suitable to make the requested amendments on the basis that the Visions are

¹⁴⁵ Horticulture NZ (not captured on SODR); 00235.047 OWRUG

¹⁴⁶ 00239.025 Federated Farmers

¹⁴⁷ 00223.045 Ngāi Tahu ki Murihiku

¹⁴⁸ 00206.085 Trojan

¹⁴⁹ 00411.110 Wayfare

¹⁵⁰ 00120.017 Yellow – eyed Penguin Trust

a solution to the existing issues and therefore do not recommend accepting this submission point.

Recommendation

115. I recommend the following amendments:

a. Amend the first sentence of the Statement as follows:

While the pristine areas of Otago generally maintain very¹⁵¹ good *water* quality...

b. In the Context:

i. Amend the second paragraph as follows:

Water quality affects a wide range of environmental health factors, human health and¹⁵² survival needs, and cultural, social, recreational, and economic uses. Some of the biggest adverse¹⁵³ impacts on *water* quality...

ii. Amend the third paragraph as follows:

On 3 September 2020, a new National Environmental Standards (NESF) and a new National Policy Statement¹⁵⁴ (NPSFM)¹⁵⁵ came into force to improve *water* quality within five years; and reverse past damage degradation¹⁵⁶ and bring New Zealand's *freshwater* resources, waterways and ecosystems to a healthy state within a generation.

c. In the Environmental Impact Snapshot:

i. Amend the first paragraph as follows:

Despite the region's *lakes* and *rivers* being highly valued by Otago communities, reports indicate that in some areas¹⁵⁷ there are reasons for concern about *water* quality...

ii. Amend paragraphs 7 and 8 as follows:

Activities such as agricultural land use intensification,¹⁵⁸ mining, and forestry also contribute.

¹⁵¹ 00206.086 Trojan, 00411.111 Wayfare

¹⁵² 00235.044 OWRUG

¹⁵³ 00411.112 Wayfare

¹⁵⁴ Clause 16(2), Schedule 1, RMA

¹⁵⁵ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

¹⁵⁶ 00239.025 Federated Farmers

¹⁵⁷ 00235.045 OWRUG

¹⁵⁸ 00020.004 Rayonier; 00235.045 OWRUG

Agricultural land use intensification¹⁵⁹ also contributes to nutrients (nitrogen and phosphorus) leaching into underlying *groundwater* or running off into surface *water bodies*, and agricultural intensification¹⁶⁰ can also increase the risk of *E.coli* contamination from animal waste.

- d. Amend the last paragraph of Social Impact Snapshot as follows:

...culminates in ~~less diminishing of rakatirataka and mana.~~¹⁶¹

3.2. Draft supplementary evidence

New issue statement recognising the ways in which people interact with the environment

Recommendation to be amended

7. One of the key issues identified in Fish and Game's submission is the need to recognise human interaction with waterbodies¹⁶². It notes that people engage with the environment in different ways, and that when the environment is healthy and well, people can contribute to their health and well-being needs by connecting with the environment.
8. Fish and Game submitted that the SRMR chapter does not discuss the way in which people in Otago interact with the environment for recreation, or otherwise value its amenity values, and gain wellbeing from it. It seeks an additional significant resource management issue, discussing the ways in which people interact with the environment in Otago for recreation and amenity¹⁶³.
9. In my section 42A report I did not recommend the addition of a new issue statement recognising the ways in which people interact with their environment¹⁶⁴. In my opinion this is not a significant resource management issue in its own right. However, after considering the Fish and Game submission further, and with the benefit of direct discussion on this request, I recommend amendments to SRMR-I5 and SRMR-I6 to respond to this submission point.

Explanation

¹⁵⁹ 00235.045 OWRUG

¹⁶⁰ Consequential amendment from 00235.045 OWRUG

¹⁶¹ 00223.045 Te Ao Marama

¹⁶² 00231.006 Fish and Game

¹⁶³ 00231.022 Fish and Game

¹⁶⁴ Paragraphs 550 – 551 of my Section 42A report.

10. I agree with Fish and Game that how people interact with the environment is linked to well-being, and that connection with the environment is not limited to recreational use. I have reconsidered SRMR-I5 and SRMR-I6 which deal with freshwater quantity and quality issues. I consider that the social impact snapshots for these issues could be expanded to acknowledge all of the ways people interact with freshwater bodies, and the impact of these interactions on well-being.

Recommended amendments

11. I recommend the following amendments to SRMR-I5:

Amend the Social impact snapshot as follows:

Ensuring appropriate *freshwater* supply for human use is ~~available~~ essential, including as part of planned urban growth ~~is essential~~. It is possible this may require consideration of additional *freshwater* storage in the future. The region's *freshwater* assets also support ~~a range of recreation uses, for example camping, fishing, water sports, and swimming. These values are strongly linked to~~ environmental, human health and well-being, landscape and aesthetic¹⁶⁵ values, ~~and as such, r~~Reduced environmental flows have a corresponding negative impact on social and cultural values, and people's wellbeing.¹⁶⁶

12. I recommend the following amendments to SRMR-I6:

- b. Amend the first paragraph of the Social impact snapshot as follows:

~~For the wider community, water is a source of kai and of recreation including swimming, fishing and water sports.~~¹⁶⁷ Otago's *rivers, lakes*, estuaries and bays are important destinations for recreational use including swimming, fishing and water sports. Eighty-two per cent of Otago's *rivers* and *lakes* are swimmable. Water is also a source of kai.¹⁶⁸ Where *water* quality cannot support these activities, the health and wellbeing lifestyle of those living in Otago and their interaction with water¹⁶⁹ is impacted.

¹⁶⁵ 00231.022 Fish and Game

¹⁶⁶ 00231.022 Fish and Game

¹⁶⁷ 00231.022 Fish and Game

¹⁶⁸ 00231.022 Fish and Game

¹⁶⁹ 00231.022 Fish and Game

4. SRMR-I9

4.1. Previous section 42A report content

4.1.1. SRMR-I9 – Otago lakes are subject to pressures from tourism and population growth

4.1.1.1. Introduction

116. SRMR-I9 considers the importance of Lakes Wānaka, Wakatipu, Hāwea and Dunstan and how activities can degrade the environment that underpins their attractiveness.

4.1.1.2. Submissions

117. 13 submissions were received on SRMR-I9, including one from Beef + Lamb and DINZ seeking it be retained as notified.¹⁷⁰ The remaining submissions seek a broad range of amendments across the whole of SRMR-I9 and are summarised below.

Statement

118. Wayfare seeks the following amendment to the second sentence of the Statement to provide improved clarification:

This influx brings economic benefit through urban growth and tourism opportunities, but ~~the activities and services created to take advantage of it~~ can degrade the natural environment and undermine the experience that underpins their attractiveness.¹⁷¹

Context

119. Wayfare also seeks the following wording amendments to the first paragraph of the Context for clarification:

Healthy lakes are one of Otago's most valued natural resources and for the most part *water* quality is very good. ~~The~~ Values assigned to *lakes* include the natural features and natural landscapes, the quality and quantity of *water* accessible to the Otago communities, the accessibility of these resources for recreation and transport, the health of native flora and fauna associated with Otago's *rivers* and *lakes*, and renewable energy production.¹⁷²

Environmental

120. Trojan¹⁷³ and Wayfare¹⁷⁴ consider statements regarding 'tourism demand' are unsubstantiated and seek deletion of the term while inserting reference to tourism 'development' which they believe improves clarification and interpretation.

¹⁷⁰ 00237.014 Beef + Lamb and DINZ

¹⁷¹ 00411.119 Wayfare

¹⁷² 00411.120 Wayfare

¹⁷³ 00206.088 Trojan

¹⁷⁴ 00411.121 Wayfare

121. Contact raises concern that the adverse impacts of energy production on environmental values, such as natural features and landscapes have been highlighted within the notified text but the positive effects of such a resource have not been acknowledged. They seek the following text amendments at the end of the last paragraph:

Natural features and landscape values ~~are also~~ can be adversely impacted by tourism and urban growth, and energy production.

A number of hydroelectric power schemes are located within the Otago Region. Some of these have directly influenced the surrounding environment in which they operate. These assets are significant to the region in providing renewable electricity generation, contributing to economic development and also attracting visitors to the area.¹⁷⁵

Economic

122. Trojan¹⁷⁶ and Wayfare¹⁷⁷ again raise concern that the statements within the text are unfounded and seek amendments which delete the following text in the second paragraph due to the lack of evidence:

...

For example, the clean green image of New Zealand, of which the Otago Lakes area is symbolic, is at *risk* of being compromised ~~because of over – crowding if the quality of lakes becomes degraded or visitor numbers exceed the servicing capacity of the district. in peak tourism seasons. This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry’s social licence to operate. At the same time tourism can negatively impact on how agriculture can operate, potentially limiting its contribution to the regional economy.~~¹⁷⁸

Social

123. Trojan¹⁷⁹ and Wayfare¹⁸⁰ seek minor amendments to the text to improve clarification and better recognise the implications of tourism and population growth on outdoor recreation.

General

124. Wayfare seeks to amend the heading of SRMR-19 to clarify that only ‘Central’ Otago lakes are subject to pressures from tourism and population growth”¹⁸¹

¹⁷⁵ 00318.004 Contact

¹⁷⁶ 00206.089 Trojan

¹⁷⁷ 00411.122 Wayfare

¹⁷⁸ 00206.089 Trojan, 00411.122 Wayfare

¹⁷⁹ 00206.090 Trojan

¹⁸⁰ 00411.123 Wayfare

¹⁸¹ 00411.118 Wayfare

125. John Highton considers that a number of activities impact Otago's lakes, including hydroelectricity generation, camping and motorboating and seeks amendments to recognise and manage these.¹⁸²
126. OWRUG recognises SRMR-I9 acknowledges the potential impact tourism can have on 'agriculture' but considers the term may not capture all types of primary production activity and is inconsistently used throughout the pORPS.¹⁸³ To improve certainty they seek to replace references to 'agriculture' with 'primary production'.

4.1.1.3. Analysis

Statement

127. I do not consider the amendment sought by Wayfare further clarifies the issues statement beyond the notified version. Based on this, I recommend no changes to the statement.

Context

128. In general, I do not consider the amendment sought by Wayfare further clarifies the context of the issue beyond the notified version. However, I consider the reference to 'transport' in the final sentence of the context section is a useful addition as the use of lakes for transport is a likely contributor to pressures on Otago's lakes as a result of tourism and population growth.

Environmental

129. I do not consider the relief sought by Wayfare and Trojan to remove reference to 'tourism demand' is appropriate. Tourism demand, increased population and urban development are contributors to adverse impacts on the water quality of Otago's lakes and I consider this is adequately captured in the issues statement as notified. I do not recommend any changes to this subsection of the issues statement based on the submissions from Wayfare and Trojan.
130. With respect to the relief sought by Contact, I consider hydroelectric power schemes are already acknowledged in a more general sense by reference to 'energy production' and such activities resulting in effects on natural features and landscape values of Otago lakes. Based on this this, I do not recommend adopting the more specific relief proffered by Contact.

Economic

131. I consider the relief sought by Trojan and Wayfare in part provides some additional clarity to the economic impact snapshot. In particular, I consider replacing 'because of overcrowding in peak tourism seasons' with 'if the quality of lakes become degraded or visitor numbers exceed the servicing capacity of the district' results in a more generalised statement which I consider to be more appropriate for an issues statement. I do not recommend the additional relief sought by Trojan and Wayfare to delete the remaining

¹⁸² 00014.010 John Highton

¹⁸³ 00235.051 OWRUG

text in the impact snapshot. I consider the text that is sought to be deleted clarifies the economic components of the issue and should be retained.

Social

132. In my view the minor amendments in part sought by both Trojan and Wayfare are helpful additions to the social impact snapshot. I consider the inclusion of ‘poorly managed activities’ in addition to ‘over-crowding impacts’ in the first sentence assists with describing the issues for lakes with more clarity. I have recommended this change and associated grammatical changes to accommodate this change accordingly. I do not consider the additions to the second portion of the first sentence, or the final sentence provide any additional value beyond the notified version and I have not recommended the adoption of these changes.

General

133. I do not recommend the relief sought by Wayfare to amend the heading of SRMR-I9 to limit its application to only ‘Central’ Otago lakes. While the examples provided in SRMR-I9 are mostly related to lakes located within Central Otago, the issue is intended to apply to other lakes within the Region and the effect of the proposed change would limit the breadth of the issue. Based on this, I recommend no changes.

134. I consider the relief sought by John Highton is already provided within the issue, and I have not recommended any further changes to accommodate the relief sought.

135. I consider the relief sought by OWRUG to replace the term ‘agriculture’ with ‘primary production’ is appropriate and will clarify the types of activities intended to be captured given the term is defined in the pORPS. I recommend that all references to the term ‘agriculture’ in SRMR-I9 are replaced with ‘primary production’.

4.1.1.4. Recommendation

136. I recommend the following amendments:

a. Amend the final sentence in the first paragraph of the Context as follows:

Healthy *lakes* are one of Otago’s most valued natural resources and for the most part *water* quality is good. The values assigned to *lakes* include the natural features and landscapes, the quality and quantity of *water* accessible to the Otago communities, the accessibility of these resources for recreation and transport,¹⁸⁴ the health of native flora and fauna associated with Otago’s *rivers* and *lakes*, and renewable energy production.

b. In the Economic impact snapshot:

i. Replace the term ‘agriculture’ in the first sentence of the first paragraph and the third sentence of the second paragraph with ‘primary production’,

ii. Amend the first sentence of the second paragraph in the as follows:

For example, the clean green image of New Zealand, of which the Otago Lakes area is symbolic, is at *risk* of being compromised ~~because~~

¹⁸⁴ 00411.120 Wayfare

~~of over-crowding if the quality of lakes becomes degraded or visitor numbers exceed the servicing capacity of the district because of overcrowding in peak tourism seasons.~~¹⁸⁵

c. Amend the first sentence in the Social impact snapshot as follows:

Poorly managed activities and over-crowding impacts can adversely affect recreation experiences of both tourists and residents,¹⁸⁶

4.1.2. RMIA-WAI-I1 – The loss and degradation of water resources through, drainage, abstraction, pollution, and damming has resulted in material and cultural deprivation for Kāi Tahu ki Otago

4.1.2.1. Submissions

137. Kāi Tahu ki Otago supports the issue as notified.¹⁸⁷

138. Federated Farmers seeks deletion, stating that it is unclear what material and cultural deprivation has occurred and how this has not been addressed through other RPS provisions.¹⁸⁸

139. Note a submission from Oceana Gold has been incorrectly logged in the SODR against RMIA-WAI-I1.¹⁸⁹ It relates to RMIA-WTA-I1 and will be assessed in the relevant section.

4.1.2.2. Analysis

140. The accompanying text in the issue adequately explains the material and cultural deprivation experienced. Whether or not it is stated elsewhere is irrelevant, as it forms a part of Kāi Tahu's concerns about fresh water. I therefore recommend declining Federated Farmers submission.

141. I recommend accepting Kāi Tahu ki Otago's supporting submission.

4.1.2.3. Recommendation

142. I do not recommend any amendments.

4.2. Draft supplementary evidence

¹⁸⁵ 00206.089 Trojan, 00411.122 Wayfare

¹⁸⁶ 00206.090 Trojan, 00411.123 Wayfare

¹⁸⁷ 00226.060 Kāi Tahu ki Otago

¹⁸⁸ 00239.029 Federated Farmers

¹⁸⁹ 00115.008 Oceana Gold

5. RMIA-WAI-I3

5.1. Previous section 42A report content

5.1.1. RMIA-WAI-I3 – The effects of land and water use activities on freshwater habitats have resulted in adverse effects on the diversity and abundance of mahika kai resources and harvesting activity.

5.1.1.1. Submissions

143. Two submitters support this issue.¹⁹⁰

144. Ngāi Tahu ki Murihiku seeks the following change to the third to last sentence in the explanatory text, on the basis that rakatirataka cannot be lost in the way described. In addition, the word “loss” implies something is gone, and this cannot happen to mana:

“[...] It represents a significant loss for mana whenua and a diminishing of rakatirataka and of mana. [...]”¹⁹¹

145. Wayfare seeks amendments to the explanatory text by adding “overfishing” and “pollution” as issues or reasons for loss of access.¹⁹²

5.1.1.2. Analysis

146. Ngāi Tahu ki Murihiku’s submission clarifies proper understanding of Te Reo terms and Kāi Tahu concepts and more clearly expresses the scale of loss. I consider these changes make the issue clearer and recommend accepting this submission.

147. Regarding Wayfare’s submission, I do not know whether overfishing is a particular issue in Otago’s freshwater environments, though I am open to including it if information to this effect is produced through the hearings process and is supported by mana whenua. I consider pollution is captured in the existing wording “reduced water quality” in the explanatory text. I recommend declining this submission.

148. I recommend accepting in part all submissions supporting this provision, in respect of those parts that remain as notified.

5.1.1.3. Recommendation

149. I recommend amending the provision as follows:

- a. In the third to last sentence of the explanatory text:
 - i. add “significant” before “loss”
 - ii. Replace “~~of rakatirataka and~~” with “for mana whenua and a diminishing”

¹⁹⁰ 00014.015 John Highton; 00226.062 Kāi Tahu ki Otago

¹⁹¹ 00223.049 Ngāi Tahu ki Murihiku

¹⁹² 00411.131 Wayfare

6. LF-WAI-O1

6.1. Previous section 42A report content

6.1.1. LF-WAI-O1 – Te Mana o te Wai

6.1.1.1. Introduction

150. As notified, LF-WAI-O1 reads:

LF-WAI-O1 – Te Mana o te Wai

The mauri of Otago's *water bodies* and their health and well-being is protected, and restored where it is *degraded*, and the management of *land* and *water* recognises and reflects that:

- (1) *water* is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,
- (2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,
- (3) each *water body* has a unique whakapapa and characteristics,
- (4) *water* and *land* have a connectedness that supports and perpetuates life, and
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their *kaitiakitaka* duty of care and attention over wai and all the life it supports.

6.1.1.2. Submissions

151. There are fifteen submissions on LF-WAI-O1. Six submitters seek it be retained as notified.¹⁹³ The remaining submitters seek a range of general and specific amendments to the objective.

152. OWRUG and Federated Farmers have concerns that the focus on mauri in the objective is incorrect, does not accurately reflect the requirements of the NPSFM and is difficult to assess in practice. These submitters seek different amendments (respectively):

- Delete the chapeau in its entirety and replace it with:¹⁹⁴

The health and wellbeing of Otago's water bodies is protected, and improved where is it [sic] degraded, and the management of the land and water recognises and reflects that:

¹⁹³ 00230.073 Forest and Bird, 00138.046 QLDC, 00409.002 Ballance, 00407.029 Greenpeace and 1259 supporters, 00014.039 John Highton, 00139.080 DCC.

¹⁹⁴ 00235.077 OWRUG

(1) Protecting the health of water protects the wider environment and the mauri of water; ...

- Amend the chapeau as follows:¹⁹⁵

The mauri of Otago’s significant and highly-valued natural resources are identified and protected, or enhanced where water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that restores the balance between water, the wider environment, and the community, by recognising that: ...

153. OWRUG considers that the chapeau of the objective is not a faithful articulation of the fundamental concept of Te Mana o te Wai as set out in the NPSFM, which recognises that protecting the health of freshwater protects the health and wellbeing of the wider environment and protects the mauri of the water – a “water-centric” concept. OWRUG considers that mauri is an inappropriate measure for the achievement of LF-WAI-O1 because of the difficulties in assessing it. The submitter also states that the term “restore” is not used in the same way as it is used in the NPSFM and creates uncertainties regarding the point in time restoration must ‘go back to’.
154. Trojan and Wayfare seek that the direction in the chapeau to “protect” mauri should be replaced with “maintain”, to ensure consistency with LF-FW-P7.¹⁹⁶
155. Ngāi Tahu ki Murihiku, Te Rūnanga o Ngāi Tahu, and Ngāi Tahu ki Murihiku seek to include reference to coastal waters in clause (4) to ensure that connectedness to coastal waters is clearly recognised in the objective.¹⁹⁷ As a consequential amendment, Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu also seek to change “water” to “freshwater” at the start of clause (4) so the relationship between freshwater, land, and coastal water is clear.¹⁹⁸
156. Waitaki Irrigators seek to delete the reference to rakatirataka in clause (5) on the basis that it is not defined and is not required to be implemented through any national planning instruments.¹⁹⁹
157. Fish and Game considers that the way people connect with water bodies should be recognised and provided for in the pORPS and seeks the addition of a new clause as follows:²⁰⁰

(6) people are enabled to use, enjoy and connect meaningfully with water bodies to further their amenity and well being, including through recreation and harvesting food.

¹⁹⁵ 00239.069 Federated Farmers

¹⁹⁶ 00206.027 Trojan, 00411.039 Wayfare

¹⁹⁷ 00223.079 Ngāi Tahu ki Murihiku, 00234.024 Te Rūnanga o Ngāi Tahu, 00226.158 Kāi Tahu ki Otago

¹⁹⁸ 00226.158 Kāi Tahu ki Otago, 00234.024 Te Rūnanga o Ngāi Tahu

¹⁹⁹ 00213.007 Waitaki Irrigators

²⁰⁰ 00231.045 Fish and Game

6.1.1.3. Analysis

158. I consider there are two main consequences of Federated Farmers' proposed amendments to the chapeau of LF-WAI-O1 that would result in the provision not giving effect to the NPSFM. Firstly, the amendments would restrict the application of Te Mana o te Wai to only "significant and highly-valued natural resources". That is not consistent with the objective of the NPSFM which is to "ensure that natural and physical resources are managed in a way that..." [my emphasis added]. There is no significance test in the objective of the NPSFM that would narrow its application to only significant or highly-valued natural resources and it is clear that the management of physical resources is also a component of giving effect to Te Mana o te Wai.
159. Secondly, while I accept that clause 1.3 of the NPSFM refers to "restoring and preserving the balance between the water, the wider environment, and the community", it uses this phrasing to describe the outcome of Te Mana o te Wai. In my view, that is more holistic than identifying and protecting or enhancing significant and highly-valued natural resources. For these reasons, I do not agree with the amendments proposed by Federated Farmers.
160. I agree with OWRUG's interpretation of the "water-centric" nature of Te Mana o te Wai and note that clause 1.3(1) of the NPSFM states:
- "Te Mana o te Wai is a concept 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. It protects the mauri of the wai."*
161. I understand mauri to be a broader concept than just health and well-being, although clearly that is a considerable part. The Kāi Tahu ki Otago IMP states that:
- "The primary management principle for Māori is the protection of mauri or life-giving essence of an ecosystem from desecration." (section 3.2, p.27).*
162. Given the fundamental importance of water to Kāi Tahu culture, and that mauri is the primary management principle, I do not consider that the amendments sought by OWRUG capture the intent of this objective appropriately. I do not recommend accepting this submission point. For the same reasons, I do not agree with the amendments sought by Trojan and Wayfare to refer to "maintaining" mauri rather than "protecting." It is evidence from the NPSFM that one of the outcomes of Te Mana o te Wai is to protect mauri.
163. I agree that the term "restore" is used in the NPSFM in a different context to LF-WAI-O1 and that Policy 5 uses the term "improved" in a comparable way to this objective. As a result, I agree with OWRUG's proposed amendments.
164. Te Rūnanga o Ngāi Tahu, Ngā Rūnanga and Kāi Tahu ki Otago seek to replace the reference to "water" in clause (4) with "freshwater" and to include specific reference to "coastal waters". The definition of "water" from the RMA includes fresh water and coastal water, so while I consider that the amendments sought are not technically necessary, I appreciate that the amendments sought would clarify that the clause is

referring to both fresh and coastal waters without needing to refer to the definition of “water”. I therefore recommend accepting the amendments sought.

165. Fish and Game seeks to include a new clause (6) focused on enabling people to use, enjoy and connect meaningfully with water bodies. They consider that it is important for the pORPS to recognise the ability for people to interact with water bodies in a meaningful way and highlight in their submission that when the environment is healthy, people are able to contribute to their health and well-being needs by connecting with the environment. Fish and Game also state that if the environment is unhealthy, these opportunities diminish and many water bodies in Otago now fail to provide for those opportunities that are valued by New Zealanders.

166. Water plays a significant role in Kāi Tahu spiritual beliefs and cultural traditions. Kāi Tahu have an obligation through whakapapa to protect wai and all the life it supports. LF-WAI-O1 describes the fundamental principles that contribute to this relationship, and in doing so, describes how Te Mana o te Wai will be given effect to through the management of land and water. I am not convinced that a new clause providing for use of water bodies by people accurately reflects the tenor and intent of the objective, however I agree with the points made by Fish and Game that the health of the environment, including fresh water, affects the health and well-being of people and communities and their ability to connect with water. I recommend accepting this submission in part and aligning the wording more closely with the principles set out in clause 1.3 of the NPSFM so that the objective retains its overall intent and does not stray into the outcomes of managing freshwater.

6.1.1.4. Recommendation

167. I recommend the following amendments to LF-WAI-O1:

LF-WAI-O1 – Te Mana o te Wai

The mauri of Otago’s *water bodies* and their health and well-being is protected, and ~~restored~~ improved²⁰¹ where it is *degraded*, and the management of *land* and *water* recognises and reflects that:

- (1) *water* is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,
- (2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,
- (3) each *water body* has a unique whakapapa and characteristics,

⁴⁷ In matters of mana, the associated spiritual and cultural responsibilities connect natural resources and mana whenua in a kinship relationship that is reciprocal and stems from the time of creation.

²⁰¹ 00235.077 OWRUG

- (4) *fresh water*, ~~and~~ land and coastal water²⁰² have a connectedness that supports and perpetuates life, ~~and~~
- (4A) protecting the health and well-being of water protects the wider environment and the mauri of water,²⁰³
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports- ~~and~~
- (6) all people and communities have a responsibility to exercise stewardship, care, and respect in the management of *fresh water*.²⁰⁴

6.2. Draft supplementary evidence

- 1 In paragraph 107 of my section 42A report I recommended accepting the submission by OWRUG which seeks, in part, to replace the term “restore” with “improve” in LF-WAI-O1.²⁰⁵ At that time, I considered this was more consistent with the direction in Policy 5 of the NPSFM which uses the term “improved”. The provision as I recommended it to be amended is set out in paragraph 111 of my section 42A report.
- 2 OWRUG seeks to delete the chapeau in its entirety and replace it with alternative wording that did not include reference to mauri.²⁰⁶ The submitter considers that the chapeau as notified is inconsistent with the concept of Te Mana o te Wai as described in the NPSFM, which recognises that protecting the health of freshwater protects the health and wellbeing of the wider environment and protects the mauri of the water – a “water-centric” concept. The submitter also states that use of the term “restore” in the chapeau is inconsistent with the way it is used in the NPSFM, thereby creating uncertainty about a particular point in time that restoration must ‘go back to’.
- 3 As pointed out by some parties during pre-hearing meetings, the term “improved” relates to the mauri of Otago’s water bodies as well as their health and well-being. While in relation to the latter, “improved” is more consistently

²⁰² 00223.079 Ngāi Tahu ki Murihiku, 00234.024 Te Rūnanga o Ngāi Tahu, 00226.158 Kāi Tahu ki Otago, 00226.158 Kāi Tahu ki Otago

²⁰³ 00235.077 OWRUG

²⁰⁴ 00231.045 Fish and Game

²⁰⁵ 00235.077 OWRUG

²⁰⁶ 00235.077 OWRUG

used in the NPSFM, in relation to mauri Schedule 1A of the NPSFM describes the compulsory value for mahinga kai as including that “the mauri of the place is intact.”

- 4 The Kāi Tahu ki Otago Natural Resources Management Plan 2005 describes mauri as follows:²⁰⁷

Mauri is imbued in all things and is a special power derived from the Supreme Being. At birth the two parts of body and wairua are joined together as one by the mauri. On death the mauri is no longer able to bind these elements together and the physical and spiritual parts are separated. The forest, waters, the life supported by them, together with natural phenomena such as the mist, wind and rocks, possess a mauri or life force. The primary management principle for Māori is the protection of mauri or life-giving essence of an ecosystem from desecration.

- 5 The Statutory Acknowledgement for the Waitaki River illustrates the concept described above:²⁰⁸

The mauri of the Waitaki River represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life. All elements of the natural environment possess a life force, and all forms of life are related. Mauri is a critical element of the spiritual relationship of Ngāi Tahu whānui with the river.

- 6 Having reconsidered the original submissions on this provision, I now consider that amending the provision to require “improving” mauri is not appropriate. My understanding is that mauri is a concept with a spiritual element that is either present or not. As such, I recommend the following amendment:

LF-WAI-01 – Te Mana o te Wai

The mauri of Otago’s *water bodies* and their health and well-being is protected, and restored improved⁺ where it is *degraded*, and the management of *land* and *water* recognises and reflects that:

...

²⁰⁷ Kāi Tahu ki Otago Natural Resources Management Plan 2005, section 3.2, p.27.

²⁰⁸ Kāi Tahu ki Otago Natural Resources Management Plan 2005, Appendix 8, p.169.

Section 32AA evaluation

- 7 My recommendation to replace “restored” with “improved” was made through the section 42A report. Rescinding this recommendation returns the provision to its wording as notified, which was assessed in the Section 32 Evaluation Report. No further evaluation under section 32AA is therefore necessary.

NO LEGAL STATUS

7. LF-WAI-P1

7.1. Previous section 42A report content

7.1.1. LF-WAI-P1 – Prioritisation

7.1.1.1. Introduction

168. As notified, LF-WAI-P1 reads:

LF-WAI-P1 – Prioritisation

In all management of *fresh water* in Otago, prioritise:

- (1) first, the health and well-being of *water bodies* and *freshwater* ecosystems, *te hauora o te wai* and *te hauora o te taiao*, and the exercise of *mana whenua* to uphold these,²⁰⁹
- (2) second, the health and well-being needs of people, *te hauora o te tangata*; interacting with *water* through ingestion (such as *drinking water* and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

7.1.1.2. Submissions

169. There are 25 submissions on LF-WAI-P1. Eight submitters seek it be retained as notified.²¹⁰ The remaining submitters seek amendments, either general in nature or specific.

170. Some submitters either oppose the policy for the following reasons or have not stated their position but raise general concerns:

- the priorities do not weight correctly,²¹¹
- the policy is not holistic and contradicts *ki uta ki tai* and integrated management,²¹²
- the policy should be deleted and replaced with a comprehensive suite of policies that addresses how *Te Mana o te Wai* applies to waterbodies and freshwater ecosystems, including the activities captured by each priority level, and how tensions between those are resolved,²¹³

²⁰⁹ In matters of *mana*, the associated spiritual and cultural responsibilities connect natural resources and *mana whenua* in a kinship relationship that is reciprocal and stems from the time of creation.

²¹⁰ 00014.040 John Highton, 00022.015 Graymont, 00121.048 Ravensdown, 00226.159 Kāi Tahu ki Otago, 00234.025 Te Rūnanga o Ngāi Tahu, 00236.056 Horticulture NZ, 00407.030 Greenpeace and 1259 supporters, 00409.003 Ballance

²¹¹ 00126.031 Harbour Fish, Southern Fantastic and Fantastic Holdings

²¹² 00321.029 Te Waihanga

²¹³ 00322.016 Fulton Hogan

- the priorities should be removed and replaced with wording that accentuates the balance in managing freshwater.²¹⁴

171. The Minister for the Environment seeks that the chapeau be amended to refer to “all decision-making affecting freshwater” rather than “all management of fresh water”.²¹⁵

Priorities – general

172. DCC supports the policy but seeks clarification about how to apply the priorities where there is conflict between them.²¹⁶ QLDC supports the policy but seeks an additional policy on allocation and reallocation of water amongst the clause (3) matters.²¹⁷ No specific wording is provided. This is a common theme in submissions, with many submitters seeking clarity about the activities that are envisaged to be within the scope of either clause (2) or clause (3), or proposing amendments to either include or exclude specific activities from clause (2).

173. Several submitters seek changes to the wording to better reflect the NPSFM hierarchy of obligations in Te Mana o te Wai (Clause 1.3(5) of the NPSFM). These are generally in relation to the expression of each priority in the policy. In particular, Waitaki Irrigators seeks amendments to more closely align with the wording in Objective 1 of the NPSFM, particularly in LF-WAI-P1(1).²¹⁸

First priority

174. OWRUG seeks to remove references to te hauora o te wai and te hauora o te taiao from clause (1).²¹⁹ The submitter believes that the relationships between te hauora o te wai, te taiao and te takata have not been accurately expressed in clauses (1) or (2).

Second priority

175. Harbour Fish raises a general concern that there is no mention of commercial fishing in the term ‘harvesting resources’ in clause (2).²²⁰ Forest and Bird and Meridian seek amendments to specify that the term applies to resources harvested from the water body, in order to clarify that crops indirectly benefitting from the water body (for example, irrigated crops) are not within the scope of this provision.²²¹ Fish and Game seeks to replace the term “bathing” with “recreation” on the basis that bathing is a term rarely used in modern English.²²²

176. In conjunction with a similar change to clause (1), OWRUG seeks to remove reference to te hauora o te tangata from clause (2).²²³ They consider that clause (2) is an overly narrow

²¹⁴ 00101.026 Toitū Te Whenua

²¹⁵ 00136.003 Minister for the Environment

²¹⁶ 00139.081 DCC

²¹⁷ 00138.047 QLDC

²¹⁸ 00213.016 Waitaki Irrigators, 00239.070 Federated Farmers

²¹⁹ 00235.078 OWRUG

²²⁰ 00126.031 Harbour Fish

²²¹ 00230.074 Forest and Bird, 00306.031 Meridian

²²² 00231.046 Fish and Game

²²³ 00235.078 OWRUG

articulation of the second priority as set out in the NPSFM. They also seek to amend the clause to read “immersive activities, including harvesting resources...”

177. Silver Fern Farms and Meridian seek to delete the reference to well-being and immersive activities in clause (2), on the basis that clause (2) otherwise conflates recreational and economic need with health needs, which differs from the hierarchy of obligations.²²⁴

Lifeline utilities and hydroelectricity generation

178. There are conflicting views on how the policy should provide for lifeline utilities, including hydroelectricity generation. Meridian and Trustpower consider hydroelectricity generation should be explicitly provided for in clause (2) and therefore be a second priority under the hierarchy of obligations²²⁵. They consider that electricity is a lifeline utility and without it there would be few to no medical services available to meet the health needs of people.²²⁶ For clarity, and to ensure the provisions in the *EIT – Energy, infrastructure and transport* chapter are not misinterpreted, Forest and Bird seeks that hydroelectricity generation be included within (3), the third priority.²²⁷

Additional clauses

179. AWA seeks the addition of two further priorities:

(4) fourth, the activities in (3) that deliver the best outcomes for the environment and local communities, as determined through consultation with iwi, mana whenua and local communities.

(5) fifth, the taking and use of water for water export will be a prohibited activity.

180. The submitter considers that clause (4) will provide for additional prioritisation, to achieve better environmental and community outcomes and that (5) will prevent the unacceptable environmental and cultural consequences of exporting bottled water and irrigation consents being repurposed for this use.

7.1.1.3. Analysis

181. Harbour Fish and Te Waihanga raise general concerns with LF-WAI-P1 but have not sought specific relief. I do not share their concerns, primarily because the policy closely follows the objective of the NPSFM. Without further clarification from the submitters about the amendments required to resolve their concerns, I do not recommend that their submission is accepted. Toitū te Whenua seeks to remove the priorities and replace them with wording that accentuates the balance in managing freshwater. I do not consider this reflects the direction in the objective of the NPSFM, which clearly requires prioritising some matters above others in decision-making.

182. The amendment to the chapeau proposed by the Minister for the Environment would mean that LF-WAI-P1 applies to any type of decision-making affecting fresh water, rather

²²⁴ 00221.005 Silver Fern Farms, 00306.031 Meridian

²²⁵ 0306.031 Meridian, 00311.013 Trustpower

²²⁶ 00306.091 Meridian

²²⁷ 00230.074 Forest and Bird

than only within freshwater management. I recommend accepting this submission point and agree that the amendment proposed is better aligned with the objective of the NPSFM, which requires “ensur[ing] that natural and physical resources are managed in a way that prioritises...”

Priorities – general

183. There are a range of submissions on the priorities set out in LF-WAI-P1. The wording in the policy differs to the priorities listed in the objective of the NPSFM. Many submitters oppose that variation, and/or seek amendments to clarify which activities are provided for within each priority. The most contention is between clauses (2) and (3).
184. Fulton Hogan considers that the policy provides very little additional guidance to that provided by the objective of the NPSFM and highlight, in particular, uncertainty about how the hierarchy will interact with other provisions (including LF-WAI-P2(3) which seeks to provide for customary use). They also point out that drinking and community water supplies often provide water for a range of uses that may be captured by both the second and third priorities and that practical policy guidance is required to address this tension.
185. Fulton Hogan seeks the inclusion of a comprehensive suite of policies that address how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region, including the activities that sit under each priority level and how tensions between these activities are to be resolved. No specific wording has been proposed and the submitter notes that Part 3 of the NPSFM places responsibility for this task on regional councils. Alongside Fulton Hogan, DCC and QLDC also seek guidance on how to apply the priorities where there is conflict between them and guidance on allocation and reallocation of water amongst priority three matters. In a similar vein, AWA seeks the inclusion of a fourth priority to clarify how decisions should be made amongst priority (3) matters.
186. The question of whether additional guidance is warranted, and if so, what specific guidance would be appropriate, is a matter that would benefit from further evidence from parties. At this stage, I consider that there may be merit in providing additional guidance as sought by these submitters. In the absence of any suggested wording, I am unsure what type of guidance the submitters seek and do not consider there is enough evidence in the submissions to draft the type of guidance requested by the submitters. I am also unsure whether the pORPS is the appropriate place for this type of direction, or whether this more detailed type of direction in relation to particular types of activities is better addressed through the LWRP. At this stage, I recommend retaining the provisions as notified subject to evidence from submitters on this matter.
187. Waitaki Irrigators considers that “hauora” can be defined as meaning “health” and that te hauora o te taiao can be defined as the health of the environment as a whole, with te hauora o te wai (the health of the water) being nested within that concept. The submitter considers that including te hauora o te taiao in clause (1) of the policy may potentially be much broader than priority (1) from the NPSFM and seeks redrafting to mirror the hierarchy set out in the NPSFM. I agree that the wording of clause (1) as notified has the potential to be broadly interpreted (i.e. as requiring the prioritisation of the health and well-being of the wider environment, not only freshwater). I also agree with the

submitter that the NPSFM describes Te Mana o te Wai as “recognis[ing] that protecting the health of freshwater protects the health and well-being of the wider environment.”²²⁸

188. The relief sought by the submitter is to amend the priorities so that they match the hierarchy of obligations as set out in clause 1.3(5) of the NPSFM. I do not consider it is necessary to replicate the content of the NPSFM and would prefer instead to amend clause (1) to address the issue raised by the submitter. In my view, minor restructuring and amendment to clarify the role te hauora o te wai plays in te hauora o te taiao would retain the original intent of the provision and align with the amendments I have recommended to LF-WAI-O1, in particular the addition of new clause (4a). I note that Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago, and Ngāi Tahu ki Murihiku did not make a further submission on this point. I would appreciate hearing from those parties about whether I have appropriately understood and referred to the concepts of hauora.

First priority

189. OWRUG considers that the references to te hauora o te wai and te hauora o te taiao in clause (1) are attempting to recognise that protecting the health of water will protect the health of the wider environment as set out in clause 1.3(1) of the NPSFM, however it does not achieve this as it does not refer to te hauora o te takata. They seek to delete the references to ta hauora o te wai, te hauora o te taiao, and te hauora o te tangata in clauses (1) and (2) entirely.
190. For the same reasons as I have set out in relation to the submission by Waitaki Irrigators, I agree that clause (1) has not accurately reflected the relationship between te hauora o te wai and te hauora o te taiao articulated in the NPSFM. However, I consider that deleting all reference to hauora goes beyond addressing this issue and would remove reference to concepts that are important for expressing Kāi Tahu values and beliefs. I consider that my recommended amendments to clause (1) in response to Waitaki Irrigators addresses OWRUG’s concern with that clause. I have discussed OWRUG’s amendments to (2) separately below as they relate to other submission points on that clause.

Second priority

191. The second priority set out in LF-WAI-P1 differs from the equivalent priority set out in the NPSFM because it seeks to provide more clarity on what is considered a health need. It also goes beyond the NPSFM priority by referring to the well-being of people in addition to health needs. Many submitters seek amendments to this clause, including general requests for greater clarity and specific requests for particular types of activities to be clearly within (or without) the scope of the second priority.
192. As set out in the previous section, OWRUG seeks to delete the reference to te hauora o te tangata from priority (2) but retain the reference to “well-being” in addition to health needs. Conversely, Silver Fern Farms considers that including the well-being of people in (2) conflates priorities (2) and (3) and inappropriately limits te hauora o te tangata to circumstances where there is ingestion or immersion in water. They seek to delete “well-being” and move the reference to immersive activities to priority (3), narrowing the scope

²²⁸ Clause 1.3(1), NPSFM 2020

of priority (2) to ingestion only. Federated Farmers seeks similar amendments to align with the objective of the NPSFM and opposes any alteration that strays beyond what is provided for by the NPSFM.

193. In my view, priority (2) as stated in the objective of the NPSFM relates to the health needs of people as they relate to physical contact with water. The example used in the NPSFM is drinking water, which is also used in this policy. This policy expands on that direction to include immersive activities where people are engaging in activities in, on, or near water that may pose risks to human health. I note that the reference to drinking water in priority (2) in the NPSFM is not exclusive: it is preceded by “such as...” indicating that drinking water is one example but that there may be others.
194. In my opinion, a desire for safe human contact with water is supported by the inclusion of “human contact” as a compulsory value in Appendix 1A of the NPSFM and the national targets for primary contact, as well as the specific direction around identifying and monitoring primary contact sites (which are now defined as including a range of water--based activities, not only swimming as was the case in the NPSFM 2014, amended in 2017).²²⁹ I also note the importance of harvesting resources to mahika kai. I understand that for Kāi Tahu, it is not only the resources that are harvested that are important, but also the customary practices and tikaka involved in harvesting.
195. I agree with Silver Fern Farms that referring to well-being in clause (2) introduces uncertainty about whether the well-being of people is to be prioritised second or third in decision-making. I also agree that te hauora o te tangata is a more holistic concept than only the health and well-being implications arising from ingestion of or immersion in water. I therefore recommend accepting the amendments proposed by the submitter.
196. I recommend accepting OWRUG’s request to delete the term “te hauora te tangata” but for different reasons. I do not consider that it is an appropriate term to use in this context as it has a broader meaning than solely the health needs of people. As I understand their submission, OWRUG considers it is not appropriate to refer to te hauora o te wai and te hauora o te taiao without also referring to te hauora o te tangata. I note that the description of Te Mana o te Wai in clause 1.3(1) of the NPSFM recognises that protecting the health of fresh water protects the health and well-being of the wider environment. As the definition of “environment” in the RMA includes people and communities, I do not consider specific reference to people is necessary. Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago, and Ngāi Tahu ki Murihiku may wish to comment on this matter in their evidence.
197. OWRUG also seeks to delete the differentiation between ingestion and immersive activities in favour of one list of examples. I do not consider this improves the clarity of the provision and recommend retaining the notified structure. Harbour Fish raises a concern that there is no mention of commercial fishing in priority (2). That is deliberate – commercial uses of water (including fishing) are (appropriately, in my view) provided

²²⁹ The National Policy Statement for Freshwater Management 2014 made a distinction between primary and secondary contact sites. The term secondary contact related to Objective A1 which required the health of people and communities, at least as affected by secondary contact (eg, wading and boating), to be safeguarded. If a higher level of human health protection was desired (eg, for people swimming), then a more stringent freshwater objective could be assigned.

for in priority (3). Forest and Bird seeks amendments to clarify that the reference to “consuming harvested resources” is in relation to resources harvested from the water body, not resources benefitting from the body water (such as irrigated crops). I agree that this is the intended interpretation of priority (2) and consider that this is consistent with the submission of Kāi Tahu ki Otago seeking general amendments to ensure mahika kai is safe to harvest and consume. I recommend accepting the amendments as proposed by Forest and Bird.

198. Fish and Game seeks that priority (2) refer to “recreation” instead of “bathing.” They consider that while this term is wider, it is limited by the term “immersive activities” earlier in the clause. As discussed above, I consider it is appropriate for recreational activities where there is a direct risk to people’s health arising from contact with water to be considered within priority (2) but do not agree that “recreation” is the appropriate substitution for “bathing”. This is particularly because of the need to refer to the earlier qualifier (“immersive activities”) in order to understand the scope of the term. Given the importance of this policy in decision-making I consider any wording should be as clear as possible and reduce the opportunity for different interpretations.
199. Clause 3.8(3)(b) of the NPSFM requires primary contact sites to be identified within each FMU. Primary contact sites are defined as:
- ... a site identified by a regional council that it considers is regularly used, or would be regularly used but for existing freshwater quality, for recreational activities such as swimming, paddling, boating, or watersports, and particularly for activities where there is a high likelihood of water or water vapour being ingested or inhaled*
200. I consider “primary contact” would capture the same types of activities envisaged by Fish and Game but provides greater certainty and clarity for interpretation given that there is additional guidance provided in the NPSFM.
201. I am somewhat reluctant to include wording that indicates that recreation, on its own, is intended to be a priority (2) matter, which may be an interpretation of “primary contact”. To my mind, any activity that brings people into direct contact with water has an element of human health need and is therefore within the ambit of priority (2). For example, scientists who must be partly immersed in water in order to undertake environmental monitoring. I am satisfied that it is clear that these examples are not exclusive and that other ‘like’ activities, such as the example I have given, would also be captured by the provision as intended.
202. When considering priority (2), I have noticed that the grammar is somewhat unclear – in particular, the use of a semi-colon and the words that follow. I do not consider that it is sensible to “prioritise ... interacting with water”. I recommend replacing the semi-colon with a comma and “interacting” with “and their interactions”. I consider this is an amendment of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.

[Lifeline utilities and hydroelectricity generation](#)

203. There are different views amongst the submitters about whether lifeline utilities (including hydroelectricity generation) should be provided for in priority (2) or (3). Trustpower considers that the provision of lifeline utilities (including hydroelectricity

generation) is important in meeting the health and well-being needs of people and communities and therefore that they should be included in (2). Meridian also seeks to include specific reference to renewable electricity generation in (2). Conversely, Forest and Bird seeks to make explicit reference to lifeline utilities in (3).

204. As I have set out above, in my view LF-WAI-P1(2) encompasses the health needs of people as they arise from direct contact with water. I accept that lifeline utilities support the well-being of people and communities, but this does not arise as a result of direct contact with water. I consider there is a risk in expanding priority (2) beyond this threshold that many other activities would also make the same argument regarding their importance. There are many indirect uses of water that are important to the health and well-being of people and communities. Food production, for example, could be argued to fulfil a similar role to lifeline utilities in terms of its indirect (but important) contribution to health and well-being, but in my view it would not be appropriate to include this within priority (2).
205. While I agree with Forest and Bird that lifeline utilities should be included within priority (3), I do not consider that specific reference is necessary. It is evident, to my reading, that the provision of lifeline utilities is not an ingestion or immersive activity provided for in (2) and therefore the activity would fall within (3).
206. Trustpower considers that it is important that recognition is made of the role of lifeline utilities in meeting the health and well-being needs of people and communities. I agree that these utilities are important to people and communities and note that other submitters have sought greater direction regarding the consideration of matters within priority (3) but have not proposed wording at this stage. There may be opportunities to consider the provision of lifeline utilities as part of that discussion. Trustpower and Meridian may wish to comment on this matter in their evidence.

Additional clauses

207. AWA seeks the inclusion of two additional clauses. I have addressed their proposed clause (4) above in section 7.1.1.2 (Priorities – general) of this report.
208. Proposed clause (5) as sought by AWA would require regional plans to make the taking and use of water for export a prohibited activity. This type of restriction requires robust analysis under section 32 as well as broader considerations of the Council's functions under section 30, the purpose and principles of the RMA set out in Part 2, and the requirements for regional plans in sections 63, 65 and 67 of the RMA. I note in particular section 68 relating to regional rules which states that "[i]n making a rule, the regional council shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect."²³⁰ In my opinion, it would be inefficient for the pORPS to place requirements like this on a regional plan that have not been assessed against the relevant tests for those regional plans. For example, if the pORPS required prohibiting an activity in a regional plan, but the preparation of that regional plan determined that a prohibited activity could not meet the required legal tests, then then would be an incongruous outcome. I do not consider that sufficient information has been

²³⁰ Section 68(3), RMA

provided by the submitter to allow a full consideration of these requirements and therefore do not recommend including the clause sought by AWA.

7.1.1.4. Recommendation

209. I recommend the following amendments to LF-WAI-P1:

LF-WAI-P1 – Prioritisation

In all ~~management of~~ decision-making affecting²³¹ *fresh water* in Otago, prioritise:

- (1) first, the health and well-being of *water bodies, freshwater ecosystems,* and te hauora o te wai, and te hauora o te taiao, and as well as the exercise of *mana whenua* to uphold these⁴⁷ and provide for te hauora o te taiao,²³²
- (2) second, the health and well-being needs of people, te hauora o te tangata, ~~interacting~~ and their interactions²³³ with *water* through ingestion (such as *drinking water* and consuming ~~harvested~~ resources harvested from the water body²³⁴) and immersive activities (such as harvesting resources and ~~bathing primary contact~~²³⁵), and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

7.2. Draft supplementary evidence

8 This section of my evidence relates to sub-clauses (1) and (2) of this policy only which read, as recommended in my section 42A report:

LF-WAI-P1 – Prioritisation

In all ~~management of~~ decision-making affecting²³⁶ *fresh water* in Otago, prioritise:

- (1) first, the health and well-being of *water bodies, freshwater ecosystems,* and te hauora o te wai, and te hauora o te taiao, and as well as the exercise of *mana whenua* to uphold these⁴⁷ and provide for te hauora o te taiao,²³⁷

²³¹ 00136.003 Minister for the Environment

²³² 00213.016 Waitaki Irrigators

²³³ Clause 16(2), Schedule 1, RMA

²³⁴ 00230.074 Forest and Bird

²³⁵ 00231.046 Fish and Game

²³⁶ 00136.003 Minister for the Environment

²³⁷ 00213.016 Waitaki Irrigators

(2) second, the health and well-being needs of people, te hauora o te tangata, ~~interacting~~ and their interactions²³⁸ with *water* through ingestion (such as *drinking water* and consuming ~~harvested~~ resources harvested from the water body²³⁹) and immersive activities (such as harvesting resources and ~~bathing~~ primary contact²⁴⁰), and

...

- 9 There are several submissions on this policy seeking that amendments be made to the priorities to match the hierarchy of obligations in 1.3(5) of the NPSFM. OWRUG seeks to delete all references to hauora in sub-clauses (1) and (2).²⁴¹ Waitaki Irrigators state that the priorities need better alignment with the NPSFM, and that while hauora can be defined as 'health', te hauora o te taiao refers to the health of the whole environment, within which te hauora o te wai is encapsulated.²⁴² Therefore, the submitter proposes that sub-clause (1) as notified is much broader than the NPSFM.
- 10 I addressed these submissions in paragraphs 131 – 134 of my section 42A report where I recognised that sub-clause (1) does not accurately reflect the relationship between te hauora o te wai and te hauora o te taiao as articulated in the NPSFM. However, I considered that the proposed amendments sought by the submitters were unnecessary; the submission by OWRUG to delete all references to hauora is an overcorrection, as hauora is an important concept for the expression of Kāi Tahu values and beliefs. I considered the amendments sought by Waitaki Irrigators to be an unnecessary replication of the content of the NPSFM, where minor restructuring and amendment to the provision would be effective in clarifying the roles of te hauora o te wai and te hauora o te taiao.
- 11 In paragraph 140 of my section 42A report I recommended accepting the submission point by OWRUG seeking to remove reference to “te hauora o te tangata” from sub-clause (2), however for different reasons than those given by the submitter.²⁴³ My reasoning was that the description of Te Mana o te Wai in clause 1.3(1) of the NPSFM recognises that protecting the health of freshwater also protects the health and well-

²³⁸ Clause 16(2), Schedule 1, RMA

²³⁹ 00230.074 Forest and Bird

²⁴⁰ 00231.046 Fish and Game

²⁴¹ 00235.078 OWRUG

²⁴² 00213.016 Waitaki Irrigators

²⁴³ 00235.078 OWRUG

being of the wider environment, and in the RMA the term “environment” includes people and communities. Therefore, the specific inclusion of “te hauora o te tangata” may not be necessary. The relief sought by OWRUG is opposed by a further submission by Te Rūnanga o Ngāi Tahu (FS00234.153).

- 12 There was a discrepancy between my analysis at paragraph 140 of my section 42A report and the recommended amendments shown in the pORPS, at paragraph 153, which did not show a strike out of the term “te hauora o te tangata.” I have addressed this in the errata attached as **Appendix 1** to this evidence.
- 13 In paragraph 140 of my section 42A report, I invited Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku to comment on my interpretation and assessment of hauora in the context of this policy.
- 14 In paragraph 146, I considered an amendment for sub-clause (2) of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA, and recommended changes for grammatical purposes. This involved changing “interacting” to “and their interactions with”. The provision as I recommended it to be amended is set out in paragraph 153 of my section 42A report.
- 15 As a result of the pre-hearing discussions, I now have a better understanding of the relationship between te hauora o te wai, ta hauora o te taiao, and te hauora o te tangata. In sub-clause (1), I consider it is important to recognise that te hauora o te wai is connected to te hauora o te taiao. This is consistent with the description of Te Mana o te Wai in clause 1.3(1) of the NPSFM (my emphasis added):

Te Mana o te Wai is a concept 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.

- 16 I consider that my section 42A recommendation did not accurately reflect this relationship and I now propose further amendments to address this. I consider my revised amendments provide clarity around the interconnectedness between te wai and te taiao within the provision, while recognising the exercise of mana whenua to uphold these connections.²⁴⁴

²⁴⁴ “Mana whenua” is defined in the pORPS as meaning both the customary authority exercised by an iwi or hapu in an identified area as well as the people who hold that customary authority.

- 17 Similarly, following pre-hearing discussions, I understand that te hauora o te tangata forms part of the relationship with and between te hauora o te wai and te hauora o te taiao. This is also described in clause 1.3(1) of the NPSFM:

Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

- 18 Although the discrepancy between my analysis at paragraph 140 of my section 42A report and the recommended amendments shown in the pORPS, at paragraph 153, is addressed in the errata in **Appendix 1**, for the avoidance of doubt I no longer consider it is appropriate to delete reference to te hauora o te tangata from sub-clause (2). I therefore no longer support the recommendation I made in paragraph 140 and instead prefer the version of the provision shown in the s42A version of the pORPS.

- 19 In paragraph 146 of my section 42A report, I recommended a minor amendment to change “interacting” to “and their interactions” in sub-clause (2). I now recognise that I was misreading that clause – the purpose of the notified drafting was to refer to the health and well-being needs of people interacting with water. In my view, it is the placement of “te hauora o te tangata” which causes some difficulty with the interpretation of this clause. To clarify, I now recommend rescinding my section 42A amendments and instead replacing the commas around te hauora o te tangata with brackets. The pORPS has adopted the Kāi Tahu spelling of te reo terms and therefore I also recommend replacing “tangata” with “takata”.

- 20 I recommend the following amendments:

LF-WAI-P1 – Prioritisation

In all ~~management of~~ decision-making affecting²⁴⁵ *fresh water* in Otago, prioritise:

- (1) first, the health and well-being of *water bodies, freshwater ecosystems,* and te hauora o te wai, ~~and~~ the connections with te hauora o te taiao, ~~and~~ as well as the exercise of *mana whenua* to uphold these²⁴⁶ ~~and provide for~~ te hauora o te taiao,²⁴⁷

²⁴⁵ 00136.003 Minister for the Environment

²⁴⁶ In matters of mana, the associated spiritual and cultural responsibilities connect natural resources and mana whenua in a kinship relationship that is reciprocal and stems from the time of creation.

²⁴⁷ 00213.016 Waitaki Irrigators

- (2) second, the health and well-being needs of people; (te hauora o te takata tangata); interacting and their interactions²⁴⁸ with water through ingestion (such as *drinking water* and consuming harvested resources harvested from the water body²⁴⁹) and immersive activities (such as harvesting resources and bathing primary contact²⁵⁰), and

...

Section 32AA evaluation

- 21 In sub-clause (1), my updated recommendations clarify the relationship between te hauora o te wai and ta hauora o te taiao. In comparison to the notified version of this sub-clause, which was assessed through the Section 32 Evaluation Report, the only change is the inclusion of “the connections with”. In my opinion, this does not alter the substance of the sub-clause but does improve its expression. I do not consider that further evaluation is required under section 32AA.
- 22 In sub-clause (2), two of my updated recommendations are to replace commas with brackets and to amend the spelling of “tangata” to adopt the Kāi Tahu dialect (“takata”). In my opinion, these are amendments of minor effect that do not alter the substance of the provision and therefore do not require assessment under section 32AA.
- 23 The other part of my updated recommendation is to rescind “and their interactions” and return to the notified “interacting”. This wording was assessed in the Section 32 Evaluation Report and no further evaluation under section 32AA is therefore necessary.

²⁴⁸ Clause 16(2), Schedule 1, RMA

²⁴⁹ 00230.074 Forest and Bird

²⁵⁰ 00231.046 Fish and Game

8. LF-WAI-PR1

8.1. Previous section 42A report content

8.1.1. LF-WAI-PR1 – Principal reasons

8.1.1.1. Introduction

210. As notified, LF-WAI-PR1 reads:

LF–WAI–PR1 – Principal reasons

In accordance with the NPSFM, councils are required to implement a framework for managing *freshwater* that gives effect to *Te Mana o te Wai*. This places the mauri (life-force) of the *water* at the forefront of decision making, recognising te hauora o te wai (the health of the *water*) is the first priority, and supports te hauora o te taiao (the health of the environment) and te hauora o te takata (the health of the people). It is only after the health of the *water* is sustained that water can be used for economic purposes. Giving effect to *Te Mana o te Wai* requires actively involving takata whenua in freshwater planning and management.

The NZCPS also recognises the interconnectedness of *land* and *water*. It notes inland activities can have a significant impact on *coastal water* quality which, in many areas around New Zealand, is in decline. This is a consequence of point and diffuse sources of contamination which can have environmental, social, cultural and economic implications. For example, poor *water* quality adversely effects aquatic life and opportunities for mahika kai gathering and recreational uses such as swimming and kayaking.

8.1.1.2. Submissions

211. Four submitters seek amendments to the principal reasons. OWRUG seeks a range of amendments to reflect that Te Mana o te Wai is to be considered as a whole, not as a strict prioritisation.²⁵¹ Toitū te Whenua seeks that a land management example be included in the final paragraph, and provides an example of unregulated or controlled erosion at the top of catchments.²⁵²

212. Kāi Tahu ki Otago seeks two minor changes: including a missing “that” in paragraph one and amending “takata whenua” to “mana whenua”.²⁵³

²⁵¹ 00235.083 OWRUG

²⁵² 00101.029 Toitū Te Whenua

²⁵³ 00226.166 Kāi Tahu ki Otago

8.1.1.3. Analysis

213. I do not agree with OWRUG's interpretation of Te Mana o te Wai and do not recommend adopting the amendments they seek. In my view, it is clear that the NPSFM does expect a hierarchy of obligations to be followed in decision-making.
214. I consider there may be merit in making the amendment sought by Toitū te Whenua, however the submitter has not provided any specific changes so I am unsure which part of the paragraph they are referring to. In the absence of specific relief sought, I recommend retaining the notified wording. The submitter may wish to clarify the amendment sought in their evidence.
215. I believe the minor amendments sought by Kāi Tahu ki Otago would correct the reference to mana whenua and fix a typographical error.

8.1.1.4. Recommendation

216. I recommend amending LF-WAI-PR1 as:

LF-WAI-PR1 – Principal reasons

In accordance with the NPSFM, councils are required to implement a framework for managing *freshwater* that gives effect to *Te Mana o te Wai*. This places the mauri (life-force) of the *water* at the forefront of decision-making, recognising that²⁵⁴ te hauora o te wai (the health of the *water*) is the first priority, and supports te hauora o te taiao (the health of the environment) and te hauora o te takata (the health of the people). It is only after the health of the *water* is sustained that water can be used for economic purposes. Giving effect to *Te Mana o te Wai* requires actively involving ~~takata~~ mana²⁵⁵ whenua in *freshwater* planning and management.

The NZCPS also recognises the interconnectedness of *land* and *water*. It notes inland activities can have a significant impact on *coastal water* quality which, in many areas around New Zealand, is in decline. This is a consequence of point and diffuse sources of contamination which can have environmental, social, cultural and economic implications. For example, poor *water* quality adversely effects aquatic life and opportunities for ~~mahika kai~~ mahika kai²⁵⁶ gathering and recreational uses such as swimming and kayaking.

8.2. Draft supplementary evidence

No supplementary evidence prepared.

²⁵⁴ 00226.166 Kāi Tahu ki Otago

²⁵⁵ 00226.166 Kāi Tahu ki Otago

²⁵⁶ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

9. LF-WAI-AER2

9.1. Previous section 42A report content

9.1.1. LF-WAI-AER2

9.1.1.1. Introduction

217. As notified, LF-WAI-AER2 reads:

LF-WAI-AER2 The mauri of Otago's *water bodies* and their health and well-being is protected.

9.1.1.2. Submissions

218. Four submitters seek amendments to LF-WAI-AER2. OWRUG seeks to remove the reference to mauri as a consequential amendment resulting from other changes sought to remove the term mauri from policies in the LF-WAI sub-section.²⁵⁷

219. As with LF-WAI-AER1, Ngāi Tahu ki Murihiku seeks to change the order of AER1 and AER2. They also seek to amend AER2 to include restoration of degraded water bodies.²⁵⁸ Similarly, Forest and Bird also seeks to include restoration.²⁵⁹ The reason for this is to reflect the requirements set out in the policies.

220. Harbour Fish seeks to include reference to communities' social, economic, and cultural well-being but has not proposed specific wording.²⁶⁰

9.1.1.3. Analysis

221. Without specific wording, I am unsure what amendments are sought by Harbour Fish and do not recommend any changes.

222. I understand OWRUG's previous points regarding mauri to have been focused on accurately describing the relationship between protecting the health and well-being of water and protecting mauri, rather than opposition to the concept as a whole. I agree that the wording of this AER does have a subtle difference to the way the concept of mauri is expressed earlier in this sub-section, particularly through the changes I have recommended (in response to OWRUG's submission) on LF-WAI-O1. Rather than deleting the term mauri from the AER, I consider similar amendments to those in LF-WAI-O1 would more accurately reflect the relationship between the health and well-being of water bodies and their mauri.

223. I agree with Ngāi Tahu ki Murihiku and Forest and Bird that it is appropriate to include reference to restoration given the direction set out in the policies in this sub-section. I

²⁵⁷ 00235.084 OWRUG

²⁵⁸ 00223.084 Ngāi Tahu ki Murihiku

²⁵⁹ 00230.077 Forest and Bird

²⁶⁰ 00126.035 Harbour Fish

prefer the wording proposed by Ngāi Tahu ki Murihiku which aligns more closely with the amendments I have recommended to the relevant policies to clarify when restoration is required. I note that the specific relief sought by Ngāi Tahu ki Murihiku includes reference to “benefitting people, kā takata katoa”. The amendments I have recommended in response to OWRUG’s submission include reference to the health and well-being of people, which I consider has a similar outcome to the wording proposed by Ngāi Tahu ki Murihiku.

9.1.1.4. Recommendation

224. I recommend move LF-WAI-AER2 so it sits above LF-WAI AER1. I also recommend the following amendments to LF-WAI-AER2:

LF-WAI-AER2 ~~The mauri of Otago’s water bodies and their health and well-being is protected.~~ The mauri and the health and well-being of the environment and people is protected because the health and well-being of Otago’s water bodies and their ecosystems are protected and, where degraded, restored.²⁶¹

9.2. Draft supplementary evidence

No supplementary evidence prepared.

²⁶¹ 00223.084 Ngāi Tahu ki Murihiku, 00230.077 Forest and Bird, 00235.084 OWRUG

10. LF-VM-O2

10.1. Previous section 42A report content

10.1.1. LF-VM-O2 – Clutha Mata-au FMU vision

10.1.1.1. Introduction

225. This objective is a long-term vision for freshwater as required by clause 3.3 of the NPSFM. The Clutha Mata-au FMU has five sub-units called rohe: Upper Lakes, Dunstan, Manuherehia, Roxburgh, and Lower Clutha. The vision is structured as follows:

- Clauses (1) to (6) apply to the whole FMU,
- Clause (7) contains additional requirements for each of the rohe within the FMU, and
- Clause (8) outlines the timeframes for achieving the vision in each rohe.

226. As notified, LF-VM-O2 reads:

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

- (1) management of the FMU recognises that:
 - (a) the Clutha Mata-au is a single connected system ki uta ki tai, and
 - (b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,
- (2) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,
- (4) *water bodies* support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,
- (5) indigenous species migrate easily and as naturally as possible along and within the *river* system,
- (6) the national significance of the Clutha hydro-electricity generation scheme is recognised,
- (7) in addition to (1) to (6) above:
 - (a) in the Upper Lakes rohe, the high quality *waters* of the *lakes* and their tributaries are protected, recognising the significance of the purity of these *waters* to Kāi Tahu and to the wider community,
 - (b) in the Dunstan, Manuherehia and Roxburgh rohe:

- (i) flows in *water bodies* sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and
 - (ii) innovative and sustainable *land* and *water* management practices support food production in the area and reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and
 - (iii) sustainable abstraction occurs from main stems or *groundwater* in preference to tributaries,
- (c) in the Lower Clutha rohe:
- (i) there is no further modification of the shape and behaviour of the *water bodies* and opportunities to restore the natural form and function of *water bodies* are promoted wherever possible,
 - (ii) the ecosystem connections between *freshwater*, *wetlands* and the coastal environment are preserved and, wherever possible, restored,
 - (iii) *land* management practices reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and
 - (iv) there are no direct *discharges* of *wastewater* to *water bodies*, and
- (8) the outcomes sought in (7) are to be achieved within the following timeframes:
- (a) by 2030 in the Upper Lakes rohe,
 - (b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and
 - (c) by 2050 in the Manuherehia rohe.

10.1.1.2. Submissions

227. There are approximately 50 submissions on this provision, the most of any provision in the *LF – Land and freshwater* chapter. Three submitters support LF-VM-O2 and seek it be retained as notified.²⁶² The remaining submissions range from more general or high-level amendments to the provision through to specific amendments to clauses.

General

228. Ngāi Tahu ki Murihiku and Kāi Tahu ki Otago have raised concerns about the objective setting visions for both the FMU and the rohe. In particular, Ngāi Tahu ki Murihiku

²⁶² 00318.056 Contact, 00240.018 NZ Pork, 00321.031 Te Waihanga

considers that the division of the FMU into five rohe may undermine the provisions in the LF-WAI section and the achievement of ki uta ki tai.²⁶³ The submitter has proposed:²⁶⁴

- Amendments to the objective so that it provides an overarching vision for Clutha Mata-au,
- Amendments to avoid unnecessary duplication between the overarching vision for the FMU as a whole and the visions for the five rohe within it to make it clear where distinct rohe outcomes are sought, and
- Amending the objective so that it is consistent with 'region-wide' visions proposed elsewhere by submitters.

229. Kāi Tahu ki Otago seeks substantial changes to the objective, primarily by bringing many of the rohe-specific requirements up to the 'whole of FMU' level: clauses (7)(b)(i), (7)(c)(ii) and (iv) as notified and (7)(b)(ii) and (iii) and (7)(c)(iii) with additional amendments.²⁶⁵ This leaves only two rohe-specific requirements in the objective: (7)(a) and (7)(c)(i) with amendments to include the Upper Lakes rohe.

230. The Minister for the Environment seeks amendments to include a clear vision of a future state where over-allocation is addressed through the phasing out of existing over-allocation and the avoidance of future over-allocation.²⁶⁶ Waka Kotahi seeks that the objective cross-reference other chapters of the RPS that provide for modification of water bodies as a result of infrastructure works or a new provision that recognises this requirement.²⁶⁷

231. Horticulture NZ supports the vision and objective but seeks that food production and related elements of food supply and food security are included as a Significant Resource Management Issue for the region.

232. DCC submits that the vision does not recognise sediment processes currently being obstructed by large dams, and seeks that the vision be amended to include material about mitigation of those processes.²⁶⁸

Clauses (1) to (6): All of Clutha Mata-au

233. Ngāi Tahu ki Murihiku highlights that the reference to Tāwhiremātea in clause (1)(b) is missing the correct macrons.²⁶⁹ No submissions were made on clause (2). Toitū te Whenua seeks to amend clause (3) to include reference to finding new connections being supported. The submitter considers this is necessary to recognise the loss of connection between Kāi Tahu and wāhi tūpuna due to Kāi Tahu being unable to access large parts of the region.

²⁶³ 00223.085a Ngāi Tahu ki Murihiku

²⁶⁴ 00223.085a Ngāi Tahu ki Murihiku

²⁶⁵ 00226.168 Kāi Tahu ki Otago

²⁶⁶ 00136.004 Minister for the Environment

²⁶⁷ 00305.020 Waka Kotahi

²⁶⁸ 00139.085 DCC

²⁶⁹ 00223.085a Ngāi Tahu ki Murihiku

234. In relation to clause (4), concerns were raised by Toitū te Whenua that ORC is unrealistically committing to providing Kāi Tahu access to all mahika kai in the FMU and that the clause should be amended to reflect that ORC will support Kāi Tahu whanui in accessing mahika kai.²⁷⁰ The submitter requests that consideration be given by ORC to supporting Kāi Tahu in building relationships with private landowners whose properties contain significant sites.²⁷¹
235. In relation to clause (5), Moutere Station seeks amendments to only require the management of indigenous species migration pathways where this is required to complete their lifecycle, on the basis that not all indigenous species need to migrate and the movement of other non-indigenous species could have a detrimental effect on the indigenous species sought to be protected, such as the Central Otago roundhead galaxias.²⁷²
236. Similarly, Contact seeks amendments to (5) so that the effective migration of indigenous species is maintained or, where practicable, improved.²⁷³ The submitter considers that the clause as notified fails to reflect the reality that the dams on the Clutha Mata-au have significantly altered the natural form and function of parts of the awa, including interfering with the natural migration of native fish species. Contact considers mitigation measures such as trap and transfer to assist with fish passage is not “natural”.
237. Conversely, John Highton seeks amendments to clause (5) to provide for the migration of valued introduced species, such as salmon, as well as native species.²⁷⁴
238. In relation to clause (6), John Highton seeks amendments to recognise that hydro-electricity generation causes significant environmental degradation and the inclusion of a provision with tighter regulations to manage those effects.²⁷⁵
239. DOC seeks two new clauses be included in this part of the objective:²⁷⁶
- (x) healthy wetlands are restored in the upper and lower catchment wetland complexes, including Lake Tuakitoto
 - (y) land and water management practices improve resilience to the effects of flooding and climate change
240. The first is sought for consistency with the approach taken to wetlands in other FMUs and identifies the significant values of Lake Tuakitoto which warrant specific recognition in the same way as the Waipori/Waihola wetland in LF-VM-O4. The second is sought on

²⁷⁰ 00101.031 Toitū Te Whenua

²⁷¹ 00101.031 Toitū Te Whenua

²⁷² 00026.004 Moutere Station

²⁷³ 00318.011 Contact

²⁷⁴ 00014.044 John Highton

²⁷⁵ 00014.045 John Highton

²⁷⁶ 00137.064 DOC

the basis that the objective as notified fails to recognise the significant issues with flooding and climate change in the catchment.²⁷⁷

New clauses: All of Clutha Mata-au

241. A number of submitters seek to include additional clauses into the part of the objective applying to the whole Clutha Mata-au FMU.

242. OWRUG seeks the addition of a new clause to reflect the importance of the food and fibre sector with the FMU:²⁷⁸

(x) water is allocated to the food and fibre sector support sustainable production and the sectors contribution to social and economic wellbeing of the community.

243. For similar reasons to OWRUG, Federated Farmers also seeks an additional clause:

(x) food production and activities associated with the primary sector are recognised as having an important role in the FMU,

244. Trojan and Wayfare seek the addition of a new clause to provide for human well-being through thriving outdoor recreation opportunities, including access to waterbodies and use of water for outdoor recreation activities.²⁷⁹

245. Kāi Tahu ki Otago seeks to move a number of the rohe-specific requirements from clause (7) up to the earlier clauses applying to the whole FMU.²⁸⁰

(5a) the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,

(5b) flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and

(5c) food production in the area is supported by innovative and sustainable land and water management practices that reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and mahika kai species are safe for consumption, and

(5d) sustainable abstraction occurs from lakes, river main stems or groundwater in preference to tributaries,

(5e) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and mahika kai species are safe for consumption, and

(5f) there are no direct discharges of wastewater to water bodies, and

²⁷⁷ 00137.064 DOC

²⁷⁸ 00235.087 OWRUG

²⁷⁹ 00206.028 Trojan, 00411.040 Wayfare

²⁸⁰ 00226.168 Kāi Tahu ki Otago

246. The reason for moving these clauses is to reflect the intent of managing the Mata-au as a single system by ensuring that visions that are appropriate for the whole FMU are applied at that level and only necessary distinctions are made between rohe.

Clause (7) in general and (7)(a): Upper Lakes

247. John Highton seeks that clause 7 be amended to emphasise the need for reducing contaminants and discharges from land management practices, as specified in clause 7(c)(iii).²⁸¹ It is not clear which part of clause (7) the submitter is referring to.

248. Waterfall Park seeks that clause 7(a) be amended to require, in addition to protection, that water quality is improved if degraded.²⁸² They provide the example of Lake Hayes as a degraded lake and consider that improvement of degraded water bodies should be promoted through the objective. For similar reasons, Wise Response also seeks to require restoration in addition to protection in clause (7)(a).²⁸³

Clause (7)(b): Dunstan, Manuherekia and Roxburgh rohe

249. There were many submissions on this part of the objective. In relation to (7)(b) as a whole, Toitū te Whenua raises concerns about the ability to meet expectations for Lake Dunstan, due to the challenges experienced in this area but does not seek specific relief.²⁸⁴

250. In relation to clause (7)(b)(i), Manuherekia Catchment Group considers that the provision lacks the detail required to be able to determine if it is suitable for the FMU.²⁸⁵ The submitter also considers that Kāi Tahu values and practices that are to be supported need to be stated in this vision statement.²⁸⁶ Lauder Creek Farming seeks clarification on what “natural form and function” is.²⁸⁷

251. Wise Response seeks a number of amendments to clause (7)(b)(i) to improve clarity and remove what are considered to be loopholes:²⁸⁸

- Replacing “flows” with “environmental flow regimes”,
- Deleting “wherever possible”, and
- Including “in accordance with Te Mana o te Wai” at the end of the clause.

252. There were several submissions received on clause 7(b)(ii) with submitters seeking a range of amendments:

- Beef + Lamb and DINZ seek amendments to only require the reduction of discharges of nutrients and other contaminants to water bodies “where necessary to ensure” that they are safe for human contact,²⁸⁹

²⁸¹ 00014.046 John Highton

²⁸² 00023.004 Waterfall Park

²⁸³ 00509.072 Wise Response

²⁸⁴ 00101.032 Toitū Te Whenua

²⁸⁵ 00116.001 Manuherekia Catchment Group

²⁸⁶ 00116.001 Manuherekia Catchment Group

²⁸⁷ 00406.007 Lauder Creek Farming

²⁸⁸ 00509.072 Wise Response

²⁸⁹ 00237.026 Beef + Lamb and DINZ

- Moutere Station, OWRUG, Federated Farmers, McArthur Ridge Vineyard, and Strath Clyde Water seek to replace “food production” with either “food and fibre production” (Moutere Station and OWRUG), “food and fibre sector” (OWRUG), “primary production” (Federated Farmers) or “food and wine production” (McArthur Ridge and Strath Clyde Water and others),²⁹⁰
- Manuherekia Catchment Group seeks to delete the term “innovative” and replace “food production” with “innovative land use”,²⁹¹
- COES and Lynne Stewart seek to delete (7)(b)(ii) and insert a new clause as follows:²⁹²

the ecological function of all water bodies is protected and restored where degraded supported by innovation and sustainable land and water management practices which reduce discharges of nutrients and other contaminants to water bodies so they are safe for human contact

253. Several submissions were received on clause 7(b)(iii):

- Lauder Creek Farming seeks its deletion,²⁹³
- OWRUG and Federated Farmers seek that it be amended to refer to sustainable abstraction consistent with NOF values,²⁹⁴
- Moutere Station seeks that it be amended to note that abstraction from the specified water body types in preference to tributaries only occurs where practicable, to ensure that sustainable abstraction from tributaries can continue,²⁹⁵
- COES considers it is not clear what is to be sustained and seeks that the clause as notified be deleted and replaced with “abstraction within the ecological capacity of the water bodies occurs from the main stems or groundwater in preference to tributaries”,²⁹⁶
- Manuherekia Catchment Group seeks that it be deleted.²⁹⁷ The submitter considers that the vision should not dictate a preference of abstraction, given that as long as the waterbody at the site of abstraction is looked after, then the fact that it is a tributary is irrelevant. They also note that many abstraction locations have multiple reasons for their selection, including being near the site of water use, only source available to the property, and the use of gravity for delivery.

254. COES and Lynne Stewart seek two additional matters be added to clause 7(b):²⁹⁸

²⁹⁰ 00026.005 Moutere Station, 00235.087 OWRUG, 00239.077 Federated Farmers, 00403.005 McArthur Ridge Vineyard and 00404.005 Strath Clyde Water *et al.*, respectively.

²⁹¹ 00116.002 Manuherekia Catchment Group

²⁹² 00202.016 COES, 00030.012 Lynne Stewart

²⁹³ 00406.007 Lauder Creek Farming

²⁹⁴ 00235.087 OWRUG, 00239.077 Federated Farmers

²⁹⁵ 00026.006 Moutere Station

²⁹⁶ 00202.016 COES

²⁹⁷ 00116.003 Manuherekia Catchment Group

²⁹⁸ 00202.018 COES, 00030.013 Lynne Stewart

(iv) creative ecological approaches to reducing didymo

(v) no direct discharges of waste water to water bodies

255. The submitters consider that didymo is a threat to the ecological health of the Dunstan Creek and Manuherekia and needs to be actively managed, including by allowing periodic flushing. They also consider there is no reason why direct discharges of wastewater should be acceptable in this rohe.

256. OWRUG seeks one more matter be added to clause 7(b):²⁹⁹

(iv) the role of water storage is recognised as being fundamental to the food and fibre sector, and an essential part of meeting the vision as set out in (1) to (7) above.

257. The submitter considers this reflects the importance of irrigation and water storage which enable food production while also supporting sustainable land and water management practices.

Clause 7(c): Lower Clutha rohe

258. Many submitters seek amendments to the clauses in (c).

259. Some submitters seek that clause 7(c)(ii) be amended to replace “preserved” with “protected” and replace “wherever possible” to “where possible.”³⁰⁰ Wise Response seeks to delete “wherever possible” from (i) and (ii) to remove loopholes.³⁰¹

260. Several submitters seek changes to clause 7(c)(iii):

- Beef + Lamb and DINZ seek that it be amended to only require the reduction of nutrient and contaminant discharges “where necessary to ensure” they are safe for human contact,³⁰²
- Ravensdown seeks that the reference to land management practices is deleted, and replaced with “innovative and sustainable land and water management practices support food production in the area”,³⁰³
- Silver Fern Farms seeks that the clause is amended to focus on ensuring “downstream primary contact sites” are safe for human contact, rather than all water bodies. The submitter notes that clause 3.8(3)(b) of the NPSFM requires that primary contact sites, if any, must be identified within each FMU and that Appendix 3 of the NPSFM seeks that at least 80% of specified rivers and lakes are suitable for primary contact by 2030, and 90% by 2040,³⁰⁴ and
- Wise Response seeks amendments to require a reduction in inputs from land uses as well as discharges.³⁰⁵

²⁹⁹ 00235.087 OWRUG

³⁰⁰ 00235.087 OWRUG, 00239.077 Federated Farmers

³⁰¹ 00509.072 Wise Response

³⁰² 00237.026 Beef + Lamb and DINZ

³⁰³ 00121.051 Ravensdown

³⁰⁴ 00221.007 Silver Fern Farms

³⁰⁵ 00509.072 Wise Response

261. Fonterra seeks to amend clause (7)(c)(iv) to refer to sewage rather than wastewater, and to include a new clause recognising that there may be some instances where there is no practicable alternative discharge regime outside direct discharge to water prior to 2045.³⁰⁶ I have addressed this submission point in section **Error! Reference source not found.** so will not repeat that discussion in this part of the report.

Clause (8): Timeframes

262. Several submitters seek changes to the timeframes in clause 8, including requests to both shorten and extend timeframes as follows:

- John Highton seeks to amend all rohe timeframes to 2030 on the basis that their achievement should not be put so far in the future that it is easy to postpone meaningful action,³⁰⁷
- The Minister for the Environment seeks to amend the timeframes, particularly for the Manuherekia, to provide interim steps to recognise that addressing over-allocation cannot be left until close to the ultimate deadline,³⁰⁸
- Kāi Tahu ki Otago, COES, Lynne Stewart and Evelyn M Skinner seek to shorten the timeframe for the Manuherekia rohe from 2050 to 2045³⁰⁹, 2033³¹⁰ or 2030³¹¹ (respectively),
- Federated Farmers seeks to extend the timeframe for the Dunstan, Roxburgh and Lower Clutha rohe from 2045 to 2050,³¹² and
- Wise Response seeks to shorten the timeframe for the Dunstan, Roxburgh and Lower Clutha rohe from 2045 to 2035.³¹³

263. Beef + Lamb and DINZ seek clarification of the timeframe for achieving the matters set out in clauses (1) to (6) and proposes that the timeframe, in absence of any other, is 2050.³¹⁴

264. Wise Response seeks reporting on all timeframes at 5 yearly intervals.³¹⁵

10.1.1.3. Analysis

General

265. Ngāi Tahu ki Murihiku and Kāi Tahu ki Otago seek amendments to ensure that the overarching vision for the Clutha Mata-au FMU is clear and that there are only rohe-specific clauses where distinct outcomes are sought. Ngāi Tahu ki Murihiku highlights the need to

³⁰⁶ 00233.035 Fonterra

³⁰⁷ 00014.047 John Highton

³⁰⁸ 00136.005 Minister for the Environment

³⁰⁹ 00226.168 Kāi Tahu ki Otago

³¹⁰ 00202.019 COES, 00030.014 Lynne Stewart

³¹¹ 00317.001 Evelyn Skinner

³¹² 00239.077 Federated Farmers

³¹³ 00509.072 Wise Response

³¹⁴ 00237.026 Beef + Lamb and DINZ

³¹⁵ 00509.072 Wise Response

take a ki uta ki kai approach to this FMU. I understand the points made by these submitters, and I note that there was only one further submission in opposition to the relief sought by these submitters.

266. Clause 3.3(3)(a) requires long-term visions to be developed through engagement with communities and tangata whenua about their long-term wishes for the water bodies and freshwater ecosystems in the region. The Council consulted with the public on freshwater visions in October and November 2020. There was no specific consultation on the Clutha Mata-au FMU as a whole – the approach to consultation was targeted at each rohe due to the differences in geography and communities of interest in each rohe. As a result, most of the feedback from that engagement was rohe-specific rather than over-arching.
267. It is clear from the consultation feedback and submissions from Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku that mana whenua view the Clutha Mata-au FMU as one continuous and interrelated system, ki uta ki tai. LF-VM-O2 synthesises the common themes raised across the Clutha Mata-au FMU (and particularly those raised by mana whenua) while recognising the differing aspirations expressed through the consultation process.
268. I agree with Ngāi Tahu ki Murihiku that the vision for the Clutha Mata-au should avoid unnecessary duplication and clarify where distinct outcomes are sought in the rohe. I also agree that it is important to take a ki uta ki tai approach, particularly because there is the potential for disconnection by having rohe within the FMU. I note that clause 3.2(2)(e) of the NPSFM states that in giving effect to Te Mana o te Wai, regional councils must adopt an integrated approach, ki uta ki tai, to the management of freshwater. Clause 3.5 then sets out in more detail that adopting an integrated approach, ki uta ki tai, requires local authorities to:
- Recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea, and
 - Recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments,
 - Manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.
269. For these reasons, I recommend accepting in part the submission by Kāi Tahu ki Otago. In addition to the reasons provided by the submitter, I consider that focusing the vision predominantly on the FMU will assist with developing the planning framework to follow. It is my understanding that rohe were established within the wider FMU to ensure that the Clutha Mata-au FMU was managed in an integrated way while providing each rohe the ability to determine what will be needed to achieve the outcomes sought for the FMU in a way that is more applicable to the rohe. In my opinion, an overarching vision for the FMU supports this approach by ensuring that all rohe are aiming at the same long-term outcome.

270. The ‘new’ clauses sought by Kāi Tahu ki Otago are in fact existing clauses³¹⁶ in the objectives that the submitter seeks to move from the rohe-specific parts of the objective to the ‘whole of FMU’ part. There are many other submissions on those clauses and I have recommended a range of amendments in response to those submissions. I also note that clauses (8) and (10) as proposed by Kāi Tahu ki Otago largely duplicate one another. I do not recommend accepting (8) for that reason.

Clauses (1) to (6): All of Clutha Mata-au

271. I recommend accepting the submission by Ngāi Tahu ki Murihiku to correct the spelling of Tāwhiremātea.
272. While not expressed in the same terms, I agree with Toitū te Whenua that there are historic issues with appropriate recognition of wāhi tūpuna and Kāi Tahu relationships with wāhi tūpuna.³¹⁷ I recommend accepting this submission point in part. For consistency with other provisions that seek to restore what has been lost, I consider the wording of clause 3 should instead be “sustained, and where degraded or lost, restored”.
273. Toitū te Whenua is concerned that clause (4) unrealistically commits to providing Kāi Tahu access to all mahika kai in the FMU and seeks to change the wording so that ORC supports Kāi Tahu whanui instead. I consider this is a misinterpretation of the role of an RPS objective. It is not ORC’s sole responsibility to achieve each objective, they are expected to be collectively achieved by the people of Otago, and primarily through resource management processes. Mahika kai is explained in the Kāi Tahu ki Otago Natural Resource Management Plan 2005 as follows:

“Our very distinctive and unique culture and lifestyle in the southern half of the South Island included permanent coastal settlements and seasonal migrations inland over often-vast distances to harvest and collect food and resources. The seasonal inland migrations were determined by whakapapa as to who could exercise those rights. This practice is referred to as “mahika kai” and became a corner-stone of our culture. Mahika kai is the basis of culture, and the unrelenting cultural imperative is to keep the mahika kai intact, to preserve its productivity and the diversity of species.

The term “mahika kai” literally means “food works”. It encompasses the ability to access the resource, the site where gathering occurs, the act of gathering and using resources, and ensuring the good health of the resource for future generations. This is enshrined in the Kāi Tahu proverbial saying and tribal motto - “Mo tatou, a mo ka uri I muri ake nei - for us and for the generation that come after us.” (Section 5.5.1, p.65)

274. Under section 6(e) of the RMA, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance that must be recognised and provided for. Additionally, mahinga kai

³¹⁶ Clauses (7)(b)(i), (ii) and (iii); (7)(c)(ii), (iii) and (iv).

³¹⁷ See section 5.6.2 (Cultural landscapes general issues), Kāi Tahu ki Otago Natural Resources Management Plan 2005 and sections 3.4.14, 3.5.21, and 3.6.2 of the Te Tangi a Tauira – The cry of the people: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008

is a compulsory value under the NPSFM and critical to the ability of Kāi Tahu to exercise kaitiakitaka as expressed in clause 1.3(4)(b) of the NPSFM. I acknowledge that there are difficulties with providing access to sites, including mahika kai sites, where they are located on private land. However, given the importance of mahika kai to Kāi Tahu and their relationship with their culture and traditions, I consider it is appropriate for the long-term vision to set an ambitious goal.

275. Moutere Station seeks amendments so that clause (5) only applies to indigenous species where required to complete their lifecycle. I am unsure what the submitter means by 'completing their lifestyle' and am concerned that this may constrain the clause in a way that was not intended. Moutere Station also raises concerns with the potential migration of exotic species and the effects that may have on indigenous species. I agree that is an issue in some parts of Otago, but note that the submitter does not seek any amendments to address this. I do not recommend accepting this submission.
276. Also in relation to clause (5), Contact seeks to replace "migrate easily and as naturally as possible" with "effective migration" and that this is "maintained or where practicable improved" on the basis that the clause does not reflect the physical realities of the Clutha Mata-au system, and particularly the dams. I agree that "trap and transfer" methods of fish passage are not "natural", but note that the clause requires migration be "as natural as possible" which recognises that there will be situations where natural solutions are not possible. On this basis, I do not recommend accepting this submission.
277. I have addressed a suite of submission points by Fish and Game regarding the habitats of trout and salmon in section 1.4.9 of *Report 1: Introduction and general themes*. In summary, in response to those submissions, I have recommended including provision for these habitats in LF-FW-P7 (which applies region-wide) and therefore do not consider the amendment by John Highton here is necessary.
278. John Highton seeks to amend clause (6) to include a provision with tighter regulations to manage the effects on the environment caused by hydro-electricity schemes. No specific wording is provided. This objective sets out a long-term vision for the Clutha Mata-au FMU and does not attempt to determine how those visions will be achieved (i.e. the particular management regimes). I consider clause (6) is an appropriate recognition of the national significance of the Clutha Mata-au hydro-electricity generation and assists with giving effect to the NPSREG. Regional plans will be the primary way that management regimes, including the management of the effects of particular activities, are established. I do not recommend accepting this submission.
279. DOC seeks to include two new clauses. The first relates to restoring healthy wetlands in the upper and lower catchment wetland complexes, including Lake Tuakitoto. I note that this is supported by the further submissions of Ngāi Tahu ki Murihiku and Beef + Lamb and DINZ, although the latter submitter notes that healthy wetlands do not need to be restored.³¹⁸ In their feedback on freshwater visions during the consultation period, Kāi Tahu ki Otago outlined the management changes needed to achieve their visions for freshwater, including reversing the loss of wetlands by restoration and increases in

³¹⁸ FS00223 Ngāi Tahu ki Murihiku, FS00237 Beef + Lamb and DINZ

area.³¹⁹ The wording DOC has proposed aligns with a comparable clause in the vision for the Taieri FMU (LF-VM-O4(3)), including, in particular, the reference to upper and low catchment wetland complexes. I understand the upper (Upper Taieri) and lower (Waipori/Waihola) wetland complexes are relatively distinct areas and their spatial extent generally understood. I do not consider this is the same in the Clutha Mata-au catchment, where there are individual wetlands in the upper and lower catchments but not complexes in the same way as the Taieri and certainly not in terms of extent.

280. In relation to flooding in the Clutha Mata-au FMU, Otago's *Climate change risk assessment* (Tonkin + Taylor, 2021, p. 23) states that:

"Communities located along western and central lakesides and river flood plains, such as Lakes Wakatipu and Wanaka and the Clutha River, could face an increase in risk from flood waters.

Historically, rainfall events have resulted in widespread flooding throughout the region such as events in Lower Clutha in 2020, Lower Taieri in 2017, Roxburgh in 2017 and South Dunedin in 2015 and led to evacuations, road closures, damage to infrastructure and associated power outages (Otago Daily Times, 2018; NZ Herald, 2020a; Stuff, 2017; NZ Herald, 2020b; Hughes et al., 2019). Similarly, Henley, located on the Taieri Flood Plain, is regularly isolated due to significant flood events (Otago Regional Council, 2015; Otago Daily Times, 2018)."

281. While I agree with DOC that the vision does not recognise flooding or climate change, and that flooding in particular (including as a result of climate change) is an issue in the area, it does not appear that this was raised by the community, Kāi Tahu ki Otago, or Ngāi Tahu ki Murihiku during consultation. For that reason, while I agree with the submitter's points, I do not recommend accepting this submission point.

New clauses: All of Clutha Mata-au

282. OWRUG seeks to include a new clause that would see water allocated to the food and fibre sector to support sustainable production and the sector's contribution to social and economic well-being of the community. I do not consider that this is consistent with Te Mana o te Wai, particularly because it does not recognise the hierarchy of obligations set out in the objective of the NPSFM. Additionally, I do not consider that a long-term vision for water should 'lock in' allocation for specific purposes for long durations. As such, I do not recommend accepting this submission point.

283. Federated Farmers seeks the inclusion of a similar clause to recognise the important role of food production and associated activities within the FMU. I do not consider recognising a particular industry to be a long-term vision "for freshwater" as per clause 3.3 and do not recommend accepting this submission point.

284. Trojan and Wayfare seek to include a new clause providing for human well-being through outdoor recreation opportunities. I have reviewed the feedback gathered through public consultation on the freshwater visions for the Clutha Mata-au rohe and note that recreational pursuits and opportunities were a common theme in each. There is also a

³¹⁹ Appendix 6 (p.4) of the Section 32 Evaluation Report for PORPS 2021.

Water Conservation Order on the Kawarau River, which begins at Whakatipu Waimāori / Lake Wakatipu and ends in Lake Dunstan, which protects scheduled waters, in part, for their natural and physical qualities and characteristics that contribute to (among other things) cultural and recreational attributes.³²⁰ The amendment is consistent with LF-WAI-P1(2), whereby primary contact is afforded second priority in decision-making.

285. I recommend accepting this submission in part. The dictionary definition of “thriving” is “characterised by success or prosperity”.³²¹ Although I understand the general intent of what the submitters are seeking, I am not convinced this is the correct usage of the term thriving. I recommend minor amendments to the wording proposed so that the clause reads:

water bodies support a range of outdoor recreation opportunities that provide people and communities with diverse and memorable experiences

286. I have addressed the amendments sought by Kāi Tahu ki Otago previously in **Error! Reference source not found.**

Clause (7) in general and (7)(a): Upper Lakes

287. I am unsure which part of clause (7) John Highton is referring to and as no specific amendments are sought, I do not recommend accepting this submission point.

288. Waterfall Park seeks to include reference to improving water quality where it is degraded. I consider that is consistent with Policy 5 of the NPSFM which requires that the health and well-being of degraded water bodies and freshwater ecosystems is improved. I recommend this submission is accepted. In my opinion, this amendment satisfies, in part, the relief sought by Wise Response and I therefore recommend that submission is accepted in part.

Clause (7)(b): Dunstan, Manuherehia and Roxburgh rohe

289. I do not recommend accepting the submission point by Toitū te Whenua as the submitter has not specified the relief sought and it is unclear what amendments would resolve their concern.

290. Manuherehia Catchment Group considers this clause lacks the detail required to be able to determine if it is suitable for the FMU and seeks that the Kāi Tahu values and practices referred to be stated in the vision. The *MW – Mana whenua* chapter of the PORPS 2021 provides considerable contextual information about Kāi Tahu values and practices that will inform the application of this provision. In addition, there are three iwi management plans relevant to the Otago region that also outline Kāi Tahu values and practices.³²² On this basis, I do not consider the specific values and practices need to be listed in the objective and do not recommend accepting this submission.

³²⁰ Clause 3 of the Water Conservation (Kawarau) Order 1997

³²¹ Merriam-Webster Dictionary, retrieved 12 December 2021 from <https://www.merriam-webster.com/dictionary/thriving>

³²² Kāi Tahu ki Otago Natural Resources Management Plan 2005, Te Tangi a Tauria – The cry of the people: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008, Waitaki Iwi Management Plan 2019.

291. Lauder Creek seeks clarification on what “natural form and function” means in this clause but has not sought specific amendments. I consider that this term is generally well-understood and as the submitter has not sought specific amendments, I do not recommend accepting this submission point.
292. Wise Response seeks to replace the reference to “flows” with “environmental flow regimes”. The submission suggests this is to improve clarity. I agree it is helpful to clarify what is meant by this term and recommend accepting this submission point in part. I consider it would be beneficial to align the wording with that used in the NPSFM, which is “environmental flows and levels”.
293. Wise Response seeks to delete “where possible” in the direction to restore the natural form and function of main stems. The Dunstan, Manuherekia and Roxburgh rohe are all affected by dams and other structures that affect the form and function of water bodies and it is not practical to remove these in order to restore natural form and function. I consider the notified wording is therefore appropriate and do not recommend this submission point is accepted.
294. Wise Response also seeks to include “in accordance with Te Mana o te Wai” at the end of this clause. I do not consider this is necessary as clause (2) of the objective, which applies to all rohe in the FMU, requires freshwater to be managed in accordance with the LF-WAI objectives and policies, including LF-WAI-O1 (Te Mana o te Wai). I do not recommend accepting this submission point.
295. In clause (7)(b)(ii), Beef + Lamb and DINZ seek amendments to only require reductions in discharges of contaminants where necessary to ensure that they are safe for human contact. They consider that the provision as notified is not based on an understanding of what, if any, contaminant reduction is needed. I agree with the submitter that reductions may not be necessary in every case and recommend accepting this submission point in part. I consider “where required” would be clearer than “where necessary”.
296. Manuherekia Catchment Group seeks to remove “innovative” from clause (7)(b)(ii) and replace “food production” with “innovative land uses”. They consider that some traditional, “non-innovative” practices are sustainable and that “food production” is too limiting a description for the types of activities to be provided for by this clause.
297. Relevant consultation feedback from communities in these rohe recorded the following:³²³
- In the Dunstan rohe:
 - Local context: “Good water quality underpins agriculture (in particular horticulture and viticulture) and tourism, which are key economic drivers.” (p.15)
 - Long-term aspirations: “The area is recognised as the world’s best producer of fresh produce and wine, underpinned by excellent water quality, the right

³²³ Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

activities in the right places, and well managed infrastructure, sustainably supporting economies and communities.” (p.16)

- In the Manuherehia rohe:
 - “Water in the catchment supports several highly valued and often competing values. Feedback received across the board covered both a desire to see a strengthening of the environmental bottom line and tightening of timeframes to achieve such and a greater focus on enabling the use of water and the economic value it plays in supporting the community.” (p.17)
- In the Roxburgh rohe:
 - Local context: “Food production is a vital part of the Roxburgh Rohe’s local economy.” (p.19)
 - Long-term aspiration: “Food Production: Food producers in the Roxburgh Rohe are recognised as world leaders in environmentally ethical, profitable, and efficiently sustainable food production.” (p.20).

298. In my view, food production is a clear theme from the consultation feedback. As the visions are to be developed through engagement with communities, I do not consider that it is appropriate to broaden this reference as sought by the submitter. I do not recommend accepting this submission point.

299. COES and Lynne Stewart seek to amend clause (7)(b)(ii) to refocus the clause on protecting and restoring (where degraded) the ecological function of water bodies. The submitters consider that the current wording is focused on food production rather than the ecological health of water bodies. It is not clear what degree of ecological functioning is envisaged by the submitter. I note that ecological health is a compulsory value in the NPSFM and therefore communities will have the opportunity to provide input into the development of the LWRP which will establish environmental outcomes for every value (compulsory or separated identified). I do not recommend accepting this submission.

300. Lauder Creek Farming and Manuherehia Catchment Group seek to delete clause (7)(b)(iii) on the basis that abstraction should not be restricted from tributaries if values continue to be met. Manuherehia Catchment Group also considers that a vision should not dictate a preference for abstraction and should instead focus on the outcomes sought. OWRUG and Federated Farmers seek to amend the provision for similar reasons. Similarly, Moutere Station considers that sustainable abstraction from tributaries should be able to continue.

301. It is my understanding that most abstractors prefer to abstract from main stems wherever possible due to the higher reliability provided. Where abstractions are sought from tributaries, this is generally due to the distance between the point of take and the use of the water. For example, a farm may be abstracting water for irrigation but the land is located many kilometres from the main stem. It is not practical, in these cases, to abstract from the main stem and, presuming that any relevant limits are met, it would be preferable to abstract from a tributary. I consider that there are already incentives in place to abstract from main stems where this is possible, and that abstractions from tributaries occur primarily for practicality reasons.

302. Groundwater abstractions can be hydrologically linked to surface water sources and sometimes those interactions are not well-understood. It may not always be preferable to abstract from groundwater – those decisions need to be made within the circumstances of each situation, without pre-empting which source will be most appropriate. I agree with the submitters that abstraction from tributaries may be appropriate if any relevant limits on resource use can be met, and environmental outcomes continue to be achieved.
303. For these reasons, I recommend accepting the submission by Lauder Creek Farming in full and accepting the submissions by OWRUG, Federated Farmers and Moutere Station in part. COES seeks alternative amendments to the clause for clarity. I do not recommend accepting this submission in light of my recommendation to accept the request by Lauder Creek Farming to delete the clause.
304. COES and Lynne Stewart seek to include two additional sub-clauses into (7)(b) relating to didymo and wastewater discharges. Regarding the former, the submitters consider didymo is a threat to the ecological health of the Dunstan Creek and Manuherekia River but have not provided evidence to support this. Without further evidence, I do not recommend accepting this submission point. Regarding the latter new clause, I have recommended the inclusion of this clause at the FMU level in response to the submission by Kāi Tahu ki Otago which is consistent with the relief sought by COES and Lynne Stewart. I therefore recommend accepting this submission in part.
305. OWRUG also seeks the addition of a new clause regarding the role of water storage. In their further submission, Kāi Tahu ki Otago opposes this relief on the basis that water storage is a tool for freshwater management not an outcome and that consideration of tools, including water storage, is a matter for the regional plan to consider.³²⁴ I agree with Kāi Tahu ki Otago and do not recommend accepting the submission point by OWRUG.

Clause (7)(c): Lower Clutha rohe

306. Federated Farmers and OWRUG seek to replace “preserve” with “protect” and “wherever possible” with “where possible” in clause (7)(c)(ii) but have not provided any reasoning for these changes in their submissions. Without further evidence, I do not recommend accepting those submission points.
307. Wise Response seeks to delete “wherever possible” from (7)(c)(ii) to remove what they consider to be a loophole. I do not consider it will always be necessary to restore connections and therefore do not recommend accepting this submission point.
308. The amendment sought by Beef + Lamb and DINZ to clause (7)(c)(iii) is also sought in relation to clause (7)(b)(ii). As I did in relation to clause (7)(b)(ii), I agree with the submitter that reductions may not be necessary in every case and recommend accepting this submission point. The amendment sought by Ravensdown is also sought by Kāi Tahu ki Otago and I have recommended accepting that part of the Kāi Tahu ki Otago and Ravensdown submission points.

³²⁴ FS00226 Kāi Tahu ki Otago

309. Silver Fern Farms seeks to restrict the application of this clause to downstream primary contact sites. I agree with the requirements of the NPSFM as stated by the submitter but note that LF-FW-P7 provides more detail about requirements for primary contact, mahika kai, and drinking water which are all human contact in different forms. I consider that is the more appropriate place to contain the level of detail sought by the submitter and therefore do not recommend accepting the submission point.
310. Wise Response seeks to include reference to reducing land use inputs as well as discharges. I do not consider that is necessary as discharges may be reduced in a number of ways, including by reducing inputs. I do not recommend accepting the submission point.

Clause (8): Timeframes

311. John Highton seeks to amend all rohe timeframes to 2030 on the basis that their achievement should not be put so far in the future that it is easy to postpone meaningful action. The submitter has not provided any evidence to demonstrate that it would be possible to achieve the outcomes stated by 2030. Without further evidence, I do not recommend accepting this submission.
312. The Minister for the Environment seeks that the vision include interim steps towards full achievement, as was included in an earlier version of the pORPS. The submitter has not sought specific amendments or indicated what interim steps are considered appropriate. I consider that the LWRP provides an opportunity for interim steps to be identified, once the values and environmental outcomes for the FMU are developed. I note that clause 3.12 of the NPSFM sets out how target attribute states (which will be informed by the freshwater visions in the pORPS 2021) are to be achieved, including through the use of action plans for achieving targets within specified timeframes. I do not recommend accepting this submission point.
313. Submitters seek a range of amendments to the time frames for individual rohe, both longer and shorter than notified. For the most part, submitters have not provided evidence to support those amendments or an indication of the likely costs and benefits of amending the timeframes. Without further evidence, I do not recommend accepting the submission points by COES, Lynne Stewart, Evelyn M Skinner, or Wise Response.
314. Kāi Tahu ki Otago seeks to shorten the timeframe for the Manuherekia rohe from 2050 to 2045 on the basis that visions should be achieved within 20 years to ensure that degraded environments are improved by the current generation rather than being left to the next one. This would align the Manuherekia rohe with the Dunstan, Roxburgh and Lower Clutha rohe. Federated Farmers seeks to extend the Dunstan, Roxburgh, and Lower Clutha rohe timeframes from 2045 to 2050 on the basis that it does not make sense for the Lower Clutha to have a shorter timeframe than the Manuherekia (which drains into the Lower Clutha). The submitter considers the timeframes should be consistent for this reason.
315. I understand from the submission by Kāi Tahu ki Otago that an important component of the relationship of mana whenua with wai māori is the ability to pass on mātauraka to the next generation. When water bodies are degraded, this ability is hampered, therefore Kāi Tahu ki Otago have a strong desire for degradation to be reversed within a generation

to enable the relationship of mana whenua with wai māori, and the transfer of mātauraka, to be sustained over generations. The relationship of Māori and their culture and traditions with their ancestral water is a matter of national importance that must be recognised and provided for in the pORPS 2021.³²⁵ On this basis, I recommend accepting the submission point by Kāi Tahu ki Otago. I consider this amendment also addresses the inconsistency raised by Federated Farmers as it would align the timeframes for the Manuherekia and the Lower Clutha and therefore recommend accepting this submission point in part.

316. Beef + Lamb and DINZ seek clarification of the timeframe for achieving the FMU-wide matters in clauses (1) to (6). I consider it is clear from clause (8) that those outcomes are to be achieved in each rohe by the timeframes set out in clause (8). I do not recommend accepting this submission point.
317. Wise Response seeks reporting on all timeframes at 5 yearly intervals. Clause 3.30(2) of the NPSFM requires regional councils to publish an assessment of the extent to which the long-term visions are being met at five yearly intervals. I do not consider it is necessary to repeat this requirement in the pORPS and therefore do not recommend accepting this submission point.

10.1.1.4. Recommendation

318. I recommend amending LF-VM-O2 to:

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

- (1) management of the FMU recognises that:
 - (a) the Clutha Mata-au is a single connected system ki uta ki tai, and
 - (b) the source of the wai is pure, coming directly from ~~Tawhirimatea~~ Tāwhirimātea³²⁶ to the top of the mauka and into the awa,
- (2) *fresh water* is managed in accordance with the LF – WAI objectives and policies,
- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and, where degraded or lost, restored,³²⁷
- (4) *water bodies* support thriving ~~mahika-kai mahika kai~~³²⁸ that are safe for consumption³²⁹ and Kāi Tahu whānui have access to ~~mahika-kai~~ mahika kai³³⁰

³²⁵ Section 6(e), RMA.

³²⁶ 00223.085a Ngāi Tahu ki Murihiku

³²⁷ 00101.031 Toitū te Whenua

³²⁸ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

³²⁹ 00226.011 Kāi Tahu ki Otago

³³⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

- (5) indigenous species migrate easily and as naturally as possible along and within the *river* system,
- (5A) the ecosystem connections between freshwater, wetlands, and the coastal environment are preserved and, wherever possible, restored,³³¹
- (5B) environmental flows and levels in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices,³³²
- (5C) food production in the area is supported by innovative and sustainable *land* and *water* management practices that reduce *discharges* of nutrients and other *contaminants* to *water bodies* where required to ensure that they are safe for human contact,³³³
- (5D) there are no direct *discharges* of *wastewater* containing *sewage* to *water bodies*,³³⁴
- (6) the national significance of the Clutha hydro-electricity generation scheme is recognised,
- (7) in addition to (1) to (6) above:
- (a) in the Upper Lakes rohe, the high quality *waters* of the *lakes* and their tributaries are protected, and if degraded are improved,³³⁵ recognising the significance of the purity of these *waters* to Kāi Tahu and to the wider community,
- (b) in the Dunstan, Manuherekia and Roxburgh rohe:
- (i) ~~flows in *water bodies* sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and~~³³⁶
- (ii) ~~innovative and sustainable *land* and *water* management practices support food production in the area and reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and~~³³⁷
- (iii) ~~sustainable abstraction occurs from main stems or *groundwater* in preference to tributaries,~~³³⁸

³³¹ 00226.168 Kāi Tahu ki Otago

³³² 00226.168 Kāi Tahu ki Otago, 00509.072 Wise Response

³³³ 00226.168 Kāi Tahu ki Otago, 00237.026 Beef + Lamb and DINZ

³³⁴ 00226.168 Kāi Tahu ki Otago, 00213.035 Fonterra

³³⁵ 00023.004 Waterfall Park

³³⁶ 00226.168 Kāi Tahu ki Otago

³³⁷ 00226.168 Kāi Tahu ki Otago

³³⁸ 00406.008 Lauder Creek Farming

- (c) in the Upper Lakes and³³⁹ Lower Clutha rohe:
- (i) ~~there is no further~~ minimise³⁴⁰ modification of the shape and behaviour of the *water bodies* and promote opportunities to restore the natural form and function of *water bodies* ~~are promoted~~³⁴¹ wherever possible, and
 - (ii) ~~the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,~~
 - (iii) ~~land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and~~
 - (iv) ~~there are no direct discharges of wastewater to water bodies, and~~³⁴²
- (8) the outcomes sought in (7) are to be achieved within the following timeframes:
- (a) by 2030 in the Upper Lakes rohe, and
 - (b) by 2045 in the Dunstan, Manuherehia, Roxburgh and Lower Clutha rohe, and
 - ~~(c) by 2050 in the Manuherehia rohe.~~³⁴³

10.2. Draft supplementary evidence

24 In paragraph 435 of my section 42A report, I recommended accepting in part the submission point by Toitū te Whenua on LF-VM-O2(3) regarding the recognition of wāhi tūpuna and Kāi Tahu relationships with wāhi tūpuna.³⁴⁴ The submitter considered amendments were necessary to recognise the loss of connection between Kāi Tahu and wāhi tūpuna due to Kāi Tahu being unable to access large parts of the region.

25 Kāi Tahu ki Otago seeks unspecified amendments to ensure that each freshwater vision addressed, among other things, Kāi Tahu relationship with wāhi tūpuna.³⁴⁵ This

³³⁹ 00226.168 Kāi Tahu ki Otago

³⁴⁰ 00139.088 DCC, 00305.020 Waka Kotahi

³⁴¹ Clause 10(2)(b)(i), Schedule 1, RMA - consequential amendment arising from 00139.088 DCC, 00305.020 Waka Kotahi

³⁴² 00226.168 Kāi Tahu ki Otago

³⁴³ 00226.168 Kāi Tahu ki Otago

³⁴⁴ 00101.031 Toitū te Whenua

³⁴⁵ 00226.167 Kāi Tahu ki Otago

was supported in a further submission by Ngāi Tahu ki Murihiku.³⁴⁶ I did not make a specific recommendation in response to this submission point because I was unsure what amendment was being sought by the submitter.

26 As a consequential amendment arising from the submission point by Toitū te Whenua, and for consistency with other provisions that seek to restore what has been lost, I considered the wording of sub-clause (3) should instead be “sustained, and where degraded or lost, restored.” The provision as I recommended is set out in paragraph 481 of my section 42A report.

27 Wāhi tūpuna is described as follows in the pORPS (p.62):

Wāhi tūpuna (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. ... The character of wāhi tūpuna in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the wāhi tūpuna become incorrect due to modification of the environment, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in central Dunedin, but no longer exists because there is now a city where the waterway once was.

28 With this context, I now consider that “restoring” the relationship between Kāi Tahu and wāhi tūpuna is not appropriate as that terminology does not properly reflect the connection between cultural landscapes and Kāi Tahu. I now recommend the following amendments to LF-VM-O2(3):

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

...

- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored.³⁴⁷

³⁴⁶ FS00223.070 Ngāi Tahu ki Murihiku

³⁴⁷ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

- 29 I agree with Kāi Tahu ki Otago that there should not be unnecessary inconsistency in the freshwater visions. Accordingly, as a consequential amendment, I also recommend amending the remaining freshwater visions in the same way as LF-VM-O2, as follows:

LF-VM-O3 – North Otago *FMU* vision

By 2050 in the North Otago *FMU*:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,³⁴⁸ and Kāi Tahu maintain their connection with and use of the *water bodies*,

LF-VM-O4 – Taieri Taieri³⁴⁹ *FMU* vision

By 2050 in the Taieri Taieri³⁵⁰ *FMU*:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,³⁵¹

LF-VM-O5 – Dunedin & Coast *FMU* vision

By 2040 in the Dunedin & Coast *FMU*:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,³⁵² and Kāi Tahu maintain their connection with and use of the *water bodies*,³⁵³

LF-VM-O6 – Catlins *FMU* vision

By 2030 in the Catlins *FMU*:

³⁴⁸ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

³⁴⁹ 00226.170 Kāi Tahu ki Otago

³⁵⁰ 00226.170 Kāi Tahu ki Otago

³⁵¹ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

³⁵² 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

³⁵³ 00226.171 Kāi Tahu ki Otago

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored.³⁵⁴

Section 32AA evaluation

- 30 In my view, re-establishing connections with *wāhi tūpuna* is not significantly different to restoring the relationship of Kāi Tahu with *wāhi tūpuna* in terms of the practical outcome to be achieved 'on the ground.' In both cases, the direction is to 'put right' degradation that has occurred.
- 31 In achieving the purpose of the RMA, section 6(e) requires recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, *wāhi tapu*, and other taonga. I consider my updated recommendations are more effective at implementing this statutory direction because the updated amendments better reflect the connection between Kāi Tahu and *wāhi tūpuna* and therefore the nature of the relationship.
- 32 In the case of LF-VM-O3, LF-VM-O4, and LF-VM-O5, my updated recommendations expand the scope of the clauses beyond sustaining the relationship of Kāi Tahu with *wāhi tūpuna* by requiring re-establishing connections that have been lost. That is likely to result in additional economic costs, particularly where physical works or changes to management practices will be required in order to re-establish connections. There are also likely to be additional cultural benefits as a result of these connections being re-established. Those costs and benefits will be incurred in the long-term, noting that the freshwater visions are not intended to be achieved in full until between 2030 and 2045.
- 33 As directed in clause 3.2(2)(b) of the NPSFM 2020, the identification of long-term visions for freshwater is one of the key components in giving effect to Te Mana o Te Wai. Therefore, it is important that the freshwater visions in the LF-VM section be consistent with the provisions in the LF-WAI – Te Mana o te Wai section of the pORPS. In my opinion, the amendments I recommend are the most appropriate way of achieving the objective of that section, and particularly the requirement in LF-WAI-O1(2) to recognise and reflect that there is an integral kinship relationship between wai

³⁵⁴ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

and Kāi Tahu whānui, and this relationship endures through time, connecting past, present, and future.

11. LF-VM-O3

11.1. Previous section 42A report

11.1.1. LF-VM-O3 – North Otago FMU vision

11.1.1.1. Introduction

319. As notified, LF-VM-O3 reads:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies, while recognising that the Waitaki River is influenced in part by catchment areas within the Canterbury region,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and Kāi Tahu maintain their connection with and use of the *water bodies*,
- (3) healthy riparian margins, *wetlands*, estuaries and lagoons support thriving mahika kai, indigenous habitats and downstream coastal ecosystems,
- (4) indigenous species can migrate easily and as naturally as possible to and from the coastal environment,
- (5) *land* management practices reduce *discharges* of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and
- (6) innovative and sustainable *land* and *water* management practices support food production in the area and improve resilience to the *effects of climate change*.

11.1.1.2. Submissions

320. Five submitters seek to retain LF-VM-O3 as notified.³⁵⁵ Forest and Bird seeks amendments for consistency with its proposed overarching vision for Otago but does not specify the amendments sought.³⁵⁶ Kāi Tahu ki Otago seeks to amend the timeframes for achieving the vision from 2050 to 2045.³⁵⁷ The submitter considers that all visions should be required to be achieved within 20 years to ensure degraded environments are improved by the current generation rather than being left to the next one.

³⁵⁵ 00013.011 ECan, 00121.052 Ravensdown, 00139.086 DCC, 00213.017 Waitaki Irrigators, 00240.019 NZ Pork.

³⁵⁶ 00230.080 Forest and Bird

³⁵⁷ 00226.169 Kāi Tahu ki Otago

321. No submissions sought amendments to clauses (1) to (4).
322. Graymont considers that clause (5) as notified may prevent some industries from continuing to operating due to the requirement to reduce discharges and seeks to amend clause (5) so that land management practices reduce discharges “to the extent practicable.”³⁵⁸ Kāi Tahu ki Otago seeks to retain the notified working but include “and mahika kai species are safe for consumption” at the end to recognise mana whenua aspirations.³⁵⁹
323. Beef + Lamb and DINZ submit that ORC has not undertaken the work to establish what contaminant reductions are required, by whom, or where, in order to draft policy which relies on that information. The submitters consider it is unusual for a long-term vision to focus on a specific management practice and that the vision should set a goal for freshwater, not land management practices. The submitters seek a number of amendments to clause (5):³⁶⁰
- Focus on a freshwater goal rather than land management practices (for example, “more water bodies are safe for human contact more often”),
 - Focus on the main contaminant of concern rather than nutrients (for example, “faecal contamination of water bodies is reduced so that more water bodies are suitable for human contact more often”), and
 - Focus on overall reduction in sources of contamination rather than all land management practices.
324. Graymont considers that in addition to food production, activities that produce products that assist in resolving environmental challenges in the FMU and beyond should also be provided for and seeks to include “other activities that make products that may assist in addressing environmental challenges” as well as a minor amendment to change “improve” to “while improving”.³⁶¹
325. A number of submitters seek amendments to clause (6). Kāi Tahu ki Otago seeks to move “food production in the area” from the middle of the clause to the front and make necessary consequential amendments in order to improve the general clarity of meaning and consistency of wording across the visions.³⁶² Horticulture NZ seeks to include reference to reducing emissions as well as improving resilience to the effects of climate change.³⁶³ Federated Farmers seeks to replace the reference to “food production” with “primary production”.³⁶⁴
326. Three submitters seek to include additional clauses in the objective.

³⁵⁸ 00022.017 Graymont

³⁵⁹ 00226.169 Kāi Tahu ki Otago

³⁶⁰ 00237.027 Beef + Lamb and DINZ

³⁶¹ 00022.017 Graymont

³⁶² 00226.169 Kāi Tahu ki Otago

³⁶³ 00236.059 Horticulture NZ

³⁶⁴ 00239.078 Federated Farmers

327. DOC submits that as notified the objective fails to recognise the dryland nature of much of North Otago and the significant populations of indigenous fish in the FMU, including threatened non-diadromous galaxiids and Canterbury mudfish. The submitter seeks to include two new clauses.³⁶⁵

(x) water and land management recognise the drylands nature of much of this FMU and the resulting low water availability

(y) populations of threatened indigenous fish are stable or increasing

328. For the same reasons, Waitaki DC also seeks to include the second clause proposed by DOC.³⁶⁶

329. Kāi Tahu ki Otago considers that each FMU vision should incorporate important components of other visions and to improve the general clarity of meaning and consistency of wording across the visions.³⁶⁷ The submitter seeks to include two new clauses regarding modification of water bodies and discharges of wastewater that I have addressed in sections **Error! Reference source not found.** and **Error! Reference source not found.**

(x) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible

(y) there are no direct discharges of wastewater to water bodies

330. Kāi Tahu ki Otago also seeks to amend the boundary of the North Otago FMU so that the Waikouaiti catchment is managed within the Dunedin and Coast FMU instead. The latter point is discussed further in relation to LF-VM-P5 and MAP1 which list and map those boundaries.

11.1.1.3. Analysis

331. Without clarification about the consequential amendments sought by Forest and Bird, I do not recommend accepting this submission.

332. I understand the reasons for the request by Kāi Tahu ki Otago to shorten the timeframe for achieving this vision. However, I note that clause 3.3(2)(c) requires long-term freshwater visions to identify timeframes for achieving stated goals that are “both ambitious and reasonable.” The North Otago FMU is considered to be one of the catchments in Otago with “very complex hydrology and diverse pressures on competing values.”³⁶⁸ It is also considered to be ‘water short’, meaning that the water yield can be insufficient to meet the demand for either instream values or out of stream uses.³⁶⁹ The

³⁶⁵ 00137.065 DOC

³⁶⁶ 00140.017 Waitaki DC

³⁶⁷ 00226.169 Kāi Tahu ki Otago

³⁶⁸ Statement of evidence of Dr Julie Marie Everett-Hincks on behalf of the Otago Regional Council (7 December 2020), Plan Change 7 to the Regional Plan: Water for Otago.

³⁶⁹ Statement of evidence of Tom de Pelsemaecker on behalf of the Otago Regional Council (7 December 2020), Plan Change 7 to the Regional Plan: Water for Otago.

submitter has not provided evidence to indicate whether an earlier timeframe would still be “reasonable”, as required by the NPSFM. Without further evidence, I do not recommend accepting this submission point.

333. I agree with Graymont that it will not be practicable for all discharges to be reduced, however I do not consider the wording proposed by the submitter is appropriate. Where environmental outcomes require reductions in order to be met, there is no ‘practicability’ test. I prefer to amend clause (5) in line with my recommendation for a similar provision in LF-VM-O2: by clarifying that reductions are required where necessary to ensure water bodies are safe for human contact. I recommend accepting this submission in part.
334. I consider the amendment sought by Kāi Tahu ki Otago to (5) accurately reflects the second priority in decision-making set out in LF-WAI-P1 (2), which includes interactions with water such as ingestion (including consumption of harvested resources) and immersive activities (such as harvesting resources). I also consider the amendment assists with implementing LF-WAI-P2(4) which requires recognising and giving practical effect to Kāi Tahu rakatirataka by providing for a range of customary uses, including mahika kai.
335. Clause 3.3 of the NPSFM sets out the requirements for developing long-term visions for fresh water. In particular, I note that clause 3.3(3)(b) and (c) require that every long-term vision must:
- Be informed by an understanding of the history of, and environmental pressures on, the FMU, part of the FMU, or catchment, and
 - Express what communities and tangata whenua want the FMU, part of the FMU, or catchment to be like in the future.
336. In my view, managing freshwater in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, as required by Policy 3 of the NPSFM, requires managing interconnected resources holistically. There is ample evidence about the adverse effects of land use practices on freshwater and I consider it is appropriate for a vision to state an outcome that includes improving practices known to be contributing to degraded freshwater health. Further, from my reading of the consultation report on the community engagement undertaken on the visions, communities expressed a desire to see changes in land use practices in this FMU.
337. In relation to the specific amendments sought by Beef + Lamb and DINZ, I do not consider that “more water bodies are safe for human contact more often” meets the aspirations of Kāi Tahu or communities. For example, in their feedback on the freshwater visions, Kāi Tahu ki Otago sought to achieve a range of outcomes across the region, including that “we can drink the water and eat the kai”.³⁷⁰ During community engagement in the North Otago FMU, people commonly expressed a “desire to enable their children to [swim, fish, and collect mahika kai in rural rivers]”.³⁷¹ The amendments sought by Beef + Lamb and DINZ could arguably be met with very little improvement, which I do not consider reflects the aspirations of the community or mana whenua.

³⁷⁰ Appendix 6 (p.2) of the Section 32 Evaluation Report for the pORPS 2021.

³⁷¹ Appendix 5 (p.23) of the Section 32 Evaluation Report for the pORPS 2021.

338. Beef + Lamb and DINZ also seek to refer to the main contaminant of concern (faecal contamination) rather than nutrients. I agree that levels of *E.coli* contamination are a key concern for human contact with water bodies. However, I have recommended including reference to mahika kai species being safe for consumption. The assessment is broader than *E.coli* and will require consideration of other types of contaminants.
339. I agree with Beef + Lamb and DINZ that discharges of contaminants may come from a range of sources, not only land management practices. I recommend amending the clause to remove reference to land management practices, instead focusing on the discharges generally.
340. In response to the request by Graymont, I note that the drafting of this vision was underpinned by consultation with the community and iwi. The consultation report prepared by ORC included the followed:
- Local context: “Feedback showed that agriculture plays a key role in North Otago FMU’s economy, making certainty of access to water vital, especially as climate change is expected to make the FMU drier.”³⁷²
 - Long-term aspiration: “Long term sustainable farming systems and practices support a thriving economy.”³⁷³
341. I do not consider that the amendments sought by Graymont accurately reflect the feedback provided by communities during public engagement and therefore do not recommend accepting this submission point.
342. As set out in section **Error! Reference source not found.**, Federated Farmers seek to replace “food production” with “primary production” in clause (6).³⁷⁴ The definition of that term includes, among other things, forestry. Consultation feedback recorded the following relevant points from this FMU:³⁷⁵
- Local context: “Identified drivers of poor water quality included urban storm water, forestry, and lack of fencing of waterway.” (p.23)
 - Local context: “Feedback showed that agriculture plays a key role in North Otago FMU’s economy, making certainty of access to water vital, especially as climate change is expected to make the FMU drier.” (p.23)
 - Long-term aspiration: “Long term sustainable farming systems and practices support a thriving economy.” (p.24)
343. As discussed elsewhere in this report, some submitters have raised concerns with carbon forestry, including Waitaki DC. The jurisdiction of Waitaki DC includes areas within both the Canterbury and Otago regions (specifically the North Otago FMU). This submitter stated in their submission:

³⁷² Appendix 5 (p.23) of the Section 32 Evaluation Report for the pORPS 2021.

³⁷³ Appendix 5 (p.24) of the Section 32 Evaluation Report for the pORPS 2021.

³⁷⁴ 00239.078 Federated Farmers

³⁷⁵ Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

“Recent public meetings in North Otago have highlighted the current issue that carbon forestry poses. This issue is anticipated to accelerate across the region throughout the life of the RPS with the high degree of central government incentive.” (p.10)

344. I am aware that there have been concerns raised about carbon forestry in the North Otago FMU in particular.³⁷⁶ I am concerned that the amendment sought by Federated Farmers would not reflect the community feedback from this FMU, particularly as it would encompass forestry (both plantation and carbon) in a way that is not consistent with the views expressed by the community. I do not recommend accepting this submission point.
345. Similarly, having reviewed the community and iwi feedback provided through consultation on the freshwater visions, I do not consider that a desire to reduce emissions was expressed and therefore do not recommend accepting the submission point by Horticulture NZ.
346. I agree with Kāi Tahu ki Otago that minor rewording of clause (6) would assist its readability and recommend accepting this part of the submission point.
347. I agree with DOC that most of the North Otago FMU is dry in nature.³⁷⁷ The feedback from community consultation highlighted this indirectly, for example:³⁷⁸
- “Irrigation was raised as a key to future success.” (p.23)
 - “Some community members noted that climate change could provide opportunity for diversification. This included land use practices suitable for a dryer climate and high value recreation development.” (p.23)
 - “General suggestions included improved use efficiency, water storage, and practices to improve water retention and soil quality. Other points raised included maintaining and further developing irrigation infrastructure, identifying and protecting high value agricultural land from urban development, investing in technology for agriculture, and managing land use to ensure the right activities occur in the right places (e.g. forestry, dairying).” (p.23)
 - “The natural character of North Otago is maintained.” (p.24)
 - “Long term sustainable farming systems and practices support a thriving economy.” (p.24)
 - “Irrigation is developed, managed, and maintained to support a sustainable economy.” (p.24)
 - “Development is sustainable and considers future generations.” (p.24)

³⁷⁶ See, for example, <https://www.oamarumail.co.nz/community/plea-for-action-on-carbon-farming/>

³⁷⁷ For example, Figures 1 and 2 in the Statement of Evidence of Roderick Donald Henderson on behalf of the Otago Regional Council (7 December 2020) for Plan Change 7 demonstrate that most of the North Otago FMU has low mean runoff (less than 150mm) and low flow yields. Mr Henderson also notes that “...coastal North Otago [has] very low yields during summer” (p.9).

³⁷⁸ Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

348. This is also referenced in the management changes considered by Kāi Tahu ki Otago to be needed in order to achieve the vision proposed:³⁷⁹
- “Levels and flows support flourishing mahika kai, not minimum requirements.” (p.3)
 - “Augmentation by off-stream storage in appropriate locations and circumstances.” (p.3)
 - “Look at moving to dryland farming systems.” (p.4)
349. The further submission by Ngāi Tahu ki Murihiku supports the relief sought by DOC on the basis that it is consistent with Ngāi Tahu ki Murihiku Kaupapa and mātauraka.
350. I consider there is sufficient evidence to demonstrate that the relief sought is consistent with the feedback from the community and iwi about their long-term wishes for the water bodies and freshwater ecosystems in the North Otago FMU, and that it has been informed by an understanding of the history of, and environmental pressures on, the FMU as required by clause 3.3(3) of the NPSFM 2020.
351. Rather than incorporate the relief sought by DOC as a new clause, in my opinion reference to recognising the drylands nature of the FMU could be incorporated into clause (6). I do not consider it is necessary to refer to low water availability as this will be variable across the FMU.
352. I understand that North Otago FMU is home to the lowland longjaw galaxias which is restricted to rivers in North Otago and considered “nationally critical”, as well as other indigenous fish species such as the Canterbury mudfish, Canterbury galaxias, and Taieri flathead galaxias. With the exception of the Canterbury galaxias, these species are all threatened.³⁸⁰ I note that “threatened species” is a compulsory value under the NPSFM and that Policy 9 of the NPSFM requires that the habitats of indigenous freshwater species are protected. Indigenous biodiversity also featured in the feedback from community consultation:³⁸¹
- “Some respondents were satisfied with current biodiversity health, through many were not. All wanted to see thriving biodiversity and healthy aquatic habitats maintained or improved.” (p.23)
 - “Biodiversity in North Otago is flourishing – habitats have been maintained and enhanced; rivers and waterways are healthy and can support sustainable recreational fishing; biodiversity needs are considered in each catchment and in farm planning.” (p.24)
 - “North Otago ecosystems are resilient, and their condition has been improving through careful stewardship and sustainable approaches to management.” (p.24)
353. In their feedback, Kāi Tahu ki Otago sought the following outcome (among others):³⁸²

³⁷⁹ Appendix 6 of the Section 32 Evaluation Report for the pORPS 2021.

³⁸⁰ New Zealand Threat Classification System, available online at <https://nztc.org.nz/home>

³⁸¹ See Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

³⁸² See Appendix 6 of the Section 32 Evaluation Report for the pORPS 2021.

- Mahika kai is flourishing, native fish can migrate easily and as naturally as possible, and taoka species and their habitats are protected from negative water quality and quantity impacts.” (p.2)

354. On this basis, I consider that the second additional clause sought by DOC and Waitaki DC is consistent with the aspirations of the community and Kāi Tahu and reflects the direction regarding threatened species and the habitats of indigenous species in the NPSFM. In my view, the relief sought could be incorporated into clause (4) rather than included as a new and separate clause. I recommend these submission points are accepted in part.

11.1.1.4. Recommendation

355. I recommend amending LF-VM-O3 to:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

- (1) *fresh water* is managed in accordance with the LF – WAI objectives and policies, while recognising that the Waitaki River is influenced in part by catchment areas within the Canterbury region,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and Kāi Tahu maintain their connection with and use of the *water bodies*,
- (3) healthy riparian margins, *wetlands*, estuaries and lagoons support thriving ~~mahika kai~~ *mahika kai*³⁸³, indigenous habitats and downstream coastal ecosystems,
- (4) indigenous species can migrate easily and as naturally as possible to and from the coastal environment and populations of threatened indigenous fish are stable or increasing,³⁸⁴
- (5) ~~land management practices reduce~~³⁸⁵ *discharges* of nutrients and other *contaminants to water bodies are reduced*³⁸⁶ ~~so~~ where required to ensure³⁸⁷ that ~~the~~ water bodies³⁸⁸ are safe for human contact and mahika kai species are safe for consumption,³⁸⁹ and
- (6) food production in the area is supported by³⁹⁰ innovative and sustainable *land and water* management practices ~~support food production in the area~~

³⁸³ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

³⁸⁴ 00137.065 DOC

³⁸⁵ 00237.027 Beef + Lamb and DINZ

³⁸⁶ 00237.027 Beef + Lamb and DINZ

³⁸⁷ 00022.017 Graymont

³⁸⁸ 00237.027 Beef + Lamb and DINZ

³⁸⁹ 00226.169 Kāi Tahu ki Otago

³⁹⁰ 00226.169 Kāi Tahu ki Otago

and that³⁹¹ improve resilience to the *effects of climate change* and recognise the dryland nature of much of this FMU.³⁹²

11.2. Draft supplementary evidence

34 In paragraph 435 of my section 42A report, I recommended accepting in part the submission point by Toitū te Whenua on LF-VM-O2(3) regarding the recognition of wāhi tūpuna and Kāi Tahu relationships with wāhi tūpuna.³⁹³ The submitter considered amendments were necessary to recognise the loss of connection between Kāi Tahu and wāhi tūpuna due to Kāi Tahu being unable to access large parts of the region.

35 Kāi Tahu ki Otago seeks unspecified amendments to ensure that each freshwater vision addressed, among other things, Kāi Tahu relationship with wāhi tūpuna.³⁹⁴ This was supported in a further submission by Ngāi Tahu ki Murihiku.³⁹⁵ I did not make a specific recommendation in response to this submission point because I was unsure what amendment was being sought by the submitter.

36 As a consequential amendment arising from the submission point by Toitū te Whenua, and for consistency with other provisions that seek to restore what has been lost, I considered the wording of sub-clause (3) should instead be “sustained, and where degraded or lost, restored.” The provision as I recommended is set out in paragraph 481 of my section 42A report.

37 Wāhi tūpuna is described as follows in the pORPS (p.62):

Wāhi tūpuna (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. ... The character of wāhi tūpuna in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the wāhi tūpuna become incorrect due to modification of the environment, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in

³⁹¹ 00226.169 Kāi Tahu ki Otago

³⁹² 00137.065 DOC

³⁹³ 00101.031 Toitū te Whenua

³⁹⁴ 00226.167 Kāi Tahu ki Otago

³⁹⁵ FS00223.070 Ngāi Tahu ki Murihiku

central Dunedin, but no longer exists because there is now a city where the waterway once was.

- 38 With this context, I now consider that “restoring” the relationship between Kāi Tahu and wāhi tūpuna is not appropriate as that terminology does not properly reflect the connection between cultural landscapes and Kāi Tahu. I now recommend the following amendments to LF-VM-O2(3):

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

...

- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored.³⁹⁶

- 39 I agree with Kāi Tahu ki Otago that there should not be unnecessary inconsistency in the freshwater visions. Accordingly, as a consequential amendment, I also recommend amending the remaining freshwater visions in the same way as LF-VM-O2, as follows:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with wāhi tūpuna are re-established where these have been degraded or lost.³⁹⁷ and Kāi Tahu maintain their connection with and use of the *water bodies*,

LF-VM-O4 – ~~Taiari~~ Taiari³⁹⁸ FMU vision

By 2050 in the ~~Taiari~~ Taiari³⁹⁹ FMU:

...

³⁹⁶ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

³⁹⁷ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

³⁹⁸ 00226.170 Kāi Tahu ki Otago

³⁹⁹ 00226.170 Kāi Tahu ki Otago

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost,⁴⁰⁰

LF-VM-O5 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with wāhi tūpuna are re-established where these have been degraded or lost,⁴⁰¹ and Kāi Tahu maintain their connection with and use of the water bodies,⁴⁰²

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored,⁴⁰³

Section 32AA evaluation

- 40 In my view, re-establishing connections with *wāhi tūpuna* is not significantly different to restoring the relationship of Kāi Tahu with *wāhi tūpuna* in terms of the practical outcome to be achieved 'on the ground.' In both cases, the direction is to 'put right' degradation that has occurred.
- 41 In achieving the purpose of the RMA, section 6(e) requires recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, *wāhi tapu*, and other taonga. I consider my updated recommendations are more effective at implementing this statutory direction because the updated amendments better reflect the connection between Kāi Tahu and *wāhi tūpuna* and therefore the nature of the relationship.

⁴⁰⁰ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁰¹ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁰² 00226.171 Kāi Tahu ki Otago

⁴⁰³ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

- 42 In the case of LF-VM-O3, LF-VM-O4, and LF-VM-O5, my updated recommendations expand the scope of the clauses beyond sustaining the relationship of Kāi Tahu with wāhi tūpuna by requiring re-establishing connections that have been lost. That is likely to result in additional economic costs, particularly where physical works or changes to management practices will be required in order to re-establish connections. There are also likely to be additional cultural benefits as a result of these connections being re-established. Those costs and benefits will be incurred in the long-term, noting that the freshwater visions are not intended to be achieved in full until between 2030 and 2045.
- 43 As directed in clause 3.2(2)(b) of the NPSFM 2020, the identification of long-term visions for freshwater is one of the key components in giving effect to Te Mana o Te Wai. Therefore, it is important that the freshwater visions in the LF-VM section be consistent with the provisions in the LF-WAI – Te Mana o te Wai section of the pORPS. In my opinion, the amendments I recommend are the most appropriate way of achieving the objective of that section, and particularly the requirement in LF-WAI-O1(2) to recognise and reflect that there is an integral kinship relationship between wai and Kāi Tahu whānui, and this relationship endures through time, connecting past, present, and future.

12. LF-VM-O4

12.1. Previous section 42A report content

12.1.1. LF-VM-O4 – Taieri FMU vision

12.1.1.1. Introduction

356. As notified, LF-VVM-O4 reads:

LF-VM-O4 – Taieri FMU vision

By 2050 in the Taieri FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,
- (3) healthy *wetlands* are restored in the upper and lower catchment *wetland* complexes, including the Waipori/Waihola Wetlands, Tunaheketaka/Lake Taieri, scroll plain, and tussock areas,
- (4) the gravel *bed* of the lower Taieri is restored and sedimentation of the Waipori/Waihola complex is reduced,
- (5) creative ecological approaches contribute to reduced occurrence of didymo,
- (6) *water bodies* support healthy populations of *galaxiid* species,
- (7) there are no direct *discharges* of *wastewater* to *water bodies*, and
- (8) innovative and sustainable *land* and *water* management practices support food production in the area and improve resilience to the *effects* of *climate change*.

12.1.1.2. Submissions

357. Two submitters seek to retain the objective as notified.⁴⁰⁴ Forest and Bird seeks amendments for consistency with their proposed overarching vision for Otago but does not specify the amendments sought.⁴⁰⁵

358. Kāi Tahu ki Otago seeks that all references to “Taieri” in the RPS, including in this vision, be replaced with the correct traditional spelling “Taiari”.⁴⁰⁶ The submitter considers that this would recognise that the whole of the catchment is wāhi tūpuna and appropriately acknowledge the connection of mana whenua with the river. For similar reasons, the submitter also seeks to replace “Waipori” with “Waipōuri”.

⁴⁰⁴ 00121.053 Ravensdown, 00240.020 NZ Pork

⁴⁰⁵ 00230.081 Forest and Bird

⁴⁰⁶ 00226.170 Kāi Tahu ki Otago

359. DCC seeks unspecified amendments to the objective to address the following concerns:⁴⁰⁷
- Modification of some waterbodies might be necessary for drainage purposes and the well-being of communities,
 - Wetlands that have been engineered and significantly enhanced can be employed to treat stormwater and wastewater, and
 - Work can be required in these wetlands for public flood control or drainage and it is essential that maintenance works are provided for to ensure the appropriate functioning of these areas for stormwater and flood management. Minor modifications such as erosion protection work, or the installation of culverts might also be necessary.
 - In relation to (7), in specific situations such as extreme wet weather events or when a system fault has occurred, discharges of treated and/or untreated wastewater from the network and/or wastewater treatment plants to water bodies can occur and in some cases a wastewater overflow may be the best practicable option with minimal environmental effects
360. Regarding the last point above, I have addressed this in section **Error! Reference source not found.**
361. Susan and Donald Broad seek the following general amendments:
- Extend the Outram Groundwater Protection zone to include all septic tanks in town and settlement non-reticulated residential areas,⁴⁰⁸
 - Develop a more robust consent process and more fair boundaries for the use of septic tanks,⁴⁰⁹ and
 - Discourage the addition of septic-dependent development in rural townships.⁴¹⁰
362. Gavan James Herlihy seeks to include reference to a range of additional matters:⁴¹¹
- The role of the Loganburn Reservoir,
 - The role that irrigation has and must continue to play in delivering the purpose of the RPS and in communities' resilience to climate change must be considered,
 - The role of water storage and of additional storage of "surplus" water in the Upper Taieri Catchment,
 - The role of pest management, including the role of wildlife in degrading water quality in the Upper Taieri Catchment,
 - The issue of willow control and removal from the scroll plain,
 - Any outcomes developed by the FMU process must be developed in concert with the community driven Maniototo Tiaki project, and

⁴⁰⁷ 00139.087 DCC

⁴⁰⁸ 00218.001 Susan and Donald Broad

⁴⁰⁹ 00218.002 Susan and Donald Broad

⁴¹⁰ 00218.003 Susan and Donald Broad

⁴¹¹ 00104.005 Gavan Herlihy

- Greater environmental gains would be achieved through “creation of and enhancement of” existing wetlands.
363. Kāi Tahu ki Otago seeks to shorten the timeframe for achieving the vision from 2050 to 2045 in order to ensure improvements are made within a generation.⁴¹²
364. DOC seeks to amend clause (1) to require management to be consistent with the status of the catchment as a Ngā Awa river.⁴¹³
365. John Highton seeks to amend clause (3) to include specific mention of the Upper Taieri Scroll Plain and its significance.⁴¹⁴ Kāi Tahu ki Otago seeks to refer to the “wetland complex” instead of just “wetland” as this is considered to be more accurate.⁴¹⁵ Beef + Lamb and DINZ seek clarification about the level of restoration required for wetlands and request, if the drafting was intended to capture healthy wetlands, an explanation from ORC as to why healthy wetlands need restoration rather than sustainment.⁴¹⁶
366. In relation to clause (5), John Highton also considers that didymo is not specifically an issue on the Taieri and seeks that this part of the objective is included in the Clutha Mata-au FMU vision instead.⁴¹⁷
367. Horticulture NZ seeks to retain clause (6) as notified.⁴¹⁸ DOC seeks amendments to require water bodies to also support healthy populations of kanakana, lamprey and tuna, and longfin eel, in addition to galaxiid species, to recognise the significance of all indigenous fish.⁴¹⁹ Kāi Tahu ki Otago seeks a similar amendment but proposes the wording “other indigenous species, including tuna”.⁴²⁰
368. In relation to clause (7), DCC raises a general concern that in specific situations such as extreme wet weather events or when a system fault (breakdown, breakage or blockage) has occurred, discharges of treated and/or untreated wastewater from the network and/or wastewater treatment plants to waterbodies can occur. In some cases, the provision of a wastewater overflow may be the best practicable option with minimal environmental effect as total elimination of overflows is unlikely to be possible in most wastewater systems.⁴²¹
369. COES and Lynne Stewart seek to replace clause (8) with “the ecological function of all water bodies is protected and restored where degraded supported by innovative and

⁴¹² 00226.170 Kāi Tahu ki Otago

⁴¹³ 00137.066 DOC

⁴¹⁴ 00014.048 John Highton

⁴¹⁵ 00226.170 Kāi Tahu ki Otago

⁴¹⁶ 00237.028 Beef + Lamb and
DINZ

⁴¹⁷ 00014.050 John Highton

⁴¹⁸ 00236.060 Horticulture NZ

⁴¹⁹ 00137.066 DOC

⁴²⁰ 00226.170 Kāi Tahu ki Otago

⁴²¹ 00139.087 DCC

sustainable land and water management practices which reduce discharges of nutrients and other contaminants to water bodies so they are safe for human contact.”⁴²²

370. Kāi Tahu ki Otago, Horticulture NZ and Federated Farmers seek minor amendments to clause (8) as follows (respectively):

- Move “food production in the area” from the middle of the clause to the front and make necessary consequential amendments,⁴²³
- Include reference to reducing emissions,⁴²⁴ and
- Replace “food production” with “primary production”.⁴²⁵

371. DOC considers the vision fails to recognise the significant issues with flooding and climate change in the catchment and seeks to include one new clause:⁴²⁶

(x) land and water management practices improve resilience to the effects of flooding and climate change

372. Kāi Tahu ki Otago seeks to include three new clauses, to better recognise the importance of mahika kai and for consistency with the outcomes sought in other visions:⁴²⁷

(x) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,

(y) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible,

(z) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and mahika kai species are safe for consumption,

373. OWRUG seeks to include two new clauses to emphasise the importance of the food and fibre sector to this FMU and the important role of water storage:⁴²⁸

(8) water is allocated to the food and fibre sector support sustainable production and the sectors contribution to social and economic wellbeing of the community.

(9) the role of water storage is recognised as being fundamental to the food and fibre sector, and an essential part of meeting the vision as set out in (1) to (8) above.

⁴²² 00030.015 Lynne Stewart, 00202.02 COES

⁴²³ 00226.169 Kāi Tahu ki Otago

⁴²⁴ 00236.060 Horticulture NZ

⁴²⁵ 00239.079 Federated Farmers

⁴²⁶ 00137.066 DOC

⁴²⁷ 00226.170 Kāi Tahu ki Otago

⁴²⁸ 00235.088 OWRUG

374. Trustpower seeks to include a new clause recognising their hydro-electricity schemes in the FMU:⁴²⁹

(9) the national and regional significance of the Waipori, Deep Stream and Paerau / Patearoa hydro-electric power schemes are recognised

12.1.1.3. Analysis

375. I agree with Kāi Tahu ki Otago that using the correct spelling, “Taiari”, recognises the connection of mana whenua with the river. I note that the Kāi Tahu ki Otago Natural Resources Management Plan 2005 states that:

“The name “Taiari” 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)

376. 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. Kā Huru Manu, the Ngāi Tahu Cultural Mapping project, has collated and mapped traditional place names and associated stories within the Ngāi Tahu rohe. The Ngāi Tahu Atlas, as this mapping project is known, describes the river as follows:

“Taiari is the correct spelling for the Taiari 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.”⁴³⁰

377. The Atlas describes the Waipōuri River (which flows into the Waipori/Waihola wetland complex) as follows:⁴³¹

“Waipōuri is the correct spelling for the Waipori River which rises in Te Papanui (the Lammerlaw Range), and flows southeast before joining the Taiari River near Henley.”

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

⁴²⁹ 00311.014 Trustpower

⁴³⁰ Ngāi Tahu Atlas, retrieved from <https://www.kahurumanu.co.nz/atlas>

⁴³¹ Ngāi Tahu Atlas, retrieved from <https://www.kahurumanu.co.nz/atlas>

379. 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
380. Similarly, while the Waipori/Waihola Wetlands do not have an official name in the New Zealand Gazetteer, there are nearby official names that use the spelling “Waipori”:
- Waipori Falls Scenic Reserve
 - Waipori/Waihola Wildlife Management Reserve
 - Lake Waipori Wildlife Management Reserve
381. 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.⁴³² Similarly to Taieri and Waipori, the Manuherekia River does not have an official name in the New Zealand Gazetteer but there are nearby place names adopting the misspelled Manuherikia.
382. I consider that there is no legal requirement to use either Taieri / Waipori or Taiari / Waipoūri. 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 Manuherikia, 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 “Taieri” and it would ordinarily be a decision of Council to make decisions such as this. There are also likely to be strong community connections with the name “Taieri”.
383. As an alternative to accepting the submission point, the Council could work with Kāi Tahu to identify 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. Implementing this change in the regional plans would require a plan change process, which may there may not capacity for in addition to the council’s future plan making workload. Alternatively, the change could be implemented in the pORPS, and

⁴³² <https://www.thenews.co.nz/news/preference-for-rivers-maori-spelling/>

implemented alongside existing plan making projects to be undertaken in the coming years.

384. DCC raises a number of concerns and seeks unspecified amendments to address them. The submitter supports restoring wetlands but considers that modification of some water bodies might be necessary for drainage purposes and the well-being of communities. In my opinion, there are no clauses in LF-VM-O4 that would prevent the modification of water bodies, including works in wetlands, so I do not consider any amendments are necessary.
385. In response to the submission points by Susan and Donald Broad, I note that the Outram Groundwater Protection Zone is mapped and referenced in the Water Plan, not the pORPS 2021, so any amendments to the extent of that zone is outside the scope of this process. Similarly, resource consent processes for septic tanks are set out in the Water Plan and also out of scope of this process. I do not recommend accepting these submission points.
386. Susan and Donald Broad have also sought to discourage the addition of septic-dependent development in rural townships. I note that LF-FW-P15 requires minimising the adverse effects of wastewater discharges, including by requiring on-site wastewater systems to be designed and operated in accordance with best practice standards and by ensuring that discharges meet any applicable water quality standards set for FMUs or rohe. The policy also seeks to promote the reticulation of wastewater in rural areas. In addition, UFD-P8(5)(b) requires having particular regard to the individual and cumulative impacts of wastewater disposal on the receiving environment. In my view, there is sufficient direction to decision-makers regarding the expansion of urban areas that are reliant on on-site wastewater systems. I consider that issues in specific locations, such as Outram, are more appropriately addressed through a regional plan. I do not recommend accepting this submission point.
387. Gavan James Herlihy seeks to include reference to a range of matters relevant to the Maniototo area. I understand the submitter is seeking greater recognition of the role of irrigation in delivering on the purpose of the pORPS and resilience to climate change, and particularly the importance of the Loganburn Reservoir. In my view, clause (8) broadly recognises a range of practices that assist with supporting food production and improving resilience to climate change and I do not consider specific reference to irrigation, water storage, or the Loganburn Reservoir is necessary.
388. The submitter notes the role of wildlife in degrading water quality in the Maniototo catchment and seeks to include reference to pest management in LF-VM-O4. The submitter has not provided any supporting evidence about the issues posed by wildlife in the area. I note that the *ECO – Ecosystems and indigenous biodiversity* chapter contains provisions managing biodiversity, including providing for pest control activities (ECO-M4(1)(a)) and engaging with individuals, community groups, government agencies and other organisations with a role or an interest in biodiversity management. Pest management is an activity managed under the Biosecurity Act 1993 and so there are limitations on the direction that can be provided through RMA planning documents. I

consider there will be opportunities to address pest management in particular catchments more specifically through the development of the LWRP.

389. The submitter also states that water in the Upper Taiari is being “sucked up” by introduced willows and this must be acted on. I understand that crack willows have historically been used in river control works to stabilise banks, including in Otago. I am aware that ORC’s current approach to the use of crack willow is generally to prefer their removal, however this is a site-specific assessment and in some cases willows are retained or relocated. Overall, however, ORC does not introduce crack willow to a site where it is not already present. The submitter has not provided any supporting evidence about the degree to which willows are affecting water yield in the Upper Taiari, however I consider that type of discussion is more relevant to the development of environmental outcomes and environmental flows and levels which will occur through the LWRP. Specific management of the scroll plain will also be a matter for the LWRP to address, guided by the direction in LF-VM-O4 to restore healthy wetlands in that area.
390. The submitter notes that the Tiaki Maniototo project seeks to improve environmental outcomes in the Upper Taiari area over the next five years and considers that any outcomes developed for the Taiari FMU process should be developed in concert with the Tiaki Maniototo project. I agree that would be beneficial but consider this type of synergy can be provided outside the formal pORPS process, for example through engagement and other non-regulatory methods.
391. Finally, the submitter considers that greater environmental gains would be achieved through creation and enhancement of existing wetlands, as well as restoration. I do not consider it is practical to require creation of existing wetlands, however I agree that in some cases enhancement will be more appropriate than restoration. I recommend accepting this submission point in part, noting that there is more specific direction on the management of wetlands in LF-FW-O9, LF-FW-P9, and LF-FW-P10.
392. Kāi Tahu ki Otago seeks to amend the timeframe for achieving this vision from 2050 to 2045. In his evidence for the hearing on Proposed Plan Changer 7 to the Water Plan, Tom de Pelsemaeker stated that, as at 7 December 2020, the Schedule 2A Primary Allocation Limit for the Taiari Catchment was 4,860 litres per second while the Consented Primary Allocation was 24,748.78 litres per second.⁴³³ Mr de Pelsemaeker concluded, and I agree, that in parts of Otago (including the Taiari) there is a risk that current levels of allocation do not first prioritise the health and well-being of water bodies and freshwater ecosystems as required by the NPSFM. Using the data available through ORC’s online GIS,⁴³⁴ I understand there are at least 1086 current water take permits in the Taiari catchment.⁴³⁵ Of those, 218 are due to expire between 2045 and 2050. This equates to

⁴³³ Statement of evidence of Tom de Pelsemaeker on behalf of the Otago Regional Council (7 December 2020), p.23

⁴³⁴ <https://maps.orc.govt.nz/OtagoViewer/?map=2b72476ec76446cf8270dad325952215>

⁴³⁵ I note that there are 891 other water take permits across Otago that do not have a catchment identified in the data and some of them will also be in the Taiari catchment.

20% of the current water take permits in the catchment. An additional 19% of current water take permits expire between 2040 and 2045.

393. On this basis, although I understand the reasons for the request by Kāi Tahu ki Otago, I do not consider that bringing forward the date for achieving the vision from 2050 to 2045 is practical. Clause 3.3(2)(c) of the NPSFM requires timeframes to be both ambitious and reasonable. In the Taieri FMU, I do not consider a 2045 timeframe is reasonable because at that point in time 20% of the water take permits will not have been re-examined under the new LWRP framework (which will give effect to the NPSFM). For these reasons, I do not recommend accepting this submission point.
394. I understand that Ngā Awa is a river restoration programme established by the Department of Conservation to: (Department of Conservation, n.d.)
- improve the condition, biodiversity and the ecological processes of the rivers,
 - protect the threatened species (like native fish) that are present, and
 - increase the ability of each river to cope with climate change.
395. While the Ngā Awa programme will support the achievement of the vision, I do not consider that the vision needs to specifically refer to this programme which is one of a number of programmes focused on improving the health of various rivers in Otago.⁴³⁶ Further, this is a programme of work that sits outside the RMA and the sphere of local authorities. I do not recommend accepting this submission point.
396. John Highton seeks specific mention of the Upper Taieri Scroll Plain. I note that clause (3) requires restoring (or enhancing, as I have recommended elsewhere) healthy wetlands, including the scroll plain. I recommend rejecting this submission point.
397. Regarding the submission point by Kāi Tahu ki Otago, I note that Schedule 9 (Regionally significant wetlands) in the Water Plan uses the term “wetland complex” to describe this area. Although that Plan uses “Waipori/Waihola”, I understand the official name of the relevant wildlife management reserve is “Waihola/Waipori” and therefore I consider the name “Waihola/Waipōri wetland complex” as sought by Kāi Tahu ki Otago is appropriate. I recommend accepting this part of the submission point.
398. By my reading, the intent of clause (3) is to restore (or enhance, as recommended elsewhere) wetlands so that they are healthy. However, I acknowledge that the wording is somewhat unclear and could be interpreted, as highlighted by Beef + Lamb and DINZ, as requiring healthy wetlands to be restored. In response to the submitter’s request to clarify what level of restoration is required, I consider that is a matter for the regional plan to determine when environmental outcomes are developed for the FMU. However, for consistency with an amendment I have recommended to LF-VM-O2 for similar reasons, I consider that changes could be made to clarify that restoration or enhancement is required where wetlands have been degraded, lost or reduced in size. I recommend accepting this submission in part and amending the clause to clarify its meaning.

⁴³⁶ Including catchment groups and Tiaki Maniopoto, for example.

399. In considering these submissions, I have noted that clause (3) does not require protecting these wetland complexes. In my opinion, given their significance, that is an oversight. However, there are no submissions seeking additional protection to clause (3) and therefore I do not consider that there is sufficient scope in submissions to address this. I note that clause (49)(2) of Schedule 1 of the RMA enables the hearings panel take make decisions outside the scope of submissions and the panel may wish to consider this.
400. In response to the submission point by John Highton regarding didymo, I understand that didymo is present in the Taieri FMU but not currently at nuisance levels, however the feedback from communities during consultation on this vision specifically identified didymo as a “significant problem for both biodiversity and water quality.” I have not been able to access sampling results to verify the extent of didymo in this FMU and, in the absence of that information, consider it is appropriate to reflect the feedback from the community. At this stage, without further evidence, I do not recommend accepting the submission point by John Highton.
401. I agree with DOC and Kāi Tahu ki Otago that there are other indigenous freshwater species in the Taieri FMU in addition to *galaxiid* species. Section 9.4.1 of the Kāi Tahu ki Otago Natural Resources Management Plan 2005 states that:
- “Waiholā/Waipori was an important mahika kai resource for Kāi Tahu ki Otago. An abundance of tuna, īnaka, pātiki and other indigenous fish were available.”
 - “A number of other settlements further afield were dependent on the mahika kai resources of Waiholā/Waipori for sustenance, including Tu Paritaniwha Pā near Momona, Omoua Pā above Henley, Maitapapa (Henley area), the Kaik south of Henley and Takaaihitau near the old Taieri Ferry bridge, in addition to other settlements adjacent to the Taieri River up and downstream of the wetlands. Ōtākou and Puketeraki hapū also made seasonal visits to gather resources and strengthen and maintain the kupenga of whakapapa on which their rights to use those resources were based.”
402. I recommend accepting these submissions in part and amending the clause to refer to indigenous freshwater species, including *galaxiid* species.
403. The amendments sought by Lynne Stewart and COES to clause (8) would combine and alter the intent of clauses in a way that is not consistent with the feedback provided during community consultation. It is not clear what degree of ecological functioning is envisaged by the submitter. I note that ecological health is a compulsory value in the NPSFM and therefore communities will have the opportunity to provide input into the development of the LWRP which will establish environmental outcomes for every value (compulsory or separated identified). I do not recommend accepting this submission.
404. I agree with Kāi Tahu ki Otago that minor rewording of clause (8) would assist its readability and recommend accepting this part of the submission point.
405. Having reviewed the community and iwi feedback provided through consultation on the freshwater visions, I do not consider that a desire to reduce emissions was expressed and therefore do not recommend accepting the submission point by Horticulture NZ.

406. Federated Farmers seeks to replace “food production” with “primary production”. As discussed in section **Error! Reference source not found.**, that term is considerably broader than food production and includes other activities such as forestry. The summary of feedback from community consultation on the Taiari FMU vision included the following:⁴³⁷
- “There was strong opposition to forestry in the Taiari FMU, as a threat to natural character and agriculture.” (p.25)
 - “Agriculture is the primary economic driver in the Taiari, and the communities want to see it remain this way across generations.” (p.25)
 - Long-term aspiration: “Agriculture remains the primary economic driver for the Taiari across generations who utilise sustainable, prosperous, and adaptable agricultural practices.” (p.25)
407. The dictionary definition of agriculture is:⁴³⁸
- the science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products
408. In my opinion, this definition more closely reflects the feedback provided by the community during consultation. I do not consider that the amendments sought by Federated Farmers are an accurate reflection of the community’s aspirations and therefore do not recommend accepting this submission point.
409. I understand from Otago’s *Climate change risk assessment* (Tonkin + Taylor, 2021, p. 6) that in general, Otago is expected to experience an increase in annual rainfall, increased intensity of extreme and rare rainfall events, and an increase in Mean Annual Flood. In relation to flooding, the region is generally projected to see an increase of greater than 20% with some areas seeing more than 100% increase in Mean Annual Flood. The Taiari Plains are already vulnerable to flooding and will become more so as the effects of climate change are felt. This is reflected, to some degree, in the community consultation feedback which highlighted the importance of flood protection in the FMU. On this basis, I agree with DOC that including reference to improving resilience to flooding is appropriate. I do not agree that an entirely new clause is necessary and instead recommend including reference to flooding in existing clause (8). I recommend accepting this submission point in part.
410. I acknowledge the importance of mahika kai to Kāi Tahu and consider that the additional clause sought by Kāi Tahu ki Otago should be included.
411. With regard to including an additional clause preventing any further modification to the shape or behaviour of the water bodies, I note that in the freshwater visions feedback provided by Kāi Tahu ki Otago one of the region-wide aspirations was that there is no further modification of river shape or braided stretches, existing wetlands are restored,

⁴³⁷ See Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

⁴³⁸ <https://www.merriam-webster.com/dictionary/agriculture>

and the area of wetlands is increased.⁴³⁹ The community consultation also recorded the following:⁴⁴⁰

- “Communities valued the FMU’s unique and distinct natural character, including the scroll plains, wetlands, rocky outcrops, and Sutton Salt Lake. These are unique features and will need unique management approaches to maintain them for future generations to enjoy.” (p.25)
- Long-term aspiration: “The unique natural character and features of the Taiari are beautiful and valued, continuing to contribute to the community sense of place.” (p.25)

412. In its consultation feedback, the outcome sought was restricted to river shape and braided stretches, whereas in its submission on the pORPS Kāi Tahu ki Otago seeks that there is no further modification of any water bodies. In my view, this does not accord with the consultation feedback which highlights particular features (i.e. the scroll plains and Sutton Salt Lake) and their ‘uniqueness’, which to me indicates a narrower subset of water bodies. In relation to rivers, LF-FW-P13(1) requires avoiding the loss or values of a river unless particular exclusions apply, which will set a high bar for modification. Similar restrictions apply to natural wetlands under LF-FW-P9. The vision already seeks to restore, in clause (3), the upper and lower catchment wetland complexes that were identified as valued by communities.

413. I am aware that there are flood protection schemes in place in the Taiari FMU, some of which protect regionally significant infrastructure such as Dunedin Airport. Climate change projections indicate a significant increase in flooding in Otago, including the Taiari. It may be necessary for the health and safety of people and communities to modify water bodies, for example to improve flood protection, in the future and I am reluctant to introduce a blanket restriction of this nature. On this basis, I do not recommend accepting this submission point.

414. The submission by Kāi Tahu ki Otago states that “it is ... important to mana whenua that mahika kai species do not contain contaminants that would make them unsafe to eat” and “[t]o enable harvest of food, the water body must also be safe for whānau to enter ...” I appreciate that this is critical to mahika kai and recommend accepting this submission point in part. I consider this request is linked to an earlier submission point by Kāi Tahu ki Otago seeking greater recognition of mahika kai in the Taiari FMU vision and that the requirement for mahika kai species to be safe for consumption could instead be incorporated into that clause, rather than included as a separate clause.

415. OWRUG states that the vision does not accurately reflect the outcome of community consultation because it does not express the community’s desire for water to be allocated to support food and fibre production. I agree that irrigation and food production were a clear theme during consultation, and that water storage was suggested a number of times as a potential management tool. I have not incorporated those desires into the vision to the extent sought by the submitter, or indicated by the community, because in my

⁴³⁹ Appendix 6 (p.2) of the Section 32 Evaluation Report for the pORPS 2021.

⁴⁴⁰ Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

opinion freshwater visions still need to comply with higher order documents, and in this case particularly the NPSFM and Te Mana o te Wai.

416. As discussed earlier in this section, Mr de Pelsemaeker stated in his evidence prepared for PC7 that, as at 7 December 2020, the Schedule 2A Primary Allocation Limit for the Taieri Catchment was 4,860 litres per second while the Consented Primary Allocation was 24,748.78 litres per second.⁴⁴¹ In my opinion, this indicates that there is a significant risk of over-allocation in this FMU and that ORC will need to carefully consider the limits on resource use developed as part of the LWRP. In that context, I do not consider that it is appropriate to attempt to 'shore up' allocation in advance of the LWRP process. In my opinion, irrigation is a third priority under the hierarchy of obligations in the objective of the NPSFM, and under LF-WAI-P1, and I am not convinced that there is evidence to demonstrate that the type of allocation sought by OWRUG would, first, prioritise the health and well-being of the water bodies and freshwater ecosystems.
417. Similarly, while water storage may be one of the methods considered for managing freshwater in this FMU, I do not consider that it will always be the most appropriate method. Whether water storage can be provided will be site-specific and is, in my opinion, a matter better addressed in the LWRP once there is clarity about the environmental outcomes sought, limits on resource use, and, if applicable, any requirements to phase out over-allocation. I do not recommend accepting this submission point.
418. Trustpower seeks an additional clause recognising the national and regional significance of the Waipori, Deep Stream, and Paerau/Patearoa hydro-electric power schemes. In its submission, Trustpower gives the following reason for this request:
- Trustpower's primary assets in the Otago region are the Waipori and Paerau/Patearoa hydroelectric power schemes – both of which are located within the Taieri FMU. It is considered appropriate that the significance of these assets is specifically referred in the vision for the Taieri FMU.
419. It is not clear to me which of these power schemes Trustpower considers to be nationally significant and which regionally significant. These terms are defined in the pORPS but I am unable to determine from Trustpower's submission whether these schemes meet those definitions. I note that in their reasons, Trustpower does not mention Deep Stream but seeks to include reference to that scheme in the relief sought to LF-VM-O4. Without further evidence, I do not recommend accepting this submission point.
420. In section **Error! Reference source not found.** of this report, I have addressed submissions on clause (7) of this objective and recommended an amendment which I have included below. That section should be referred to for the relevant submissions and evaluation.

⁴⁴¹ Statement of evidence of Tom de Pelsemaeker on behalf of the Otago Regional Council (7 December 2020), p.23

12.1.1.4. Recommendation

421. I recommend amending LF-VM-O4 to:

LF-VM-O4 – Taieri Taieri⁴⁴² FMU vision

By 2050 in the Taieri Taieri⁴⁴³ FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,
- (3A) water bodies support thriving *mahika kai* that are safe for consumption and Kāi Tahu whānui have access to *mahika kai*,⁴⁴⁴
- (3) ~~healthy wetlands are restored in~~⁴⁴⁵ the upper and lower catchment *wetland* complexes, including the ~~Waipori~~ Waipoūri/Waihola Wetlands, Tunaheketaka/Lake Taieri Taieri,⁴⁴⁶ scroll plain, and tussock areas, are restored⁴⁴⁷ or enhanced where they have been degraded, lost or reduced in size.⁴⁴⁸
- (4) the gravel *bed* of the lower Taieri Taieri⁴⁴⁹ is restored and sedimentation of the ~~Waipori~~ Waipoūri/Waihola complex is reduced,
- (5) creative ecological approaches contribute to reduced occurrence of didymo,
- (6) *water bodies* support healthy populations of indigenous freshwater species, including⁴⁵⁰ galaxiid species,
- (7) there are no direct *discharges of wastewater containing sewage*⁴⁵¹ to *water bodies*, and
- (8) food production in the area is supported by⁴⁵² innovative and sustainable land and water management practices ~~support food production in the area and that⁴⁵³~~ improve resilience to the *effects of climate change, including flooding.*⁴⁵⁴

⁴⁴² 00226.170 Kāi Tahu ki Otago

⁴⁴³ 00226.170 Kāi Tahu ki Otago

⁴⁴⁴ 00226.170 Kāi Tahu ki Otago

⁴⁴⁵ 00237.028 Beef + Lamb and DINZ

⁴⁴⁶ 00226.170 Kāi Tahu ki Otago

⁴⁴⁷ 00237.028 Beef + Lamb and DINZ

⁴⁴⁸ 00104.005 Gavan Herlihy

⁴⁴⁹ 00226.170 Kāi Tahu ki Otago

⁴⁵⁰ 00137.066 DOC, 00226.170 Kāi Tahu ki Otago

⁴⁵¹ 00213.035 Fonterra

⁴⁵² 00226.169 Kāi Tahu ki Otago

⁴⁵³ 00226.169 Kāi Tahu ki Otago

⁴⁵⁴ 00137.066 DOC

12.2. Draft supplementary evidence

44 In paragraph 435 of my section 42A report, I recommended accepting in part the submission point by Toitū te Whenua on LF-VM-O2(3) regarding the recognition of wāhi tūpuna and Kāi Tahu relationships with wāhi tūpuna.⁴⁵⁵ The submitter considered amendments were necessary to recognise the loss of connection between Kāi Tahu and wāhi tūpuna due to Kāi Tahu being unable to access large parts of the region.

45 Kāi Tahu ki Otago seeks unspecified amendments to ensure that each freshwater vision addressed, among other things, Kāi Tahu relationship with wāhi tūpuna.⁴⁵⁶ This was supported in a further submission by Ngāi Tahu ki Murihiku.⁴⁵⁷ I did not make a specific recommendation in response to this submission point because I was unsure what amendment was being sought by the submitter.

46 As a consequential amendment arising from the submission point by Toitū te Whenua, and for consistency with other provisions that seek to restore what has been lost, I considered the wording of sub-clause (3) should instead be “sustained, and where degraded or lost, restored.” The provision as I recommended is set out in paragraph 481 of my section 42A report.

47 Wāhi tūpuna is described as follows in the pORPS (p.62):

Wāhi tūpuna (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. ... The character of wāhi tūpuna in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the wāhi tūpuna become incorrect due to modification of the environment, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in central Dunedin, but no longer exists because there is now a city where the waterway once was.

48 With this context, I now consider that “restoring” the relationship between Kāi Tahu and wāhi tūpuna is not appropriate as that terminology does not properly reflect the

⁴⁵⁵ 00101.031 Toitū te Whenua

⁴⁵⁶ 00226.167 Kāi Tahu ki Otago

⁴⁵⁷ FS00223.070 Ngāi Tahu ki Murihiku

connection between cultural landscapes and Kāi Tahu. I now recommend the following amendments to LF-VM-O2(3):

LF-VM-O2 – Clutha Mata-au *FMU* vision

In the Clutha Mata-au *FMU*:

...

- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with *wāhi tūpuna* are re-established where these have been degraded or lost, restored,⁴⁵⁸

49 I agree with Kāi Tahu ki Otago that there should not be unnecessary inconsistency in the freshwater visions. Accordingly, as a consequential amendment, I also recommend amending the remaining freshwater visions in the same way as LF-VM-O2, as follows:

LF-VM-O3 – North Otago *FMU* vision

By 2050 in the North Otago *FMU*:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,⁴⁵⁹ and Kāi Tahu maintain their connection with and use of the *water bodies*,

LF-VM-O4 – *Taiari* *Taiari*⁴⁶⁰ *FMU* vision

By 2050 in the *Taiari* *Taiari*⁴⁶¹ *FMU*:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,⁴⁶²

LF-VM-O5 – Dunedin & Coast *FMU* vision

By 2040 in the Dunedin & Coast *FMU*:

⁴⁵⁸ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁵⁹ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁶⁰ 00226.170 Kāi Tahu ki Otago

⁴⁶¹ 00226.170 Kāi Tahu ki Otago

⁴⁶² 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with wāhi tūpuna are re-established where these have been degraded or lost,⁴⁶³ and Kāi Tahu maintain their connection with and use of the water bodies,⁴⁶⁴

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored,⁴⁶⁵

Section 32AA evaluation

- 50 In my view, re-establishing connections with *wāhi tūpuna* is not significantly different to restoring the relationship of Kāi Tahu with *wāhi tūpuna* in terms of the practical outcome to be achieved 'on the ground.' In both cases, the direction is to 'put right' degradation that has occurred.
- 51 In achieving the purpose of the RMA, section 6(e) requires recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, *wāhi tapu*, and other taonga. I consider my updated recommendations are more effective at implementing this statutory direction because the updated amendments better reflect the connection between Kāi Tahu and *wāhi tūpuna* and therefore the nature of the relationship.
- 52 In the case of LF-VM-O3, LF-VM-O4, and LF-VM-O5, my updated recommendations expand the scope of the clauses beyond sustaining the relationship of Kāi Tahu with *wāhi tūpuna* by requiring re-establishing connections that have been lost. That is likely to result in additional economic costs, particularly where physical works or changes to management practices will be required in order to re-establish connections. There are also likely to be additional cultural benefits as a result of these connections being re-

⁴⁶³ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁶⁴ 00226.171 Kāi Tahu ki Otago

⁴⁶⁵ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

established. Those costs and benefits will be incurred in the long-term, noting that the freshwater visions are not intended to be achieved in full until between 2030 and 2045.

- 53 As directed in clause 3.2(2)(b) of the NPSFM 2020, the identification of long-term visions for freshwater is one of the key components in giving effect to Te Mana o Te Wai. Therefore, it is important that the freshwater visions in the LF-VM section be consistent with the provisions in the LF-WAI – Te Mana o te Wai section of the pORPS. In my opinion, the amendments I recommend are the most appropriate way of achieving the objective of that section, and particularly the requirement in LF-WAI-O1(2) to recognise and reflect that there is an integral kinship relationship between wai and Kāi Tahu whānui, and this relationship endures through time, connecting past, present, and future.

13. LF-VM-05

13.1. Previous section 42A report content

13.1.1. LF-VM-05 – Dunedin & Coast FMU vision

13.1.1.1. Introduction

422. As notified, LF-VM-05 reads:

LF-VM-05 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,
- (3) healthy estuaries, lagoons and *coastal waters* support thriving mahika kai and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas,
- (4) there is no further modification of the shape and behaviour of the *water bodies* and opportunities to restore the natural form and function of *water bodies* are promoted wherever possible, and
- (5) *discharges of contaminants* from urban environments are reduced so that *water bodies* are safe for human contact.

13.1.1.2. Submissions

423. Few submissions were received on this objective. Forest and Bird seeks amendments for consistency with their proposed overarching vision for Otago but does not specify the amendments sought.⁴⁶⁶ Harbour Fish seeks that water bodies are expanded to specifically include the coastal marine environment.⁴⁶⁷

424. Waka Kotahi seeks that the objective cross-reference other chapters of the RPS that provide for modification of water bodies as a result of infrastructure works or a new provision that recognises this requirement.⁴⁶⁸ I have addressed this submission point in section **Error! Reference source not found.**

425. John Highton seeks the following general amendments:⁴⁶⁹

- include the restoration of the Water of Leith, its amenity values and habitat for migratory fish, and

⁴⁶⁶ 00230.082 Forest and Bird

⁴⁶⁷ 00126.036 Harbour Fish

⁴⁶⁸ 00305.021 Waka Kotahi

⁴⁶⁹ 00014.051 John Highton

- identify Tomahawk Lagoon, Silverstream, Kaikorai Stream and estuary as water bodies to be restored and maintained.

426. DCC seeks a range of amendments to the vision:⁴⁷⁰

- Amend the vision, along with the means and timeframes for attaining the vision given some specific catchment challenges, to include a clear vision for Dunedin's urban waterways (in particular the Kaikorai, Leith, Tomahawk Lagoon and Silverstream) in terms of water quality, access, and the value placed on them by the community,
- Amend the objective and the objectives in the CE – Coastal environment chapter to address the link between the two chapters, particularly in relation to clause (3) of the objective which they consider may be more applicable to coastal environments,
- Delete the requirement to prevent further modification in clause (4) as this could unintentionally restrict restoration activities and does not recognise that modification can have benefits for communities (for example, stormwater drainage),

427. In relation to the final point above, I agree with DCC that modification of the shape and behaviour of a water body may have positive effects on the health and well-being of water bodies, and that the clauses as notified have assumed that modification is negative which may not always be the case. While I acknowledge that the modification clauses do not recognise the benefits for communities, I am conscious of the need to give effect to Te Mana o te Wai, including by prioritising, first, the health and well-being of the water bodies and freshwater ecosystems. I note that I have discussed modification of water bodies in section **Error! Reference source not found.** and recommended replacing “there is no further modification” with “minimise modification”. I recommend accepting this submission point in part.

428. Kāi Tahu ki Otago seeks that, in clause (1), Kāi Tahu maintain their connection with and use of water bodies in order to incorporate important components of other visions that should be outcomes for all FMUs and improve general clarity of meaning and consistency of wording across visions.

429. Clause (5) relates to reducing discharges of contaminants from urban environments. DCC seeks to delete the reference to urban environments as problematic contaminants may come from either urban or rural environments, whereas Kāi Tahu ki Otago seeks to include reference to rural environments for similar reasons. Kāi Tahu ki Otago also seeks to amend clause (5) so that reductions in contaminant discharges also ensure that mahika kai species are safe for consumption. Kāi Tahu ki Otago also seeks to include a new clause regarding discharges of wastewater which I have addressed in section **Error! Reference source not found.**

⁴⁷⁰ 00139.088 DCC

430. Ravensdown and Federated Farmers seek the addition of a new clause to recognise the importance of primary production to this FMU:⁴⁷¹

(6) innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.

431. Kāi Tahu ki Otago seeks to amend the boundary of the Dunedin and Coast FMU so that it includes the Waikouaiti catchment. This is discussed further in relation to LF-VM-P5 and MAP1 which list and map those boundaries.

13.1.1.3. Analysis

432. I have addressed the submission point by Forest and Bird in section **Error! Reference source not found.** of this report as it relates to their relief sought elsewhere for a region-wide freshwater vision.

433. Harbour Fish considers that water bodies need to be expanded to specifically include the coastal marine environment. I am unsure what exactly the submitter is seeking, but note that the boundaries of the FMUs incorporate some areas that are likely to fall within the coastal marine area. For example, the maps below in Figure 1 show the boundary of the coastal marine area as delineated in the Coast Plan (first image) compared to the FMU boundary set in the pORPS (second image). The FMU boundary clearly incorporates part of the Kaikorai Lagoon that is also within the coastal marine area.

⁴⁷¹ 00121.054 Ravensdown, 00239.080 Federated Farmers

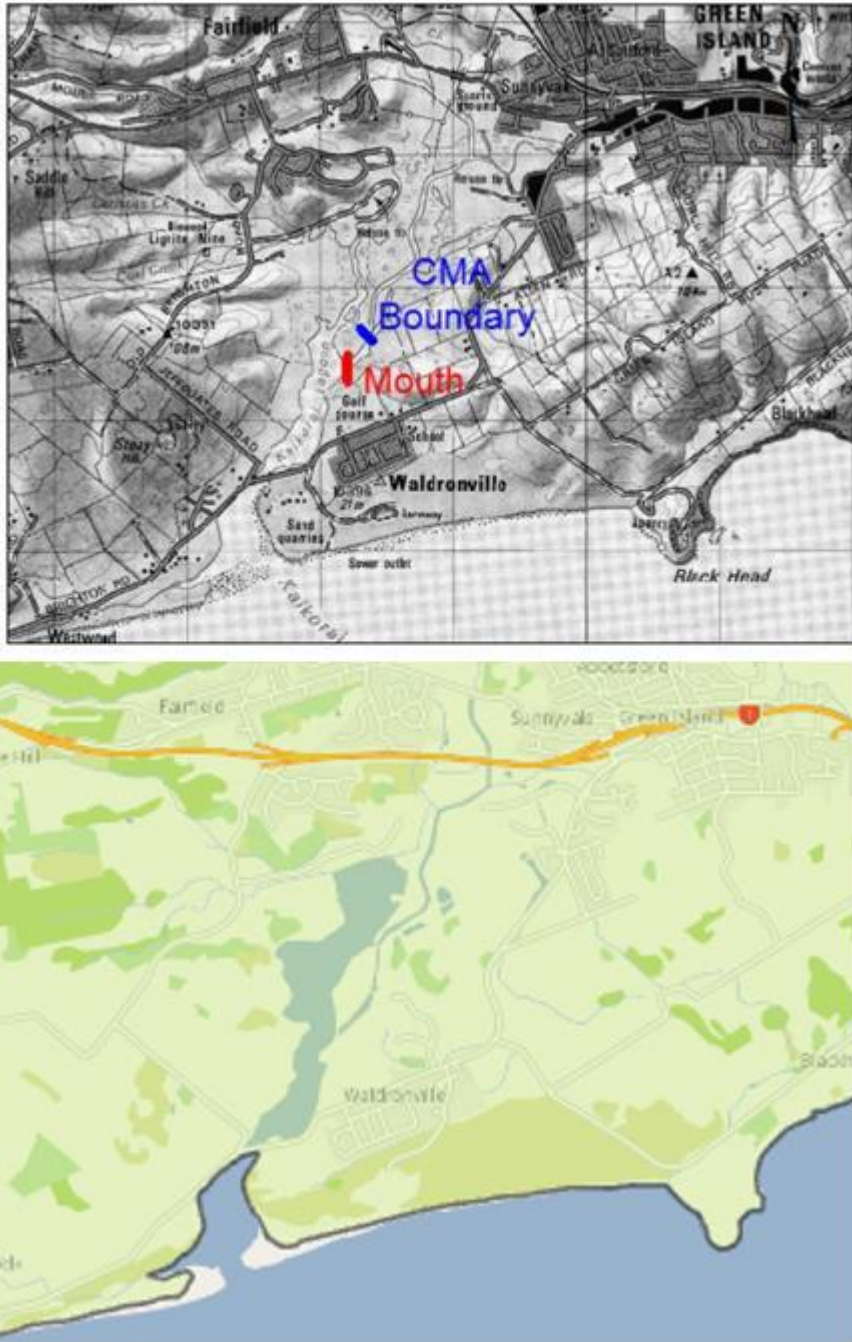


Figure 1: Coast Plan CMA boundary vs Dunedin & Coast FMU boundary

- 434. Without clarification from the submitter about what is being sought, I do not recommend accepting this submission point.
- 435. John Highton seeks general amendments to require restoration of the Leith, Tomahawk Lagoon, Kaikorai stream and estuary, and the Silverstream. I do not consider that the outcomes sought by this submitter are an accurate reflection of the community consultation feedback, which did not identify restoration of these water bodies as a long-term aspiration. On this basis, I do not recommend accepting the submission point.
- 436. DCC considers that there needs to be a clear vision for Dunedin’s urban waterways (in particular the Kaikorai, Leith, Tomahawk Lagoon, and Silverstream) in terms of water

quality, access, and their value to the community. The submitter seeks that the vision is amended, along with the means and timeframes for attaining the vision, to address the issues raised but does not provide any specific wording. In the absence of more detail about the vision the submitter envisages for urban waterways, I do not recommend accepting this submission point at this stage. The submitter may wish to provide additional detail in their evidence.

437. I agree with Kāi Tahu ki Otago that including reference to the connection of Kai Tahu with, and use of, water bodies is an appropriate amendment to clause (1) and reflects the relationship described in LF-WAI-O1(2). I recommend accepting this part of the submission point.

438. Clause (3) of the vision relates to estuaries, lagoons, and coastal waters as well as the migration of indigenous species. DCC questions whether the *LF – Land and freshwater* chapter is the most appropriate place for this type of direction and seeks that the objective, as well as the objectives in the *CE – Coastal environment* chapter, are amended to address the link between the two chapters. DCC also seeks to amend CE-P1 to include reference to the *LF – Land and freshwater* chapter, which is addressed in relation to that policy.

439. As I have explained above, the FMU boundaries (including in the Dunedin & Coast FMU) include some estuaries and lagoons. Coastal water is defined in section 2 of the RMA as:

...seawater within the outer limits of the territorial sea and includes –

(a) seawater with a substantial fresh water component; and

(b) seawater in estuaries, fiords, inlets, harbours, or embayments.

440. Some water bodies within FMUs will therefore contain coastal water. This FMU contains the majority of Otago's coastline and there are many estuaries, lagoons, and other water bodies with coastal water or a mixture of fresh and coastal water, some of which are located partly or wholly within the CMA. Clause 3.2(2)(e) of the NPSFM requires regional councils to give effect to Te Mana o te Wai and, in doing so, adopt an integrated approach, ki uta ki tai, to the management of freshwater. Clause 3.5(1) sets out more detail about this requirement and, in particular, requires local authorities to:

(a) recognise the interconnectedness of the whole environment, from the mountain and lakes down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and

(b) recognise interactions between freshwater, land, waterbodies, ecosystems, and receiving environments;

441. Finally, I note that clause 1.5 of the NPSFM states that the NPS applies to:

“...all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area).”

442. On this basis, I consider it is appropriate for the vision for the Dunedin & Coast FMU to recognise the close links between fresh and coastal water in this part of the region. In my

opinion, the NPSFM clearly anticipates this approach and separating the receiving environment from the freshwater bodies would not recognise ki uta ki tai or integrated management. I note that an explicit cross-reference to the LF chapter in CE-P1 is recommended and therefore recommend accepting this submission point in part.

443. In relation to clause (5), I agree with both DCC and Kāi Tahu ki Otago that contaminants may come from either rural or urban environments. In response to submissions on LF-VM-O3(5), which is very similar to LF-VM-O5(5), I have recommended changes to focus on the action (reductions in contaminant discharges) and the outcome sought (water bodies being safe for human contact and mahika kai species safe for consumption) rather than the activities leading to the discharges. I consider that adopting this approach in LF-VM-O5(5) addresses the issue raised by DCC and Kāi Tahu ki Otago and provides consistency with LF-VM-O3 which applies to the North Otago FMU, adjacent to the Dunedin & Coast FMU. I recommend accepting the submission point by DCC and accepting in part the submission point by Kāi Tahu ki Otago.

444. The summary of community consultation feedback on this vision recorded as a long-term aspiration that:⁴⁷²

“Farming contributes to the local economy. Highly productive land is protected, and lifestyle blocks are restricted to marginal land. Costs of externalities are factored into prices and regulation is workable for all landowners. Opportunities for high value production are explored and supported.”

445. In my view, this is more closely related to the management of urban and rural-residential expansion than to food production. I do not recommend accepting the submission points by Ravensdown and OWRUG.

446. Elsewhere in this chapter, Kāi Tahu ki Otago seeks to amend the boundary between the Dunedin & Coast and North Otago FMUs. In relation to this provision, Kāi Tahu ki Otago seeks that if that boundary change is recommended to be accepted, then this provision should include recognition of management outcomes for the Waikouaiti freshwater mātaītai and the East Otago Taiāpure. As outlined in section 0 of this report, I have recommended accepting the request to adjust the boundary and consider that there may need to be consequential amendments to LF-VM-O5 as a result. While I do not oppose the additional relief sought by Kāi Tahu ki Otago, I am unsure what types of outcomes are envisaged by the submitter. Without further clarification, I do not recommend accepting this part of the submission point at this stage. The submitter may wish to clarify the relief sought in their evidence.

13.1.1.4. Recommendation

447. I recommend amending LF-VM-O5 to:

LF-VM-O5 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

⁴⁷² Appendix 5 (p.28) of the Section 32 Evaluation Report for the pORPS 2021.

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and Kāi Tahu maintain their connection with and use of the water bodies,⁴⁷³
- (3) healthy estuaries, lagoons and *coastal waters* support thriving ~~ma~~*hika kai mahika kai*⁴⁷⁴ and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas,
- (4) ~~there is no further~~ minimise⁴⁷⁵ modification of the shape and behaviour of the *water bodies* and promote opportunities to restore the natural form and function of *water bodies* ~~are promoted~~⁴⁷⁶ wherever possible, and
- (5) ~~discharges of contaminants from urban environments~~⁴⁷⁷ are reduced so that *water bodies* are safe for human contact and mahika kai species are safe for consumption.⁴⁷⁸

13.2. Draft supplementary evidence

54 In paragraph 435 of my section 42A report, I recommended accepting in part the submission point by Toitū te Whenua on LF-VM-O2(3) regarding the recognition of *wāhi tūpuna* and Kāi Tahu relationships with *wāhi tūpuna*.⁴⁷⁹ The submitter considered amendments were necessary to recognise the loss of connection between Kāi Tahu and *wāhi tūpuna* due to Kāi Tahu being unable to access large parts of the region.

55 Kāi Tahu ki Otago seeks unspecified amendments to ensure that each freshwater vision addressed, among other things, Kāi Tahu relationship with *wāhi tūpuna*.⁴⁸⁰ This was supported in a further submission by Ngāi Tahu ki Murihiku.⁴⁸¹ I did not make a specific recommendation in response to this submission point because I was unsure what amendment was being sought by the submitter.

56 As a consequential amendment arising from the submission point by Toitū te Whenua, and for consistency with other provisions that seek to restore what has been lost, I

⁴⁷³ 00226.171 Kāi Tahu ki Otago

⁴⁷⁴ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁴⁷⁵ 00139.088 DCC, 00305.020 Waka Kotahi

⁴⁷⁶ Clause 10(2)(b)(i), Schedule 1, RMA - consequential amendment arising from 00139.088 DCC, 00305.020 Waka Kotahi

⁴⁷⁷ 00139.088 DCC

⁴⁷⁸ 00226.171 Kāi Tahu ki Otago

⁴⁷⁹ 00101.031 Toitū te Whenua

⁴⁸⁰ 00226.167 Kāi Tahu ki Otago

⁴⁸¹ FS00223.070 Ngāi Tahu ki Murihiku

considered the wording of sub-clause (3) should instead be “sustained, and where degraded or lost, restored.” The provision as I recommended is set out in paragraph 481 of my section 42A report.

57 Wāhi tūpuna is described as follows in the pORPS (p.62):

Wāhi tūpuna (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. ... The character of wāhi tūpuna in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the wāhi tūpuna become incorrect due to modification of the environment, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in central Dunedin, but no longer exists because there is now a city where the waterway once was.

58 With this context, I now consider that “restoring” the relationship between Kāi Tahu and wāhi tūpuna is not appropriate as that terminology does not properly reflect the connection between cultural landscapes and Kāi Tahu. I now recommend the following amendments to LF-VM-O2(3):

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

...

(3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored.⁴⁸²

59 I agree with Kāi Tahu ki Otago that there should not be unnecessary inconsistency in the freshwater visions. Accordingly, as a consequential amendment, I also recommend amending the remaining freshwater visions in the same way as LF-VM-O2, as follows:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

...

⁴⁸² 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,⁴⁸³ and Kāi Tahu maintain their connection with and use of the *water bodies*,

LF-VM-04 – Taieri Taieri⁴⁸⁴ FMU vision

By 2050 in the Taieri Taieri⁴⁸⁵ FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,⁴⁸⁶

LF-VM-05 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with *wāhi tūpuna* are re-established where these have been degraded or lost,⁴⁸⁷ and Kāi Tahu maintain their connection with and use of the *water bodies*,⁴⁸⁸

LF-VM-06 – Catlins FMU vision

By 2030 in the Catlins FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with *wāhi tūpuna* are re-established where these have been degraded or lost, restored,⁴⁸⁹

Section 32AA evaluation

⁴⁸³ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁸⁴ 00226.170 Kāi Tahu ki Otago

⁴⁸⁵ 00226.170 Kāi Tahu ki Otago

⁴⁸⁶ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁸⁷ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁴⁸⁸ 00226.171 Kāi Tahu ki Otago

⁴⁸⁹ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

- 60 In my view, re-establishing connections with wāhi tūpuna is not significantly different to restoring the relationship of Kāi Tahu with wāhi tūpuna in terms of the practical outcome to be achieved 'on the ground.' In both cases, the direction is to 'put right' degradation that has occurred.
- 61 In achieving the purpose of the RMA, section 6(e) requires recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga. I consider my updated recommendations are more effective at implementing this statutory direction because the updated amendments better reflect the connection between Kāi Tahu and wāhi tūpuna and therefore the nature of the relationship.
- 62 In the case of LF-VM-O3, LF-VM-O4, and LF-VM-O5, my updated recommendations expand the scope of the clauses beyond sustaining the relationship of Kāi Tahu with wāhi tūpuna by requiring re-establishing connections that have been lost. That is likely to result in additional economic costs, particularly where physical works or changes to management practices will be required in order to re-establish connections. There are also likely to be additional cultural benefits as a result of these connections being re-established. Those costs and benefits will be incurred in the long-term, noting that the freshwater visions are not intended to be achieved in full until between 2030 and 2045.
- 63 As directed in clause 3.2(2)(b) of the NPSFM 2020, the identification of long-term visions for freshwater is one of the key components in giving effect to Te Mana o Te Wai. Therefore, it is important that the freshwater visions in the LF-VM section be consistent with the provisions in the LF-WAI – Te Mana o te Wai section of the pORPS. In my opinion, the amendments I recommend are the most appropriate way of achieving the objective of that section, and particularly the requirement in LF-WAI-O1(2) to recognise and reflect that there is an integral kinship relationship between wai and Kāi Tahu whānui, and this relationship endures through time, connecting past, present, and future.

14. LF-VM-06

14.1. Previous section 42A report content

14.1.1. LF-VM-06 – Catlins FMU vision

14.1.1.1. Introduction

448. As notified, LF-VM-06 reads:

LF-VM-06 – Catlins FMU vision

By 2030 in the Catlins FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,
- (3) *water bodies* support thriving mahika kai and access of Kāi Tahu whānui to mahika kai,
- (4) the high degree of naturalness and ecosystem connections between the forests, *freshwater* and coastal environment are preserved,
- (5) *water bodies* and their catchment areas support the health and well-being of *coastal water*, ecosystems and indigenous species, including downstream kaimoana, and
- (6) healthy, clear and clean *water* supports opportunities for recreation and sustainable food production for future generations.

14.1.1.2. Submissions

449. Few submissions were received on this objective. Horticulture NZ and NZ Pork seek it be retained as notified.⁴⁹⁰ Forest and Bird seeks amendments for consistency with their proposed overarching vision for Otago but does not specify the amendments sought.⁴⁹¹ The remaining submitters seek a range of amendments.

450. Ngāi Tahu ki Murihiku seeks that the objective is amended to use phrasing consistent with the overarching vision for Te Mata-au where the same outcome is intended for the provision, to help make it clear where distinct outcomes are sought for the Catlins / Te Ākau Tai Toka due to the characteristics of this FMU.⁴⁹²

451. Beef + Lamb and DINZ consider that public access needs to be considerate of and consistent with landowner needs in order to foster good relationships and safeguard the landowner's business against disruption or loss and to allow for health and safety and

⁴⁹⁰ 00236.061 Horticulture NZ, 00240.021 NZ Pork

⁴⁹¹ 00230.082 Forest and Bird

⁴⁹² 00223.086 Ngāi Tahu ki Murihiku

animal welfare matters. They seek amendments to clause (3) so that access of Kāi Tahu whānui to mahika kai is maintained and its improvement is promoted where appropriate.⁴⁹³

452. Federated Farmers seeks to replace the reference to “food production” in clause (6) with “primary production”.⁴⁹⁴ Ravensdown and Federated Farmers seek the addition of a new clause to recognise the importance of primary production to this FMU:⁴⁹⁵

(7) innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.

453. DOC seeks to include a new clause to recognise the importance of fish passage to indigenous fish, which include the threatened kanakana and lamprey and at risk tuna and longfin eel:⁴⁹⁶

(7) indigenous species can migrate easily and as naturally as possible to and from the coastal environment

454. Ngāi Tahu ki Murihiku seeks to include a new clause requiring phasing out of direct discharges to water bodies in the Catlins / Te Ākau Tai Toka which I have addressed in section **Error! Reference source not found.**

14.1.1.3. Analysis

455. I have addressed the submission point by Forest and Bird in section **Error! Reference source not found.** of this report as it relates to their relief sought elsewhere for a region-wide freshwater vision. I do not recommend the inclusion of a region-wide vision, so the consequential amendments to the existing objectives are not considered necessary.

456. Ngāi Tahu ki Murihiku seeks general amendments to ensure the phrasing of this objective is consistent with the vision for the Clutha Mata-au FMU. I note that the following clauses are replicated in both visions:

- Clause (1) of LF-VM-O5 and clause (2) of LF-VM-O2,
- Clause (2) of LF-VM-O5 and clause (3) of LF-VM-O2, and
- Clause (3) of LF-VM-O5 and clause (4) of LF-VM-O2.

457. I have recommended amendments to clauses (3) and (4) in LF-VM-O2 and therefore, in response to the submission by Ngāi Tahu ki Murihiku, recommend those changes are also reflected in LF-VM-O5. I recommend accepting this submission in part.

458. As described in the *Mana whenua* section of the pORPS, mahika kai is one of the cornerstones of Kāi Tau cultural identity. As well as referring to the gathering of food and natural materials, and the places they are gathered, mahika kai also encompasses the

⁴⁹³ 00237.029 Beef + Lamb and DINZ

⁴⁹⁴ 00239.083 Federated Farmers

⁴⁹⁵ 00121.055 Ravensdown, 00239.081 Federated Farmers

⁴⁹⁶ 00137.068 DOC

traditions, customs, and collection methods. I understand that this is an important means of passing on cultural values and mātauraka to the next generation.

459. I agree with Beef + Lamb and DINZ that access to private property is not guaranteed and there will be good reasons to restrict public access in some areas or at some times of year. However, LF-WAI-O1, the expression of Te Mana o te Wai in Otago, requires the management of land and water to recognise and reflect that Kāi Tahu exercise rakatirataka, manaakitaka, and their kaitiakitaka duty of care and attention over wai and the life it supports. In addition to this, LF-WAI-P2(3) requires recognising and giving practical effect to Kāi Tahu rakatirataka in respect of freshwater by providing for a range of customary uses, including mahika kai, specific to each water body. Access to mahika kai is a fundamental part of implementing this direction.
460. I do not consider that the wording of clause (3) as notified establishes an expectation that access will be guaranteed, or that access could not be negotiated in a way that is considerate of and respects landowner needs. In my opinion, the amendments sought by the submitters would indicate that while current access should be maintained, improving access would be dependent on an assessment of whether it was “appropriate” or not. I am concerned that the lack of explanation about what “appropriate” means and how it would be applied would not encourage improvements in access. For these reasons, I do not recommend accepting this submission point.
461. I recommend a minor amendment in accordance with Clause (16)(2) of Schedule 1 of the RMA to amend the wording to be consistent with clause LF—VM—O4(3a).
462. As in other visions, Federated Farmers seeks to replace “food production” with “primary production”. The summary of feedback from community consultation on the Catlins FMU vision included the following:⁴⁹⁷
- “The community values the FMU’s rural character and would largely prefer to maintain the agricultural base for the economy. This will require planning to manage extent and location of urban development, along with control of forestry development.” (p.29)
 - Long-term aspiration: “Farming by NZ families is maintained as an important part of the regional economy.” (p.30)
463. I am not convinced that the views of the community extend to all of the activities listed in the definition of primary production from the Planning Standards. There is no mention of aquaculture, mining, or quarrying activities and I do not consider it would be an accurate reflection of the consultation to incorporate reference to those. In my opinion, the views expressed by the community are more closely aligned with the dictionary definition of agriculture.⁴⁹⁸ I agree that food production may not capture all aspects of this definition, such as wool production. On that basis, I consider that clause (6) could be amended to refer to agriculture, including food production, to more closely reflect the

⁴⁹⁷ See Appendix 5 of the Section 32 Evaluation Report for the pORPS 2021.

⁴⁹⁸ “The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products.” (Merriam-Webster)

desires expressed by the community without expanding the scope of the clause significantly as sought by Federated Farmers. I recommend accepting this submission in part.

464. Federated Farmers and Ravensdown seek to include an additional clause regarding food production. In my view, the community consultation feedback did not highlight primary production as prominently as these submitters consider. I consider that the notified clause (6) is a more accurate reflection of the views expressed and do not recommend accepting these submission points.
465. DOC considers that the vision fails to recognise the importance of fish passage to indigenous fish, including the threatened kanakana/lamprey and at risk tuna/longfin eel, and seeks to include an additional clause to address this. The submitter has not provided any supporting information about the species found in the Catlins FMU or the extent to which fish passage is a significant issue. I note that LF-FW-O8(4), LF-FW-P7(2), and LF-FW-P14(3) specifically address fish passage so although it is not specifically addressed in the Catlins FMU vision, it is not overlooked. Without further evidence, I do not recommend accepting this submission point.

14.1.1.4. Recommendation

466. I recommend amending LF-VM-O6 to:

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and, where degraded or lost, restored,⁴⁹⁹
- (3) *water bodies* support thriving ~~maḥika kai mahika kai~~⁵⁰⁰ that are safe for consumption⁵⁰¹ and ~~access of~~⁵⁰² Kāi Tahu whānui have access⁵⁰³ to ~~maḥika kai mahika kai~~,⁵⁰⁴
- (4) the high degree of naturalness and ecosystem connections between the forests, *freshwater* and coastal environment are preserved,
- (5) *water bodies* and their catchment areas support the health and well-being of *coastal water*, ecosystems and indigenous species, including downstream kaimoana, and

⁴⁹⁹ 00101.031 Toitū te Whenua, 00223.086 Ngāi Tahu ki Murihiku

⁵⁰⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁵⁰¹ 00226.011 Kāi Tahu ki Otago, 00223.086 Ngāi Tahu ki Murihiku

⁵⁰² Clause 16(2) Schedule 1, RMA

⁵⁰³ Clause 16(2) Schedule 1, RMA

⁵⁰⁴ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

- (6) healthy, clear and clean *water* supports opportunities for recreation and sustainable agriculture, including food production,⁵⁰⁵ for future generations.

14.2. Draft supplementary evidence

64 In paragraph 435 of my section 42A report, I recommended accepting in part the submission point by Toitū te Whenua on LF-VM-O2(3) regarding the recognition of wāhi tūpuna and Kāi Tahu relationships with wāhi tūpuna.⁵⁰⁶ The submitter considered amendments were necessary to recognise the loss of connection between Kāi Tahu and wāhi tūpuna due to Kāi Tahu being unable to access large parts of the region.

65 Kāi Tahu ki Otago seeks unspecified amendments to ensure that each freshwater vision addressed, among other things, Kāi Tahu relationship with wāhi tūpuna.⁵⁰⁷ This was supported in a further submission by Ngāi Tahu ki Murihiku.⁵⁰⁸ I did not make a specific recommendation in response to this submission point because I was unsure what amendment was being sought by the submitter.

66 As a consequential amendment arising from the submission point by Toitū te Whenua, and for consistency with other provisions that seek to restore what has been lost, I considered the wording of sub-clause (3) should instead be “sustained, and where degraded or lost, restored.” The provision as I recommended is set out in paragraph 481 of my section 42A report.

67 Wāhi tūpuna is described as follows in the pORPS (p.62):

Wāhi tūpuna (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. ... The character of wāhi tūpuna in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the wāhi tūpuna become incorrect due to modification of the environment, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in

⁵⁰⁵ 00239.083 Federated Farmers

⁵⁰⁶ 00101.031 Toitū te Whenua

⁵⁰⁷ 00226.167 Kāi Tahu ki Otago

⁵⁰⁸ FS00223.070 Ngāi Tahu ki Murihiku

central Dunedin, but no longer exists because there is now a city where the waterway once was.

- 68 With this context, I now consider that “restoring” the relationship between Kāi Tahu and wāhi tūpuna is not appropriate as that terminology does not properly reflect the connection between cultural landscapes and Kāi Tahu. I now recommend the following amendments to LF-VM-O2(3):

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

...

- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored.⁵⁰⁹

- 69 I agree with Kāi Tahu ki Otago that there should not be unnecessary inconsistency in the freshwater visions. Accordingly, as a consequential amendment, I also recommend amending the remaining freshwater visions in the same way as LF-VM-O2, as follows:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with wāhi tūpuna are re-established where these have been degraded or lost.⁵¹⁰ and Kāi Tahu maintain their connection with and use of the *water bodies*,

LF-VM-O4 – ~~Taiari~~ Taiari⁵¹¹ FMU vision

By 2050 in the ~~Taiari~~ Taiari⁵¹² FMU:

...

⁵⁰⁹ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁵¹⁰ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁵¹¹ 00226.170 Kāi Tahu ki Otago

⁵¹² 00226.170 Kāi Tahu ki Otago

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost,⁵¹³

LF-VM-O5 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

- (1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained, and connections with wāhi tūpuna are re-established where these have been degraded or lost,⁵¹⁴ and Kāi Tahu maintain their connection with and use of the water bodies,⁵¹⁵

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

...

- (2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and connections with wāhi tūpuna are re-established where these have been degraded or lost, restored,⁵¹⁶

Section 32AA evaluation

- 70 In my view, re-establishing connections with *wāhi tūpuna* is not significantly different to restoring the relationship of Kāi Tahu with *wāhi tūpuna* in terms of the practical outcome to be achieved 'on the ground.' In both cases, the direction is to 'put right' degradation that has occurred.
- 71 In achieving the purpose of the RMA, section 6(e) requires recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, *wāhi tapu*, and other taonga. I consider my updated recommendations are more effective at implementing this statutory direction because the updated amendments better reflect the connection between Kāi Tahu and *wāhi tūpuna* and therefore the nature of the relationship.

⁵¹³ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁵¹⁴ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

⁵¹⁵ 00226.171 Kāi Tahu ki Otago

⁵¹⁶ 00101.031 Toitū te Whenua, 00226.167 Kāi Tahu ki Otago

- 72 In the case of LF-VM-O3, LF-VM-O4, and LF-VM-O5, my updated recommendations expand the scope of the clauses beyond sustaining the relationship of Kāi Tahu with wāhi tūpuna by requiring re-establishing connections that have been lost. That is likely to result in additional economic costs, particularly where physical works or changes to management practices will be required in order to re-establish connections. There are also likely to be additional cultural benefits as a result of these connections being re-established. Those costs and benefits will be incurred in the long-term, noting that the freshwater visions are not intended to be achieved in full until between 2030 and 2045.
- 73 As directed in clause 3.2(2)(b) of the NPSFM 2020, the identification of long-term visions for freshwater is one of the key components in giving effect to Te Mana o Te Wai. Therefore, it is important that the freshwater visions in the LF-VM section be consistent with the provisions in the LF-WAI – Te Mana o te Wai section of the pORPS. In my opinion, the amendments I recommend are the most appropriate way of achieving the objective of that section, and particularly the requirement in LF-WAI-O1(2) to recognise and reflect that there is an integral kinship relationship between wai and Kāi Tahu whānui, and this relationship endures through time, connecting past, present, and future.

15. LF-VM-P5 and MAP1

15.1. Previous section 42A report content

15.1.1. LF-VM-P5 – Freshwater Management Units (FMUs) and rohe and MAP1

15.1.1.1. Introduction

467. As notified, FL-VM-P5 reads:

LF-VM-P5 – Freshwater Management Units (FMUs) and rohe

Otago's *fresh water* resources are managed through the following *freshwater management units* or rohe which are shown on MAP1:

Table 1 – Freshwater Management Units and rohe

| <i>Freshwater Management Unit</i> | <i>Rohe</i> |
|--|---|
| Clutha Mata-au | Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha |
| Taieri | n/a |
| North Otago | n/a |
| Dunedin & Coast | n/a |
| Catlins | n/a |

468. LF-VM-P5 sets out the FMUs and rohe in Otago and refers to MAP1 which shows the boundaries of each area. For this reason, I have evaluated the submissions on these provisions together.

15.1.1.2. Submissions

469. Two submitters seek to retain LF-VM-P5 as notified with Ballance supporting, in particular, the division of the Clutha Mata-au FMU into five rohe.⁵¹⁷

470. Kāi Tahu ki Otago wishes to retain the wording of the policy as notified but notes that their submission on MAP1 seeks amendments to the boundary between the North Otago and Dunedin & Coast FMUs so that the Waikouaiti catchment is included in the Dunedin & Coast FMU instead of North Otago.⁵¹⁸ There is only one other submission on MAP1, with Horticulture NZ seeking to retain the map as notified.⁵¹⁹

⁵¹⁷ 00138.058 QLDC, 00409.008 Ballance

⁵¹⁸ 00226.173 Kāi Tahu ki Otago

⁵¹⁹ 00236.109 Horticulture NZ

471. DCC seeks amendments to provide for review of the FMU boundaries and/or the establishment of additional rohe to enable effective implementation of the National Objectives Framework.⁵²⁰ This amendment would allow for the formation of smaller management areas based on the anticipated water quality in the area, which would provide the ability for more effective monitoring and limit-setting.

15.1.1.3. Analysis

472. Kāi Tahu ki Otago considers that the Waikouaiti catchment is more appropriately located within the Dunedin & Coast FMU as this would better align management across all catchments that flow into the coastal receiving environment that is included in the East Otago Taiāpure (which encompasses marine and estuarine waters enclosed by Cornish Head, Brinns Point, Warrington Spit and Potato Point). The taiāpure boundary in comparison to the current FMU boundary is shown in Figure 2 below.



Figure 2: Boundary of East Otago Taiāpure compared to current FMU boundary

473. I have sought advice from ORC’s Land and Freshwater team (part of the Policy and Planning team) on the process adopted to develop the FMUs and rohe boundaries and the implications of amending the boundary as sought by Kāi Tahu ki Otago. That advice is attached to this report as Appendix 1. In summary, the advice concludes that the risk of amending the boundaries is negligible and there are potential benefits in ensuring that the planning framework for managing both estuaries that discharge into the East Otago Taiāpure are guided by the same vision in the pORPS.

474. In principle, I recommend accepting the submission point by Kāi Tahu ki Otago. However, there are technical details still to be worked out – in particular, the exact location of the

⁵²⁰ 00139.090 DCC

new boundary. As raised in the advice referenced above, the Post Office Creek catchment also discharges into the Hawksbury Lagoon, which in turn discharges into the same bay as the Waikouaiti Estuary. It is not clear from the submission by Kāi Tahu ki Otago which FMU it considers this catchment should fall within. The submitter may wish to produce a map showing the location of the boundary as they propose it. At this stage, I recommend retaining the map as notified subject to confirmation of the boundary location.

475. DCC seeks amendments to provide for review of the FMU boundaries. In addition, or alternatively, DCC also seeks the establishment of additional rohe on the basis that smaller, catchment-based areas will allow for more effective implementation of the NPSFM.
476. The FMU boundaries were agreed by Council in April 2019 and have formed the basis for significant investment in science and planning work programmes as well as public consultation on freshwater visions and the development of the LWRP. In my experience, it is common for regional plans to manage catchments in smaller areas than FMU-scale. For example, the Selwyn Te Waihora sub-region in the Canterbury Land and Water Regional Plan sets different freshwater outcomes for different management units (e.g. natural state, spring-fed plains, etc). This option is open to ORC regardless of whether the pORPS specifically provides for additional rohe to be established.
477. DCC has not specified what the parameters or purpose of any review of the FMU boundaries would be, or how additional rohe could be developed. I am not aware of any reason that the FMU boundaries need to be reviewed and, in my view, the alternative relief (smaller management units within FMUs) is already available, though not in the form of rohe. In absence of further evidence supporting the inclusion of these provisions, I do not recommend the submission points be adopted.

15.1.1.4. Recommendation

478. I recommend, in principle, amending the boundaries of the North Otago and Dunedin & Coast FMUs so that the Waikouaiti catchment is included within the Dunedin & Coast FMU. However, subject to further evidence regarding the location of the new boundary, at this stage I recommend retaining the existing MAP1.
479. I therefore recommend amending LF-VM-P5 to:

LF-VM-P5 – Freshwater Management Units (FMUs) and rohe

Otago’s fresh water resources are managed through the following freshwater management units or rohe which are shown on MAP1:

Table 2 – Freshwater Management Units and rohe

| <i>Freshwater Management Unit</i> | Rohe |
|--|---|
| Clutha Mata-au | Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha |

| | |
|------------------------------|-----|
| Taiari Taiari ⁵²¹ | n/a |
| North Otago | n/a |
| Dunedin & Coast | n/a |
| Catlins | n/a |

15.2. Draft supplementary evidence

No supplementary evidence prepared.

NO LEGAL STATUS

⁵²¹ 00226.170 Kāi Tahu ki Otago

16. LF-VM-P6

16.1. Previous section 42A report content

16.1.1. LF-VM-P6 – Relationship between FMUs and rohe

16.1.1.1. Introduction

480. As notified, LF-VM-P6 reads:

LF-VM-P6 – Relationship between FMUs and rohe

Where rohe have been defined within FMUs:

- (1) *environmental outcomes* must be developed for the FMU within which the rohe is located,
- (2) if additional *environmental outcomes* are included for rohe, those *environmental outcomes*:
 - (a) set target *attribute* states that are no less stringent than the parent FMU *environmental outcomes* if the same *attributes* are adopted in both the rohe and the FMU, and
 - (b) may include additional *attributes* and target *attribute* states provided that any additional *environmental outcomes* give effect to the *environmental outcomes* for the FMU,
- (3) *limits* and action plans to achieve *environmental outcomes* may be developed for the FMU or the rohe or a combination of both,
- (4) any *limit* or action plan developed to apply within a rohe:
 - (a) prevails over any *limit* or action plan developed for the FMU for the same *attribute*, unless explicitly stated to the contrary, and
 - (b) must be no less stringent than any *limit* set for the parent FMU for the same *attribute*, and
 - (c) must not conflict with any *limit* set for the underlying FMU for *attributes* that are not the same, and
- (5) the term “no less stringent” in this policy applies to *attribute states* (numeric and narrative) and any other metrics and timeframes (if applicable).

16.1.1.2. Submissions

481. QLDC seeks to retain this policy as notified.⁵²² Six submitters seek to amend the provision in a range of ways.

⁵²² 00138.059 QLDC

482. Wise Response seeks to amend clause (1) to clarify that environmental outcomes must be “based on a thorough review of local, national and international risks, limits and trends with the potential to significantly affect the environment and resources.”⁵²³
483. Kāi Tahu ki Otago generally supports LF-VM-P6 but seeks to include “must” at the beginning of clause (2)(a) to provide clarity around the relationship between rohe-specific provisions and the wider FMU provisions and ensure that any rohe-specific provisions are consistent with integrated management and support the outcomes of the wider FMU.⁵²⁴
484. Lynne Stewart and COES seek to amend clauses (2) and (3) to include setting additional environmental outcomes for the Manuherikia rohe and limits and action plans to achieve these outcomes.⁵²⁵ No specific wording has been proposed for these amendments.
485. Ballance seeks to amend the wording of clauses (2)(a) and (3) to include a requirement for consultation with iwi and community groups as part of the process of setting target attribute states, limits and action plans.⁵²⁶
486. Beef + Lamb and DINZ seek to amend the policy so that it properly reflects the requirements of the NPSFM.⁵²⁷ They consider that the policy wording confuses a number of terms and the relationships between these, and requests a number of changes:
- Action plans must achieve (not give effect to) target attribute states (not environmental outcomes) in clause (3),
 - The reference to “attribute” in clause (4)(a) should read “target attribute state”,
 - The test of “no less stringent” in clause (4)(b) is inappropriate because the NPSFM does not require limits to be the same between FMUs or within FMUs, and may apply at any scale so long as the limit achieves the target attribute state,
 - Clause (4)(b) should refer to action plans as well as limits to more correctly reflect that methods may differ between rohe or FMUs, and
 - The test of “must not conflict” is inappropriate and should also refer to action plans as well as limits

16.1.1.3. Analysis

487. I do not consider that it is appropriate to take an ‘overs and unders’ approach to managing water within an FMU. That is, declines in some areas cannot be offset against improvements elsewhere in order to maintain water quality across the FMU. Policy LF-VM-P6 clarifies the relationship between FMUs and rohe and, broadly, seeks to ensure that provisions at the rohe level cannot be less stringent than those adopted at the FMU level.

⁵²³ 00509.073 Wise Response

⁵²⁴ 00226.174 Kāi Tahu ki Otago

⁵²⁵ 00030.016 Lynne Stewart, 00030.017 Lynne Stewart, 00202.021 COES, 00202.022 COES

⁵²⁶ 00409.009 Ballance

⁵²⁷ 00237.030 Beef + Lamb and DINZ

488. I consider the amendment sought by Wise Response would introduce uncertainty into the policy. It is unclear what the submitter means by “risks, limits and trends” or what would be considered a “significant” effect. Environmental outcomes have a specific definition in the NPSFM and there is a defined process that their development must follow including, in particular, clauses 3.9 (identifying values and setting environmental outcomes as objectives) and 3.10 (identifying attributes and their baseline states, or other criteria for assessing achievement of environmental outcomes).
489. The amendment proposed by Kāi Tahu ki Otago clarifies the direction in clause 2(a) and I recommend it be adopted.
490. I recommend a further minor amendment to the wording of clause (2) to improve the readability with the policy chapeau.
491. The types of provisions developed for the Manuherekiā rohe is a matter best addressed through the regional planning process and in consultation with mana whenua and communities. Those provisions, if any, will need to be developed alongside provisions for the whole of the Clutha Mata-au FMU. For these reasons, I do not recommend adopting the amendments sought by Lynne Stewart and COES.
492. As set out above, the purpose of this policy is to establish the relationship between rohe and FMU provisions. Methods LF-WAI-M1 and LF-VM-M3 set out the involvement of mana whenua and communities in these processes, therefore I do not consider the amendments sought by Ravensdown are necessary.
493. Beef + Lamb and DINZ consider the policy does not accurately reflect the requirements of the NPSFM and have sought a range of amendments. In clause (3), they consider that action plans must achieve (not give effect to) target attribute states (not environmental outcomes). I agree that “achieve” is the appropriate term rather than “give effect to”, but note that clause 3 already uses the former. I do not agree that achieving target attribute states is the only purpose of action plans. Clause 3.15 of the NPSFM sets out the requirements for preparing actions plans and states:
- in clause 1(b), that action plans prepared for the purpose of the NPSFM may set out a phased approach to achieving environmental outcomes, and
 - in clause 3, if an action plan is prepared for the purpose of achieving a specific target attribute state or otherwise supporting the achievement of environmental outcomes then sub-clauses (a) and (b) apply.
494. In my view, the broad purpose of action plans is to achieve environmental outcomes, which may include achieving a specific target attribute state. To assist readers, I recommend including an amendment to clarify that achieving environmental outcomes may include achieving specific target attribute states.
495. In clause (4)(a) of the policy, Beef + Lamb and DINZ consider the reference to “attribute” should be changed to “target attribute state”. I understand the effect of that amendment would be to narrow the application of clause (4) to only situations where limits or action plans at both the rohe and FMU level were developed for the same target attribute state. I consider that there may be instances where different target attributes states are set for the same attribute at the rohe and FMU levels. For example, the target attribute state for

phytoplankton across the entire Clutha Mata-au FMU could be set at B band whereas within the Upper Lakes rohe, where there are lakes in their natural state, the target attribute state may be A band. In those situations, it is appropriate that the rohe limit or action plan prevails, so long as sub-clauses (b) and (c) are also met.

496. In clause (4)(b), Beef + Lamb and DINZ consider that the requirement for limits or action plans at the rohe level to be no less stringent than those at the FMU level is inappropriate because this is not a requirement of the NPSFM. In my opinion, the NPSFM does not explicitly provide for (or prevent) the establishment of 'sub-FMU' areas as a spatial scale. For partly that reason, this policy seeks to clarify the relationship between those two spatial scales. I agree that the NPSFM does not require limits to be the same between FMUs and do not consider this is what LF-VM-P6 requires. For the same reasons as I have set out above, I consider "attribute" is the correct term rather than "target attribute state". I have not seen sufficient evidence to show that it would be appropriate, through a framework of Te Mana o te Wai, to allow for less stringent limits to be set at the rohe level for the same attribute being managed at the FMU level. The submitter may wish to address this further in their evidence.
497. Beef + Lamb and DINZ also consider that clauses (4)(b) and (c) should refer to action plans as well as limits. I agree this is appropriate and recommend accepting this amendment. Lastly, in relation to clause (4)(c), the submitter considers that "must not conflict with" is an inappropriate test to use, but has not suggested a specific alternative. In my view, this clause is attempting to prevent a rohe-level provision undermining the achievement of an FMU outcome. I appreciate that the language is not typical planning nomenclature. The submitter may wish to clarify their relief sought in their evidence.
498. I note that while clause 4(c) refers to the underlying FMU, clauses (2)(a) and (4)(c) refer to the parent FMU. All of these clauses have the same intent and I consider it would assist readers if they all used parent, to avoid any suggestion that there is an intentional difference. In my opinion, this is an amendment of minor effect that can be made under clause 16(2) of Schedule 1 of the RMA.

16.1.1.4. Recommendation

499. I recommend amending LF-VM-P6 to:

LF-VM-P6 – Relationship between FMUs and rohe

Where rohe have been defined within FMUs:

- (1) *environmental outcomes* must be developed for the FMU within which the rohe is located,
- (2) ~~if any⁵²⁸ additional rohe-specific⁵²⁹ environmental outcomes are included for rohe, those environmental outcomes.~~⁵³⁰

⁵²⁸ Clause 16(2) Schedule 1, RMA

⁵²⁹ Clause 16(2) Schedule 1, RMA

⁵³⁰ Clause 16(2) Schedule 1, RMA

- (a) must⁵³¹ set target *attribute* states that are no less stringent than the parent *FMU environmental outcomes* if the same *attributes* are adopted in both the rohe and the *FMU*, and
- (b) may include additional *attributes* and target *attribute* states provided that any additional *environmental outcomes* give effect to the *environmental outcomes* for the *FMU*,
- (3) *limits* and action plans to achieve *environmental outcomes*, including by achieving target attribute states,⁵³² may be developed for the *FMU* or the rohe or a combination of both,
- (4) any *limit* or action plan developed to apply within a rohe:
 - (a) prevails over any *limit* or action plan developed for the *FMU* for the same *attribute*, unless explicitly stated to the contrary, and
 - (b) must be no less stringent than any *limit or action plan*⁵³³ set for the parent *FMU* for the same *attribute*, and
 - (c) must not conflict with any *limit set or action plan developed*⁵³⁴ for the underlying parent⁵³⁵ *FMU* for *attributes* that are not the same, and
- (5) the term “no less stringent” in this policy applies to *attribute states* (numeric and narrative) and any other metrics and timeframes (if applicable).

16.2. Draft supplementary evidence

No supplementary evidence prepared.

⁵³¹ 00226.174 Kāi Tahu ki Otago

⁵³² 00237.030 Beef + Lamb and DINZ

⁵³³ 00237.030

⁵³⁴ 00237.030

⁵³⁵ Clause 16(2), Schedule 1, RMA

17. LF-VM-E2

17.1. Previous section 42A report content

17.1.1.1. LF-VM-E2 – Explanation

500. As required by section 62(1)(d), LF-VM-E2 provides an explanation for the policies in this chapter. Kāi Tahu ki Otago seeks to retain LF-VM-E2 as notified.⁵³⁶ OWRUG seeks consequential amendments to LF-VM-E2 to give effect to the relief sought.⁵³⁷ I do not consider any amendments are required and therefore recommend accepting the submission point by Kāi Tahu ki Otago and rejecting the submission point by OWRUG.

17.2. Draft supplementary evidence

No supplementary evidence prepared.

⁵³⁶ 00226.177 Kāi Tahu ki Otago, 00226.178 Kāi Tahu ki Otago

⁵³⁷ Uncoded submission point – p.54 of submission by OWRUG

18. LF-FW-08

18.1. Previous section 42A report content

18.1.1. LF-FW-08 – Fresh water (excluding clause (5))

18.1.1.1. Introduction

501. As notified, LF-FW-08 reads:

LF-FW-08 – Fresh water

In Otago’s *water bodies* and their catchments:

- (1) the health of the wai supports the health of the people and thriving mahika kai,
- (2) water flow is continuous throughout the whole system,
- (3) the interconnection of *fresh water* (including *groundwater*) and *coastal waters* is recognised,
- (4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and

...

502. LF-FW-08 sets out the outcomes sought for all freshwater, reflecting the policy direction outlined in the LF-WAI section for Te Mana o te Wai. Sub-clause (5) reflects the direction in Policy 8 of the NPSFM.

503. This section does not evaluate the submissions on clause (5) as these relate to outstanding water bodies and are addressed above in section **Error! Reference source not found..**

18.1.1.2. Submissions

504. QLDC, DCC, Waitaki DC, and Ballance support LF-FW-08 and seek to retain it as notified.⁵³⁸ Fish and Game and John Highton generally support the intent of LF-FW-08, but request amendments to provide for introduced species. Specifically, they seek to protect and restore trout and salmon “insofar as this is consistent with that of indigenous species”.⁵³⁹ Fish and Game also seeks the insertion of an additional clause as follows:⁵⁴⁰

(A1) the health, well-being and resilience of water bodies is prioritised,

505. Beef + Lamb and DINZ consider that LF-FW-08 restates matters that are captured more specifically in LF-VM. They seek to delete the objective in its entirety or if retained,

⁵³⁸ 00138.063 QLDC, 00139.097 DCC, 00140.018 Waitaki DC, 00409.010 Ballance

⁵³⁹ 00231.053 Fish and Game, 00014.053 John Highton

⁵⁴⁰ 00231.053 Fish and Game

deleted in part.⁵⁴¹ They consider clauses (3) and (5) could be retained but seek amendments to clause (5) replacing “protected” with “sustained” to recognise the living character of waterbodies and allow for adaptation and change.

506. Federated Farmers, OWRUG, Horticulture NZ, and NZ Pork seek to amend clause (1) to include reference to the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.⁵⁴² The submitters consider this better reflects the purpose of the RMA and better aligns with the NPSFM.
507. Greenpeace and Wise Response both seek similar amendments to clause (1) which require reference to restoring the important values of rivers within given timeframe.⁵⁴³ Specifically, Greenpeace refer to legislated timeframes,⁵⁴⁴ and Wise Response stipulate 2035.⁵⁴⁵
508. There are many submission points on clause (2). Federated Farmers and Meridian seek its deletion as they consider the matter is addressed in other parts of LF-FW-08, particularly clause (3).⁵⁴⁶ Federated Farmers submits that in some places surface water flow naturally disconnects and that it is not always hydrologically possible or representative of a system, particularly where there are ephemeral and intermittent waterways. Meridian considers the clause is unclear.
509. A number of submitters seek clarification of clause (2) to support implementation, and particularly what is meant by “the whole system”.⁵⁴⁷ PWCG, OWRUG, Waitaki Irrigators and Lloyd McCall submit that the objective should recognise that water flows are naturally variable and will not always be continuous.⁵⁴⁸ To address this variability, the submitters seek different but similar amendments to clarify that the clause applies to natural systems:
- OWRUG seeks to include at the end of the clause “where this is consistent with the natural system”;⁵⁴⁹ and
 - PWCG and Lloyd McCall seek to reference “natural” water flows.⁵⁵⁰
 - Waitaki Irrigators seeks to amend the clause as follows:⁵⁵¹

⁵⁴¹ 00237.032 Beef + Lamb and DINZ

⁵⁴² 00239.083 Federated Farmers, 00235.093 OWRUG, 00236.063 Horticulture NZ, 00240.023 NZ Pork

⁵⁴³ 00407.035 Greenpeace, 00509.074 Wise Response

⁵⁴⁴ 00407.035 Greenpeace

⁵⁴⁵ 00509.074 Wise Response

⁵⁴⁶ 00239.083 Federated Farmers, 00306.033 Meridian

⁵⁴⁷ 00207.002 PWCG, 00213.019 Waitaki Irrigators, 00235.093 OWRUG, 00306.033 Meridian, 00509.074 Wise Response, 00213.019 Waitaki Irrigators

⁵⁴⁸ 00207.002 PWCG, 00235.093 OWRUG, 00239.083 Federated Farmers, 00213.019 Waitaki Irrigators, 00319.002 Lloyd McCall

⁵⁴⁹ 00235.093 OWRUG

⁵⁵⁰ 00235.093 OWRUG, 00207.002 PWCG, 00319.002 Lloyd McCall

⁵⁵¹ 00213.019 Waitaki Irrigators

(2) where possible, connected water flow systems are maintained is continuous throughout catchments the whole system.

510. Greenpeace considers clause (2) as currently drafted is inadequate to provide for ecosystems and habitats at low flows and seeks the following amendment:⁵⁵²

water flow is continuous throughout the system and at volumes and levels that support ecosystem health, habitat, and resilience as measured by biological thresholds and ecological and biological community health

511. Moutere Station considers clause (2) potentially encourages the movement of non-native fish at the detriment of non-migratory indigenous species and seeks to include “where appropriate” for clarification.⁵⁵³

512. Kāi Tahu ki Otago considers LF-FW-O8 generally achieves Te Mana o te Wai but seeks that clause (4) also requires sustaining the habitats of taoka species as well as protecting them.⁵⁵⁴

513. Moutere Station seeks to insert “where appropriate” at the beginning of the clause.⁵⁵⁵ The submitter considers that not all native fish need to migrate, and this clause could provide for the movement of non-native fish at the detriment of non-migratory indigenous species.

514. Contact submits that “as easily and as naturally as possible” is a very high threshold and that arguably achieving natural migration is possible in every circumstance by removing all physical barriers. Contact notes that it facilitates the passage of tuna and kanakana up and down the Clutha Mata-au via trap and transfer which it considers is not “natural.” The submitter also notes that the direction in the NPSFM is that fish passage is “maintained, or improved” by in-stream structures. Contact seeks to amend the objective so that it either seeks to provide the best practicable option for fish passage within Otago’s water bodies or achieves consistency with the NPSFM with regard to fish passage requirements.⁵⁵⁶

515. Fish and Game seeks consistency with Policies 9 and 10 of the NPSFM by inserting an additional clause (4a) which provides specifically for the protection and restoration of habitats for trout and salmon while considering those habitats of indigenous species.⁵⁵⁷

516. A number of submitters consider LF-O8 requires additional clause(s) to address a variety of outstanding issues discussed below.⁵⁵⁸

⁵⁵² 00407.036 Greenpeace and 1259 supporters

⁵⁵³ 00026.007 Moutere Station

⁵⁵⁴ 00226.179 Kāi Tahu ki Otago

⁵⁵⁵ 00026.008 Moutere Station

⁵⁵⁶ 00318.012 Contact

⁵⁵⁷ 00231.053 Fish and Game

⁵⁵⁸ 00239.083 Federated Farmers, 00407.037 Greenpeace, 00502.005 AWA, 00509.074 Wise Response, 00235.093 OWRUG, 00230.084 Forest and Bird, 00137.070 DOC

517. DOC considers the objective fails to address a number of significant issues, including those related to indigenous fish.⁵⁵⁹ DOC raises concern that in some cases providing for fish passage is inappropriate, as it can pose risk to indigenous species, an issue which is echoed by Moutere Station.⁵⁶⁰ DOC seeks to insert the following new clauses:⁵⁶¹

(6) fresh water sustains indigenous aquatic life,

(7) non-diadromous galaxiid and Canterbury mudfish populations and their habitats are protected

(8) habitats that are essential for specific components of the life cycle of indigenous species, including breeding and spawning grounds, juvenile nursery areas, important feeding areas and migratory and dispersal pathways, are protected

(9) changes to flows, fish passage or fish barriers only occur where doing so would not enable the passage of undesirable fish species where it is considered necessary to prevent their passage in order to protect desired fish species, their life stages, or their habitats.

518. As an alternative to the relief sought above, DOC suggests the insertion of clause 3.26 of the NPSFM.

519. AWA, OWRUG, and Federated Farmers submit that the pORPS as currently drafted does not adequately address the issue of water allocation and seek to include an additional clause.⁵⁶² The clauses sought are:

- AWA: The taking and use of the wai supports cultural, social and economic wellbeing and drives better environmental outcomes including reduced GHG emissions in line with regional targets.⁵⁶³
- OWRUG and Federated Farmers: Sustainable and integrated water allocation and abstraction supports food and fibre production.⁵⁶⁴

520. Greenpeace seeks an additional clause as follows:⁵⁶⁵

(6) restore and enhance degraded freshwater ecosystems through management of adverse activities and inputs

521. Wise Response seeks to include two additional clauses to clarify and extend the objective to other important processes:⁵⁶⁶

⁵⁵⁹ 00137.070 DOC

⁵⁶⁰ 00137.070 DOC, 00026.008 Moutere Station

⁵⁶¹ 00137.070 DOC

⁵⁶² 00502.005 AWA

⁵⁶³ 00502.005 AWA, 00239.083 Federated Farmers, 00235.093 OWRUG

⁵⁶⁴ 00239.083 Federated Farmers, 00235.093 OWRUG

⁵⁶⁵ 00407.037 Greenpeace

⁵⁶⁶ 00509.074 Wise Response

- (6) all land is assessed, managed, and supported as “whole systems” to promote overall resilience, biophysical capacity and collective wellbeing
- (7) soils and cover are managed to maximise the natural capture, retention and infiltration of rainfall within the land and minimise the need for fertiliser.

522. For clarity, Forest and Bird seeks the insertion of a new clause (6) to ensure the visions for catchments in Otago referenced in LF-VM-O1 to LF-VM-O6 are achieved.⁵⁶⁷

- (6) the objectives set out in LF-VM-O1 – LF-VM-O6 are achieved.

18.1.1.3. Analysis

523. I do not consider that the new clause sought by Fish and Game is necessary as LF-WAI-P1 already requires this and applies alongside LF-FW-O8. I do not recommend accepting this submission point.

524. Beef + Lamb and DINZ consider most of this objective is already provided for in other provisions. I agree that there is similarity. In my view, LF-WAI sets out the strategic direction and underlying principles for the management of freshwater and land in Otago. That section sits ‘above’ the remainder of the chapter for that reason. The freshwater visions in LF-VM set out the specific long-term outcomes sought in Otago’s FMUs. The provisions in LF-FW and LF-LS then set a region-wide ‘bar’ to support those visions. In general, the freshwater visions set more ambitious targets for FMUs because of their longer timeframes. The LF-FW and LF-LS objectives are therefore a subset of the wider FMU visions. I presume from the submission that the submitters seek to delete clauses (1), (2), and (4) on the basis that they are inconsistent with the freshwater visions, but it is not clear which parts of the visions the submitters consider deal with these matters. I do not recommend accepting this submission point.

525. In my view, LF-FW-O8 describes the outcome sought for Otago’s water bodies and catchments, rather than the uses of those resources. I do not agree with Federated Farmers, OWRUG, Horticulture NZ, or NZ Pork that including referencing to providing for the social, economic, and cultural well-being of people and communities better aligns with the NPSFM, which clearly requires (in the objective) prioritising the health and well-being of water bodies and freshwater ecosystems, and the health needs of people, above other uses. I do not recommend accepting these submissions. I note that these submissions mirror a general theme in submissions on the pORPS which is addressed in section 1.4.1 of *Report 1: Introduction and General themes*. For the same reason, I do not recommend accepting the submission points by AWA seeking a new clause (6) regarding the take and use of water or by Federated Farmers and OWRUG seeking a new clause regarding allocation and abstraction for food and fibre production.

526. I do not consider it is necessary to include timeframes in clause (1) as sought by Greenpeace and DOC. The freshwater visions in LF-VM set out the longer-term objectives to be achieved in each FMU. The NPSFM requires developing environmental outcomes for each value identified in an FMU and setting target attribute states for every attribute

⁵⁶⁷ 00230.084 Forest and Bird

identified for a value.⁵⁶⁸ Every target attribute state must specify a timeframe for its achievement or, if it has already been achieved, the state it will be maintained at from a specific date.⁵⁶⁹ In my view, that is the appropriate level of detail at which to determine more specific timeframes. For this reason, and because the submitters have not provided any evidence to support their relief sought, I do not recommend accepting these submission points.

527. Clause (2) requires that water flow is continuous throughout the whole system. This wording has been drawn from the feedback provided by Kāi Tahu ki Otago during consultation on the freshwater visions:⁵⁷⁰

“2. The waterways are restored to the way they were when tūpuna knew them:

- Water flow is continuous through the whole system*
- There is no further modification of river shape or braided stretches*
- Existing wetlands are restored and the area of wetlands is increased.”*

528. In that same document, Kāi Tahu ki Otago describes the interconnectedness across a catchment:⁵⁷¹

“The mauri of different parts of the water body system cannot be separated. The water body must be treated as a whole system, with all tributaries and riparian areas, including their natural characteristics and indigenous biodiversity, contributing to the vision.”

529. While this feedback focused on freshwater visions, I consider that it provides context to LF-FW-O8(2). I understand that clause (2) is expressing a desire for water flow to be uninterrupted, for example by damming or diversions of water in main stems, tributaries, or riparian areas or by other modifications, so that the ‘system’ of the water body remains connected, ki uta ki tai. This links closely with LF-WAI-P3(1) which requires recognising and sustaining the connections and interactions between water bodies (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral) when managing the use of freshwater and land.

530. Rivers in particular travel long distances and often have many connections with other water bodies, for example aquifers, wetlands, lakes, and lagoons. Over years of human use, many water bodies have been modified to such an extent that those natural connections have been degraded or lost. This affects the condition of the water which is seen as a reflection of the people. In my opinion, this clause describes an outcome that is fundamental to the mauri of the wai and the relationship of Kāi Tahu with wai.

531. That said, I acknowledge that some submitters have found the wording unclear and questioned the meaning of the terms used. I understand the intent of the amendments sought by submitters, but I am not convinced that any of the amendments sought provide

⁵⁶⁸ Causes 3.9 to 3.11, NPSFM.

⁵⁶⁹ Clause 3.11(5)(a), NPSFM.

⁵⁷⁰ Appendix 6 (p.2) of the Section 32 Evaluation Report for the pORPS 2021.

⁵⁷¹ Appendix 6 (p.1) of the Section 32 Evaluation Report for the pORPS 2021.

the certainty required. In particular, what is “natural” or not is debatable and often difficult to determine for modified water bodies. The amendments sought by Greenpeace introduce a number of terms that require further explanation, such as “biological thresholds” and “ecological and biological community health”. I do not consider these assist with clarifying the intent or application of the clause.

532. I do not agree with the interpretation of clause (2) by Moutere Station as fish movement is addressed in clause (4). I do not recommend accepting this submission point.

533. I consider the amendments sought by Waitaki Irrigators better express the intended meaning, but the term “systems” has been raised by other submitters as being unclear. Based on my understanding of Kāi Tahu values, which I acknowledge is not my area of expertise, I consider replacing clause (2) as notified with the following wording may address the concerns of Waitaki Irrigators and others in a way that preserves most of the original intent of the provision:

Within catchments (ki uta ki tai), artificial interruption of water flow is minimised to the smallest degree reasonably practicable.

534. The submitters on this clause may wish to confirm in their evidence whether this amended wording satisfies their concerns.

535. I agree with Kāi Tahu ki Otago that it would be consistent with LF-WAI-P3(3) to require sustaining habitats as well as protecting them. I recommend accepting this submission point.

536. I consider that the nuance in providing for fish passage as identified by Moutere Station is not appropriate for an objective. The wording of clause (4) is not ‘absolute’ in my view, which allows for these types of nuances to be teased out in lower order provisions. I note that clause 3.26 of the NPSFM contains a mandatory policy for insertion into regional plans which provides the level of detail sought by the submitter regarding the circumstances when it is appropriate to restrict fish passage. That clause sets out a detailed programme of work on providing for fish passage that is targeted at regional plans. In my opinion, it is appropriate for this objective to take a higher-level approach to the management of this activity. I do not recommend accepting the submission point by Moutere Station.

537. In response to the submission point by Contact, I agree that “trap and transfer” methods of fish passage are not “natural” but note that the clause requires migration be “as natural as possible” which recognises that there will be situations where natural solutions are not possible. I note that clause 3.1(2)(a) of the NPSFM states that nothing in Part 3 prevents a local authority from adopting more stringent measures than required by the NPSFM. RMIA-WAI-I1 outlines how barriers to fish passage have contributed to significant negative impacts on Kāi Tahu, leading to material and cultural deprivation for Kāi Tahu ki Otago. This is particularly due to the impacts on mahika kai and associated mātauraka. For these reasons, I do not recommend accepting the submission point by Contact.

538. I have addressed a suite of submission points by Fish and Game regarding the habitats of trout and salmon in section 1.4.9 of *Report 1: Introduction and general themes*. In

summary, in response to those submissions, I have recommended deleting the word “native” from clause (4) of LF-FW-O8 so that it applies to the habitats of trout and salmon. I therefore recommend accepting in part the submission points by Fish and Game and John Highton.

539. In my opinion, new clause (6) sought by DOC is unnecessary as this is already provided through LF-WAI-P3 and particularly LF-WAI-P3(3). In response to other submissions on this objective, I have recommended including reference to sustaining habitats in clause (4) which I consider also addresses the clause sought by DOC.
540. I understand that there are a number of non-diadromous galaxiids that are endemic to, or predominantly occur in, the Otago region including some that are threatened.⁵⁷² I do not dispute the importance of protecting those species or their habitats. However, I consider it is probable that these populations and their habitats are likely to be identified through the process set out in the ECO chapter for identifying significant natural areas, noting that one of the criteria for identification is that an area supports “an indigenous species that is threatened, at risk, or uncommon, nationally or within an ecological district or coastal marine biogeographic region”.⁵⁷³ There are therefore a number of provisions in the ECO chapter that will assist with protecting the habitats of these species, in addition to the broader policy direction in LF-WAI and LF-FW. In addition, “threatened species” is a compulsory value in the NPSFM and therefore must be identified as a value in all of Otago’s FMUs, meaning environmental outcomes and target attribute states need to be set. I consider that level of detail is best developed at the regional plan level rather than in the pORPS.
541. New clauses (8) and (9) as sought by DOC include a high degree of detail that I consider is generally not appropriate for an objective. Additionally, the content of new clause (8) is within the scope of existing provisions (particularly LF-WAI-P3, LF-FW-O8(4), and LF-FW-P7(2)). I have previously discussed the wider work programme regarding fish passage that is required by the NPSFM and my view that the nuances of that are best addressed outside the pORPS. I do not recommend accepting the submission point by DOC.
542. I consider that the direction regarding restoration and enhancement in the new clause sought by Greenpeace is already set out in LF-FW-P7(1). The remainder of the new clause is unclear and open to interpretation (for example, what an “adverse activity” is). I do not recommend accepting this submission point.
543. I do not consider that either of the new clauses sought by Wise Response are necessary. Integrated management is addressed through LF-WAI-P3, LF-VM-O7, and LF-LS-P16. Management of land and soil is addressed through the provisions of the LF-LS section. I do not recommend accepting this submission point.
544. I agree with Forest and Bird that LF-FW-O8 is relevant to achieving the visions in LF-VM, however I do not consider that a specific cross-reference is necessary. All of the provisions in the LF-FW and LF-LS sections will assist with achieving the visions, not only this

⁵⁷² Statement of Evidence of Dr Nicholas Rex Dunn on behalf of the Director-General of Conservation dated 5 February 2021 (prepared for Plan Change 7 to the Regional Plan: Water for Otago)

⁵⁷³ APP2 – Significance criteria for indigenous biodiversity

objective, and the ordinary principles of interpretation apply (i.e. all relevant provisions are read together). I do not recommend accepting the submission point by Forest and Bird.

18.1.1.4. Recommendation

545. I recommend amending LF-FW-08 to:

LF-FW-08 – Fresh water

In Otago’s *water bodies* and their catchments:

- (1) the health of the wai supports the health of the people and thriving mahika kai mahika kai⁵⁷⁴,
- (2) ~~water flow is continuous throughout the whole system,~~ within catchments (ki uta ki tai), artificial interruption of water flow is minimised to the smallest degree reasonably practicable,⁵⁷⁵
- (3) the interconnection of *fresh water* (including groundwater) and *coastal waters* is recognised,
- (4) ~~native~~⁵⁷⁶ fish can migrate easily and as naturally as possible and taoka species and their habitats are protected and sustained⁵⁷⁷ and

...

18.1.2. LF-FW-08(5)

18.1.2.1. Introduction

546. As notified, LF-FW-08(5) reads:

LF-FW-08 – Fresh water

In Otago’s *water bodies* and their catchments:

...

- (5) the significant and outstanding values of Otago’s *outstanding water bodies* are identified and protected.

18.1.2.2. Submissions

547. The submission points by Forest and Bird and Meridian on clause (5) of LF-FW-08 are addressed above. The remainder of Meridian’s submission point relates to APP1 which I have addressed separately in section **Error! Reference source not found.** of this report.

⁵⁷⁴ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁵⁷⁵ 00207.002 PWCG, 00213.019 Waitaki Irrigators, 00235.093 OWRUG, 00306.033 Meridian, 00509.074 Wise Response, 00213.019 Waitaki Irrigators

⁵⁷⁶ 00231.053 Fish and Game

⁵⁷⁷ 00226.179 Kāi Tahu ki Otago

548. Lynne Stewart and COES seek expansion of clause (5) to include reference to maintaining healthy ecological function and the natural character of all water bodies - not just “outstanding water bodies”.⁵⁷⁸ Wise Response seeks amendments which additionally provide for the restoration of outstanding water bodies where degraded.⁵⁷⁹
549. Trojan and Wayfare submit that it is not appropriate to have blanket unqualified protection and seek that outstanding water bodies are identified and protected from inappropriate subdivision, use and development.⁵⁸⁰

18.1.2.3. Analysis

550. Clause (5) of LF-FW-O8 responds to the direction in Policy 8 of the NPSFM and is, in my opinion, appropriately targeted to outstanding water bodies for that reason. Region-wide direction regarding the ecological function and natural character of all water bodies is set out in LF-WAI, the rest of LF-FW-O8, LF-FW-O10, LF-FW-P7, and LF-FW-P13. I do not consider the amendments sought by Lynne Stewart and COES are necessary and do not recommend accepting these submission points.
551. I acknowledge that some water bodies may have had outstanding values in the past that have been degraded. In my opinion, an assessment of whether values are “outstanding” or not can only be based on whether those values are still outstanding at the time of assessment. While some values may be outstanding but also have been degraded in some way, I do not consider that it is necessary to restore those values. “Outstanding” is a very high threshold and restoration is unlikely to be a wise investment of resources. For these reasons, I do not recommend accepting the submission point by Wise Response.
552. Trojan and Wayfare do not set out why they consider blanket unqualified protection is inappropriate. In my view, “outstanding” is a high bar and protection is an appropriate management approach that gives effect to the NPSFM. I do not recommend accepting these submission points.

18.1.2.4. Recommendation

553. I recommend retaining LF-FW-O8(5) as notified.

18.2. Draft supplementary evidence

- 74 Fish and Game made a general submission on the pORPS seeking unspecified amendments “so the RPS recognises and provides for the way in which people connect with the environment, including recreation in and around water and harvesting food from water bodies.”⁵⁸¹ This is complimented by many other submission points

⁵⁷⁸ 00030.018 Lynne Stewart, 00202.023 COES

⁵⁷⁹ 00509.074 Wise Response Inc

⁵⁸⁰ 00206.029 Trojan, 00411.041 Wayfare

⁵⁸¹ 00231.006 Fish and Game

seeking similar relief. I therefore considered this relief in the context of each of the specific provisions that were identified in the submission by Fish and Game, rather than as a stand-alone point.

75 Fish and Game submitted on the LF-VM section seeking to include a region-wide freshwater vision that, among other things, would require that people have abundant, quality opportunities to connect with and recreate within or close to a wide range of water bodies.⁵⁸² In paragraphs 329 to 334, I did not recommend accepting the overall relief sought to include a region-wide vision for a range of reasons.

76 Following pre-hearing discussions, I have considered the matter of people connecting with the environment separately from the proposal for a region-wide freshwater vision. In particular, I have considered the definition of “sustainable management” in section 5 RMA and the reference in that definition to enabling people and communities to provide for their social well-being. I agree with Fish and Game that connecting with the environment forms part of this provision for social well-being. I note that one of the compulsory values in the NPSFM is “human contact” which is described as follows (my emphasis added):

This refers to the extent to which an FMU or part of an FMU supports people being able to connect with the water through a range of activities such as swimming, waka, boating, fishing, mahinga kai, and water skiing, in a range of different flows or levels.

77 For these reasons, I agree with Fish and Game that greater recognition of this connection is appropriate. Rather than being included in a region-wide freshwater vision, I consider that LF-FW-O8(1) already provides a similar type of direction on a region-wide basis and therefore recommend an amendment to that clause as follows:

LF-FW-O8 – Fresh water

In Otago’s *water bodies* and their catchments:

- (1) the health of the wai supports the health of the people, their connections with water bodies,⁵⁸³ and thriving ~~mahika kai~~ mahika kai,⁵⁸⁴

...

⁵⁸² 00231.050 Fish and Game

⁵⁸³ 00231.006 Fish and Game

⁵⁸⁴ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

Section 32AA evaluation

78 LF-FW-O8 is implemented by a range of policies including LF-FW-P7, LF-FW-P9, LF-FW-P11, and LF-FW-P13. These policies provide for people's connections with water in the following ways:

78.1 LF-FW-P7(3) requires specified lakes and rivers to be suitable for primary contact within defined timeframes,

78.2 LF-FW-P9(1) and LF-FW-P13(1) requires avoiding a reduction in the values or extent of natural wetlands and rivers unless particular exclusions apply – “loss of values” is defined as including any values identified through the National Objective Framework, which necessarily includes “human contact” and “mahinga kai” as compulsory values,

78.3 LF-FW-P11(4) requires identifying outstanding water bodies in accordance with APP1 which includes cultural and spiritual, and recreation values.

79 Including reference to people's connection with water in LF-FW-O8 does not alter the rest of the policy framework, which already addresses this matter in a number of ways. In my view, amending LF-FW-O8 as I have set out is more appropriate for achieving the purpose of the RMA because it reflects the second priority in Te Mana o te Wai (the second priority afforded to the health needs of people as they relate to physical contact with water). It is also more consistent with the compulsory values described in Appendix 1A of the NPSFM, particularly “human contact” which is described as:

...the extent to which an FMU or part of an FMU supports people being able to connect with the water through a range of activities such as swimming, waka, boating, fishing, mahinga kai, and water skiing, in a range of different flows or levels.

19. LF-FW-09

19.1. Previous section 42A report content

19.1.1. LF-FW-09 – Natural wetlands

19.1.1.1. Introduction

554. As notified, LF-FW-09 reads:

LF-FW-09 – Natural wetlands

Otago's *natural wetlands* are protected or restored so that:

- (1) mahika kai and other *mana whenua* values are sustained and enhanced now and for future generations,
- (2) there is no decrease in the range and diversity of indigenous ecosystem types and habitats in *natural wetlands*,
- (3) there is no reduction in their ecosystem health, hydrological functioning, *amenity values*, extent or *water* quality, and if degraded they are improved, and
- (4) their flood attenuation capacity is maintained.

555. Lf-FW-09 sets out the vision to protect and restore the values of natural wetlands, responding in part to the requirements of Policy 6 of the NPSFM. The values of natural wetlands may have been identified through the NOF process or any of the following: ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, amenity. This objective applies to the broader category of natural wetlands rather than the narrower sub-category of natural inland wetlands specified in Policy 6, meaning the direction applies to natural wetlands that may also be partly located within the coastal marine area.

19.1.1.2. Submissions

556. QLDC, DCC, Forest and Bird, Te Waihangā, and Ballance support LF-FW-09 and seek to retain it as notified.⁵⁸⁵

557. Federated Farmers considers this objective is different to the direction in the NPSFM and a duplication of provisions located in *ECO – Ecosystems and indigenous biodiversity* and seeks its deletion.⁵⁸⁶ Similarly, Beef + Lamb and DINZ highlight parallels with objectives which provide for wetlands within the LF-VM – *Visions and management* section and seek clarification regarding which provisions prevail.⁵⁸⁷

⁵⁸⁵ 00138.064 QLDC, 00139.098 DCC, 00230.085 Forest and Bird, 00321.032 Te Waihangā, 00409.011 Ballance

⁵⁸⁶ 00239.084 Federated Farmers

⁵⁸⁷ 00237.033 Beef + Lamb and DINZ

558. DOC seeks to replace “or” with “and” in the chapeau so that natural wetlands are required to be both protected and restored. The submitter considers the wording, as notified, is inconsistent with Policy 6 of the NPSFM which requires that wetland values are protected and their restoration is promoted.⁵⁸⁸ DOC also submits that ephemeral wetlands can have significant natural and biodiversity values but are not always recognised as wetlands so should be specifically referenced in the chapeau for the avoidance of doubt.⁵⁸⁹
559. Beef + Lamb and DINZ seek unspecified amendments to clause (1) to clarify what needs to be enhanced, to what level, and what the end point of enhancement is.⁵⁹⁰
560. Fish and Game considers that the order of clause (2) may be misinterpreted as meaning that “habitats” refers only to “indigenous habitats” and therefore seeks to move “habitats” to before “indigenous ecosystem types.⁵⁹¹ Beef + Lamb and DINZ also seek clarification about what “the range” (of indigenous ecosystem types and habitats) means in clause (2).⁵⁹² Toitū Te Whenua seeks amendments to improve alignment with the NPSFM which they consider is intended to improve overall water quality, not simply prevent its decrease. The submitter seeks to delete “there is no decrease” from clause (2) and instead require that the range and diversity of indigenous ecosystem types and habitats in natural wetlands are enhanced.⁵⁹³ To better contextualise the objective, Fulton Hogan seeks to include “across the region” at the end of clause (2).⁵⁹⁴
561. Beef + Lamb and DINZ seek that clause (3) identifies an end state for improvement but does not specify the amendments sought. The submitters also consider that wetlands do not need to be aesthetically pleasing and that reference to amenity values, which the submitters consider to be purely anthropocentric, should be deleted.⁵⁹⁵ Blackthorn, Trojan, and Wayfare also seek to remove reference to amenity values as they consider these unnecessary to the protection of wetlands.⁵⁹⁶
562. For the same reasons as the relief sought to clause (2), Toitū te Whenua seeks to delete “there is no reduction” from the beginning of clause (3) and instead require that the ecosystem health, hydrological functioning, amenity values, extent, and water quality of natural wetlands are enhanced.⁵⁹⁷ As with clause (2), Fulton Hogan considers the objective needs to be contextualised and seeks the following amendments to (3):⁵⁹⁸

⁵⁸⁸ 00137.071 DOC

⁵⁸⁹ 00137.071 DOC

⁵⁹⁰ 00237.033 Beef + Lamb and DINZ

⁵⁹¹ 00231.054 Fish and Game

⁵⁹² 00237.033 Beef + Lamb and DINZ

⁵⁹³ 00101.034 Toitū Te Whenua

⁵⁹⁴ 00322.019 Fulton Hogan

⁵⁹⁵ 00237.033 Beef + Lamb and DINZ

⁵⁹⁶ 00119.009 Blackthorn Lodge, 00206.030 Trojan, 00411.042 Wayfare

⁵⁹⁷ 00101.034 Toitū Te Whenua

⁵⁹⁸ 00322.019 Fulton Hogan

- (3) ~~there is no reduction in their regionally, wetland~~ ecosystem health, hydrological functioning, amenity values, and extent or water quality is maintained, and if degraded ~~they are~~ is improved, and...

563. Blackthorn, Trojan, and Wayfare submit that some small reduction in ecosystem health and amenity values could be appropriate and highlight the examples provided for in the NPSFM (such as infrastructure). The submitters seek to amend the reference to “no discernible reduction”.⁵⁹⁹

564. Kāi Tahu ki Otago considers the objective generally gives effect to the NPSFM and provides for the relationship of Kāi Tahu with wai māori, but seeks the following amendments to clauses (3) and (4) to improve clarity:⁶⁰⁰

- (3) there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if these have been degraded, they are improved, and

- (4) their flood attenuation and water storage capacity is maintained.

565. DOC submits that the objective fails to recognise the importance of wetlands to mobile species and seeks to include a new clause (5):⁶⁰¹

- (5) the provision of habitat for mobile species such as waterfowl and rails is maintained.⁶⁰²

566. Greenpeace seeks to add the following new text but does not provide any reasons:⁶⁰³

- Restore and enhance degraded wetlands through management of adverse activities and inputs such as synthetic nitrogen fertiliser and intensive farming.

567. It is unclear whether the submitter intends this to replace LF-FW-09 in its entirety or if it is to be a new subclause.

19.1.1.3. Analysis

568. I agree with Federated Farmers that LF-FW-09 differs from Policy 6 of the NPSFM, but I do not consider this is problematic. The pORPS is required to give effect to the NPSFM which does not necessarily require reproducing the text of the NPSFM. In my opinion, the outcomes sought by this objective are consistent with the NPSFM. It is not clear which provisions in the *ECO – Ecosystems and indigenous biodiversity* chapter the submitter considers duplicate the content of this objective. I do not recommend accepting this submission point.

569. Beef + Lamb and DINZ have not identified the parts of the objectives in the LF-VM section that they consider already provide for wetlands, so it is difficult to provide a specific response. In my opinion, achieving the objectives in LF-FW will assist with achieving (in

⁵⁹⁹ 00119.009 Blackthorn Lodge, 00206.030 Trojan, 00411.042 Wayfare

⁶⁰⁰ 00226.180 Kāi Tahu ki Otago

⁶⁰¹ 00137.071 DOC

⁶⁰² 00137.071 DOC

⁶⁰³ 00407.039 Greenpeace and 1259 supporters

the longer term) the objectives in LF-VM. While both are sets of objectives to be achieved, they operate on different timescales. I do not consider that there is inconsistency to address and therefore do not recommend accepting this submission point.

570. I disagree with DOC that the NPSFM requires protecting and restoring wetlands. As stated in the submission by DOC, Policy 6 requires:

There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

571. In my opinion, promoting restoration is less stringent than requiring restoration and the latter is not required by the NPSFM. Policies LF-FW-P9 and P10 provide additional direction on what “protection” and “restoration” mean and, in line with the NPSFM, in the latter case uses the qualifier “where possible”. I also note that restoration will not always be required – some wetlands will already meet the outcomes sought by this objective. I do not recommend accepting this part of the submission point by DOC.

572. The definition of “natural wetland” used in the pORPS (and adopted from the NPSFM) relies on the definition of “wetland” in the RMA:

wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions

573. I consider the reference to “intermittently wet areas” clearly anticipates wetlands that are not permanently wet, including ephemeral wetlands, and therefore additional reference in this objective is unnecessarily. I do not recommend accepting this part of the submission by DOC.

574. I do not consider that the level of specificity sought by Beef + Lamb and DINZ regarding the “end point” of enhancement or the “level” of enhancement in clause (1) is necessary, as that is the role of plans. Clause 3.4(2)(a) of the NPSFM requires ORC to work collaborative with, and enable, tangata whenua to identify any Māori freshwater values (in addition to mahinga kai) that apply to any FMU or part of an FMU in the region. In my opinion, that is part of implementing the NOF which is a regional plan exercise. I do not recommend accepting this submission point.

575. I understand the concerns raised in the submission by Fish and Game regarding a potential narrowing of scope by referring only to indigenous habitats, which may host an array of indigenous and exotic species within them. While I agree that exotic species can support indigenous species (for example, by providing habitat), I am also aware that lowland wetlands in Otago, which are most vulnerable to degradation, face pressure from the invasion of exotic grasses and herbs (Wildlands, 2021, p. 12). Over 90% of drained freshwater wetlands in New Zealand are now in grasslands (Wildlands, 2021). I am not convinced that the amendment sought by Fish and Game would result in the same outcome currently described by the objective and consider that, in the context of the threats to natural wetlands, there is good reason for the objective to require no decrease in the range and diversity of indigenous habitats. I do not recommend accepting this submission point.

576. The dictionary definition of “range” includes:⁶⁰⁴

1 a (1) a series of things in a line

...

1 b an aggregate of individuals in one order

...

6 a the space or extent included, covered, or used

577. On this basis, I agree with Beef + Lamb and DINZ that it is not clear what the term “range” in clause (2) is referring to. Given the clause already refers to diversity, which would cover the variation in ecosystem types and habitats, in my opinion the term “range” was intending to refer to the spatial element, or (6 a) in the definition above. I agree with Beef + Lamb and DINZ that for consistency with the NPSFM, “extent” is preferable and recommend accepting this part of the submission point.

578. I consider that the amendments sought by Toitū te Whenua to clause (2) would introduce uncertainty into the provision. The management direction is contained in the chapeau (“...wetlands are protected or restored so that...”) with the clauses describing the desired outcomes. Amending the provision as sought by Toitū te Whenua would remove the description of the outcome and instead repeat part of the management direction. I do not recommend accepting this submission point.

579. The chapeau of the objective begins “Otago’s natural wetlands are...”. I do not agree with Fulton Hogan that further contextualisation is necessary given that the objective already states it is focused on Otago’s natural wetlands. I consider the amendment sought attempts to apply the sub-clauses on a regional basis, rather than on a water body basis. I do not consider that this type of “unders and overs” approach gives effect to Policy 6 of the NPSFM or LF-WAI-O1. I do not recommend accepting this submission point.

580. As LF-FW-O9 is an objective in a regional policy statement, I do not consider it is necessary for the exact ‘end point’ to be determined in the manner suggested by Beef + Lamb and DINZ in clause (3). Policy LF-FW-P10 provides additional direction on achieving this part of the objective by setting out the purpose of restoration and the actions to be taken. In terms of specific ‘end points’, I consider that is a matter for the regional plan to determine. I do not recommend accepting this submission point.

581. “Amenity values” are defined in section 2 of the RMA as follows:

***Amenity values** means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*

582. On this basis, I do not agree with Beef + Lamb and DINZ that a reference to “amenity values” in clause (3) is a reference only to how “aesthetically pleasing” a wetland is. Further, Policy LF-FW-P9 requires protecting natural wetlands by avoiding a reduction in

⁶⁰⁴ Merriam Webster, retrieved from <https://www.merriam-webster.com/dictionary/range>

their values or extent. The term “loss of values” is defined in the pORPS as follows (my emphasis added):

has the same meaning as in clause 3.21(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below) and in this RPS also refers to natural wetlands in relation to a natural inland wetland or river, means the wetland or river is less able to provide for the following existing or potential values:

- a. *any value identified for it under the NOF process; or*
- b. *any of the following, whether or not they are identified under the NOF process:*
 - i. *ecosystem health*
 - ii. *indigenous biodiversity*
 - iii. *hydrological functioning*
 - iv. *Māori freshwater values*
 - v. *amenity*

583. I consider that the amenity values of wetlands are therefore a relevant consideration and should not be deleted as sought by Beef + Lamb and DINZ, Blackthorn, Trojan, and Wayfare.

584. For the same reasons as I have set out in relation to clause (2), I do not recommend accepting the submission point by Toitū te Whenua on clause (3). I consider the amendment sought would reduce the clarity of the provision. Similarly, for the same reasons as in clause (2), I do not recommend accepting the submission by Fulton Hogan. As with clause (2), I consider the amendments sought have the potential to invite an “unders and overs” approach to wetland management at the regional level, which was not the intent of the provision.

585. I agree with Blackthorn, Trojan, and Wayfare that the NPSFM does allow for a loss of values in certain circumstances, which is reflected in LF-FW-P9. Although the wording of LF-FW-O9(2) reflects the language in Policy 6 of the NPSFM, which is that there is “no further loss of extent of natural inland wetlands”, this is muddled somewhat by the mandatory policy set out in clause 3.22 which contains exceptions to that requirement. In my view, between Policy 6 and clause 3.22, the NPSFM allows for some loss of extent in limited circumstances. I consider that is implemented through LF-FW-O9 and LF-FW-P9 in a similar way to Policy 6 and clause 3.22 of the NPSFM. However, I do not consider it is helpful for an objective to describe an outcome that is not implemented through the policies and therefore consider that an amendment is necessary to LF-FW-O9 to reflect the direction in LF-FW-P9. I am not convinced that “discernible” is an appropriate substitute and prefer “minimal” which I consider has a more well-understood meaning. I recommend accepting the submission points by Blackthorn, Trojan, and Wayfare in part.

586. I consider the amendment sought by Kāi Tahu ki Otago to clause (3) improves the grammar and clarity of the provisions and recommend accepting this submission point. Similarly, I agree that clause (4) should be amended to include water storage capacity as

wetlands play an important role in the storage of water generally, not only in flood conditions. This is also important for their hydrological functioning.

587. I do not agree with DOC that the objective fails to recognise the importance of wetlands to mobile species. In particular, clauses (2) and (3) set out a range of matters and values that support the health of wetlands generally, including the habitat they provide to species (mobile or not). Wetlands are important habitat for a number of species which are not identified specifically in this objective and I do not consider it is necessary to single out mobile species in the way sought by this submitter. I do not recommend accepting this submission point.

588. LF-FW-09 is an objective. The purpose of objectives is to state what is to be achieved through the resolution of a particular issue. The amendments sought by Greenpeace are actions, which are more appropriately located in policies. The submitter has also not provided any reasoning for the amendment. I do not recommend accepting this submission point.

19.1.1.4. Recommendation

589. I recommend amending LF-FW-09 to:

LF-FW-09 – Natural wetlands

Otago's *natural wetlands* are protected or restored so that:

- (1) ~~ma hika kai~~ *ma hika kai*⁶⁰⁵ and other *mana whenua* values are sustained and enhanced now and for future generations,
- (2) there is ~~no~~ *minimal*⁶⁰⁶ decrease in the ~~range~~ *extent*⁶⁰⁷ and diversity of indigenous ecosystem types and habitats in *natural wetlands*,
- (3) there is ~~no~~ *minimal*⁶⁰⁸ reduction in their ecosystem health, hydrological functioning, *amenity values*, extent or *water quality*, and if these have been⁶⁰⁹ degraded they are improved, and
- (4) their flood attenuation and water storage⁶¹⁰ capacity is maintained.

19.2. Draft supplementary evidence

No supplementary evidence prepared.

⁶⁰⁵ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁰⁶ 00119.009 Blackthorn, 00206.030 Trojan, 00411.042 Wayfare

⁶⁰⁷ 00237.033 Beef + Lamb and DINZ

⁶⁰⁸ 00119.009 Blackthorn, 00206.030 Trojan, 00411.042 Wayfare

⁶⁰⁹ 00226.180 Kāi Tahu ki Otago

⁶¹⁰ 00226.180 Kāi Tahu ki Otago

20. LF-FW-P7

20.1. Previous section 42A report content

20.1.1. LF-FW-P7 – Fresh water

20.1.1.1. Introduction

590. As notified, LF-FW-P7 reads:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target attribute states) and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous species associated with *water bodies* are protected, including by providing for fish passage,
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
 - (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) *mahika kai* and *drinking water* are safe for human consumption,
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, and
- (6) *fresh water* is allocated within environmental limits and used efficiently.

20.1.1.2. Submissions

591. QLDC, DCC, and the Ministry of Education support LF-FW-P7 and seek it be retained as notified.⁶¹¹ Horticulture NZ seeks the deletion of LF-FW-P7 in its entirety, considering it is too generalised, specifically in relation to drinking water targets which are “unachievable and unnecessary for the health and wellbeing of water bodies and freshwater ecosystems”.⁶¹² Beef + Lamb and DINZ seek that ORC undertakes the relevant and necessary analysis to inform this sort of regulatory instrument and, once completed, replace LF-FW-P7 with one based on an analysis of current state and costs of achievement.⁶¹³

⁶¹¹ 00138.066 QLDC, 00139.100 DCC, 00421.001 Ministry of Education

⁶¹² 00236.064 Horticulture NZ

⁶¹³ 00237.035 Beef + Lamb and DINZ

592. The Minister for the Environment highlights that the chapeau of LF-FW-P7 could be interpreted as excluding the use of environmental flows and levels as a mechanism to achieve the objectives, which is inconsistent with the NPSFM.⁶¹⁴
593. Graymont and Ballance consider amendments to LF-FW-P7 are required to recognise and ensure environmental limits are set in consultation with those affected by the setting of environmental outcomes, attribute states and limits. Both submitters seek to amend the chapeau to refer to limits being set in consultation with Kāi Tahu and the community.⁶¹⁵
594. Four submitters seek amendments to clause (1), including:
- UCAC seeks refinement of the term “if degraded, improved” to provide improved specificity and clarity,⁶¹⁶
 - Toitū Te Whenua seeks greater aspiration and proposes replacing “maintained or, if degraded, improved” with “maintained or enhanced”,⁶¹⁷ and
 - Forest and Bird and Fish and Game seek to include reference to resilience in clause (1),⁶¹⁸
 - Fish and Game also seeks the following amendments to clause (1) as well as a related new clause (1b):⁶¹⁹
 - (1) the health, ~~and~~ well-being and resilience of water bodies is ~~maintained or, if degraded, improved~~ protected and restored,
 - (1b) all activities related to freshwater support the health, well-being and resilience of water bodies, ...⁶²⁰
595. Several submitters request amendments to clause (2). Meridian and Trustpower raise concern regarding the alignment of clause (2) with national direction.⁶²¹ Meridian considers the provision is significantly more limiting than section 6(c) of the RMA and seeks that it is amended to refer to the habitats of “significant” indigenous species.⁶²² Trustpower notes that the NPSFM acknowledges there may be circumstances where the provision of fish passage may not be required and request “where appropriate” be added to the end of clause (2).⁶²³ Moutere Station submits that providing fish passage could cause unintended consequences to indigenous species as non-native fish movement could also occur. The submitter requests the deletion of “including by providing for fish passage” from clause (2).⁶²⁴ Toitū te Whenua submits that the expectations around

⁶¹⁴ 00136.006 Minister for the Environment

⁶¹⁵ 00022.018 Graymont, 00409.013 Ballance

⁶¹⁶ 00220.004 UCAC

⁶¹⁷ 00101.035 Toitū Te Whenua

⁶¹⁸ 00230.087 Forest and Bird, 00231.055 Fish and Game

⁶¹⁹ 00231.055 Fish and Game

⁶²⁰ 00231.055 Fish and Game

⁶²¹ 00306.034 Meridian, 00311.015 Trustpower

⁶²² 00306.034 Meridian

⁶²³ 00311.015 Trustpower

⁶²⁴ 00026.009 Moutere Station

“freedom for fish passage” are not clear and questions whether this includes dams as well as how ORC proposes to achieve the outcome sought.

596. Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu submit that it is not enough to protect the habitats of indigenous species but that they should also be “sustained” to ensure greater resilience.⁶²⁵

597. Fish and Game seeks an additional clause which provides specifically for trout and salmon and proposes the following amendment:⁶²⁶

(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,

598. John Highton seeks unspecified amendments to provide for valued introduced species, the protection of their habitat, and the need for migration to maintain healthy populations.⁶²⁷

599. Five submissions have been received in relation to clause (3). Wise Response seeks to amend clause (3) to require that the entire length of specified rivers and lakes and all water bodies in the Upper Lakes rohe are suitable for primary contact and free of eutrophication.⁶²⁸ Beef + Lamb and DINZ, Federated Farmers and OWRUG raise concern about the dates and targets identified and question the robustness of the figures. They seek a more in-depth analysis of the Section 32 Report to inform dates and targets for Otago which reflect national direction.⁶²⁹ OWRUG specifically seeks adjustment of figures in clause (3)(a) and (b) to 80% by 2030, and 95% by 2040,⁶³⁰ and similarly, Ravensdown seeks adjustment to 80% by 2030, and 90% by 2040.⁶³¹

600. With regard to clause (4), PWCG and Lloyd McCall seek amendments to remove the reference to drinking water and an additional clause be inserted to provide for “existing and new drinking water sources which are safe for human consumption”.⁶³²

601. Wise Response, Lynne Stewart and COES seek amendments to clause (5) to provide clarification. These amendments include:

- Identifying what substances are to be phased out,⁶³³ and
- Specifying timeframes by which over-allocation is to be phased out,⁶³⁴

602. Greenpeace supports clause (5) with the following amendment:

⁶²⁵ 00226.182 Kāi Tahu ki Otago, 00234.029 Te Rūnanga o Ngāi Tahu

⁶²⁶ 00231.005 Fish and Game

⁶²⁷ 00014.054 John Highton

⁶²⁸ 00509.075 Wise Response

⁶²⁹ 00237.035 Beef + Lamb and DINZ, 00239.085 Federated Farmers, 00235.094 OWRUG

⁶³⁰ 00235.094 OWRUG

⁶³¹ 00121.057 Ravensdown

⁶³² 00207.003 PWCG, 00319.003 Lloyd McCall

⁶³³ 00509.075 Wise Response

⁶³⁴ 00030.020 Lynne Stewart, 00202.025 COES

- (5) existing over-allocation is phased out and future over-allocation is avoided, so that ecological values are prioritised in keeping with Te Mana o te Wai.⁶³⁵
603. In relation to clause (6), DOC submits that by referring to “environmental limits”, the policy could encourage “managing down” to limits which would fail to give effect to the RMA and NPSFM. The submitter seeks that “limits” is replaced with “environmental flows and levels”.⁶³⁶
604. Fish and Game seeks amendments to clauses (5) and (6) so that they are read together to support clarification and interpretation, as well as the insertion of a new clause (5a):⁶³⁷
- (5) existing over-allocation is phased out and future over-allocation is avoided, ~~and~~
- (5a) fresh water is allocated within environmental limits and used efficiently, and
- (6) discharges to freshwater are allocated within environmental limits and used efficiently.
605. The submitter considers that clause (6) does not appropriately address discharges, which are a form of allocation.
606. Te Rūnanga o Ngāi Tahu submit that as currently drafted clause (6) could be read as encouraging maximum resource use rather than encouraging allocation within limits. The following amendment is sought by Te Rūnanga o Ngāi Tahu:⁶³⁸
- (6) allocation of fresh water is allocated within environmental limits, the amounts taken are reasonable for the proposed activity when water is used efficiently, and wastage is avoided.
607. Kāi Tahu ki Otago seeks similar amendments to the beginning of clause (6) as Te Rūnanga o Ngāi Tahu as well as a grammatical correction to clarify that “water is” used efficiently.⁶³⁹
608. OWRUG and Wise Response consider efficient water use is contextual.⁶⁴⁰ Wise Response seeks amendments that require a catchment approach to determining efficiency of water use.⁶⁴¹ OWRUG seeks the following amendment and insertion of a new clause (7) to reflect the land use it is intended abstracted water is used for:⁶⁴²
- (6) fresh water is allocated within environmental limits, ~~and used efficiently.~~

⁶³⁵ 00407.038 Greenpeace and 1259 supporters

⁶³⁶ 00137.072 DOC

⁶³⁷ 00231.055 Fish and Game

⁶³⁸ 00234.029 Te Rūnanga o Ngāi Tahu

⁶³⁹ 00226.182 Kāi Tahu ki Otago

⁶⁴⁰ 00235.094 OWRUG, 00509.075 Wise Response

⁶⁴¹ 00509.075 Wise Response

⁶⁴² 00235.094 OWRUG

(7) freshwater is used efficiently taking in to account the nature of the waterbody that water is to be taken from and the land-use activity the water will be used for.

609. A number of other submitters also seek the inclusion of additional clauses to LF-FW-P7. In relation to natural character, Lynne Stewart and COES seek the following new clause be inserted:⁶⁴³

(x) The natural character of all water bodies, where possible, should be maintained or, if degraded, restored.

610. Trustpower submits that there is no specific recognition of the value of hydroelectricity within the region, or nationally, in LF-FW-P7. The submitter considers that it is fundamental that explicit recognition of renewable electricity generation and its strategic role in achieving national climate change objectives is taken into account when implementing the NOF and to ensure consistency with the NPSREG. The following new clause is sought to be included:⁶⁴⁴

(7) the existing and future generation output of hydroelectric power schemes is recognised, maintained, and protected.

611. The Fuel Companies consider that the strict “avoidance” of over-allocation does not account for the need for essential temporary construction dewatering takes which may be required in over-allocated catchments and will not necessarily be considered non-consumptive. The submitter considers there is a risk that these types of activities may be prohibited in over-allocated catchments despite not affecting the stated outcomes and limits. The submitter seeks that the policy is amended, or a new policy is included, to ensure that essential temporary construction dewatering takes necessary to facilitate operation, maintenance, upgrade, and development of infrastructure in over-allocated catchments are not prohibited.⁶⁴⁵

20.1.1.3. Analysis

612. I do not agree with Horticulture NZ that the provision is too generalised and note that it implements a number of requirements from the NPSFM. I do not recommend accepting this submission point.

613. It is unclear what relief Beef + Lamb and DINZ seek. Without further evidence or clarification, I do not recommend accepting this submission point.

614. I agree with the Ministry for the Environment that the lack of reference to environmental flows and levels may unintentionally limit the scope of the policy. I recommend accepting these submissions in part – I consider that the wording sought by the Minister for the Environment is appropriate but is better located before “limits” than after, as limits may apply to either quality or quantity.

⁶⁴³ 00030.019 Lynne Stewart, 00202.024 COES

⁶⁴⁴ 00311.015 Trustpower

⁶⁴⁵ 00510.022 The Fuel Companies

615. Method LF-LW-M10 states that all the methods in the LF-WAI, LF-VM, and LF-LS sections are also relevant to LF-FW. Method LF-VM-M3(1) requires ORC to work with communities to achieve the objectives and policies in the LF-VM section, including by engaging with communities to identify environmental outcomes for Otago’s FMUs and rohe and the methods to achieve those outcomes. In my view, the relief sought by Graymont and Ballance is already provided through these provisions, therefore I do not recommend accepting those submission points.
616. The maintenance (or, if degraded, improvement) of the health and well-being of water bodies is required by Policy 5 of the NPSFM. The NOF sets out the process required to be undertaken to implement this direction and the term “degraded” is defined in the NPSFM (and replicated in the pORPS). I am unsure what type of clarity UCAC seeks but consider that implementing the NOF through the regional plan will provide clarity about the specific outcomes for water bodies. I do not recommend accepting this submission point.
617. I do not consider that the amendment sought by Toitū te Whenua improves the clarity of the clause because it does not identify in which circumstances enhancement would be required. The wording is also inconsistent with Policy 5 of the NPSFM. I do not recommend accepting this submission point.
618. I do not consider that specific reference to resilience in clause (1) is necessary as sought by Fish and Game and Forest and Bird. The clause already refers to “health and well-being” which I consider incorporates resilience. I note that the wording of this clause reflects the objective of the NPSFM, which expresses Te Mana o te Wai. The Environment Court has previously found that:⁶⁴⁶
- “When we speak about Te Mana o te Wai we are referring to the integrated and holistic wellbeing of a freshwater body. Upholding Te Mana o te Wai acknowledges and protects the mauri of water. While mauri is not defined under the NPS-FM, ... the mauri of water sustains hauora (health): the health of the environment, the health of the waterbody and the health of the people.”*
619. In my view, the health and well-being of water bodies is holistic and incorporates resilience.
620. Fish and Game also seeks to replace the ‘maintain or improve’ wording in clause (1) with ‘protect and restore’. The submission does not clearly state the reasons for this amendment. I consider the wording as notified reflects the requirements of Policy 5 of the NPSFM, which states:
- “Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.”*
621. In my opinion, the additional clause sought by Fish and Game is already set out in LF-WAI-P1 which requires, in all management of freshwater in Otago, prioritising first the health

⁶⁴⁶ NZEnvC 208 [2019] *Aratiatia Livestock Limited and others vs Southland Regional Council*, Interim Decision of the Environment Court, 20 December 2019, paragraph 17.

and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao. For these reasons, I do not recommend accepting this submission.

622. I understand the concern raised by Meridian but do not agree that the amendment sought is an appropriate solution. It is not clear what Meridian means by “significant indigenous species” and this is not terminology used in the RMA. I note that Policy 9 of the NPSFM requires:

“Policy 6: The habitats of indigenous freshwater species are protected.”

623. I consider aligning the terminology in clause (2) with Policy 6 would assist with addressing the concern raised by Meridian in a way that is consistent with the NPSFM. I am aware that some indigenous freshwater species are migratory, including some *Galaxiids* species found in Otago and I understand those species were intended to be captured by the references to species associated with water bodies. For the avoidance of doubt, I recommend clarifying that indigenous freshwater species includes migratory species. I recommend accepting this submission point in part.

624. Clause 3.26 in the NPSFM provides detailed direction on managing fish passage. I agree with Trustpower that the direction includes maintaining or improving fish passage, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats. The content of clause 3.26 is explicitly relevant to regional plans, not regional policy statements and contains a range of additional management tools for providing for fish passage. I do not consider that the wording of clause (2) is absolute – “providing for fish passage” does not, in my opinion, require enabling fish passage in every circumstance. The nuance of how provision is to occur will occur when ORC follows the process set out in clause 3.26. I do not recommend accepting this submission point.

625. As described in RMIA-WAI-I1, the loss and degradation of water resources through drainage, abstraction, pollution, and damming has resulted in material and cultural deprivation for Kāi Tahu ki Otago. The explanation of this issue notes that barriers to fish passage as a result of damming have had significant negative impacts on Kāi Tahu and these activities degrade the mauri of the wai and the habitats and species it supports, therefore also degrading mahika kai. This is also referenced in RMIA-WAI-I3 which notes that activities such as the construction of barriers to fish passage all impact on access to and use of mahika kai resources.

626. In this context, I consider it is appropriate, and consistent with the NPSFM, to include reference to providing for fish passage in clause (2). The detailed management framework, as set out in clause 3.26, is a matter to be addressed through the regional plan as directed by the NPSFM, and the required action plan. For these reasons, I do not recommend accepting the submission point by Moutere Station. Toitū te Whenua has not sought any relief and I do not consider any further clarity is necessary given that fish passage requirements will be implemented outside the pORPS. I do not recommend accepting this submission point.

627. I note that LF-WAI-P3(3) requires that an integrated management approach sustains and, wherever possible, restores the habitats of mahika kai and indigenous species, including

taoka species associated with the water body. On this basis, I recommend accepting the submission point by Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu.

628. I have addressed a suite of submission points by Fish and Game regarding the habitats of trout and salmon in section 1.4.9 of *Report 1: Introduction and general themes*. In summary, in response to those submissions, I recommend including a new clause (2A) regarding the habitats of trout and salmon. I therefore recommend accepting in part the submission points by Fish and Game and John Highton.
629. Many submitters seek to amend the swimmability targets in clause (3) or seek a more in-depth analysis of the section 32 report to inform the dates and targets. Amendments to the NPSFM in 2017 introduced national targets for the “swimmability” of specified rivers and lakes. By 2018, regional councils were required to set both interim and final regional targets so that it was clear how each region would contribute to achieving the national target. The process followed by ORC, including information about the consultation which occurred on the targets and the modelling that underpinned the analysis, is publicly available from the Council’s website.⁶⁴⁷ I do not consider any of the submitters have provided sufficient evidence to support amending the targets from what the Council formally decided on after consulting with the community. I do not recommend accepting the submission points by Beef + Lamb and DINZ, Federated Farmers, OWRUG, and Ravensdown.
630. The term “drinking water” is defined in the pORPS as:
- has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)*
- means water intended to be used for human consumption; and includes water intended to be used for food preparation, utensil washing, and oral or other personal hygiene.*
631. In my opinion, Lloyd McCall and PWCG have misread clause (4) as requiring all water bodies to be “drinkable” which is not the case. I do not recommend accepting these submission points.
632. The extent and nature of over-allocation in Otago’s water bodies will not be known in full until the Council has developed its new regional plan containing environmental outcomes, environmental flows and levels, target attribute states, and limits on resource use. Therefore, the specific requirements for phasing out over-allocation will be determined through that process. The definition of “over-allocation” in the NPSFM (and adopted in the pORPS) is clear that the term applies to both water quality and quantity. Similarly, the timeframes for phasing out over-allocation need to consider the extent and nature of the over-allocation, as well as the duration of existing resource consents. I note that timeframes for phasing out over-allocation are required to be included in the land and water regional plan in accordance with LF-FW-M6(5)(b). As a result, I do not consider

⁶⁴⁷ <https://www.orc.govt.nz/managing-our-environment/water/water-quality/regional-swimming-targets-for-otago>

any amendments are necessary in response to the submission points by Wise Response, COES, and Lynne Stewart and do not recommend accepting these submission points.

633. I consider it is apparent from the NPSFM that the purpose of phasing out over-allocation is to ensure that environmental outcomes for FMUs can be achieved. These outcomes must be developed for each value identified within the FMU and are broader than only ecological health. For example, the other compulsory values (aside from ecosystem health) are human contact, threatened species, and mahinga kai and some of the values that must be considered are drinking water supply, transport and tauranga waka, and hydro-electric power generation. For this reason, I consider the amendment sought by Greenpeace would inappropriately limit the application of clause (5) and therefore do not recommend accepting this submission point.
634. I do not agree with DOC's interpretation of the NPSFM. Clause 3.16(2) of the NPSFM states that environmental flows and levels must be set at a level that achieves the environmental outcomes sought for the values relating to the FMU. Clause 3.17(1) then requires "take limits" in order to meet environmental flows and levels. In my opinion, it is the take limits (or limits on resource use when used in relation to the achievement of target attribute states) that allocate resources, not the flows and levels. That said, a number of submitters have interpreted this clause differently so for clarity I recommend accepting this submission point in part and amending "environmental limits" to "limits on resource use" which is defined in the NPSFM and includes take limits as well as other types of limits.
635. I understand the issue Fish and Game raises in relation to the allocation of discharges but do not agree that clauses (5) and (6) need to be split further. In my opinion, freshwater allocation can refer to both water quality (i.e. discharges) and water quantity – this is apparent from the definition of "over-allocation" in the NPSFM, which explicitly refers to both water quantity and quality. When used in relation to quality, allocation generally refers to the assimilative capacity of the water body rather than the physical resource itself. While normally used in relation to abstraction, in my opinion efficient use is also a relevant matter for quality-related uses, such as discharges to water bodies. As with abstraction, users should be encouraged to discharge water or contaminants with the least waste. I do not recommend accepting this submission point.
636. It appears Te Rūnanga o Ngāi Tahu has also interpreted clause (6) as applying only to water quantity. As I have explained above, this is not the case. I consider that my recommended amendments in response to other submissions on this clause assist with clarifying that this clause applies to both water quantity and quality. I do not consider the other amendments sought by Te Rūnanga o Ngāi Tahu are appropriate in this context as they are focused specifically on uses that abstract water. I recommend accepting this submission point in part, insofar as it reflects the relief sought by Kāi Tahu ki Otago. I consider that the amendments sought by Kāi Tahu ki Otago clarify the application of the clause and recommend accepting this submission point.
637. I agree with OWRUG and Wise Response that what is "efficient" will depend on the circumstances and consider therefore that the regional plan is the most appropriate location for more specific direction on efficiency of use, as it is the regional plan that

allows (or not) the use of water. I do not consider that the additional clause sought by OWRUG provides any additional clarity about the term “efficient use” and again consider this is a matter best addressed by the regional plan, particularly once environmental outcomes have been developed. I do not recommend accepting these submission points.

638. The policy direction on managing natural character is set out in LF-FW-P13 and P14 and I do not consider it needs to be repeated in LF-FW-P7. For this reason, I do not recommend accepting the submission points by COES and Lynne Stewart.
639. The EIT-EN section of the pORPS addresses renewable electricity generation in detail. In particular, I note that EIT-EN-P2(2) requires decisions on the allocation and use of resources (including fresh water) consider at least maintaining current generation capacity. I do not consider it is necessary to repeat this direction in the LF-FW section given that the chapters of the pORPS are to be read together. I do not recommend accepting this submission point.
640. In my opinion, the issues raised by The Fuel Companies are a matter to address through the regional plan, which will include provisions to manage dewatering. Whether LF-FW-P7 requires it or not, the NPSFM ultimately requires phasing out over-allocation and avoiding over-allocation in the future. I do not recommend accepting this submission point.
641. Meridian seeks to include a new clause in LF-WAI-P3 regarding the management of freshwater as part of New Zealand’s integrated response to climate change. I do not consider that policy is the appropriate place for such direction and have instead recommended including the clause in LF-FW-P7 as new clause (7). My reasons for this are set out in section **Error! Reference source not found.** of this report.
642. When considering this provision, I noted that the term “limits” is used in the chapeau but not italicised. That term is defined in the NPSFM and its definition is applicable and relevant to this provisions. I recommend italicising the term and including the definition from the NPSFM in the pORPS. In my opinion, this is an amendment of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.

20.1.1.4. Recommendation

643. I recommend amending LF-FW-P7 to:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target attribute states), environmental flows and levels,⁶⁴⁸ and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,

⁶⁴⁸ 00136.006 Minister for the Environment

- (2) the habitats of indigenous freshwater species ~~associated with water bodies~~⁶⁴⁹ are protected and sustained,⁶⁵⁰ including by providing for fish passage,
- (2a) the habitats of trout and salmon are protected, including by providing for fish passage, insofar as protection is consistent with (2),⁶⁵¹
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
 - (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) ~~mahika kai~~ *mahika kai*⁶⁵² and *drinking water* are safe for human consumption,
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, ~~and~~
- (6) allocation of *fresh water* is allocated⁶⁵³ within ~~environmental~~ *limits on resource use*⁶⁵⁴ and used efficiently, ~~and~~
- (7) the role of freshwater management as part of New Zealand's integrated response to climate change is recognised.⁶⁵⁵

20.2. Draft supplementary evidence

No supplementary evidence prepared.

⁶⁴⁹ 00306.034 Meridian

⁶⁵⁰ 00226.182 Kāi Tahu ki Otago, 00234.029 Te Rūnanga o Ngāi Tahu

⁶⁵¹ 00231.055 Fish and Game

⁶⁵² Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁵³ 00226.182 Kāi Tahu ki Otago

⁶⁵⁴ 00137.072 DOC

⁶⁵⁵ 00306.032 Meridian

21. LF-FW-P9

21.1. Previous section 42A report content

21.1.1. LF-FW-P9 – Protecting natural wetlands

21.1.1.1. Introduction

644. As notified, LF-FW-P9 reads:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

- (1) avoiding a reduction in their values or extent unless:
 - (a) the *loss of values* or extent arises from:
 - (i) the customary harvest of food or resources undertaken in accordance with tikaka Māori,
 - (ii) restoration activities,
 - (iii) scientific research,
 - (iv) the sustainable harvest of sphagnum moss,
 - (v) the construction or maintenance of *wetland utility structures*,
 - (vi) the maintenance of operation of *specific infrastructure*, or *other infrastructure*,
 - (vii) natural hazard works, or
 - (b) the Regional Council is satisfied that:
 - (i) the activity is necessary for the construction or upgrade of *specified infrastructure*,
 - (ii) the *specified infrastructure* will provide significant national or regional benefits,
 - (iii) there is a *functional need* for the *specified infrastructure* in that location,
 - (iv) the *effects* of the activity on indigenous *biodiversity* are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and
 - (v) the other *effects* of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the *effects management hierarchy*, and
- (2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:

- (a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v) will be applied to the *loss of values* or extent of the *natural wetland*, and
- (b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v).

21.1.1.2. Submissions

645. QLDC, Waka Kotahi, and Transpower support LF-FW-P9 and seek to retain it as notified.⁶⁵⁶ Meridian seeks to retain clause (1)(b) as notified but seeks amendments to clause (1)(a).⁶⁵⁷ John Highton strongly supports the intent of this policy but cautions that total exclusion of stock may in some cases be counterproductive to the outcomes sought for wetlands.⁶⁵⁸ Several submitters, including Oceana Gold, Forest and Bird and Aurora Energy recognise the policy seeks to give effect to the NPSFM and the NESF.⁶⁵⁹ However many seek amendments to support alignment.
646. DCC opposes the policy as drafted and seeks its removal from the pORPS as the submitter considers it does not align with national direction.⁶⁶⁰ DCC interprets clause 3.22 of the NPSFM to only be applicable to regional plan(s) and considers the inclusion of this policy creates the likelihood of duplication in future.
647. Forest and Bird considers the NESF provides greater detail on how to achieve policy outcomes and seeks an additional clause to cross-reference the NESF where it applies.⁶⁶¹ Contact seeks unspecified amendments to ensure offsetting and compensation limits for wetlands are consistent with the NSPFM.⁶⁶²
648. Oceana Gold seeks unspecified amendments to recognise that changes to the NESF are imminent and will provide a broader scope of opportunity for activities such as mining to access the effects management hierarchy.⁶⁶³
649. As an alternative to their specific relief below, Network Waitaki, and PowerNet seek other relief to include electricity sub-transmission and distribution activities.⁶⁶⁴

Clause (1)(a)

650. Clause (1)(a) lists the exceptions to the direction to avoid a reduction in the values or extent of natural wetlands. Many submitters seek amendments to clause (1)(a).

⁶⁵⁶ 00138.068 QLDC, 00305.022 Waka Kotahi, 00314.023 Transpower

⁶⁵⁷ 00306.036 Meridian

⁶⁵⁸ 00014.055 John Highton

⁶⁵⁹ For example, 00115.015 Oceana Gold, 00230.089 Forest and Bird, 00315.031 Aurora Energy

⁶⁶⁰ 00139.102 DCC

⁶⁶¹ 00230.089 Forest and Bird

⁶⁶² 00318.013 Contact

⁶⁶³ 00115.015 Oceana Gold

⁶⁶⁴ 00320.015 Network Waitaki, 00511.015 PowerNet

651. Alluvium and Stoney Creek and Danny Walker and others interpret the NPSFM to allow for general consideration of the loss of extent and therefore seek deletion of the word “their” in clause (1) to reflect this.⁶⁶⁵
652. Wise Response seeks to amend clause (1)(a) so that all activities excluded are “permitted”.⁶⁶⁶ The submitter states that all activities must be legitimate and consistent with the relevant planning provisions.
653. Greenpeace, Yellow-eyed Penguin Trust and Toitū te Whenua raise concern that clause (1)(a) excludes certain activities.⁶⁶⁷ The submitters consider the impact of these activities is unlikely to be less than minor and seek the deletion of the following clauses:
- (iii) scientific research,⁶⁶⁸
 - (iv) the sustainable harvest of sphagnum moss,⁶⁶⁹ and
 - (vi) the maintenance or operation of specific infrastructure or other infrastructure.⁶⁷⁰
654. Aurora Energy seeks to retain clause (1)(a)(vi).⁶⁷¹ Blackthorn Lodge, Trojan, and Wayfare seek to include reference to construction as well as maintenance and operation of specified infrastructure in this clause.⁶⁷²
655. Several submitters, including Blackthorn Lodge, Trojan, and Kāi Tahu ki Otago highlight a typographic error in clause 1(a)(vi) and seek to correct “specific” to “specified”.⁶⁷³ Kāi Tahu ki Otago also seek to correct “of” to “or” in clause (1)(a)(vi).⁶⁷⁴
656. The term “natural hazard works” is used in clause (1)(a)(vii) and is defined in the *Interpretation* section of the pORPS, adopting the definition of this term from the NESF. “Other infrastructure” is used in clause (1)(a)(vi) and the pORPS again adopts the definition of this term from the NESF. Ravensdown seeks to delete both definitions on the basis that they are considerably narrower than the general public’s understanding of the terms.⁶⁷⁵ In contrast, Aurora Energy and Te Waihanga seek to retain the definition of “other infrastructure” as notified.⁶⁷⁶

⁶⁶⁵ 00016.006 Alluvium and Stoney Creek, 00017.005 Danny Walker and others,

⁶⁶⁶ 00509.076 Wise Response Inc

⁶⁶⁷ 00407.040 Greenpeace and 1259 supporters, 00120.051 Yellow-eyed Penguin Trust, 00101.037 Toitū Te Whenua

⁶⁶⁸ 00407.040 Greenpeace and 1259 supporters

⁶⁶⁹ 00407.040 Greenpeace and 1259 supporters, 00120.051 Yellow-eyed Penguin Trust, 00101.037 Toitū Te Whenua

⁶⁷⁰ 00407.040 Greenpeace and 1259 supporters

⁶⁷¹ 00315.031 Aurora Energy

⁶⁷² 00119.010 Blackthorn Lodge, 00206.031 Trojan,

⁶⁷³ 00119.010 Blackthorn Lodge, 00206.031 Trojan, 00226.184 Kāi Tahu ki Otago, 00231.056 Fish and Game, 00306.035 Meridian, 00311.016 Trustpower, 00315.031 Aurora Energy

⁶⁷⁴ 00226.184 Kāi Tahu ki Otago

⁶⁷⁵ 00121.007 Ravensdown

⁶⁷⁶ 00315.009 Aurora Energy, 00321.007 Te Waihanga

Clauses (1)(b) and (2)

657. Following on from clause (1)(a), clause (1)(b) sets out a number of matters that ORC must be satisfied have been met in order for the exceptions in clause (1)(a) to be provided for.
658. Alluvium and Stoney Creek, Danny Walker and Others, Oceana Gold, PowerNet, and Network Waitaki are concerned that LF-FW-P9 does not provide for activities which are locationally or functionally constrained, including mining, and electricity sub-transmission and distribution activities.⁶⁷⁷ Aurora Energy seeks to retain (1)(b)(i) and (iii).⁶⁷⁸ Oceana Gold, Aurora Energy, Network Waitaki and PowerNet seek deletion of clause (1)(b)(ii) as they believe the provision is more stringent than Regulation 45 of the NESF or any further or consequential relief to align the policy with the NESF.⁶⁷⁹ Network Waitaki and PowerNet seek to amend (1)(b)(i), (ii), and (iii) to include reference to “significant electricity distribution infrastructure” alongside specified infrastructure.⁶⁸⁰
659. Regarding clause (1)(b)(iv), Fish and Game considers that the habitats of trout and salmon should also be provided for within LF-FW-P9 and seeks the following amendment:⁶⁸¹
- (vi) 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 [sic]
660. Blackthorn Lodge, Trojan, and Wayfare submit that the matters of assessment should be restricted to the effects of the activity on the loss of values or extent of the natural wetland and seek the following amendments:⁶⁸²
- (1) avoiding a reduction in their values or extent unless:
 - ...
 - (b) the Regional Council is satisfied that:
 - ...
 - (v) the other effects of the activity on the loss of values or extent of the natural wetland (excluding those managed under (1)(b)(iv)) are managed by applying the effects management hierarchy, and
 - (2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:
 - ...

⁶⁷⁷ 00016.006 Alluvium and Stoney Creek, 00017.005 Danny Walker and others, 00115.015 Oceana Gold, 00511.015 PowerNet, 00320.015 Network Waitaki

⁶⁷⁸ 00315.031 Aurora Energy

⁶⁷⁹ 00115.015 Oceana Gold, 00315.031 Aurora Energy, 00320.015 Network Waitaki, 00511.015 PowerNet

⁶⁸⁰ 00320.015 Network Waitaki, 00511.015 PowerNet

⁶⁸¹ 00231.056 Fish and Game

⁶⁸² 00119.010 Blackthorn Lodge, 00206.031 Trojan, 00411.043 Wayfare

- (b) any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b)(iv) and (1)(b)(v) in respect of any loss of values or extent of the natural wetland.

661. Fulton Hogan states that activities that have an adverse effect on natural wetlands should be able to occur provided measures are implemented to ensure the activity results in no net loss of natural wetland. The submitter seeks to include a new clause (1)(c) as an alternative to (1)(b):⁶⁸³

(c) the Regional Council is satisfied that:

(i) the activity will result in no net loss of natural wetland, and

(ii) not granting resource consents for activities under (1)(b) or (1)(c) unless the Regional Council is satisfied that:

662. In addition to the above, there are submissions on the use of effects management hierarchies generally that are relevant to clauses (1)(b) and (2). These are set out in section 1.4.7 of *Chapter 1: Introduction and general themes*.

663. There are a number of submissions on the definitions of “specified infrastructure” which is a term used in clauses (1)(b)(i) to (iii). Meridian and Queenstown Airport seek to retain the definition as notified.⁶⁸⁴ Trustpower seeks to retain the definition as notified, and in particular clauses (a) and (b).⁶⁸⁵ Forest and Bird seeks to amend the definition as follows:⁶⁸⁶

“in relation to freshwater, has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)”

664. Ravensdown seeks to delete the definition and make consequential amendments arising from this submission point.⁶⁸⁷ The submitter states that the term is only used within this policy and that “specified infrastructure” may have a broader definition than that used in the NPSFM.

665. As an alternative to amending the definition of regionally significant infrastructure, Port Otago seeks to amend the definition of specified infrastructure to ensure it applies to both nationally and regionally significant infrastructure.⁶⁸⁸

666. Aurora Energy seeks to amend the definition as follows:⁶⁸⁹

~~...has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)~~

Means any of the following:

⁶⁸³ 00322.020 Fulton Hogan

⁶⁸⁴ 00306.008 Meridian, 00313.003 Queenstown Airport

⁶⁸⁵ 00311.004 Trustpower

⁶⁸⁶ 00230.015 Forest and Bird

⁶⁸⁷ 00121.011 Ravensdown

⁶⁸⁸ 00301.008 Port Otago

⁶⁸⁹ 00315.011 Aurora

....
(b) regionally significant infrastructure ~~identified as such in a regional policy statement or regional plan,~~
...

667. The submitter states that relying on other definitions is circular and simply directs readers elsewhere.
668. Te Waihangā requests that the definition of specified infrastructure is amended to include schools and corrections facilities and that the definition take account of nationally as well as regionally significant infrastructure.⁶⁹⁰
- 21.1.1.3. Analysis
669. John Highton does not seek specific relief, so I recommend accepting the submitter's support.
670. I agree with DCC that clause 3.22 of the NPSFM applies to regional plans, however I do not consider that mirroring this direction in the pORPS creates misalignment with the NPSFM. In my opinion, it would create more misalignment to include policy direction in the pORPS that differs from the specific direction required to be included in the relevant regional plan. I appreciate that it is not ideal to restate national direction in lower order documents, however the approach in the NPSFM of stating very broad and (generally) unqualified policies as well as very specific and detailed provisions for direct inclusion in regional plans creates very limited opportunity for additional or varied policy direction at the regional policy statement level. In my view, the pORPS approach aligns with the NPSFM requirements but also clarifies how the specific direction fits within the broader pORPS framework for managing freshwater. I do not recommend accepting this submission point.
671. I do not consider that it is necessary to include a cross-reference to the NESF. The pORPS does not contain rules so it does not have a direct interaction with the provisions of the NESF. I do not recommend accepting this submission point.
672. I am aware that the Government consulted on potential amendments to the NESF in late 2021.⁶⁹¹ So far, the Government has not formally amended the NESF as a result. The pORPS must give effect to the NESF in its current form and I do not consider it would be efficient or effective to attempt to pre-empt potential amendments in the manner sought by Oceana Gold. I do not recommend accepting this submission point.
673. It is unclear what alternative relief to their specific submission points is potentially sought by Network Waitaki and PowerNet. I do not recommend accepting these submission points, noting that I have addressed their specific relief below.

⁶⁹⁰ 00321.008 Te Waihangā

⁶⁹¹ <https://consult.environment.govt.nz/freshwater/managing-our-wetlands/>

Clause (1)(a)

674. The mandatory policy to be included in regional plans as directed by clause 3.22(1) of the NPSFM begins as follows (my emphasis added):

“The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where...”

675. LF-FW-P9(1) uses the wording “avoiding a reduction in their values or extent unless...”. As I understand it, Alluvium and Stoney Creek and Danny Walker and Others consider that the wording in the NPSFM contemplates a general loss of the extent of all natural wetlands, where extent is interpreted as referring to the collective extent of all natural wetlands combined. I am not convinced this is the case and consider the wording in the NPSFM simply reflects normal grammatical conventions. I do not recommend accepting these submission points.

676. The amendment sought by Wise Response would restrict the application of this policy, and the corresponding policy in the regional plan, only to the activities in (a) managed by permitted activity rules. I consider that would inappropriately capture these activities where they are resulting in less significant adverse effects, while excluding consented activities which are generally more likely to result in more significant adverse effects. I do not understand the reasoning provided by the submitter so am unsure whether this was the intended effect. I do not recommend accepting this submission point.

677. The activities provided for by clause (1)(a) mirror those contained in the mandatory policy for regional plans included in clause 3.22(1) of the NPSFM. Given that that policy must be replicated in the regional plan, I do not consider there is any benefit to amending the list of activities in the pORPS. In my opinion, the mandatory policy to be included in the regional plan will prevent any amendments at the pORPS level from being implemented through the plan. For this reason, I do not recommend accepting the submissions by Greenpeace, Yellow-eyed Penguin Trust, Toitū te Whenua, Blackthorn Lodge, Trojan, and Wayfare.

678. I agree that the typographical errors in clause (1)(a)(vi) should be corrected and recommend accepting that part of the submission points by Blackthorn, Trojan, Kāi Tahu ki Otago, Fish and Game, Meridian, Trustpower, Wayfare, and Aurora Energy.

679. I understand that the terms “natural hazard works” and “other infrastructure” are used in the NESF in relation to regulations managing effects on natural wetlands. As this policy relates to the protection of natural wetlands, I consider that definitions drawn from the NESF are appropriate. I do not consider it would be efficient or effective for the pORPS to provide ‘more scope’ than the NESF definitions as these will override any plan provisions and therefore prevent the pORPS definition being implemented. I do not recommend accepting the submission point by Ravensdown seeking to delete the definition of this term.

Clauses (1)(b) and (2)

680. The submission points by Alluvium and Stoney Creek, Danny Walker and Others, Oceana Gold, PowerNet, Aurora Energy, and Network Waitaki seek to amend this policy in ways that would make it inconsistent with clause 3.22(1) of the NPSFM. Given that this policy,

verbatim, must be inserted into the relevant regional plan, I do not consider it is efficient or effective for the corresponding provision in the pORPS to be different. I am not convinced that any amendments to LF-FW-P9 could realistically be implemented in the way I assume submitters envisage, as the direction in clause 3.22 of the NPSFM to insert the policy overrides the direction in the pORPS and will therefore inform the development of rules. For this reason, I do not recommend accepting the submission points by Alluvium and Stoney Creek, Danny Walker and Others, Oceana Gold, PowerNet, Aurora Energy, and Network Waitaki.

681. Regarding the amendments sought by Network Waitaki and PowerNet to include reference to “significant electricity distribution infrastructure”, I note that the corresponding definition for this term has not been recommended for inclusion in the pORPS.⁶⁹² “Specified infrastructure” is defined in the NPSFM (and adopted in the pORPS) as including regionally significant infrastructure identified as such in a regional policy statement or regional plan. The pORPS includes a definition of regionally significant infrastructure which includes “electricity sub-transmission infrastructure” which is in turn defined as:

... electricity infrastructure which conveys electricity between energy generation sources, the National Grid and zone substations and between zone substations.

682. It is not clear from the submissions of Network Waitaki or PowerNet which parts of electricity distribution infrastructure they consider are not already provided for through the definition of “specified infrastructure.” I do not recommend accepting these submission points.

683. The NPSFM contains an effects management hierarchy for specific activities. The pORPS contains an effects management hierarchy for indigenous biodiversity that is, in my opinion, considerably more stringent than the effects management hierarchy in the NPSFM. It was a deliberate decision during the drafting of this policy to ensure that effects on indigenous biodiversity were managed using the more stringent hierarchies set out in the ECO chapter than the NPSFM hierarchy. This is the reason that (iv) and (v) vary from the policy as set out in clause 3.22 of the NPSFM. This was only intended to apply to the habitats of trout and salmon insofar as they are also areas of significant indigenous vegetation, significant habitats of indigenous fauna, or general indigenous biodiversity. For these reasons, I do not recommend accepting the submission point by Fish and Game.

684. To clarify the differences between these effects managements hierarchies, it has been recommended in response to submissions on the ECO chapter to amend the relevant references to either “freshwater effects management hierarchy” or “biodiversity effects management hierarchy”. I have reflected that recommendation in LF-FW-P9(1)(b)(v) and made consequential amendments to (2)(a) and (b).

685. I do not consider the amendments sought by Blackthorn Lodge, Trojan, and Wayfare to sub-clause (1)(b)(v) is necessary. The term “freshwater effects management hierarchy” in the sub-clause is defined in the pORPS as follows (my emphasis added):

⁶⁹² See section 8.5.3 of *Report 8: Energy, infrastructure, and transport*

has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below) and in this RPS also applies to natural wetlands

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...

686. In my opinion, this already achieves the outcome sought by the submitters.
687. However, I agree with the submitters that the amendment sought to (2)(b) would reflect the wording used in (2)(a) and clarify the application of this clause. I recommend accepting in part the submission points by Blackthorn Lodge, Trojan, and Wayfare.
688. I do not consider the amendment sought by Fulton Hogan achieves the outcome sought by the mandatory policy in clause 3.22 of the NPSFM. It is unclear what the submitter means by “no net loss of natural wetland”. The NPSFM (in Policy 6 and clause 3.22) is clear that management should concern both extent and values. I am concerned that the amendment sought would inappropriately limit decision-making to extent. The amendment sought has the potential to invite an “unders and overs” approach to wetland protection which is not the intent of the policy and does not give effect to Policy 6 of the NPSFM. I note that clause 3.22(1) requires regional councils to include the policy as drafted or words to the same effect. While I appreciate that this direction does not apply to regional policy statements, as I have discussed earlier, I do not see any benefit in setting policy in the pORPS that cannot be implemented in the regional plan. Although I understand the issues raised by Fulton Hogan, I do not consider that the amendments sought are “words to the same effect” and therefore do not recommend accepting this submission point.
689. As a result of my recommendations relating to the use of effects management hierarchies in the pORPS set out in section 1.4.7 of *Chapter 1: Introduction and general themes*, I have recommended a number of changes to these clauses to clarify the use of this term and, in particular, differentiating between the hierarchies in the LF and ECO chapters.
690. This policy is based on the mandatory policy for regional plans set out in clause 3.22 of the NPSFM and relies on terms that are defined in the NPSFM. For completeness, those definitions are included in the pORPS. I do not agree with Ravensdown that there is potential for “specified infrastructure” in the pORPS to be defined differently to the way it is defined in the NPSFM. The mandatory policy that LF-FW-P9 is based on must be included in regional plans and relies on definitions set out in the NPSFM. In my opinion, it would be both inefficient and ineffective for the pORPS to define these terms differently from the NPSFM and regional plans as there is no obvious way that the pORPS policy could be implemented. I do not recommend accepting the submission point by Ravensdown.
691. I understand that the author of the *EIT* section 42A report has recommended an amendment to clarify that regionally significant infrastructure includes nationally significant infrastructure, which I consider addresses the point raised by Port Otago. I do not recommend accepting this submission point.

692. I do not consider that the reasoning provided by Aurora Energy for moving away from the NPSFM definition is sufficient to warrant this type of inconsistency. In my view, it is also clearer for the definition to state where regionally significant infrastructure is identified to avoid confusion. I do not recommend accepting this submission point.
693. As I have set out in response to the submission point by Port Otago, the point regarding the inclusion of nationally significant infrastructure raised by NZIC has been addressed elsewhere. The submitter has not provided any explanation as to the issue with the definition not including schools or correction facilities. Without further clarification, I do not recommend accepting this submission point.
694. Regarding the amendment sought by Forest and Bird, I note that *Standard 14: Definitions* of the National Planning Standards require a similar clarification to that sought by the submitter where terms are used in more than one context. In this instance, specified infrastructure is only used in one context and therefore I do not consider that any further clarification is required. I do not recommend accepting the submission point by Forest and Bird.

21.1.1.4. Recommendation

695. I recommend amending LF-FW-P9 to:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

- (1) avoiding a reduction in their values or extent unless:
- (a) the *loss of values* or extent arises from:
- (i) the customary harvest of food or resources undertaken in accordance with tikaka Māori,
 - (ii) restoration activities,
 - (iii) scientific research,
 - (iv) the sustainable harvest of sphagnum moss,
 - (v) the construction or maintenance of *wetland utility structures*,
 - (vi) the maintenance ~~of~~ ^{or}⁶⁹³ operation of ~~specific~~ specified⁶⁹⁴ infrastructure, or other infrastructure,
 - (vii) natural hazard works, or
- (b) the Regional Council is satisfied that:
- (i) the activity is necessary for the construction or upgrade of *specified infrastructure*,

⁶⁹³ 00226.184 Kāi Tahu ki Otago

⁶⁹⁴ 00119.010 Blackthorn Lodge, 00206.031 Trojan, 00226.184 Kāi Tahu ki Otago, 00231.056 Fish and Game, 00306.035 Meridian, 00311.016 Trustpower, 00315.031 Aurora Energy

- (ii) the *specified infrastructure* will provide significant national or regional benefits,
 - (iii) there is a *functional need* for the *specified infrastructure* in that location,
 - (iv) the *effects* of the activity on indigenous *biodiversity* are managed by applying either ECO-P3 or the *effects management hierarchy (in relation to indigenous biodiversity)* in⁶⁹⁵ ECO-P6 (whichever is applicable), and
 - (v) the other *effects* of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the *effects management hierarchy (in relation to natural wetlands and rivers)* in LF-FW-P13A,⁶⁹⁶ and
- (2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:
- (a) the application demonstrates how each step of the *effects management hierarchies hierarchy (in relation to indigenous biodiversity)*⁶⁹⁷ in (1)(b)(iv) and the *effects management hierarchy (in relation to natural wetlands and rivers)* in⁶⁹⁸ (1)(b)(v) will be applied to the *loss of values* or extent of the *natural wetland*, and
 - (b) any consent is granted subject to conditions that apply the *effects management hierarchies hierarchy (in relation to indigenous biodiversity)*⁶⁹⁹ in (1)(b)(iv) and the *effects management hierarchy (in relation to natural wetlands and rivers)* in⁷⁰⁰ (1)(b)(v) in respect of any loss of values or extent of the natural wetland.⁷⁰¹

21.2. Draft supplementary evidence

No supplementary evidence prepared.

⁶⁹⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00315.014 Aurora Energy, 00235.125 OWRUG, 00511.012 PowerNet, 00320.012 Network Waitaki

⁶⁹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00315.014 Aurora Energy, 00235.125 OWRUG, 00511.012 PowerNet, 00320.012 Network Waitaki

⁶⁹⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00315.014 Aurora Energy, 00235.125 OWRUG, 00511.012 PowerNet, 00320.012 Network Waitaki

⁶⁹⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00315.014 Aurora Energy, 00235.125 OWRUG, 00511.012 PowerNet, 00320.012 Network Waitaki

⁶⁹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00315.014 Aurora Energy, 00235.125 OWRUG, 00511.012 PowerNet, 00320.012 Network Waitaki

⁷⁰⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00315.014 Aurora Energy, 00235.125 OWRUG, 00511.012 PowerNet, 00320.012 Network Waitaki

⁷⁰¹ 00119.010 Blackthorn, 00206.031 Trojan, 00411.043 Wayfare

22. LF-FW-P10

22.1. Previous section 42A report

22.1.1. LF-FW-P10 – Restoring natural wetlands

22.1.1.1. Introduction

696. As notified, LF-FW-P10 reads:

LF-FW-P10 – Restoring *natural wetlands*

Improve the ecosystem health, hydrological functioning, *water* quality and extent of *natural wetlands* that have been degraded or lost by requiring, where possible:

- (1) an increase in the extent and quality of habitat for indigenous species,
- (2) the restoration of hydrological processes,
- (3) control of pest species and vegetation clearance, and
- (4) the exclusion of stock.

22.1.1.2. Submissions

697. QLDC, DCC, CODC, and Kāi Tahu ki Otago support LF-FW-P10 as drafted and seek it be retained as notified.⁷⁰²

698. Forest and Bird, Trustpower, Greenpeace, Wise Response, and Beef + Lamb and DINZ consider refinement of the chapeau of LF-FW-P10 is necessary to assist with interpretation.⁷⁰³ These amendments include:

- Deletion of “where possible”,⁷⁰⁴
- Replacing “where possible” with “where practicable”,⁷⁰⁵
- Replacing “where possible” with “where technically possible”⁷⁰⁶ and
- Deletion of “requiring” and replacing with “encouraging” or “supporting” to correlate with non-regulatory methods identified.⁷⁰⁷

699. Beef + Lamb and DINZ also consider clauses (1) and (2) as currently drafted signal potentially unachievable and unreasonable environmental outcomes and therefore seek amendments to clarify how much restoration is required.⁷⁰⁸

⁷⁰² 00138.069 QLDC, 00139.103 DCC, 00201.015 CODC, 00226.185 Kāi Tahu ki Otago

⁷⁰³ 00230.090 Forest and Bird, 00311.017 Trustpower, 00407.041 Greenpeace and 1259 supporters, 00509.077 Wise Response

⁷⁰⁴ 00230.090 Forest and Bird, 00407.041 Greenpeace and 1259 supporters

⁷⁰⁵ 00311.017 Trustpower

⁷⁰⁶ 00509.077 Wise Response

⁷⁰⁷ 00237.036 Beef + Lamb and DINZ

⁷⁰⁸ 00237.036 Beef + Lamb and DINZ

700. Regarding clause (1), Fish and Game considers the extent and quality of habitat for trout and salmon should also be provided for in a manner consistent with the NPSFM and seeks necessary amendments.⁷⁰⁹ Wise Response considers clause (2), should not only require restoration of wetlands for hydrological processes, but should also reference ecological processes, including re-establishing the original ground and surface water levels and fencing off from stock with buffers to control nutrients.⁷¹⁰
701. Clause (4) relates to the exclusion of stock and received five submissions.⁷¹¹ Toitū Te Whenua, Beef + Lamb and DINZ and Federated Farmers identify amendments to improve alignment with the Stock Exclusion Regulations and highlight that these regulations do not include sheep in the definition of stock.⁷¹²
702. Beef + Lamb and DINZ, Federated Farmers and John Highton consider it is not always necessary to exclude stock.⁷¹³ Beef + Lamb and DINZ seek to exclude sheep or delete the provision. They also seek unspecified amendments to reflect that exclusion of stock is only required where necessary to enhance values, not as a blanket provision.⁷¹⁴ Federated Farmers seeks amendments to clarify that the exclusion of stock is as per the Stock Exclusion Regulations.⁷¹⁵ John Highton does not seek specific amendments.
703. Greenpeace supports the exclusion of stock but considers the policy as drafted does not go far enough and seeks the following relief:
- Amend clause (4) to “prohibit intensive grazing, phase out synthetic nitrogen fertiliser by 2024 and support regenerative-organic agriculture”, and
 - Insert an additional clause to provide for “revegetation and the creation of planted buffers and margins”.⁷¹⁶

22.1.1.3. Analysis

704. As notified, LF-FW-P10 requires, where possible, a list of specific actions for restoring natural wetlands. Some submitters consider this is too “weak” and should be more directive (for example, by deleting “where possible”) while others consider this is too “strong” and should be qualified further (for example, by using “where practicable” or deleting requiring and using “encouraging” instead). Ultimately, the direction in Policy 6 of the NPSFM is that “their restoration is promoted”. I consider that the notified wording is stronger than this by making restoration mandatory unless it is not possible. I appreciate that “possible” is more stringent than other qualifiers often used in planning documents, such as “practicable”. In my experience, debates about practicability often

⁷⁰⁹ 00231.057 Fish and Game

⁷¹⁰ 00509.077 Wise Response

⁷¹¹ 00014.056 John Highton, 00101.038 Toitū Te Whenua, 00237.036 Beef + Lamb and DINZ, 00239.086 Federated Farmers, 00407.041 Greenpeace and 1259 supporters

⁷¹² 00101.038 Toitū Te Whenua, 00237.036 Beef + Lamb and DINZ, 00239.086 Federated Farmers

⁷¹³ 00237.036 Beef + Lamb and DINZ, 00014.056 John Highton, 00239.086 Federated Farmers

⁷¹⁴ 00237.036 Beef + Lamb and DINZ,

⁷¹⁵ 00239.086 Federated Farmers

⁷¹⁶ 00407.041 Greenpeace and 1259 supporters

focus on the cost implications of undertaking the action. Less attention is paid to the benefits of the action.

705. Across New Zealand, an estimated 90 percent of wetlands have been drained since pre-human settlement, particularly those on flatter land. The latest data on wetland extent indicates that since 1996, Otago has lost more than 400 hectares of freshwater wetlands, the fifth highest regional total in the country, after Southland, West Coast, Northland, and Waikato.⁷¹⁷ Wetlands are taoka for mana whenua and are sources of mahika kai as well as important plants such as harakeke and raupō for weaving and rongoā plants. I note that the submission by Kāi Tahu ki Otago states at [3.15]:

“The significant loss of wetlands in Otago has had devastating effects on mahika kai and indigenous biodiversity and has also affected water yield and flood behaviour. Kā Rūnaka support the provisions in the PORPS to protect remaining wetlands and reverse the degradation that has occurred. Kā Rūnaka consider this appropriately reflects the direction in the NPSFM 2020 and recognises the key role of wetlands in supporting catchment function and mahika kai.”

706. With this context, I do not consider it is appropriate to ‘weaken’ the direction in LF-FW-P10 and therefore do not recommend accepting the submission points by Trustpower, Wise Response, or Beef + Lamb and DINZ. I do acknowledge that the actions listed will not always be possible and I consider that the policy should continue to provide for limited exceptions. On that basis, I do not recommend accepting the submission points by Forest and Bird and Greenpeace.

707. Beef + Lamb and DINZ consider that clauses (1) and (2) “signal a return to pristine state.” I do not agree with that interpretation and consider that, taking into account the significant loss that has occurred, increasing the extent and quality of habitat for indigenous species and restoring hydrological processes are appropriate measures to take to restore the health of natural wetlands. The specific detail about how much increase or restoration is required is a matter for the regional plan to address and is better considered on a smaller spatial scale than the region-wide pORPS. I do not recommend accepting this submission point.

708. I have addressed a suite of submission points by Fish and Game regarding the habitats of trout and salmon in section 1.4.9 of *Report 1: Introduction and general themes*. In summary, I do not recommend accepting the submission point by Fish and Game and I do not consider it is necessary, however I note I have recommended amendments to LF-FW-O8 and LF-FW-P7 to address the submitter’s concerns.

709. I consider the outcome sought by Wise Response is provided by clauses (1) and (4) and so do not recommend accepting this submission point.

710. I understand that some of the negative effects of stock access to wetlands are:

- Consumption of plants,
- Trampling of plants,

⁷¹⁷ Data retrieved from <https://www.stats.govt.nz/indicators/wetland-area>

- Nutrient inputs and bacterial contamination from faeces and urine,
- Introduction and dispersal of seeds.

711. However, grazing can also be beneficial – for example, as a pragmatic way to control introduced grass swards over large areas which can invade native plantings. The Stock Exclusion Regulations do not manage sheep access but do manage the access of beef cattle, dairy cattle, dairy support cattle, deer, and pigs to natural wetlands as follows:

- All stock must be excluded from any natural wetland that is identified in a regional or district plan or a regional policy statement that is operative on the commencement date of the Regulations (regulation 16),
- All stock must be excluded from any natural wetland that supports a population of threatened species as described in the compulsory value for threatened species in the NPSFM,
- All stock on low slope land must be excluded from any natural wetland that is 0.05 hectares or more.

712. I understand that this was intended to prevent some of the more significant adverse effects of heavier stock types while providing for the benefits of lighter grazing and recognising the practical difficulties with fencing in hill country areas. This is arguably less stringent than the direction in LF-FW-P10(4) which does not provide any exclusions.

713. I note that regulation 19 of the Stock Exclusion Regulations allows a more stringent rule in a regional plan to prevail over a provision in the regulations that relates to the same matter. I am reluctant to foreclose that opportunity through the pORPS on the evidence provided by submitters, but am aware of the potential implications raised by submitters of the notified wording. I am not inclined to recommend accepting the relief sought by Federated Farmers for this reason and consider the approach sought by Beef + Lamb and DINZ may be more appropriate as it would “qualify” the currently blunt requirement in (4). These submitters have not sought specific wording, which would assist further consideration of this point. At this stage, I do not recommend accepting the submission points by Federated Farmers or Beef + Lamb and DINZ. The submitters, particularly Beef + Lamb and DINZ, may wish to comment on this in their evidence.

714. Intensive winter grazing and the use of synthetic nitrogen fertiliser are activities managed under the NESF. Restrictions of the type sought by Greenpeace would be more appropriately included in a regional plan which has rules. I do not consider that it would be effective to support regenerative-organic agriculture as a form of wetland restoration. In my view, revegetation and the creation of planted buffers and margins are already captured by clauses (1) and (2). I do not recommend accepting this submission point.

22.1.1.4. Recommendation

715. I recommend retaining LF-FW-P10 as notified.

22.2. Draft supplementary evidence

No supplementary evidence prepared.

23. LF-FW-P15

23.1. Previous section 42A report content

23.1.1. LF-FW-P15 – Stormwater and wastewater discharges

23.1.1.1. Introduction

716. As notified, LF-FW-P15 reads:

LF-FW-P15 – Stormwater and wastewater discharges

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* and *wastewater* to *fresh water* by:

- (1) except as required by LF-VM-O2 and LF-VM-O4, preferring *discharges* of *wastewater* to *land* over *discharges* to *water*, unless adverse *effects* associated with a *discharge* to *land* are greater than a *discharge* to *water*, and
- (2) requiring:
 - (a) all sewage, industrial or trade waste to be *discharged* into a reticulated *wastewater* system, where one is available,
 - (b) all *stormwater* to be *discharged* into a reticulated system, where one is available,
 - (c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated *stormwater* and *wastewater* systems,
 - (d) on-site *wastewater* systems to be designed and operated in accordance with best practice standards,
 - (e) *stormwater* and *wastewater discharges* to meet any applicable water quality standards set for *FMUs* and/or *rohe*, and
 - (f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse *effects* of *contaminants* on receiving *water bodies* from the *subdivision*, use or development of *land*, wherever practicable, and
- (3) promoting the reticulation of *stormwater* and *wastewater* in urban areas.

23.1.1.2. Submissions

717. QLDC supports the policy as drafted and seeks to retain it as notified.⁷¹⁸ CODC supports the policy in principle and states that it wishes to see a move towards discharge of

⁷¹⁸ 00138.074 QLDC

wastewater to land rather than water, the use of water sensitive urban design techniques, and reticulation of stormwater in urban areas.⁷¹⁹

718. In the chapeau, Wise Response seeks to restrict the application of the policy to urban stormwater and wastewater discharges but the reasoning for this is unclear.⁷²⁰ Forest and Bird and Kai Tahu ki Otago seek to change “minimise” to “avoid” adverse effects in the chapeau, strengthening the policy direction.⁷²¹ Kāi Tahu ki Otago submits that discharges of wastewater, and other human wastes such as cremated ashes, are culturally offensive and seeks the following amendments:⁷²²

~~Minimise~~ Avoid the adverse effects of direct and indirect discharges of stormwater, ~~and wastewater and human wastes (including cremated ashes)~~ to fresh water by:

...

719. To support strengthened policy direction, Kāi Tahu ki Otago and Forest and Bird seek that clause (1) require discharging to land rather than expressing that direction as a preference.⁷²³ Kāi Tahu ki Otago also seeks to include reference to other human wastes:⁷²⁴

(1) ~~except as required by LF-VM-O2 and LF-VM-O4, preferring~~ requiring new discharges of wastewater or other human wastes to be to land over discharges to water, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to water, and ...

720. DCC considers there are inconsistencies between the wording in the chapeau, which refers to “discharges to *fresh water*”, and that in clause (1) which refers to “discharges to *water*”. They consider this risks confusion and uncertainty about the application of this policy and seeks amendments to explicitly reference “fresh water”.⁷²⁵

721. Fonterra seeks clarification about whether it is intended that the discharge of industrial or trade waste, when not combined with sewage or greywater, is captured by clause (1).⁷²⁶

722. In relation to clause (2), DCC highlights instances where connections to reticulated water systems may not always be straightforward. The submitter seeks refinement of both clauses to clarify that waste is discharged to a reticulated system “where one is made available by the [wastewater / stormwater] system operator”.⁷²⁷ The submitter considers this would enable territorial authorities to determine when and where connections to reticulated systems are practicable and beneficial. Should this amendment be accepted, DCC considers that definitions of “reticulated system”, “wastewater system operator”

⁷¹⁹ 00201.016 CODC

⁷²⁰ 00509.081 Wise Response

⁷²¹ 00226.189 Kāi Tahu ki Otago, 00230.094 Forest and Bird

⁷²² 00226.189 Kāi Tahu ki Otago

⁷²³ 00226.189 Kāi Tahu ki Otago, 00230.094 Forest and Bird

⁷²⁴ 00226.189 Kāi Tahu ki Otago

⁷²⁵ 00139.108 DCC

⁷²⁶ 00213.037 Fonterra

⁷²⁷ 00139.108 DCC

and “stormwater system operator” would be required for clarification but does not suggest definitions for these terms.⁷²⁸

723. UCAC considers that clauses (2)(a) and (2)(b) should require all urban areas to have stormwater and sewage reticulation systems that are well engineered and monitored and seeks the deletion of “where one is available”.⁷²⁹
724. Fonterra seeks the following amendments to clause 2(a) and clause (2)(b) to recognise that it is not always practicable to discharge into a reticulated system, due to the types of contaminants in wastewater:⁷³⁰
- (a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available, is practicable to use and provides for a better outcome for freshwater
 - (b) all stormwater to be discharged into a reticulated system, where one is available, is practicable to use and provides for a better outcome for freshwater.
725. Trojan and Wayfare seek amendments to clause (2)(a) to recognise that alternative treatment and disposal methods may provide environmental benefit in situations where a reticulated system is unavailable.⁷³¹
726. Regarding clause (2)(b), Silver Fern Farms seeks amendments to enable consideration of stormwater management such as on-site attenuation and treatment of stormwater flows.⁷³² Wise Response seeks specific amendments to clause (2)(b) to enable the reintegration of stormwater back into the natural water cycle, storing stormwater for reuse, or releasing it more slowly into the reticulated system.⁷³³ The submitter also considers the focus of clause (2)(c) should be on preparing for the extremes of weather brought on by climate change and seeks provision for “buffering systems” and “private rainwater collection” for non-potable and emergency use.⁷³⁴
727. Kāi Tahu ki Otago supports clause (2)(d) as it relates to on-site wastewater systems but seeks amendments to extend the clause to also apply to stormwater management.⁷³⁵ The submitter considers this would reduce the risk of sediment and other contaminants from stormwater entering water bodies.
728. In clause (2)(e), DCC seeks to amend “applicable water quality standards” to “water quality standards applicable to those discharges”.⁷³⁶ Ravensdown considers the clause as drafted is inconsistent with RMA requirements and seeks to require that discharges of

⁷²⁸ 00139.108 DCC (not in SODR)

⁷²⁹ 00220.002 UCAC

⁷³⁰ 00213.036 Fonterra

⁷³¹ 00206.036 Trojan, 00411.048 Wayfare

⁷³² 00221.008 Silver Fern Farms

⁷³³ 00509.081 Wise Response

⁷³⁴ 00509.081 Wise Response

⁷³⁵ 00226.189 Kāi Tahu ki Otago

⁷³⁶ 00139.108 DCC

stormwater and wastewater meet relevant water quality standards “after reasonable mixing”.⁷³⁷ Similarly, Fonterra questions what is meant by the term “water quality standards” and seeks to ensure that, if the term is defined, any definition is consistent with the NPSFM.⁷³⁸

729. Regarding clause 2(f), DCC supports provisions which encourage the use of water sensitive urban design techniques but seeks the following amendments to support clarification and interpretation:⁷³⁹

- Providing a standalone clause to provide for use of sensitive urban design techniques,
- Replacing “requiring” with “promoting”,
- Recognising the use of such design techniques may not always be beneficial.

730. DCC also seeks to include a definition of “water sensitive urban design” to improve clarity but does not suggest wording.⁷⁴⁰ Wayfare also seeks clarification of the term “water sensitive design” but does not provide specific wording.⁷⁴¹

731. UCAC seeks to delete the term “wherever practicable” at the end of clause (2)(f), as the submitter considers engineering measures are available to manage water discharge and such wording allows interpretation which may result in adverse outcomes.⁷⁴²

732. Forest and Bird seeks to improve the policy direction in clause (3) by “providing for” the reticulation of stormwater and wastewater in urban areas.⁷⁴³ Wise Response seeks amendments to clause (3) to ensure urban centres which might benefit from improved stormwater and wastewater facility are identified.⁷⁴⁴

733. Four submitters seek additional clauses to address issues they consider are not provided for.⁷⁴⁵ Waka Kotahi and Transpower seek new clauses to allow for infrastructure as follows:⁷⁴⁶

- Waka Kotahi:
(4) while recognising the functional and operational needs of nationally and regionally significant infrastructure.
- Transpower:

⁷³⁷ 00121.058 Ravensdown

⁷³⁸ 00213.039 Fonterra

⁷³⁹ 00139.108 DCC

⁷⁴⁰ 00139.111 DCC

⁷⁴¹ 00411.089 Wayfare

⁷⁴² 00220.003 UCAC

⁷⁴³ 00230.094 Forest and Bird

⁷⁴⁴ 00509.081 Wise Response

⁷⁴⁵ 00509.081 Wise Response, 00510.023 The Fuel Companies, 00314.026 Transpower, 00305.025 Waka Kotahi

⁷⁴⁶ 00305.025 Waka Kotahi, 00314.026 Transpower

(4) except that (2) does not apply to nationally significant infrastructure where the adverse effects of direct and indirect discharges of stormwater and wastewater are minimised.

734. The Fuel Companies submit that the role of industry good practice should be recognised, such as the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand. The submitter states that controlling contaminants at source is an effective and efficient means of minimising the potential for contaminants to arrive in the first instance and considers this approach should be promoted by the pORPS. The submitter seeks the following additional clauses:⁷⁴⁷

(4) promoting awareness and actions to reduce contaminant discharges through source control, and

(5) recognising the role of relevant industry guidelines.

735. Wise Response considers ORC has a role in promoting alternatives to hazardous substances to reduce stress on the environment and states that there is evidence that bee die back is due to chemical poisoning from herbicides which it considers is a good example of where integrated management has failed. The submitter seeks to include the following new clause:⁷⁴⁸

(4) where the use of environmentally hazardous substances cannot be entirely avoided, ensure use is essential and actively promote a shift to more benign and biodegradable alternatives.

736. Susan and Donald Broad seek that the Outram Groundwater Protection Zone is extended to include all septic tanks in the town and settlement non-reticulated residential area.⁷⁴⁹ The submitters also seek to discourage the addition of septic-dependent development in rural townships.

23.1.1.3. Analysis

737. Without clarification about the justification for restricting this policy only to urban stormwater and wastewater discharges (and noting that differentiating between rural and urban areas is not always straight forward), I do not recommend accepting this part of the submission point by Wise Response.

738. As notified, this policy applies to stormwater and wastewater discharges. Wastewater is defined in the National Planning Standards and in the pORPS as:

means any combination of two or more the following wastes: sewage, greywater or industrial and trade waste.

739. This means that LF-FW-P15 applies to discharges of stormwater, sewage, greywater, and industrial or trade waste. Previously in section **Error! Reference source not found.** of this report, I have set out the difficulties with the definition of “wastewater” contained in the

⁷⁴⁷ 00510.023 The Fuel Companies

⁷⁴⁸ 00509.081 Wise Response

⁷⁴⁹ 00218.004, 00218.005, 00218.005 Susan and Donald Broad

National Planning Standards and its, therefore, mandatory use in the pORPS.⁷⁵⁰ For the reasons I have set out in that section, I consider that this policy should use the term “sewage” rather than “wastewater”.

740. I acknowledge that discharges of sewage and other human wastes are culturally offensive to Kāi Tahu. However, I do not consider replacing “minimise” with “avoid” is appropriate as the policy applies also to discharges of stormwater and industrial and trade waste, which I do not understand to be as culturally offensive (insofar as they do not contain offensive human wastes). I consider that a more effective approach would be to split LF-FW-P15 into two policies: one focused on sewage and other human wastes and one focused on stormwater and industrial and trade wastes. This would allow different policy direction to be set for the different types of discharges. I note that many of the clauses and sub-clauses in LF-FW-P15 as notified are either applicable to one or other type of discharge, with only (2)(e) and (3) applying to both.

741. I recommend accepting in part the submission points by Forest and Bird and Kāi Tahu ki Otago and splitting the policy into two as follows:

- LF-FW-P15 – Stormwater and industrial and trade waste discharges
 - Retaining the direction as notified to minimise adverse effects of these discharges,
 - Retaining clauses (2)(b) and (f) as notified, and
 - Retaining clauses (2)(c), (2)(e) and (3) with amendments to exclude wastewater-focused matters.
- LF-FW-P15A – Discharges of sewage and other human wastes
 - Adopting the relief sought by submitters to avoid adverse effects of these discharges,
 - Retaining clauses (2)(a) and (d) as notified, and
 - Retaining clauses (2)(c) and (e) and (3) with amendments to exclude stormwater-focused matters.

742. In my opinion, it is discharges of sewage and other human wastes that require a more stringent management framework in comparison to the other discharges originally managed under LF-FW-P15: stormwater, industrial and trade waste, and grey water. In my experience, greywater is rarely separated from sewage as most urban properties connect all sanitary fixtures (those conveying sewage as well as those conveying greywater only) to the reticulated wastewater system. I do not consider there is merit in including specific policy directly only for greywater for this reason. In my view, industrial or trade waste discharges are more comparable to stormwater than sewage and other human wastes in terms of the contaminants they contain and their offensiveness to Kāi Tahu.

743. The term “industrial and trade waste” is defined in the National Planning Standards. In accordance with mandatory direction (1) of *14: Definitions Standard*, where terms

⁷⁵⁰ In summary, some wastewater may not contain sewage and therefore not be as culturally offensive.

defined in the Standard are used in a policy statement and the term is used in the same context as the definition, local authorities must use the definition as defined in the Standard. I consider that the term “industrial and trade waste” is used in the same context and therefore as a consequential amendment the definition of that term should also be incorporated in the pORPS.

744. In the remainder of this section, I will refer to the clauses as notified as well as the new clauses as I recommend, where that is relevant.
745. In relation to discharges containing sewage and other human wastes, I agree with the amendments sought by Kāi Tahu ki Otago to clause (1). I consider this appropriately reflects the level of cultural offense posed by these discharges and the need for treatment via land prior to being discharged (indirectly) to water. I recommend accepting this submission point.
746. I understand that DCC’s concern about the use of the term “water” is due to the definition of that term in the RMA (and accordingly in the pORPS) which includes coastal water. I am aware that a large amount of wastewater is discharged from DCC’s wastewater treatment plants into the coastal environment. I do not consider there is any difference in the level of cultural offense to Kāi Tahu between discharging sewage to fresh water or to coastal water. That said, I agree that this policy applies to fresh water and that discharges to coastal water are addressed in the *CE – Coastal environment* chapter and therefore recommend accepting this part of the submission point by DCC.
747. I understand the concern raised by Fonterra and have discussed the issues with the definition of “wastewater” previously in this report (see section **Error! Reference source not found.**). For those reasons, I have used the phrase “discharges containing sewage or other human wastes” in new LF-FW-P15A instead of “wastewater.” I therefore recommend accepting in part this submission point.
748. I agree with DCC that it is ultimately the decision of the system operator to allow for or prevent connections to those systems and I am aware that is the process followed in most land subdivision and development projects. I am not convinced that definitions of the terms “reticulated system”, “wastewater system operator” or “stormwater system operator” are necessary. The detail of these provisions and their application will be considered through the LWRP, where it is generally more appropriate to include detailed and technical definitions of the kind suggested by the submitter. I recommend accepting the submission point by DCC. The provision of reticulated stormwater and wastewater systems to urban areas is generally a matter for the relevant territorial authority as they are responsible for the funding and management of those systems. This means that some urban areas do not have reticulated systems and there is therefore no system available for stormwater and wastewater to be discharged into. Specific requirements for the design, construction, and operation of systems is a matter best addressed through the regional plan. I note that this is currently proposed for inclusion in the Water Plan through Plan Change 8. For these reasons, I do not recommend accepting the submission point by UCAC.

749. I agree with Fonterra that some industrial and trade premises have their own stormwater and wastewater systems and that use of those systems may provide a better outcome for freshwater than discharging into a larger community system when that option is available. I note that a similar point is made by Trojan and Wayfare and I prefer the wording sought by those submitters. I therefore recommend accepting the submission point by Fonterra in part and the submission points by Trojan and Wayfare in full.
750. Without specific relief sought, I am unsure what outcome is sought by Silver Fern Farms. The submitter may wish to confirm whether my recommended amendment above in response to the submission points by Fonterra, Trojan, and Wayfare resolves its concern or, if not, what specific relief would. At this stage, I do not recommend accepting this submission point.
751. I do not consider that it is practically possible for the majority of stormwater to be reintegrated with natural hydrological processes and consider that the amendment I have recommended above to provide for alternative treatment and disposal methods goes some way in addressing the matters raised by Wise Response in relation to clause (2)(b). I do not recommend accepting this part of the submission point.
752. I consider that Wise Response has misunderstood the purpose of clause (2)(c), which is designed to address a significant existing problem with the presence of constructed overflows in wastewater systems, whereby during wet weather events that overload the system, sewage can be rerouted to the stormwater system. I do not consider that the amendments sought provide for the same outcome (i.e. a reduction in overflows) and therefore do not recommend accepting this submission point.
753. I understand and agree with the point raised by Kāi Tahu ki Otago that on-site stormwater systems, as well as on-site wastewater systems, should be designed and operated appropriately. In relation to on-site wastewater systems, I understand that AS/NZS 1547:2012 is widely accepted as representing best practice and this is commonly adopted in regional plan provisions. I am not aware that there is an equivalent for stormwater systems. Stormwater itself, as well as the associated methods for its management, tend to be location specific as they are affected by the climatic and physical environmental conditions of the relevant area (such as rainfall, soil types, and topography). For this reason, it is my understanding that what is considered “best practice” for stormwater systems is not necessarily as clearly set out as it is for on-site wastewater systems. I am aware that territorial authorities generally have their own engineering standards or codes of practice which incorporate stormwater management. Without further evidence from the submitter about what standards it considers to be best practice for stormwater, I do not recommend accepting this submission point.
754. I consider that the minor amendment sought by DCC to clause (2)(e) does not change the intent and may assist with clarifying its application. I recommend accepting this part of the submission point.
755. In my experience, when water quality standards are set in regional plans there is generally specificity about where and when they apply, including in relation to reasonable mixing zones. I note that many of the current discharge rules in the Water Plan specifically do

not allow for reasonable mixing and I am not minded to curtail the potential for that approach to be adopted in the new LWRP. For these reasons, I do not recommend accepting the submission point by Ravensdown.

756. As I have outlined previously in this report, I consider that “water quality standards” is a term generally well-understood and do not recommend accepting the submission point by Fonterra.
757. In relation to clause (2)(f), while I understand the concerns raised by DCC in relation to the suitability of using water sensitive design techniques for managing stormwater, in my opinion it is appropriate for those techniques to be the starting point, with other techniques coming into play in situations where it is not practicable to implement water sensitive design techniques. For this reason, I do not recommend accepting the submission point by DCC.
758. In the same vein, I do not recommend accepting the submission by UCAC to delete “wherever practicable” from this clause. Water sensitive design techniques may not always be appropriate, and I consider the policy should retain some discretion in their application. I note that LF-FW-P15 uses the term “water sensitive urban design” whereas UFD-M2(3)(d) refers to “water sensitive design”. I understand these are often used interchangeably, however to avoid any confusion about where they are applicable to use, I recommend amending the reference in LF-FW-P15 to “water sensitive design” for consistency with UFD-M2. I consider this is an amendment of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.
759. I do not consider that the term “water sensitive design” requires definition. I understand this is a commonly used and well-understood term and consider there are benefits in allowing flexibility for territorial authorities to determine what this looks like in their districts. I do not recommend accepting the submission points by DCC and Wayfare on this matter.
760. Decisions about servicing areas with infrastructure are generally made by territorial authorities and have significant funding implications that must be considered through the long-term and annual plan processes set out in the LGA. I do not consider that replacing “promoting” with “providing for” accurately reflects this decision-making process and therefore do not recommend accepting the submission point by Forest and Bird.
761. The highly detailed additional clauses sought by Wise Response under clause (3) introduce considerable uncertainty into the provision. In my view, the provision of infrastructure is only partly managed by the RMA and therefore it would be ineffective to attempt to curtail that decision-making through this policy. I do not recommend accepting this part of the submission point.
762. It is not clear to me from the submission by Waka Kotahi which provisions in LF-FW-P15 would not recognise the functional and operational needs of infrastructure. I note that infrastructure is specifically provided for through the provisions of the EIT-INF section which applies alongside the LF-FW section. I do not recommend accepting this submission point.

763. The submission by Transpower states that it seeks a limited amendment to provide for particular situations or land uses where stormwater is disposed of on-site and that these types of situations may be managed in a site-specific manner rather than by applying clause (2). I consider that the amendment sought by the submitter is far greater than described in its submission as it seeks to exclude nationally significant infrastructure. I consider that my amendment to clause (2)(b) to provide for alternative treatment and disposal methods addresses the concern expressed in the submission by Transpower in a more appropriate way than a full exclusion from clause (2). I do not recommend accepting this submission point.
764. I agree with The Fuel Companies that source control can be an effective way to reduce the contaminants in discharges and I note that the inclusion of the additional clause sought is supported in the further submission of Kāi Tahu ki Otago.⁷⁵¹ I consider that the intent of the clause can be expressed more simply than as sought by the submitter and therefore recommend accepting this submission in part. I assume that as the submitter sought to include this new clause in LF-FW-P15 as notified, which applied to both stormwater and wastewater discharges, that it is therefore appropriate to include this new clause in both LF-FW-P15 and new LF-FW-P15A. The submitter may wish to clarify if this is not the case.
765. I agree with The Fuel Companies that industry guidelines can be useful resources for determining how particular types of discharges should be managed. However, the clause sought by the submitter is not clear. In particular, I am unsure how or through what process the submitter anticipates the role of guidelines being recognised. The submitter may wish to clarify this in their evidence. At this stage, I do not recommend accepting this submission point.
766. The management of hazardous substances primarily occurs under the HSNO Act and there are limited circumstances where it is appropriate for plans developed under the RMA to also manage these substances. In my opinion, the submitter has not provided sufficient evidence to justify managing hazardous substances in this way and therefore I do not recommend accepting this part of the submission point.
767. In response to the submission points by Susan and Donald Broad, I note that the Outram Groundwater Protection Zone is mapped and referenced in the Water Plan, not the pORPS 2021, so any amendments to the extent of that zone are outside the scope of this process. Similarly, resource consent processes for septic tanks are set out in the Water Plan and also out of scope of this process. I do not recommend accepting these submission points.

23.1.1.4. Recommendation

768. I recommend splitting LF-FW-P15 into two policies which largely retain the notified wording of the clauses, with a range of consequential amendments to reflect the split.
769. I recommend amending LF-FW-P15 to:

⁷⁵¹ RS00236 Kāi Tahu ki Otago

LF-FW-P15 – Stormwater and ~~wastewater~~ industrial and trade waste discharges⁷⁵²

Minimise the adverse effects of direct and indirect discharges of stormwater and ~~wastewater~~ industrial and trade waste to fresh water by:

- (1) except as required by LF-VM-O2 and LF-VM-O4, preferring *discharges of wastewater* to land over *discharges to water*, unless adverse *effects* associated with a *discharge to land* are greater than a *discharge to water*, and
- (2) requiring:
 - (a) ~~all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,~~
 - (b) all *stormwater and industrial and trade waste* to be *discharged* into a reticulated system, where one is made available by the operator of the reticulated system,⁷⁵³ unless alternative treatment and disposal methods will result in improved environmental outcomes,⁷⁵⁴
 - (c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for into reticulated *stormwater and wastewater* systems,
 - (d) ~~on-site wastewater systems to be designed and operated in accordance with best practice standards,~~
 - (e) ~~stormwater and wastewater that discharges to~~⁷⁵⁵ meet any applicable water quality standards set for *FMUs* and/or *rohe*, and
 - (f) the use of water sensitive ~~urban~~⁷⁵⁶ design techniques to avoid or mitigate the potential adverse effects of *contaminants* on receiving *water bodies* from the *subdivision*, use or development of *land*, wherever practicable, and
- (3) promoting the reticulation of *stormwater and wastewater* in urban areas, and
- (4) promoting source control as a method for reducing *contaminants* in *discharges of stormwater and industrial and trade waste*.⁷⁵⁷

⁷⁵² All amendments relating to the separation of this policy as notified into two distinct policies (LF-FW-P15 and LF-FW-P16), including consequential amendments throughout both policies, are attributable to 00226.189 Kāi Tahu ki Otago and 00230.094 Forest and Bird

⁷⁵³ 00139.108 DCC

⁷⁵⁴ 00206.036 Trojan, 00411.048 Wayfare, 00213.037 Fonterra

⁷⁵⁵ 00139.108 DCC

⁷⁵⁶ Clause 16(2), Schedule 1, RMA

⁷⁵⁷ 00510.023 The Fuel Companies

770. I recommend inserting LF-FW-P15A:

LF-FW-P15A – Discharges containing sewage and other human wastes

Avoid the adverse effects of direct and indirect *discharges* containing *sewage* and other human wastes (including cremated ashes) to *fresh water* by:⁷⁵⁸

- (1) requiring new *discharges* containing *sewage* or other human wastes⁷⁵⁹ to be to *land*, unless adverse effects associated with a *discharge* to *land* are demonstrably greater than a discharge to *fresh*⁷⁶⁰ *water*, and⁷⁶¹
- (2) requiring:
 - (a) that all *discharges* containing *sewage* or other human wastes are *discharged* into a reticulated *wastewater* system, where one is made available by the operator of the reticulated system,⁷⁶² unless alternative treatment and disposal methods will result in improved *environmental outcomes*,⁷⁶³
 - (b) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated *wastewater* systems,
 - (c) on-site *wastewater* systems to be designed and operated in accordance with best practice standards,
 - (d) that *discharges* meet any applicable water quality standards set for *FMUs* and/or rohe, and
- (3) promoting the reticulation of *wastewater* in urban areas, and
- (4) promoting source control as a method for reducing *contaminants* in *discharges* containing *sewage* and other human wastes.⁷⁶⁴

23.2. Draft supplementary evidence

80 As notified, LF-FW-P15 contained direction on managing both wastewater and stormwater discharges. In response to submissions by Kāi Tahu ki Otago and Fonterra,⁷⁶⁵ in paragraph 1213 of my section 42A report I recommended splitting this into two policies in order to clarify and separate the policy direction on discharges of

⁷⁵⁸ 00226.189 Kāi Tahu ki Otago

⁷⁵⁹ 00226.189 Kāi Tahu ki Otago, 00213.037 Fonterra

⁷⁶⁰ 00139.108 DCC

⁷⁶¹ 00226.189 Kāi Tahu ki Otago

⁷⁶² 00139.108 DCC

⁷⁶³ 00206.036 Trojan, 00411.048 Wayfare, 00213.037 Fonterra

⁷⁶⁴ 00510.023 The Fuel Companies

⁷⁶⁵ 00226.189 Kāi Tahu ki Otago, 00213.037 Fonterra

stormwater and industrial and trade waste from discharges containing sewage and other human wastes.

81 There are three matters relevant to these policies addressed in my evidence:

81.1 Whether the policy direction on industrial and trade waste is appropriately located with stormwater;

81.2 Whether the policies should also address animal wastes as well human wastes; and

81.3 Clarifying expectations about discharge quality.

82 I have discussed these in the following sections.

Industrial and trade waste

83 Fonterra seeks clarification about whether it is intended that the discharge of industrial and trade waste, when not combined with sewage or greywater, is captured by LF-FW-P15.⁷⁶⁶ In response, I recommended amendments to clarify that industrial and trade waste was addressed alongside stormwater in LF-FW-P15, while discharges containing sewage and other human wastes were addressed in new LF-FW-P15A.

84 At the pre-hearing discussion on this topic, there was useful discussion about the way industrial and trade wastes tend to be managed in practice. In many cases, I understand they are discharged into the reticulated wastewater network. Generally, due to their name, these discharges tend to be considered more akin to wastewater than to stormwater. Accordingly, I now recommend deleting industrial and trade waste from the scope of LF-FW-P15 and instead incorporating it into LF-FW-P15A.

Animal wastes

85 Kāi Tahu ki Otago seeks specific amendments to LF-FW-P15 to incorporate other human wastes (such as cremated ashes), alongside discharges containing sewage, because they are culturally offensive to Kāi Tahu without first being cleansed by Papatūānuku.⁷⁶⁷ In paragraphs 1184 and 1189, I recommended accepting this submission in part and making amendments accordingly, including by separating the policy as explained above.

⁷⁶⁶ 00213.037 Fonterra

⁷⁶⁷ 00226.189 Kāi Tahu ki Otago

- 86 Kāi Tahu ki Otago also made a general submission on the pORPS seeking amendments to ensure that mahika kai species do not contain contaminants that would make them unsafe for eating.⁷⁶⁸ I did not respond to this submission point specifically because I was unsure what the submitter sought. I now understand that *E.coli* contamination of mahika kai is a particular concern due to the impact it can have on human health. *E.coli* in freshwater is largely due to discharges (either directly to water or indirectly via land) of human and animal effluent. While LF-FW-P15A addresses discharges containing human sewage, it is silent on the management of animal effluent.
- 87 Animal effluent is also managed in the LF-LS chapter as it relates to the use of land (for example, for the storage of animal effluent and the use of land for discharging animal effluent). Policy LF-LS-P21 requires maintaining or improving water quality to meet environmental outcomes, including by reducing direct and indirect discharges of contaminants to water from the use and development of land. LF-LS-M11(1)(c) then requires ORC's new Land and Water Regional Plan to manage land uses that may affect the ability of environmental outcomes for water quality to be achieved, including by requiring effective management of animal effluent storage and application systems. While this sets out general direction on the management of this activity, there is a risk that the pORPS as notified provides for a less stringent framework in the new Land and Water Regional Plan than currently exists in the operative regional plan, which would not achieve the outcomes for freshwater quality sought by the (very recent) introduction of those provisions to the operative plan. This is primarily because the operative regional plan prohibits discharges of animal effluent to water, whereas the pORPS only requires reducing direct and indirect discharges of contaminants to water.
- 88 In response to the submission by Kāi Tahu ki Otago, I recommend including animal effluent in LF-FW-P15. The amendments I propose are consistent with the requirements of Plan Change 8 to the Regional Plan: Water and are not, therefore, 'new' in a regional sense as they mirror the framework already in place through the Regional Plan: Water for Otago.
- 89 Policies LF-FW-P15 and LF-FW-P15A are implemented primarily through LF-FW-M6 (Regional plans). In my section 42A report, I recommended consequential amendments to LF-FW-M6(8) to reflect the amendments I proposed to these policies.

⁷⁶⁸ 00226.011 Kāi Tahu ki Otago

I now recommend additional consequential amendments to this method as a result of my additional recommendations on these policies.

Discharge quality

90 Fonterra seeks to clarify what is intended by the reference to water quality standards in LF-FW-P15.⁷⁶⁹ Both LF-FW-P15 and LF-FW-P15A, as recommended to be amended in my section 42A report, contain the following sub-clause:

... requiring ... that discharges meet any applicable water quality standards set for FMUs and/or rohe

91 In paragraph 1200 of my section 42A report I did not recommend accepting this submission point because I considered the term “water quality standards” was generally well-understood.

92 Following discussions with submitters, I appreciate that the way the clause above is worded suggests that the discharges themselves need to meet water quality standards, rather than the water body (following the discharge). That was not the intention. I now recommend amendments to clarify the application of this clause in both LF-FW-P15 and LF-FW-P15A.

Updated recommendations

93 In response to the issues I have discussed above, I recommend the following amendments:

LF-FW-P15 – Stormwater ~~and wastewater~~ industrial and trade waste⁷⁷⁰ discharges⁷⁷¹

Minimise the adverse effects of direct and indirect discharges of stormwater ~~and industrial and trade waste⁷⁷² wastewater~~ to fresh water by:

(1) ~~except as required by LF-VM-O2 and LF-VM-O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects~~

⁷⁶⁹ 00233.309 Fonterra

⁷⁷⁰ 00213.037 Fonterra

⁷⁷¹ All amendments relating to the separation of this policy as notified into two distinct policies (LF-FW-P15 and LF-FW-P15A), including consequential amendments throughout both policies, are attributable to 00226.189 Kāi Tahu ki Otago and 00230.094 Forest and Bird

⁷⁷² 00213.037 Fonterra

~~associated with a discharge to land are greater than a discharge to water,~~
and

(2) requiring:

- ~~(a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,~~
- (b) all stormwater ~~and industrial and trade waste~~⁷⁷³ to be discharged into a reticulated system, where one is made available by the operator of the reticulated system,⁷⁷⁴ unless alternative treatment and disposal methods will result in improved environmental outcomes.⁷⁷⁵
- (c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for into reticulated stormwater ~~and wastewater~~ systems,
- ~~(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,~~
- (e) ~~stormwater and wastewater that~~ any discharges do not prevent water bodies from ~~to~~⁷⁷⁶ meeting⁷⁷⁷ any applicable water quality standards set for FMUs and/or rohe, and
- (f) the use of water sensitive urban⁷⁷⁸ design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and

(3) promoting the reticulation of stormwater ~~and wastewater~~ in urban areas,
and

⁷⁷³ 00213.037 Fonterra

⁷⁷⁴ 00139.108 DCC

⁷⁷⁵ 00206.036 Trojan, 00411.048 Wayfare, 00213.037 Fonterra

⁷⁷⁶ 00139.108 DCC

⁷⁷⁷ 00213.039 Fonterra

⁷⁷⁸ Clause 16(2), Schedule 1, RMA

(4) promoting source control as a method for reducing *contaminants in discharges of stormwater and industrial and trade waste*.⁷⁷⁹

LF-FW-P15A – Discharges containing *animal effluent*,⁷⁸⁰ *sewage and other human wastes*, *and industrial and trade waste*⁷⁸¹

Avoid the adverse effects of direct and indirect *discharges* containing *animal effluent*,⁷⁸² *sewage* and other human wastes (including cremated ashes), *and industrial and trade waste*⁷⁸³ to *fresh water* by:⁷⁸⁴

(1) requiring new *discharges* containing *sewage* or other human wastes,⁷⁸⁵ *or industrial and trade waste*⁷⁸⁶ to be to land, unless adverse effects associated with a *discharge to land* are demonstrably greater than a *discharge to fresh*⁷⁸⁷ *water*, *and*⁷⁸⁸

(1A) requiring *discharges* containing *animal effluent* to be to land,⁷⁸⁹

(2) requiring:

(a) that all *discharges* containing *sewage*, *or* other human wastes *or industrial and trade waste*⁷⁹⁰ are *discharged* into a reticulated *wastewater* system, where one is made available by the operator of the reticulated system,⁷⁹¹ unless alternative treatment and disposal methods will result in improved environmental outcomes,⁷⁹²

(b) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of

⁷⁷⁹ 00510.023 The Fuel Companies, 00213.037 Fonterra

⁷⁸⁰ 00240.032 NZ Pork, 00226.011 Kāi Tahu ki Otago

⁷⁸¹ 00213.037 Fonterra

⁷⁸² 00240.032 NZ Pork, 00226.011 Kāi Tahu ki Otago

⁷⁸³ 00213.037 Fonterra

⁷⁸⁴ 00226.189 Kāi Tahu ki Otago

⁷⁸⁵ 00226.189 Kāi Tahu ki Otago, 00213.037 Fonterra

⁷⁸⁶ 00233.037 Fonterra

⁷⁸⁷ 00139.108 DCC

⁷⁸⁸ 00226.189 Kāi Tahu ki Otago

⁷⁸⁹ 00240.032 NZ Pork, 00226.011 Kāi Tahu ki Otago

⁷⁹⁰ 00233.037 Fonterra

⁷⁹¹ 00139.108 DCC

⁷⁹² 00206.036 Trojan, 00411.048 Wayfare, 00233.037 Fonterra

dry weather overflows occurring into reticulated wastewater systems.

(c) on-site wastewater systems and animal effluent systems⁷⁹³ to be designed and operated in accordance with best practice standards.

(d) that any discharges do not prevent water bodies from meeting⁷⁹⁴ any applicable water quality standards set for FMUs and/or rohe.

(3) promoting the reticulation of wastewater in urban areas, and

(4) promoting source control as a method for reducing contaminants in discharges containing sewage, and other human wastes or industrial and trade waste.⁷⁹⁵

Section 32AA evaluation

94 The amendments I now propose will change the outcome of these policies being applied when compared to the notified and s42A versions. Overall, the impact is to make the management of these discharges more stringent which better contributes to achieving LF-FW-O8(1) regarding the health of the wai.

95 As notified, LF-FW-P15 applied to both stormwater and wastewater discharges. Wastewater, as defined by the National Planning Standards, includes industrial and trade waste meaning that these discharges were managed by LF-FW-P15. The amendments I propose now to LF-FW-P15 and LF-FW-P15A do not significantly alter the policy direction for industrial and trade waste. In both cases:

95.1 Discharges must be to land, not water, unless the adverse effects associated with a discharge to water are less than with a discharge to land,

95.2 Discharges must be made into a reticulated wastewater system where one is available,

95.3 One-site wastewater systems must be designed and operated in accordance with best practice standards, and

⁷⁹³ 00240.032 NZ Pork, 00226.011 Kāi Tahu ki Otago

⁷⁹⁴ 00233.039 Fonterra

⁷⁹⁵ 00510.023 The Fuel Companies, 00233.037 Fonterra

- 95.4 Discharges do not prevent water bodies from meeting any applicable water quality standards.
- 96 The differences between the two versions are that I now recommend that the aim of managing these discharges (by implementing the actions listed) is to avoid the adverse effects of these discharges on water, rather than minimising them, and by promoting source control as a method for reducing contaminants in discharges. I do not consider this is a significant change or that it changes the original assessment of costs and benefits included in the section 32 evaluation report, therefore no further evaluation under section 32AA is required.
- 97 Animal effluent was not within the scope of LF-FW-P15 as notified so there is now new policy direction for managing animal effluent under my most recent recommendations. This is not new in a broader sense – the amendments I now recommend reflect the framework currently in place in the Regional Plan: Water for Otago for managing animal effluent. The notified version of the pORPS, inadvertently provided for more permissive approach to be taken to managing animal effluent in the new Land and Water Regional Plan. The difference between the provision as notified and the amendments I now recommend are that the latter requires avoiding the adverse effects of direct and indirect discharges of animal effluent to fresh water by requiring:
- 97.1 animal effluent to be discharged to land, and
- 97.2 animal effluent systems to be designed and operated in accordance with best practice standards.
- 98 In relation to the first matter above, discharges of animal effluent to water are already prohibited by the operative regional plan. In relation to the second, since 2022 when Plan Change 8 became operative, animal effluent systems have had to be designed and operated in accordance with best practice standards.⁷⁹⁶
- 99 In comparison to the notified version, the amendments I recommend will likely result in benefits for the environment from improved or improving water quality as a result of more stringent management of these discharges, and higher costs for system operators who may need to upgrade or replace their systems. In reality, those benefits and costs are already being accrued through the operative regional plan. I consider that these amendments are more effective at achieving LF-FW-O8 because they

⁷⁹⁶ IPENZ Practices Notes 21 and 27 and the Dairy Effluent Storage Calculator.

resolve an unintentional lowering of the standards for managing animal effluent that could have resulted in those objectives not being met. The amendments are also efficient because they do not alter the distribution or scale of benefits and costs already occurring under the operative regional plan.

NO LEGAL STATUS

24. LF-FW-M6

24.1. Previous section 42A report content

24.1.1. LF-FW-M6 – Regional plans

24.1.1.1. Introduction

771. As notified, LF-FW-M6 reads:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

- (1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,
- (2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,
- (3) identify *water bodies* that are *over-allocated* in terms of either their *water* quality or quantity,
- (4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that give effect to *Te Mana o te Wai* and provide for:
 - (a) the behaviours of the *water body* including a base flow or level that provides for variability,
 - (b) healthy and resilient mahika kai,
 - (c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*,
 - (d) the hydrological connection with other *water bodies*, estuaries and coastal margins,
 - (e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and
 - (f) community *drinking water* supplies, and
- (5) include limits on resource use that:
 - (a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available *water*,
 - (b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,

- (c) control the *effects* of existing and potential future development on the ability of the *water body* to meet, or continue to meet, *environmental outcomes*,
 - (d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and
- (6) provide for the off-stream storage of surface *water* where storage will:
- (a) support Te Mana o te Wai,
 - (b) give effect to the objectives and policies of the LF chapter of this RPS, and
 - (c) not prevent a surface *water body* from achieving identified *environmental outcomes* and remaining within any limits on resource use, and
- (7) identify and manage *natural wetlands* in accordance with LF–FW–P7, LF–FW–P8 and LF–FW–P9 while recognising that some activities in and around *natural wetlands* are managed under the NESF, and
- (8) manage the adverse *effects* of *stormwater* and *wastewater* in accordance with LF–FW–P15.

24.1.1.2. Submissions

772. Greenpeace and Ministry of Education support LF-FW-M6 and seek to retain it as notified.⁷⁹⁷
773. Beef + Lamb and DINZ consider the method is not consistent with the requirements of the NPSFM, and that it “excludes some things which are necessary and makes connections between different aspects that are not consistent with the wording of the NPS-FM.”⁷⁹⁸ They seek that it is deleted and replaced with a policy which links back to achieving Te Mana o te Wai, and the long-term visions for each FMU but have not provided specific wording for this policy. They state that the policy should include a reference to “maintaining resilience and flexibility of land use to provide for ongoing social and economic wellbeing within the identified limits.” In regard to the notified wording of LF-FW-M6, the submitters state that clause (2) should link environmental outcomes to values, and that in clause (3), after environmental outcomes have been identified, attributes, baseline states and target attribute states must be identified.⁷⁹⁹
774. Meridian seeks to elevate LF-FW-M6 to a new policy or adopt, as a new policy, words of the same effect. The submitter notes that clause (6) requires provision for off-stream storage of surface water in the regional plan, and states that if the matter is sufficiently

⁷⁹⁷ 00407.042 Greenpeace, 00421.002 Ministry of Education

⁷⁹⁸ 00237.042 Beef + Lamb and DINZ

⁷⁹⁹ 00237 Beef + Lamb and DINZ (uncoded submission point)

important to require this provision, there should be a policy addressing the same, as needed.⁸⁰⁰

775. PWCG and Lloyd McCall seek a general amendment to change the wording of the provision from “ORC must publicly notify” to “ORC is targeting to notify...” They state that a fixed time frame is dangerous and that it would be better to have full consultation rather than sticking to a time frame which could result in a ‘top-down’ plan.⁸⁰¹ They also state that this is required throughout the document, referring to the notification of the regional plan.

776. Minister for the Environment states that the separation between clause (4), which requires flows and level regimes, and clause (5), which requires limits to be set, places the phasing out of over-allocation in the limits section. Therefore, the submitter seeks to amend LF-FW-M6 to clarify that environmental flows and levels can be used to phase out over-allocation together and as part of limits.⁸⁰²

777. DCC and Kāi Tahu ki Otago seek amendments to clause (3) for clarity. Kāi Tahu ki Otago seeks to delete the word ‘either’ which precedes “their water quality or quantity.”⁸⁰³ DCC states that explicit reference to over-allocation in terms of water quality or quantity, is confusing as ‘over-allocation’ is defined in the pORPS and already includes both freshwater quality and quantity. The submitter seeks the following amendment:⁸⁰⁴

(3) identify water bodies that are over-allocated ~~in terms of either their water quality or quantity.~~

778. Kāi Tahu ki Otago states that the method is generally appropriate to achieve the objectives of the pORPS, give effect to the NPSFM 2020 and Te Mana o Te Wai. However, the submitter seeks several amendments throughout the provision to link environmental flow and level regimes to freshwater visions and recognise the hydrological connections between water bodies and wetlands. Additionally, Kāi Tahu ki Otago requests a new clause to ensure Kāi Tahu cultural and spiritual concerns regarding the mixing of water between different catchments are considered and addressed in the development of the regional plan. The amendments the submitter seeks are as follows:⁸⁰⁵

(4) include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai, support achievement of the vision for the Freshwater Management Unit set out in the LF-VM objectives and provide for:

(a) the natural behaviours of the water body including a base flow or level that provides for variability,

⁸⁰⁰ 00306.039 Meridian

⁸⁰¹ 00207.005 PWCG, 00319.005 McCall, Lloyd

⁸⁰² 00136.007 Minister for the Environment

⁸⁰³ 00226.191 Kāi Tahu ki Otago

⁸⁰⁴ 00139.112 DCC

⁸⁰⁵ 00226.191 Kāi Tahu ki Otago

...

(d) the hydrological connection with other water bodies, wetlands, estuaries and coastal margins,

...

(5) include limits on resource use that support achievement of the vision for the Freshwater Management Unit set out in the LF-VM objectives:

(a) differentiate between types of uses, including drinking water, and social, cultural and economic uses, in order to provide long-term certainty in relation to about the availability of water for those uses of available water,

(b) for water bodies that have been identified as over – allocated, provide methods and timeframes for phasing out that over-allocation within the timeframes required to achieve the vision for the Freshwater Management Unit set out in the LF-VM objectives,

...

(7a) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments, and ...

779. DCC seeks to retain sub-clause (4)(f) as notified and to include a definition of “community drinking water supply” but does not provide a definition.⁸⁰⁶

780. Trustpower supports the recognition of the role of water in providing for essential needs but considers this should extend to the provision of water for lifeline utilities. Trustpower seeks to incorporate a new sub-clause (4)(g) for the generation of hydro-electricity.⁸⁰⁷

781. As a result of other amendments sought elsewhere in the LF-FW section, Fish and Game seeks to include the following two additional sub-clauses to clause (4):⁸⁰⁸

(4)(ca) the protection, including the potential for restoration, of trout and salmon habitat, insofar as it is consistent with ECO-P11,

...

(4)(g) human amenity and well-being through protecting and enhancing access to, and recreational use, of water bodies, and

782. Horticulture NZ considers that this method should provide for water for food production and food security and seeks to include the following new sub-clause to clause (4):⁸⁰⁹

(4)(g) rootstock survival and frost protection water required for domestic food security,

⁸⁰⁶ 00139.112 DCC

⁸⁰⁷ 00311.019 Trustpower

⁸⁰⁸ 00231.06 Fish and Game

⁸⁰⁹ 00236.065 Horticulture NZ

783. Trojan and Wayfare consider that environmental flow and level regimes should include provision for human-wellbeing and seek to include the following new sub-clause to clause (4):⁸¹⁰

(4)(x) human wellbeing through protecting and enhancing people's ability to access waterbodies and use water to support outdoor recreation activities and water based transport activities,

784. Wise Response states that more emphasis is required on shifting land use practice to low carbon practice and more resilient enterprise aimed at promoting fastest possible reduction in emissions. The submitter seeks the following amendments to clauses (4) and (5):⁸¹¹

(4) include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai by the specified timeframes and provide for:

(a) a variable presumptive flow regime above a minimum flow or level for each water body the behaviours of the water body, including a base flow or level that provides for variability,

...

(c) the needs of all indigenous fauna, including taoka species, and aquatic species associated with the water body,

(d) the importance of hydrological connection with other water bodies, estuaries and coastal margins in resource management,

(5)(d) avoid or minimise ~~manage~~ the adverse effects on water bodies that can arise from the use and development of land, and ...

785. AWA seeks amendments to sub-clause (5)(a) to recognise that not all water is the same, and different activities may need to differentiate between water bodies of different water quality. The submitter states that the best quality groundwater requires the least treatment and should be secured for drinking water if that is practicable. Therefore, the process for setting resource limits for activity groups should be more nuanced than allocating volumes across catchments. AWA seeks the following amendments to clause (5)(a):⁸¹²

(5) include limits on resource use that:

(a) differentiate between water bodies (based on water quality and quantity) and different types of uses, including drinking water, and social, cultural and economic uses, in order to meet the needs of communities and provide long-term certainty in relation to those uses of available water,

⁸¹⁰ 00206.038 Trojan, 00411.050 Wayfare

⁸¹¹ 00509.082 Wise Response

⁸¹² 00502.007 AWA

786. DCC seeks to amend sub-clause (5)(a) for clarity and to reflect the fact that setting limits on resource use solely for drinking water (as defined in the RPS) separate from social and economic uses will be difficult to achieve considering reticulated drinking water supplies are typically used for a wide range of purposes aside from human consumption. Therefore, they seek to replace 'drinking water' with 'community drinking water supply.' In doing so, they also seek amendments to clause (7) and (8) for consistency with their other amendments.⁸¹³
787. Trustpower seeks amendments to clause (5) to recognise water utilised for the provision of lifeline utilities. They also seek amendments to ensure consistency with earlier submissions they have made. These amendments are as follows:⁸¹⁴
- (5)(a) differentiate between types of uses, including drinking water, water utilised for the provision of lifeline utilities, and social, cultural and economic uses,
 - ...
 - (5)(c) ~~control the effects of~~ enable existing and potential future development where the effects of this on the ability of the water body to meet or continue to meet environmental outcomes are managed in accordance with the effects management hierarchy
788. Rayonier Matariki Forests states that there is no alignment between the provision and the NESPF and there have been no assessments undertaken regarding the effectiveness of the regulations of the NESPF. Therefore, the submitter seeks amendments to sub-clause (5)(d) to make the provisions of the NESPF prevail.⁸¹⁵ Specific wording has not been provided.
789. QLDC seeks to amend sub-clause (5)(d) by replacing 'manage' with 'control' or 'restrict.' They state that the 'manage' approach may not provide for the inclusion of limits, as is intended.⁸¹⁶
790. Horticulture NZ seeks amendment to clause (5) to reference broader human health needs. They state that this would improve the method, particularly in identifying health and wellbeing needs of people (priority 2) as per LF-WAI-P1. They seek amendment as follows:⁸¹⁷
- (5) include limits on resource use that:
 - (a) differentiate between types of uses, including human health needs (such as drinking water), and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available water,

⁸¹³ 00139.112 DCC

⁸¹⁴ 00311.019 Trustpower

⁸¹⁵ 00020.012 Rayonier

⁸¹⁶ 00138.076 QLDC

⁸¹⁷ 00236.065 Horticulture NZ

791. Consistent with their submission on clause (4) Fish and Game seeks to amend clause (5) to include a new sub-clause (5)(e) as follows:⁸¹⁸

(5)(e) enable all activities operating within limits to support the health, well-being and resilience of water bodies, and

792. McArthur Ridge Vineyard and Strath Clyde Water *et al.* propose changes which are considered to resolve the issue of over-allocation and seek amendments to clause (5)(b) which intend to provide for an integrated approach to considering the likely effects arising from the use of allocated water with long term sustainability outcome, recognising water scarcity, optimising the economic and social benefits to the community from using a scarce resource, and recognising crops with lower water needs can be provided water with less impact on critical low flow periods. The following amendments are sought:⁸¹⁹

(b) for water bodies that have been identified as over-allocated, provide methods and timeframes for phasing out that over-allocation, that optimise reliability of primary allocation, with priority given to water uses that generally:

(i) have a small environmental footprint in terms of greenhouse gas emissions, nutrient loss, sediment loss and microbial contaminant loss;

(ii) use less water per hectare than other uses;

(iii) provide greater economic return and associated employment per volume of water used;

(iv) are able to use less water at times that coincide with seasonal low flows

793. John Highton seeks to amend clause (6) to include a provision that requires planning to be undertaken on forms of water storage and how this will interact with Te Mana o Te Wai but has not provided specific wording for this amendment.⁸²⁰

794. Waitaki Irrigators seeks to amend the wording of clause (6) to remove 'off-stream storage', so as to provide for circumstances where in-stream storage may be required, pointing out that sub-clauses (a) to (c) allow for in-stream values and considerations to be addressed even in relation to in-stream storage. The submitter submits that this may be an issue in some cases, such as where such storage already exists but increased storage capacity may be required, or where geography/topography prevents off-stream storage. Waitaki Irrigators seeks the following amendment:⁸²¹

(6) provide for the ~~off-stream~~ storage of surface water where storage will...

⁸¹⁸ 00231.06 Fish and Game

⁸¹⁹ 00403.006 McArthur Ridge Vineyard, 00404.006 Strath Clyde Water *et al.*,

⁸²⁰ 00014.059 John Highton

⁸²¹ 00213.021 Waitaki Irrigators

795. Federated Farmers, OWRUG and Horticulture NZ seek to retain clause (6) and, similar to Waitaki Irrigators, seek to include reference to on-stream storage.⁸²² DCC seeks to include a definition of the term “off-stream storage of surface water” but does not suggest specific wording.⁸²³
796. Meridian considers that if the matter of off-stream storage of surface water is important, amendments are required to elevate LF-FW-M6 to a stand-alone policy within the RPS.⁸²⁴
797. For the same reasons as the amendments sought to clauses (4) and (5), Wise Response seeks the following amendments to clause (7):⁸²⁵
- (7) identify and manage natural wetlands in accordance with LF-FW-P7, LF-FW-P8, and LF-FW-P9, and LF-FW-P10 while recognising that some activities in and around natural wetlands are managed under the NESF, and actively promote low impact regenerative landuse practice that maximises carbon sequestration, maximises water harvest in soils, aquifers and hence baseflow to rivers, minimises the need for supplementary nutrient and promotes catchment level planning to maximise community resilience.
798. AWA submits that ORC should prohibit certain activities (for example, water export) and incentivise others (for example, regenerative farming methods or sheep farming) in order to achieve better outcomes for the environment and communities. The submitter seeks to insert a new clause (9) as follows:⁸²⁶
- (9) include rules to allocate water within the limits amongst competing activities to ensure the most efficient use of water
799. The Fuel Companies seeks to include provision for the control of contaminants at source which the submitters consider is an effective and efficient means of minimising the potential for generation of contaminants. The submitters seek to include the following wording but it is not clear where in the method.⁸²⁷
- Promote awareness and actions to reduce contaminant discharges through source control
- 24.1.1.3. Analysis
800. I agree with Beef + Lamb and DINZ that there are some discrepancies between the requirements of the NPSFM and LF-FW-M6. I recommend accepting this submission point in part and making the following amendments based on the summary of the NOF process set out in clause 3.7(2) of the NPSFM:

⁸²² 00239.091 Federated Farmers, 00235.099 OWRUG, 00236.065 Horticulture NZ

⁸²³ 00139.114 DCC

⁸²⁴ 00306.039 Meridian

⁸²⁵ 00509.082 Wise Response

⁸²⁶ 00502.007 AWA

⁸²⁷ 00510.024 The Fuel Companies

- Clarifying that environmental outcomes must be stated for each identified value in (2),
- Including a new clause (2a) requiring attributes to be identified for each value and baseline states set for those attributes,
- Including a new clause (2b) requiring setting target attribute states and other criteria to support the achievement of environmental outcomes,
- Moving clause (3) to after clause (5), becoming new (5a), and
- Including reference to environmental flow and level regimes supporting the achievement of environmental outcomes in (4).

801. The matters set out in LF-FW-M6 are methods for implementing the LF-FW policies in ORC's regional plan. I do not consider it would be appropriate to make this a policy and am unsure what Meridian would envisage being contained in a method. Providing for off-stream water storage is a matter that has been raised by the community, including through submissions on the pORPS, many times. I consider it is appropriate for this direction to be contained in LF-FW-M6 as it must occur in a way that implements the policies in LF-FW. I do not recommend accepting the submission point by Meridian.
802. I understand that ORC has made a commitment to the Minister for the Environment to notify the new land and water regional plan in December 2023 and I am not aware that the Council has renegotiated this timeframe. I therefore do not recommend accepting the submissions of PWCG and Lloyd McCall.
803. I agree with the Minister for the Environment that flow and level regimes and limits on resource use may be methods used to address over-allocation. I consider that moving clause (3) to become (5a) addresses the chronological element of the submitter's concern and recommend also including reference to methods and timeframes for addressing over-allocation in new clause (5a). As a consequential amendment, I recommend deleting sub-clause (5)(b) as this is now incorporated in new clause (5a). I recommend accepting this submission point in part.
804. I agree with DCC that the definition of over-allocation clearly applies to both water quality and quantity and therefore the latter part of clause (3) is unnecessary. I recommend accepting this part of the submission point by DCC. Correspondingly, I also recommend rejecting the submission point by Kāi Tahu ki Otago as the recommended deletion removes the phrase in question that the submitter seeks to amend.
805. I consider that the amendments sought by Kāi Tahu ki Otago clarify the implementation of the method and improve alignment with the NPSFM. In some cases, I recommend incorporating the wording sought, or similar wording, in different places to that sought by the submitter however I consider overall the effect and intent is the same. I recommend accepting this submission point in part.
806. DCC seeks to include a definition of community drinking water supply but has not provided a definition. Without further clarity about what is sought, I do not recommend accepting this part of the submission point.

807. The matters in clause (4) are focused on outcomes related to the health and well-being of water bodies and people, in line with priorities (1) and (2) in the objective of the NPSFM. Elsewhere in this report, I have recommended rejecting submissions seeking to recognise hydro-electricity generation as priority (2). For the same reasons, I do not consider it is appropriate to include reference to hydro-electricity generation in this clause and do not recommend accepting the submission point by Trustpower. Given the context of the priorities, I also do not recommend including the new sub-clause relating to recreation sought by Fish and Game, the new sub-clause relating to human well-being sought by Trojan and Wayfare, or the new sub-clause relating to water for domestic food security as sought by Horticulture NZ. In the case of the latter particularly, I consider these to be activities better addressed through the LWRP.
808. I have addressed a suite of submission points by Fish and Game regarding the habitats of trout and salmon in section 1.4.9 of *Report 1: Introduction and general themes*. In summary, I do not recommend accepting the submission point by Fish and Game and I do not consider it is necessary, however I note I have recommended amendments to LF-FW-O8 and LF-FW-P7 to address the submitter's concerns.
809. Elsewhere I have recommended amending clause (4) to refer to achievement of the freshwater visions in LF-VM. Given these visions contain timeframes, I do not consider the amendment sought by Wise Response to include "by the specified timeframes" is necessary. It is not clear to me what a "variable presumptive flow regime" is and I do not consider this is commonly understood terminology. The amendments sought to sub-clauses (c) and (d) do not, in my opinion, result in any practical difference to the method. I do not recommend accepting this submission point.
810. In my experience, limits on resource use will practically differ between different types of water bodies so I do not consider the first amendment sought by AWA to clause (5)(a) is necessary. Whether groundwater abstractions should be prioritised for drinking water supplies is a matter for the LWRP to determine. The other amendment sought by the submitter expands the intent of the clause beyond what was intended. I do not recommend accepting this submission point.
811. I acknowledge the point made by DCC regarding the fact that many drinking water supplies are not used solely for drinking water, however I do not consider any amendments are required. While most drinking water is sourced from community drinking water sources, this is not the case for all as many rural properties in particular rely on their own water abstractions to provide drinking water. I consider that "drinking water" is sufficiently broad to include all of these sources. It is not clear what consequential amendments DCC considers should be made to clauses (7) and (8). I do not recommend accepting this submission point.
812. I have previously addressed the amendments sought by Trustpower and the intent behind the method to align with the priorities set out in LF-WAI-P1. For the same reasons, I do not recommend accepting the amendments sought by Trustpower to sub-clause (5)(a). I do not consider that "enabling" is an appropriate management response in advance of knowing whether the use in question affects the achievement of an environmental outcome. For example, it would not be appropriate to enable existing uses

that contribute to the over-allocation of a water body in every circumstance. I do not recommend accepting the submission point by Trustpower.

813. I do not consider the amendment sought by Rayonier Matariki to clause (5)(d) is necessary. Interactions between regional plan rules and the regulations contained in NESs is a matter best addressed at the regional plan level. I do not recommend accepting this submission point.
814. I consider that management of a resource can include the setting of limits on its use and therefore do not recommend accepting the submission point by QLDC.
815. It is not clear from the submission of Horticulture NZ what the submitter considers would be a “human health need” other than drinking water. I note the submitter has sought to define “essential human health” and that this term, as defined by the submitter, extends to sanitation, nutritious food, adequate shelter, and warmth. In my opinion, there is a risk that including “human health need” in clause (5)(a) could unintentionally broaden the clause beyond what was intended, and beyond the matters set out in LF-WAI-P1(2). I do not recommend accepting the submission point by Horticulture NZ.
816. I consider that the NOF process set out in the NPSFM sets out a framework whereby, once the NOF is fully implemented, activities will be managed in a way that gives effect to Te Mana o te Wai and largely achieves (or will, over time, achieve) the outcome sought by Fish and Game. I do not recommend accepting this submission point.
817. I do not consider it is appropriate to incorporate the level of detail sought by McArthur Ridge Vineyard and Strath Clyde Water and others into a regional policy statement. Decisions about resolving over-allocation, including any priorities to be afforded to different uses of water, should be made within the context of the NOF and, importantly, once values have been identified and environmental outcomes for those values have been developed. I do not recommend accepting these submission points.
818. I am unsure what specific relief is sought by John Highton. I consider it is clear that any water storage must assist with giving effect to Te Mana o te Wai. Without further clarification, I do not recommend accepting this submission point.
819. I understand that “on-stream” water storage generally refers to the damming of water bodies. As is evident from RMIA-WAI-11, damming in Otago’s water bodies has had significant negative adverse effects on Kāi Tahu, degraded the mauri of the water and associated habitats and species, and led to material and cultural deprivation for Kāi Tahu ki Otago. There is a significant tension within Otago’s communities between a desire to provide for water storage in order to address potential over-allocation in some catchments and as a way to mitigate the effects of climate change, and a desire to recognise the negative impacts of historical proposals like this and prevent any further negative impacts in the future. In my opinion, this clause appropriately recognises that off-stream water storage is generally less contentious due to the reduced need to modify water bodies and their flow.
820. However, I note that Te Rūnanga o Ngāi Tahu supports the amendment sought by Waitaki Irrigators to remove reference to “off-stream” water storage, on the basis that water storage is an important tool for climate change resilience, water use efficiency, and

restoring the mauri of awa affected by over-allocated run of river takes. Kāi Tahu ki Otago did not make a further submission on this provision. I consider it would be helpful to hear evidence from Kāi Tahu ki Otago on the amendments sought by Waitaki Irrigators, Federated Farmers, OWRUG, and Horticulture NZ prior to making a recommendation on this provision. At this stage, therefore, I do not recommend accepting the submission points by Waitaki Irrigators, Federated Farmers, OWRUG, and Horticulture NZ.

821. I do not consider that a definition of “off-stream storage of surface water” is necessary as this is generally a well-understood concept. If a definition is needed, it would be more appropriate to include this in the LWRP. I do not recommend accepting the submission point by DCC.
822. For reasons I have previously set out in response to the submission point by Meridian, I do not consider it is appropriate to elevate LF-FW-M6 to a policy and do not recommend accepting this submission point.
823. Wise Response seeks to include reference to LF-FW-P10 in clause (7). I agree that policy is relevant and should be included and recommend accepting this part of the submission point. I note that the clause incorrectly refers to LF-FW-P8 and I recommend deleting this reference in order to correct a minor error in accordance with clause 16(2) of Schedule 1 of the RMA.
824. Wise Response and AWA seek to include additional direction for the management of particular activities in this method. I do not consider that the level of detail sought by these submitters is appropriate for the pORPS. Decisions about incentivising particular activities (or not) should be made within the context of the LWRP, once values have been identified and environmental outcomes developed. I do not recommend accepting these submission points.
825. I have previously recommended including the promotion of source control as a method for reducing contaminants in discharges in policies LF-FW-P15 and new LF-FW-P16 as sought by The Fuel Companies and consider it is appropriate to reflect that amended policy direction in LF-FW-M6. It is not clear from the submission where in the method the submitters seek to incorporate this new provision, however in my opinion it would be best incorporated as a new clause (9). I recommend accepting this submission point in part and aligning the wording with the wording of the additional clauses I have recommended for inclusion in LF-FW-P15 and new LF-FW-P16.
826. I note that clause (8) as notified reflected the original title and content of LF-FW-P15. I have recommended splitting that policy into two separate policies and clarifying the types of discharges to which each policy applies. I therefore recommend consequential amendments to clause (8) to reflect these changes.

24.1.1.4. Recommendation

827. I recommend amending LF-FW-M6 to:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water Regional Plan no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

- (1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,
- (2) state *environmental outcomes* for each identified value⁸²⁸ as objectives in accordance with clause 3.9 of the NPSFM,
- (2a) identify *attributes* for each value and set baseline states for those *attributes*,⁸²⁹
- (2b) set target *attribute* states and other criteria to support the achievement of *environmental outcomes*,⁸³⁰
- ~~(3) identify *water bodies* that are *over-allocated* in terms of either their *water quality* or *quantity*,~~⁸³¹
- (4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that support the achievement of *environmental outcomes* and the *freshwater visions* in LF-VM,⁸³² give effect to *Te Mana o te Wai* and provide for:
 - (a) the behaviours of the *water body* including a base flow or level that provides for variability,
 - (b) healthy and resilient ~~maḥika kai~~ *maḥika kai*,⁸³³
 - (c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*,
 - (d) the hydrological connection with other *water bodies*, estuaries and coastal margins,
 - (e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and
 - (f) community *drinking water* supplies, and
- (5) include *limits on resource use* that support the achievement of *environmental outcomes* and the *freshwater visions* in LF-VM, give effect to *Te Mana o te Wai* and:⁸³⁴

⁸²⁸ 00237 Beef + Lamb and DINZ (uncoded submission point)

⁸²⁹ 00237 Beef + Lamb and DINZ (uncoded submission point)

⁸³⁰ 00237 Beef + Lamb and DINZ (uncoded submission point)

⁸³¹ 00237 Beef + Lamb and DINZ (uncoded submission point)

⁸³² 00237 Beef + Lamb and DINZ (uncoded submission point), 00226.191 Kāi Tahu ki Otago

⁸³³ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁸³⁴ 00226.191 Kāi Tahu ki Otago

- (a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long-term certainty ~~in relation to~~ about the availability of water for those uses ~~of available water~~,⁸³⁵
 - ~~(b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,~~⁸³⁶
 - (c) control the *effects* of existing and potential future development on the ability of the water body to meet, or continue to meet, *environmental outcomes*,
 - (d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and
- (5A) identify *water bodies* that are *over-allocated* and the methods and timeframes for phasing out that *over-allocation* (including through environmental flow and level regimes and *limits on resource use*) within the timeframes required to achieve the relevant freshwater vision set out in LF-VM,⁸³⁷
- (6) provide for the off-stream storage of surface *water* where storage will:
 - (a) support Te Mana o te Wai,
 - (b) give effect to the objectives and policies of the LF chapter of this RPS, and
 - (c) not prevent a surface *water body* from achieving identified *environmental outcomes* and remaining within any *limits on resource use*, and
 - (7) identify and manage *natural wetlands* in accordance with ~~LF-FW-P7, LF-FW-P8, and LF-FW-P9 and LF-FW-P10~~⁸³⁸ while recognising that some activities in and around *natural wetlands* are managed under the NESF, ~~and~~
 - (7a) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments,⁸³⁹
 - (8) manage the adverse *effects* of *discharges of stormwater and industrial and trade waste* and ~~wastewater~~ in accordance with LF-FW-P15 and *discharges containing sewage and other human wastes* in accordance with LF-FW-P15A, and⁸⁴⁰

⁸³⁵ 00226.191 Kāi Tahu ki Otago

⁸³⁶ 00136.007 Minster for the Environment

⁸³⁷ 00237 Beef + Lamb and DINZ (uncoded submission point), 00136.007 Minster for the Environment, 00139.112 DCC

⁸³⁸ 00509.082 Wise Response; Clause 16(2), Schedule 1, RMA

⁸³⁹ 00226.191 Kāi Tahu ki Otago

⁸⁴⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.189 Kāi Tahu ki Otago, 00230.094 Forest and Bird

(9) promote source control as a method for reducing contaminants in discharges of stormwater or industrial and trade waste and discharges containing sewage or other human wastes.⁸⁴¹

24.2. Draft supplementary evidence

100 The Minister for the Environment seeks an amendment to timeframes to the long-term vision for the Clutha Mata-au FMU vision (LF-VM-02) to provide interim steps for achieving the visions.⁸⁴² As outlined in paragraph 475 of my section 42A report, I did not recommend adopting this submission point because I considered that the LWRP provides an opportunity for interim steps to be identified, once the values and environmental outcomes for the FMU are developed.

101 Having considered this submission further, I agree there is value in stating interim milestones may be set in the new land and water regional plan. I do not consider this should be mandatory as some freshwater visions have relatively short timeframes that fall within the lifetime of the new land and water regional plan and therefore may not need interim milestones. I note that the National Policy Statement for Freshwater Management 2020 already requires regional councils to set timeframes to achieve target attribute states⁸⁴³ and that if these are long-term, then they must also include interim target attribute states set for intervals of not more than 10 years.⁸⁴⁴ Regional councils must also ensure that target attribute states are set in such a way that they will achieve the relevant long-term vision.

102 I recommend the following amendments:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water Regional Plan no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

...

⁸⁴¹ 00510.023 The Fuel Companies

⁸⁴² 00136.005 Minister for the Environment

⁸⁴³ Clause 3.11(5)(a), NPSFM.

⁸⁴⁴ Clause 3.11(6)(a), NPSFM.

(2C) identify any interim milestones (including any relevant interim target attribute states) for achieving the long-term visions for freshwater set out in LF-VM-O2 to LF-VM-O6.⁸⁴⁵

Section 32AA evaluation

103 The amendment I recommend to this provision provides for interim milestones for achieving the long-term visions for freshwater to be included in the new Land and Water Regional Plan (but does not mandate them). As discussed above, the NPSFM already requires interim target attribute states where the timeframe for achieving target attribute states is long-term. I do not consider that the amendment I recommend will result in a materially different outcome due to the requirements of the NPSFM and therefore do not consider any further evaluation under section 32AA is required.

⁸⁴⁵ 00136.005 Minister for the Environment

25. LF-FW-M7

25.1. Previous section 42A report content

25.1.1. LF-FW-M7 – District plans

25.1.1.1. Introduction

828. As notified, LF-FW-M7 reads:

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026 to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
- (2) include provisions to avoid the adverse *effects* of activities on the significant and outstanding values of *outstanding water bodies*,
- (3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing the *subdivision*, use or development of *land*, and
- (4) reduce the adverse *effects* of *stormwater discharges* by managing the *subdivision*, use and development of *land* to:
 - (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,
 - (b) minimise adverse *effects* on *fresh water* and *coastal water* as the ultimate receiving environments, and the capacity of the *stormwater* network,
 - (c) encourage on-site storage of rainfall to detain peak *stormwater* flows, and
 - (d) promote the use of permeable surfaces.

829. Clauses (1) and (2) of this method relate to outstanding water bodies and have been addressed in section **Error! Reference source not found.** of this report.

25.1.1.2. Submissions

830. Ravensdown and Greenpeace support LF-FW-M7 and seek to retain it as notified.⁸⁴⁶

⁸⁴⁶ 00121.059 Ravensdown, 00407.043 Greenpeace

831. CODC supports the provision in principle but submits that the timeframes may not be achievable.⁸⁴⁷ DCC seeks to amend the timeframe to provide flexibility for issues outside territorial authority's control but does not seek specific amendments.⁸⁴⁸
832. Kāi Tahu ki Otago generally supports the method, particularly the clear direction for district plans to include provisions to reduce the adverse effects of stormwater discharges from subdivision and land development. The submitter seeks to include the following new clause to recognise that preserving natural character is a shared responsibility across regional and territorial jurisdictions:⁸⁴⁹
- (x) include provisions to preserve the natural character of lakes and rivers and their margins from the adverse effects of land use and development and activities on the surface of water, ...
833. Trojan and Wayfare seek to amend clause (3) to clarify that it applies to "urban" land, stating that it is inappropriate and unnecessary to adopt water sensitive urban design techniques to all land development outside the urban environment. Blackthorn Lodge seeks a similar amendment, to replace "land" with "urban development." These amendments are as follows:⁸⁵⁰
- (3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing the subdivision, use or development of urban development land, and
834. The Fuel Companies submit that they have experienced instances of network operators "insisting stormwater discharges permitted under the regional plan be discharges to wastewater." The submitters consider this is not effects based, does not promote sustainable management, and is contrary to the intention to reduce wet weather overflows from the wastewater system. The Fuel Companies seek amendments to direct network operators to accept discharges to networks, where they are permitted under the regional plan or compliant with a relevant discharge consent.⁸⁵¹
835. Wise Response considers the method requires more emphasis to recognise and provide for climate change and regenerative land use practices. A range of amendments are sought to provide for this:⁸⁵²
- (3) require, wherever practicable, the adoption of water hydrologically and ecologically sensitive urban design techniques when managing the subdivision, use or development of land, and
- (4) reduce the adverse effects of stormwater discharges by managing the subdivision, use and development of land to:

⁸⁴⁷ 00201.017 CODC

⁸⁴⁸ 00139.115 DCC

⁸⁴⁹ 00226.192 Kāi Tahu ki Otago

⁸⁵⁰ 00119.014 Blackthorn Lodge, 00206.039 Trojan, 00411.051 Wayfare

⁸⁵¹ 00510.025 The Fuel Companies

⁸⁵² 00509.083 Wise Response

...

- (c) promote ~~encourage~~ on-site storage of rainfall to detain peak stormwater flows, and

...

- (5) actively promote low impact regenerative landuse practice that maximises carbon sequestration, maximises water harvest in soils, aquifers and hence baseflow to rivers, minimises the need for supplementary nutrient and promotes catchment level planning to maximise community resilience.

- (6) give practical effect to all the relevant freshwater policies

836. FENZ seeks an amendment to clause (3) so that “water sensitive urban design techniques” consider firefighting water supplies when managing subdivision, use or development of land.⁸⁵³

837. DCC submits that the use of water sensitive design techniques will not always be appropriate and seeks the following amendments to clause (3):

- (3) ~~require~~ promote, wherever practicable and beneficial, the adoption of water sensitive urban design techniques when managing the subdivision, use or development of land, and

838. The submitter also seeks to include a definition of “water sensitive water design” to assist with clarity but does not suggest one.

839. DCC also raises concern about the adverse effects of requiring on-site storage of rainwater and seeks the following amendments to clause (4):⁸⁵⁴

- (a) ~~minimise the peak volume of stormwater~~ load of contaminants carried by stormwater needing off-site disposal ~~and the load of contaminants carried by it,~~

...

- (c) encourage on-site storage of rainfall to detain peak stormwater flows where appropriate, and

840. Beef + Lamb and DINZ seek to include provisions that address all adverse effects of urban development, including providing for drinking water, wastewater treatment, and effects of earthworks on waterbodies. The submitters also seek that clause (3) is amended to ensure stormwater can be managed in a way that is consistent with achieving the long-term vision in all cases.⁸⁵⁵ The submitters have not provided specific wording for these amendments.

⁸⁵³ 00219.016 FENZ

⁸⁵⁴ 00139.115 DCC

⁸⁵⁵ 00237.043 Beef + Lamb and DINZ

841. Fish and Game submits that resolving legacy issues associated with existing stormwater systems will require time and significant staged investment and proposes the following amendment to clause (3) and insertion of an additional clause:⁸⁵⁶

(3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing ~~the~~ existing subdivision, use or development of land in urban areas,

(3a) require the adoption of water sensitive urban design techniques when managing new subdivision, use or development or land in urban areas, and

25.1.1.3. Analysis

842. I understand the concern raised by CODC and DCC regarding the timeframe for amending district plans, however neither submitter seeks specific relief. Without further clarify about the outcome sought by submitters, I do not recommend accepting these submission points.

843. I agree with Kāi Tahu ki Otago that the preserving the natural character of rivers and lakes and their margins is a responsibility shared between regional councils and territorial authorities and recommend accepting this submission point. It is not clear from the submission where the submitter considers this clause should be included, however I recommend incorporating it as a new clause (2a) to reflect the order of the policies in the LF-FW section.

844. I note that LF-FW-M7 uses the term “water sensitive urban design” whereas UFD-M2(3)(d) refers to “water sensitive design”. I understand these are often used interchangeably, however to avoid any confusion about where they are applicable to use, I recommend amending the reference in LF-FW-M7 to “water sensitive design” for consistency with UFD-M2. I consider this is an amendment of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.

845. I agree with Blackthorn Lodge, Trojan, and Wayfare that water sensitive design is primarily focused on urban areas. However, I do not consider it is always limited to urban areas. For example, the definition of water sensitive design in the Auckland Unitary Plan is:

“An approach to freshwater management, it is applied to land use planning and development at complementary scales including region, catchment, development, and site. Water Sensitive Design seeks to protect and enhance natural freshwater systems, sustainably manage water resources, and mimic natural processes to achieve enhanced outcomes for ecosystems and our communities.”

846. In my opinion, while the majority of land use planning and development occurs within urban areas, rural areas are not devoid of this type of activity and water sensitive design can also be implemented in those areas to manage, for example, stormwater run-off. I

⁸⁵⁶ 00231.061 Fish and Game

- do not recommend accepting the submission points by Blackthorn Lodge, Trojan, and Wayfare.
847. The operation of infrastructure networks is not managed under district plans. I do not consider it is efficient or effective to mandate operational requirements through district plans in the manner sought by The Fuel Companies and therefore do not recommend accepting this submission point.
848. In my opinion, water sensitive design is a commonly understood term and it would not be helpful for clarity or certainty to amend the term as sought by Wise Response. It is not clear what distinction the submitter anticipates by amending “encouraging” to “promoting” in clause (4)(c). I consider that on-site storage is likely to require site-specific assessment before it can be ascertained whether storage is appropriate or not and therefore prefer to retain the wording as notified.
849. Wise Response seeks to include additional direction for the management of particular activities in this method. I do not consider that the level of detail sought by this submitter is appropriate for the pORPS. Decisions about incentivising particular activities (or not) should be made within the context of each district plan. Finally, the submitter seeks to “give practical effect” to all the relevant freshwater policies. I do not consider that assists with interpretation as the legal requirement is for district plans to “give effect to” regional policy statements. I do not recommend accepting the submission point by Wise Response.
850. I understand that water sensitive design is primarily adopted to manage stormwater run-off from land development and am not sure that the concept generally incorporates the management of firefighting water supplies. FENZ may wish to clarify what it seeks in its evidence, however at this stage I do not recommend accepting this submission point.
851. While I understand the concerns raised by DCC in relation to the suitability of using water sensitive design techniques, in my opinion it is appropriate for those techniques to be the starting point, with other techniques coming into play in situations where it is not practicable to implement water sensitive design techniques. I understand the term “water sensitive design” is generally well-understood and am not convinced a definition is necessary, particularly as the submitter has not suggested a definition. For these reasons, I do not recommend accepting the submission point by DCC on clause (3).
852. The amendments sought by DCC to clause (4)(a) are unclear. I am unsure whether it is the contaminants or the stormwater needing off-site disposal in the amendments sought. I note that no other territorial authorities have opposed this clause and do not recommend accepting this part of the submission point.
853. I agree with DCC that there may be circumstances where on-site storage is not appropriate and therefore recommend accepting this part of the submission point.
854. It is not clear what relief Beef + Lamb and DINZ seek in relation to this method. Without further clarification, and preferably specific amendments, I do not recommend accepting this submission point.

855. As I have stated previously, I do not consider that water sensitive design techniques will be suitable in all situations. I prefer to retain the notified wording to retain flexibility for these techniques to be applied in a site-specific way and therefore do not recommend accepting the submission point by Fish and Game,

25.1.1.4. Recommendation

856. I recommend the following amendments to LF-FW-M7:

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026 to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in through implementation of⁸⁵⁷ LF-FW-M5, and
- (2) include provisions to avoid the adverse *effects* of activities on the significant and outstanding values of *outstanding water bodies*,
- (2A) include provisions to preserve the natural character of lakes and rivers and their margins from the adverse effects of activities on the surface of water and land use and development on their margins,⁸⁵⁸
- (3) require, wherever practicable, the adoption of water sensitive ~~urban~~⁸⁵⁹ design techniques when managing the *subdivision*, use or development of *land*, and
- (4) reduce the adverse effects of *stormwater discharges* by managing the *subdivision*, use and development of *land* to:
 - (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,
 - (b) minimise adverse effects on *fresh water* and *coastal water* as the ultimate receiving environments, and the capacity of the *stormwater* network,
 - (c) encourage on-site storage of rainfall to detain peak *stormwater* flows where appropriate,⁸⁶⁰ and
 - (d) promote the use of permeable surfaces.

⁸⁵⁷ 00138.077 QLDC

⁸⁵⁸ 00226.192 Kāi Tahu ki Otago

⁸⁵⁹ Clause 16(2), Schedule 1, RMA

⁸⁶⁰ 00139.115 DCC

25.2. Draft supplementary evidence

No supplementary evidence prepared.

NO LEGAL STATUS

26. LF-FW-M8

26.1. Previous section 42A report content

26.1.1. LF-FW-M8 – Action plans

26.1.1.1. Introduction

857. As notified LF-FW-M8 reads:

LF-FW-M8 – Action plans

Otago Regional Council:

- (1) must prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2B of the NPSFM,
- (2) may prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2A of the NPSFM, and
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

26.1.1.2. Submissions

858. QLDC and Kāi Tahu ki Otago support the provision as drafted and seek it be retained as notified.⁸⁶¹ Beef + Lamb and DINZ seek unspecified amendments to provide more certainty about the process and how ORC will consult with community, for example about options and costs.⁸⁶²

26.1.1.3. Analysis

859. As set out in LF-FW-M10, all of the methods in the LF-WAI, LF-VM, and LF-LS sections also assist with implementing the policies in the LF-FW section. Relevantly, this includes LF-VM-M3 which sets out how ORC will work with communities. On that basis, and as the submitters have not specified what amendments they seek to LF-FW-M8, I do not recommend accepting the submission point by Beef + Lamb and DINZ.

26.1.1.4. Recommendation

860. I recommend retaining LF-FW-M8 as notified.

26.2. Draft supplementary evidence

No supplementary evidence prepared.

⁸⁶¹ 00138.078 QLDC, 00226.193 Kāi Tahu ki Otago

⁸⁶² 00237.044 Beef + Lamb and DINZ

27. LF-FW-E3

27.1. Previous section 42A report content

NOTE: Only paragraphs 2 and 5 of LF-FW-E2 form part of the FPI. The balance remain in the parts of the pORPS progressing through the Schedule 1 process.

27.1.1. LF-FW-E3 – Explanation

27.1.1.1. Introduction

861. As required by section 62(1)(d), LF-FW-E3 provides an explanation for the policies in this chapter. As notified, LF-FW-E3 reads:

LF-FW-E3 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM.

The outcomes sought for *natural wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *natural wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of *takata whenua* and the community that *fresh* and *coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where *natural wetlands* have been *degraded* or lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of *wetlands* in Otago.

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse *effects*.

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced

or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character.

The impact of *discharges of stormwater and wastewater on freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water* quality issues in some *water bodies*. The policies set out a range of actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse *effects* on receiving environments.

27.1.1.2. Submissions

862. Kāi Tahu ki Otago seeks to replace references to “takata whenua” with “mana whenua” consistent with practice across the plan. The submitter also seeks the following specific amendments:⁸⁶³

... This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of wetlands in Otago, and the indigenous biodiversity values and hydrological values of wetland systems.

... Additional water bodies can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: ~~cultural and spiritual~~, ecology, landscape, natural character, recreation and physical ...

863. Ngāi Tahu ki Murihiku seeks unspecified consequential amendments to LF-FW-E3 as a result of relief sought in relation to LF-FW-M5.⁸⁶⁴

27.1.1.3. Analysis

864. I acknowledge the preference of Kāi Tahu ki Otago to refer to mana whenua instead of takata whenua and consider that amendment to include reference to indigenous biodiversity and hydrological values of wetland systems reflects the policy direction in this section. I recommend accepting this submission point in part and recommend making these amendments as well as a consequential amendment to the sentence regarding wetlands in order to improve the grammar and readability.

865. I do not recommend making the amendments sought by Kāi Tahu ki Otago or Ngāi Tahu ki Murihiku in relation to the values of outstanding water bodies as I have not recommended any amendments to those provisions at this stage.

27.1.1.4. Recommendation

866. I recommend amending LF-FW-E3 to:

LF-FW-E3 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and

⁸⁶³ 00226.196 Kāi Tahu ki Otago

⁸⁶⁴ 00223.092 Ngāi Tahu ki Murihiku

the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM.

The outcomes sought for *natural wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *natural wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of ~~takata whenua~~ mana whenua⁸⁶⁵ and the community that *fresh and coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where *natural wetlands* have been *degraded* or lost. This is because of the importance of restoration to Kāi Tahu, to recognise and in recognition of⁸⁶⁶ the historic loss of *wetlands* in Otago, and the indigenous biodiversity values and hydrological values of wetland systems.⁸⁶⁷

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse *effects*.

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991.⁸⁶⁸ The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character.

The impact of *discharges of stormwater* and *wastewater* on *freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water* quality issues in some *water bodies*. The policies set out a range of actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse *effects* on receiving environments.

⁸⁶⁵ 00226.196 Kāi Tahu ki Otago

⁸⁶⁶ Clause 16(2), Schedule 1, RMA

⁸⁶⁷ 00226.196 Kāi Tahu ki Otago

⁸⁶⁸ Clause 16(2), Schedule 1, RMA

27.2. Draft supplementary evidence

No supplementary evidence prepared.

NO LEGAL STATUS

28. LF-FW-PR3

28.1. Previous section 42A report content

28.1.1. LF-FW-PR3 – Principal reasons

28.1.1.1. Introduction

867. As required by section 62(1)(f), FW – PR13 provides the principal reasons for adopting the objectives, policies, and methods of implementation set out in this chapter. As notified, LF-FW-PR3 reads:

LF–FW–PR3 – Principal reasons

Otago’s *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. A growing population combined with increased *land* use intensification has heightened demand for *water*, and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago’s historical mining privileges, coupled with contemporary *land* uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects.

This section of the LF chapter contains more specific direction on managing *fresh water* to give effect to *Te Mana o te Wai* and contributes to achieving the long-term *freshwater* visions for each *FMU* and rohe. It also reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council’s *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes, attribute states, target attribute states* and limits.

28.1.1.2. Submissions

868. Kāi tahu ki Otago submits that the reference to giving effect to *Te Mana o te Wai* and achieving *freshwater* visions is confusing without further explanation. The submitter seeks the following amendments to address this and to recognise that both urban and rural land uses contribute to the degradation of water bodies:⁸⁶⁹

... The legacy of Otago’s historical mining privileges, coupled with contemporary urban and rural land uses, contribute to ongoing water quality and quantity issues in some water bodies, with significant cultural effects.

This section of the LF chapter contains more specific direction on managing fresh water to give effect to *Te Mana o te Wai* and contributes to achieving the long-

⁸⁶⁹ 00226.196 Kāi Tahu ki Otago

term freshwater visions for each FMU and rohe. It also reflects key direction in the NPSFM for managing the health and well-being of fresh water ...

28.1.1.3. Analysis

869. I consider the amendments sought by Kāi Tahu ki Otago improve the clarity and accuracy of LF-FW-PR3 and recommend accepting this submission point.

28.1.1.4. Recommendation

870. I recommend amending LF-FW-PR3 to:

LF-FW-PR3 – Principal reasons

Otago's *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. A growing population combined with increased *land* use intensification has heightened demand for *water*, and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago's historical mining privileges, coupled with contemporary urban and rural⁸⁷⁰ *land* uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects.

This section of the LF chapter contains more specific direction on managing *fresh water* to give effect to *Te Mana o te Wai* and contributes to achieving the long-term *freshwater* visions for each *FMU* and rohe. It also⁸⁷¹ reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991.⁸⁷² The provisions in this section will underpin the development of the Council's *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes, attribute states, target attribute states and limits*.

28.2. Draft supplementary evidence

No supplementary evidence prepared.

⁸⁷⁰ 00226.196 Kāi Tahu ki Otago

⁸⁷¹ 00226.196 Kāi Tahu ki Otago

⁸⁷² Clause 16(2), Schedule 1, RMA

29. LF-FW-AER4 to LF-FW-AER11

29.1. Previous section 42A report content

29.1.1. LF-FW-AER4 to LF-FW-AER11

29.1.1.1. Introduction

871. As notified, LF-FW-AER4 to LF-FW-AER11 read:

LF-FW-AER4 *Fresh water* is allocated within limits that contribute to achieving specified *environmental outcomes* for *water bodies* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF-VM section of this chapter.

LF-FW-AER5 *Specified rivers and lakes* are suitable for primary contact within the timeframes set out in LF-FW-P7.

LF-FW-AER6 *Degraded water* quality is improved so that it meets specified *environmental outcomes* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF-VM section of this chapter.

LF-FW-AER7 *Water* in Otago's aquifers is suitable for human consumption, unless that *water* is naturally unsuitable for consumption.

LF-FW-AER8 Where *water* is not *degraded*, there is no reduction in *water* quality.

LF-FW-AER9 The frequency of *wastewater* overflows is reduced.

LF-FW-AER10 The quality of *stormwater discharges* from existing *urban areas* is improved.

LF-FW-AER11 There is no reduction in the extent or quality of Otago's *natural wetlands*.

872. There were few submissions received therefore the AERs have been evaluated together in this section of the report.

29.1.1.2. Submissions

873. QLDC and Greenpeace seek to retain LF-FW-AER4 as notified.⁸⁷³ Wise Response considers it is important to ensure water allocation limits are consistent with all RPS and national directives and seeks to amend the provision as follows:⁸⁷⁴

Fresh water is allocated within limits that contribute to achieving specified environmental outcomes for water bodies within timeframes set out in regional

⁸⁷³ 00138.082 QLDC, 00407.044 Greenpeace

⁸⁷⁴ 00509.084 Wise Response

plans that are no less stringent than the timeframes in the LF–VM section of this chapter and meet all RPS and National policies and standards.

874. QLDC and Greenpeace seek to retain LF-FW-AER5 and AER6 as notified.⁸⁷⁵ There are no other submission points on these provisions.
875. QLDC, Greenpeace, and Ministry of Education seek to retain LF-FW-AER7 as notified.⁸⁷⁶ Horticulture NZ and Federated Farmers seek to delete the provision.⁸⁷⁷ Horticulture NZ considers it is unachievable and unnecessary for all water in aquifers to be suitable for human consumption and Federated Farmers consider it is not always appropriate or cost-feasible. NZ Pork seeks to delete the provision or make unspecified amendments.⁸⁷⁸ The submitter considers this outcome is only relevant to those water sources used for human consumption.
876. QLDC and Greenpeace seek to retain LF-FW-AER8 as notified.⁸⁷⁹ There are no other submission points on this provision.
877. QLDC and Greenpeace seek to retain LF-FW-AER9 as notified.⁸⁸⁰ Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku both seek amendments to reflect earlier submission points on requiring direct discharges of wastewater to be phased out. Kāi Tahu ki Otago seeks the following amendments:⁸⁸¹
- ~~The~~ Direct discharges of wastewater to water are phased out and frequency of wastewater overflows is reduced. (Kāi Tahu ki Otago)
878. Ngāi Tahu ki Murihiku seeks the following amendments:⁸⁸²
- ~~The frequency of~~ Direct discharges of wastewater to water bodies is—are reduced across the region and no longer occurring in some places to support visions for water bodies. (Ngāi Tahu ki Murihiku),
879. QLDC and Greenpeace seek to retain LF-FW-AER10 as notified.⁸⁸³ In line with relief sought elsewhere, Ngāi Tahu ki Murihiku seeks the following amendments:
- Direct discharges of stormwater to water bodies are reduced across the region and ~~the~~ quality of stormwater discharges from ~~existing~~ urban areas is improved.”
880. QLDC and Greenpeace seek to retain LF-FW-AER11 as notified.⁸⁸⁴

⁸⁷⁵ 00138.083 QLDC, 00138.084 QLDC, 00407.044 Greenpeace, 00407.044 Greenpeace

⁸⁷⁶ 00138.085 QLDC, 00407.044 Greenpeace, 00421.003 Ministry of Education

⁸⁷⁷ 00236.066 Horticulture NZ, 00239.092 Federated Farmers

⁸⁷⁸ 00240.024 NZ Pork

⁸⁷⁹ 00138.086 QLDC, 00407.044 Greenpeace

⁸⁸⁰ 00138.087 QLDC, 00407.044 Greenpeace

⁸⁸¹ 00226.198 Kāi Tahu ki Otago

⁸⁸² 00223.090 Ngāi Tahu ki Murihiku

⁸⁸³ 00138.088 QLDC, 00407.044 Greenpeace

⁸⁸⁴ 00138.089 QLDC, 00407.044 Greenpeace

29.1.1.3. Analysis

881. I do not consider that the amendment sought by Wise Response to LF-FW-AER4 is necessary. I consider that the provisions of the LF chapter give effect to national direction and note that regional plans are required by the RMA to give effect to regional policy statements. I do not recommend accepting this submission point.
882. I agree with Horticulture NZ and Federated Farmers that LF-FW-AER7 does not reflect the policy direction contained in the LF-FW section and therefore recommending accepting these submission points and deleting the provision.
883. I consider that the amendments sought by Ngāi Tahu ki Murihiku to LF-FW-AER9 more accurately reflect the policy direction in the LF chapter and therefore recommending accepting in part this submission point and rejecting the submission point by Kāi Tahu ki Otago. In line with my amendments to LF-FW-P16 in regard to the term “wastewater”, I recommend aligning the wording of this AER with the wording in that policy.
884. I do not agree with Ngāi Tahu ki Murihiku that the provisions in the LF-FW section require a reduction in stormwater discharges and therefore do not recommend accepting this submission point.

29.1.1.4. Recommendation

885. I recommend amending LF-FW-AER4 to LF-FW-AER11 to:

LF-FW-AER4 *Fresh water* is allocated within limits that contribute to achieving specified *environmental outcomes* for *water bodies* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF-VM section of this chapter.

LF-FW-AER5 *Specified rivers and lakes* are suitable for primary contact within the timeframes set out in LF-FW-P7.

LF-FW-AER6 *Degraded water* quality is improved so that it meets specified *environmental outcomes* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF-VM section of this chapter.

~~**LF-FW-AER7** *Water in Otago’s aquifers* is suitable for human consumption, unless that *water* is naturally unsuitable for consumption.⁸⁸⁵~~

LF-FW-AER8 Where *water* is not *degraded*, there is no reduction in *water* quality.

~~**LF-FW-AER9** *The frequency of wastewater overflows* is reduced. *Discharges containing sewage and human waste directly to water bodies are reduced across the region and no longer occurring in some places to support freshwater visions for water bodies.*⁸⁸⁶~~

⁸⁸⁵ 00236.066 Horticulture NZ, 00239.092 Federated Farmers, 00240.024 NZ Pork

⁸⁸⁶ 00223.090 Ngāi Tahu ki Murihiku

LF-FW-AER10 The quality of *stormwater discharges* from existing *urban areas* is improved.

LF-FW-AER11 There is no reduction in the extent or quality of Otago's *natural wetlands*

29.2. Draft supplementary evidence

No supplementary evidence prepared.

NO LEGAL STATUS

30. LF-LS-P18

30.1. Previous section 42A report content

30.1.1. LF-LS-P18 – Soil erosion

30.1.1.1. Introduction

886. As notified, LF-LS-P18 reads:

LF-LS-P18 – Soil erosion

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

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

30.1.1.2. Submissions

887. This policy is supported by seven submitters.⁸⁸⁷ No submitters oppose the provision in its entirety. The remaining submitters sought a range of amendments which I have set out below.

888. Moutere Station opposes clause (1), stating that this is a large topic which needs more science behind it to understand the full effects.⁸⁸⁸ The submitter does not provide any additional detail regarding their opposition.

889. Tōitu Te Whenua seeks that clause (1) be amended as set out below.

Implementing effective and appropriate management practices ...

890. This amendment is sought to ensure that, in the example of vegetation cover, species are used that are appropriate for the surrounding environment, as well as being effective for the intended purpose.⁸⁸⁹

891. Graymont (NZ) Limited considers that extraction-based activities, by their nature, are not able to maintain vegetative cover during works. They seek the addition of wording to require that vegetation cover on erosion-prone land shall be maintained to the extent

⁸⁸⁷ 00138.095 QLDC, 00240.029 NZ Pork, 00236.071 Horticulture NZ, 00121.064 Ravensdown, 00235.107 OWRUG, 00226.203 Kāi Tahu ki Otago, 00139.116 DCC

⁸⁸⁸ 00026.013 Moutere Station

⁸⁸⁹ 00101.043 Toitū Te Whenua

practicable, rather than maintained outright.⁸⁹⁰ The submitter states that the use of 'practicable' is deliberate, and better understood than alternative terms.

30.1.1.3. Analysis

892. Soil loss to water ways is known to be an issue both in terms of the loss of the soil resource itself, and the resulting sedimentation of waterways. There is also a significant amount of guidance available to minimise soil loss in both urban and rural settings, such as the *Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region* (Auckland Council, 2016) and the *Industry-agreed Good Management Practices relating to water quality* (FAR, New Zealand Pork, DairyNZ, Beef + Lamb NZ, Horticulture New Zealand & Deer Industry New Zealand, 2015). The policy does not preclude the use of the most up to date knowledge on soil loss management practices, in particular where it improves on current knowledge. I recommend rejecting the submission point of Moutere Station.

893. I agree with Tōitu Te Whenua that not all effective management practices may be appropriate. I consider that the inclusion of appropriate will provide for the ability to ensure the soil retention methods are suitable for their surrounding environment, and do not result in unintended adverse effects, such as the introduction of pest plant species or the loss of waterbody extent or value. I recommend accepting this submission point.

894. I agree with Graymont (NZ) Limited that maintaining vegetative cover on erosion-prone land may not be possible in all cases, and that the wording of clause (2) should reflect that. Where maintaining vegetative cover is not practicable, clauses (1) and (3) are still applicable and should ensure that other practices are used to manage erosion-prone land. I consider that the use of the term practicable is consistent with the language used elsewhere in the pORPS and reflects that there may be some situations where compliance with clause (2) is impractical. I recommend accepting this submission point.

30.1.1.4. Recommendation

895. I recommend amending LF-LS-P18 to:

LF-LS-P18 – Soil erosion

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

- (1) implementing appropriate and⁸⁹¹ effective management practices to retain topsoil in-situ and minimise the potential for soil to be *discharged* to *water bodies*, including by controlling the timing, duration, scale and location of soil exposure,

⁸⁹⁰ 00022.019 Graymont

⁸⁹¹ 00101.043 Toitū Te Whenua

- (2) maintaining vegetative cover on erosion-prone *land, to the extent practicable*,⁸⁹² and
- (3) promoting activities that enhance soil retention.

30.2. Draft supplementary evidence

No supplementary evidence prepared.

⁸⁹² 00022.019 Graymont

31. LF-LS-P21

31.1. Previous section 42A report content

31.1.1. LF-LS-P21 – Land use and freshwater

31.1.1.1. Introduction

896. As notified, LF-LS-P21 reads:

LF–LS–P21 – *Land use and fresh water*

Achieve the improvement or maintenance of *fresh water* quantity or quality to meet *environmental outcomes* set for *Freshwater Management Units* and/or rohe by:

- (1) reducing direct and indirect *discharges of contaminants* to *water* from the use and development of *land*, and
- (2) managing *land* uses that may have adverse *effects* on the flow of *water* in surface *water bodies* or the recharge of *groundwater*.

31.1.1.2. Submissions

897. This policy is supported by three submitters.⁸⁹³ In their support, Greenpeace notes that intensive farming and the use of synthetic nitrogen fertiliser are inconsistent with the water quality and quantity values. Beef + Lamb and DINZ seek that the policy be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter.⁸⁹⁴

898. Ravensdown considers that that the phrasing of the policy is unusual. The submitter seeks to amend the wording to “improve or maintain” fresh water quantity, rather than “achieve the improvement or maintenance of” these matters.⁸⁹⁵ Kāi Tahu ki Otago seeks that ecosystem values be included in the matters to be improved or maintained, to ensure an integrated management approach is taken.⁸⁹⁶

899. Wise Response seeks that alongside side the outcomes set for FMUs and/or rohe, the improvement or maintenance of freshwater quantity or quality include consistency with other regional and national policy.⁸⁹⁷

900. Several parties seek amendments to clause (1), to either only require reductions in contaminant discharges where practicable,⁸⁹⁸ or where improvements to water quality

⁸⁹³ 00138.098 QLDC, 00407.048 Greenpeace and 1259 supporters, 00510.028 The Fuel Companies

⁸⁹⁴ 00237.046 Beef + Lamb and DINZ

⁸⁹⁵ 00121.066 Ravensdown

⁸⁹⁶ 00226.206 Kāi Tahu ki Otago

⁸⁹⁷ 00509.090 Wise Response

⁸⁹⁸ 00409.016 Ballance, 00016.011 Alluvium and Stoney Creek, 00017.009 Danny Walker and Others

are required.⁸⁹⁹ Graymont (NZ) Limited notes that extraction-based activities, by their nature, result in some discharges of contaminants to water, and that this is within the limits of their existing resource consents. The submitter also notes that its use of the term “where practicable” is deliberate, and better understood than alternative terms. Ballance, Alluvium and Stoney Creek and Danny Walker and Others also seek to include “where practicable”.⁹⁰⁰ Horticulture NZ seeks to only require reductions where improvements to water quality are required on the basis that it is not appropriate to require reductions in contaminant discharges in all cases, particularly when the chapeau refers also to maintaining water quality.

901. Silver Fern Farms also seeks an amendment to clause (1), replacing the term “reducing” with “managing the adverse effects of”.⁹⁰¹ The submitter considers that this amendment will provide flexibility where a discharge cannot practicably be reduced, but adverse effects can be avoided or appropriately mitigated.
902. Wise Response seeks that clause (1) be changed from reducing discharges to enforcing discharge standards.⁹⁰² It is not clear from the submission what the reason for this amendment is.
903. Wise Response seeks clause (2) be changed from managing adverse effects of land uses, to actively promoting their beneficial effects.⁹⁰³ These changes are intended to make the link between land use and water quality. Moutere Station opposes clause (2) and states that people should be able manage their land as they see fit, providing they meet all regulations.⁹⁰⁴
904. COES and Lynne Stewart seek that a clause be added to manage land uses that have an adverse effect on water quality that cannot effectively be managed through mitigation.⁹⁰⁵ The submitter considers that for some land uses, such as dairying on alluvial soils adjacent to the Manuherekia River, reducing indirect discharges is not possible. In these cases, the submitter considers controls on activities such as intensive dairying and winter feeding of forage crops are required.
905. John Highton seeks that the RPS should place a particular emphasis on protection of water yielding capabilities in the upper reaches of river catchments, including examples like upland tussock grasslands and wetlands in upper catchments.⁹⁰⁶
906. Kāi Tahu ki Otago seeks the addition of the following new clause:⁹⁰⁷

⁸⁹⁹ 00236.073 Horticulture NZ, 00121.066 Ravensdown, 00235.109 OWRUG

⁹⁰⁰ 00409.016 Ballance, 00016.011 Alluvium and Stoney Creek, 00017.009 Danny Walker and Others

⁹⁰¹ 00221.010 Silver Fern Farms

⁹⁰² 00509.090 Wise Response

⁹⁰³ 00509.090 Wise Response

⁹⁰⁴ 00026.015 Moutere Station

⁹⁰⁵ 00202.029 COES, 00030.023 Lynne Stewart

⁹⁰⁶ 00014.060 John Highton

⁹⁰⁷ 00226.206 Kāi Tahu ki Otago

managing riparian margins to maintain or enhance their habitat and biodiversity values, reduce sedimentation of water bodies and support improved functioning of catchment processes.

907. The submitter considers that the policy should include direction on management of riparian margins, given the functions relating to health and well-being of waterbodies. They also note that LF-LS-M13 includes methods to achieve integrated management of riparian margins, but that these are not supported by policy direction.

908. DCC seeks that the policy be amended to restrict its application to a more specific set of land use activities, with a more realistic policy outcome threshold.⁹⁰⁸ They consider that clause (2) gives a very broad mandate to manage land uses that may have an adverse effect on the flow of water, and that on a strict literal interpretation, would create too much uncertainty around what urban land uses may be permissible under the RPS. They propose the following wording:

When considering appropriate areas to enable new urban growth or setting rules to manage land uses, consider how land uses may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater, and ensure that management approaches will achieve the environmental outcomes set for Freshwater Management Units and/or rohe.

909. OWRUG seeks that consideration should be given to a new provision encouraging the adoption of good practice measures.⁹⁰⁹

31.1.1.3. Analysis

910. Given this policy seeks to manage the effects of land uses on freshwater, I consider it is best placed in the LF-LS chapter. I recommend rejecting the submission point by Beef + Lamb and DINZ.

911. I agree with Ravensdown that the wording of the chapeau could be simplified. However, Policy 5 requires that water bodies are improved where they are degraded and otherwise maintained. I consider that the wording “improve or maintain” as sought by the submitter does not recognise that distinction. I recommend accepting this submission point in part and amending the chapeau to align with the language in LF-FW-P7(1).

912. Kāi Tahu ki Otago seeks to include reference to ecosystem values in the chapeau of this policy in order to ensure an integrated approach is taken. I agree with the submitter’s reasoning but am unsure what is meant by ecosystem values. I note that Policy 5 requires the “health and well-being” of water bodies to be improved, where degraded, or maintained. I consider that would address the submitter’s concern in a way that is consistent with the NPSFM and does not introduce additional terms to the policy that may not be widely understood.

913. I do not consider that the amendment sought by Wise Response to include reference to other regional and national policy is necessary. The Council has a range of obligations to

⁹⁰⁸ 00139.124 DCC

⁹⁰⁹ 00235.109 OWRUG

meet under the RMA, including responding to the direction in other policy instruments in the manner set out in the RMA. I recommend rejecting this submission point.

914. I agree with Ravensdown, OWRUG, Graymont, Horticulture NZ Ballance, Allyvium and Stoney Creek, and Danny Walker and others that there may be circumstances where it is not necessary to reduce discharges of contaminants to water. I do not consider that qualifying clause (1) by including “where practicable” is appropriate because practicability is not the test required in freshwater management. Where contaminant concentrations do not meet national bottom lines, water quality must be improved in accordance with Policy 5 of the NPSFM. The practicability of the methods to improve water quality are a matter for the regional plan to determine as each council implements the steps required by the NOF. In relation to the decision sought by Horticulture NZ, I do not consider that reductions will only be required to improve the health of fresh water – in some cases, reductions may be required to maintain water quality, for example. As highlighted by submitters, reductions will not always be necessary therefore I recommend including “or otherwise managing” after “reducing”. I consider it is clear that the outcome sought of reducing or managing these contaminants is to meet environment outcomes, as stated in the chapeau. I recommend accepting in part the submission points by Ravensdown, OWRUG, Graymont and Horticulture NZ.
915. Silver Fern Farms seeks to replace “reducing” with “managing the adverse effects of” in clause (1). I agree with the submitter that a straight reduction in the discharge may not be the only way to reduce contaminant discharges and that alternative methods may also be appropriate. I do not agree that “managing” is an appropriate substitution for “reducing”. It is inevitable that some reductions in contaminants being discharged to water will be required to meet environmental outcomes set using the NOF process. I recommend including “the adverse effects of” in front of “direct and indirect discharges” and therefore recommend accepting this submission point in part.
916. I do not recommend accepting the submission point by Wise Response seeking to reference the enforcement of discharge standards. Not all contaminants may be subject to standards, and not all contaminant discharges may be sufficiently measurable to determine compliance. The submitter has also sought to refocus clause (2) from managing land uses to actively promoting their beneficial effects. It is unclear how this promotion might occur, and what guidance there would be for activities that have adverse effects. I recommended rejecting the submission point.
917. I consider that LF-LS-P21 assists land users to comply with regulatory requirements, particularly those in the NPSFM. In my opinion, land users have had many decades to manage their land in ways that do not result in adverse effects on the environment and in many places that has not occurred. Significant change will be required to meet environmental outcomes and give effect to Te Mana o te Wai. I recommend rejecting the submission point by Moutere Station.
918. In a similar vein, I agree with Lynne Stewart and COES that some activities will require “more management” than others. However, I consider that specific guidance on such activities is best placed in a regional plan, with the FMU sections able to provide specific guidance as required. I recommend rejecting the submissions points by these submitters.

919. I consider Highton’s requested addition is captured by clause (2), which seeks to manage land uses that affect flows of water. This will be applicable in upper catchment areas where land use affects surface flows and groundwater recharge. I recommend rejecting the submission point.
920. I agree with Kāi Tahu ki Otago that healthy riparian margins contribute to the wider health and well-being of freshwater bodies and that it is appropriate to recognise that in LF-LS-P21, particularly given the requirements set out in LF-LS-M13. Rather than “managing”, I consider that “maintaining or, where degraded, enhancing” better aligns with the chapeau of this policy and the content of LF-LS-M13. I recommend accepting this submission point in part.
921. I disagree with DCC that clause (2) is uncertain, given the management of land uses that may adversely affect water flows is likely to require policy and rule direction in regional plans. I recommend rejecting this submission point.

31.1.1.4. Recommendation

922. I recommend amending LF-LS-P21 to:

LF-LS-P21 – Land use and fresh water

~~Achieve the improvement or maintenance of fresh water quantity, or quality~~ The health and well-being of water bodies is maintained⁹¹⁰ or, if degraded, improved⁹¹¹ to meet environmental outcomes set for Freshwater Management Units and/or rohe by:

- (1) reducing or otherwise managing⁹¹² the adverse effects of⁹¹³ direct and indirect discharges of contaminants to water from the use and development of land to meet environmental outcomes,⁹¹⁴ and
- (2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater-, and
- (3) maintaining or, where degraded, enhancing the habitat and biodiversity values of riparian margins in order to reduce sedimentation of water bodies and support improved functioning of catchment processes.⁹¹⁵

31.2. Draft supplementary evidence

No supplementary evidence prepared.

⁹¹⁰ 00121.066 Ravensdown

⁹¹¹ 00226.206 Kāi Tahu ki Otago

⁹¹² 00236.073 Horticulture NZ

⁹¹³ 00221.010 Silver Fern Farms

⁹¹⁴ 00236.073 Horticulture NZ

⁹¹⁵ 00226.206 Kāi Tahu ki Otago

32. LF-LS-M11

32.1. Previous section 42A report content

32.1.1. LF-LS-M11 – Regional plans

32.1.1.1. Introduction

923. As notified, LF-LS-M11 reads:

LF-LS-M11 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans* as required by the RMA and any regulations,
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of effluent storage and applications systems, and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient allocation and use of *fresh water*, and
- (3) implement policies LF-LS-P16 to LF-LF-P22.

32.1.1.2. Submissions

924. Three submitters seek to retain this method.⁹¹⁶ Beef + Lamb and DINZ seek that the method be deleted or moved to the LF-FW chapter on the basis that it is in the wrong subchapter.⁹¹⁷ No further rationale is provided. DOC seeks that this method be revised to ensure that regional plans give effect to all relevant matters relating to land, other than the narrow range of effects on water.⁹¹⁸ NZ Pork seeks that the method is consistent

⁹¹⁶ 00138.100 QLDC, 00236.074 Horticulture NZ, 00121.067 Ravensdown

⁹¹⁷ 00237.08 Beef + Lamb and DINZ

⁹¹⁸ 00137.077 DOC

with the terminology used in Proposed Plan Change 8 to the Water Plan for effluent systems, facilities, storage and application.⁹¹⁹

925. DCC neither supports nor opposes LF-LS-M11 but notes comments about consultation on the yet to be developed land and water regional plan, their concerns regarding the policies referenced in clause (3), and their effect on content in the Regional Plan.⁹²⁰ The submission does not include any proposed amendments to the wording of the methods.

Clause (1)

926. Fish and Game and Kāi Tahu ki Otago seek to delete the reference to certified freshwater farm plans being 'required by the RMA and any regulations' in the second part of clause (1)(a).⁹²¹ John Highton seeks that wording be added to clause (1)(a) requiring individual farm plans to be informed by a related catchment plan.⁹²² Specific wording is not included in his submission.

927. Moutere Station opposes clause (1)(b), stating that this is a large topic which needs more science behind it to understand the full effects.⁹²³ Also in clause (1)(b), Fish and Game seeks to require avoiding land uses which result in any pugging in critical source areas and to limit high risk activities on steep slopes. The submitter considers that the importance of managing these areas for water quality and soil health is well researched, and this should be reflected in the management of land in the region. Wise Response seeks amendments to clause (1)(b) to include reference to minimising the use of supplementary nutrients.⁹²⁴ The submitter considers that this change will provide for better control over the use of supplementary nutrients.

928. Rayonier seeks that clauses (1)(b) and (d) be amended to add that the provisions of the NESPF apply to plantation forestry.⁹²⁵ They submit that before a provision may be more stringent if giving effect to a freshwater objective, there must be an assessment of the effectiveness of the NESPF. The submitter considers that this assessment has not been made.

929. Greenpeace seeks that an additional method be added to clause (1):⁹²⁶

Phase out synthetic nitrogen fertiliser and intensive dairy farming to reduce impacts on soil, freshwater, ecosystems and the climate.

930. Greenpeace submits that synthetic nitrogen fertiliser should be phased out by 2024, for several reasons, being:

- That its use is incompatible with protecting Te Mana o te Wai;

⁹¹⁹ 00240.032 NZ Pork

⁹²⁰ 00139.026 DCC

⁹²¹ 00231.066 Fish and Game, 00226.208 Kāi Tahu ki Otago

⁹²² 00014.062 John Highton

⁹²³ 00026.016 Moutere Station

⁹²⁴ 00509.091 Wise Response

⁹²⁵ 0020 Rayonier, page 8 of submission

⁹²⁶ 00407.049 Greenpeace and 1259 supporters

- That it will aid in tackling the climate crisis; and
- That it is required in order to identify limits based on environmental impacts.

931. Lloyd McCall submits that there could be a clause added to require ORC to promote implementation of new farming techniques, and non-soluble and/or alternative fertiliser solutions.⁹²⁷ Chemical natural fertiliser solutions are understood to be those that are derived from natural products, such as plant material or manure, rather than manufactured components, such as urea, diammonium phosphate or ammonium sulphate. This addition is not listed against a specific part of LF-LS-M11 but is considered most likely to be captured by the matters included under clause (1).

Clause (2)

932. Wise Response seeks that clause (2) be amended to actively promote, rather than provide for, changes in land use, and seeks to specify that the changes in land use promoted will be for systems compatible with national net zero carbon goals.⁹²⁸ This change is intended to ensure the methods are consistent with the national zero carbon goals.

933. Kāi Tahu ki Otago seeks an amendment to clause (2) to remove the reference to efficient allocation and include reference to reducing demand on freshwater resources to give effect to objectives developed under the NPSFM.⁹²⁹ This amendment is sought for the same reasons as described for LF-LS-P21, with the submission also noting that allocation of water is a management technique, not the result of a change in land use.

Additional clauses

934. OWRUG seeks an additional clause requiring identification and mapping of highly productive land.⁹³⁰ The submitter considers that mapping highly productive land is an important part of achieving LF-LS-P19.

935. COES and Lynne Stewart seek that the regional council identifies where adverse effects on freshwater cannot be practically avoided, remedied or mitigated for certain land uses, and where these land uses are discretionary activities.⁹³¹ The submitters consider that clauses (1)-(3) are inadequate and unlikely to achieve the desired outcomes.

32.1.1.3. Analysis

936. This method sets out a range of requirements for ORC's land and water regional plan, which will manage some uses of land (including for the purpose of maintaining or improving water quality). I consider the LF-LS section is the correct part of the chapter for this method and I recommend rejecting the Beef + Lamb and DINZ submission point.

937. In relation to DOC's submission, I consider that the matters in LF-LS-M11 are specific to land and soil, including quality, productive capacity and influence on water quality. I acknowledge that the method may not recognise or address all matters related to land

⁹²⁷ 00319.007 Lloyd McCall

⁹²⁸ 00509.091 Wise Response

⁹²⁹ 00226.208 Kāi Tahu ki Otago

⁹³⁰ 00235.110 OWRUG

⁹³¹ 00202.030 COES, 00030.024 Lynne Stewart

but note that methods relating to land are included in other chapters of the pORPS 2021 as well, such as ECO and HAZ. Without further information from the submitter as to the other matters they seek to be included in LF-LS-M11, I recommend rejecting the submission point.

Clause (1)

938. I agree with Fish and Game and Kāi Tahu ki Otago that the clause (1)(a) reference to the RMA and any regulations is not necessary. Freshwater farm plans are already required by Part 9A of the RMA, with work ongoing to develop regulations that will set out requirements for freshwater farm plans. Any compulsory requirement for freshwater farm plans will likely stem from national guidance, rather than a regional plan. I consider that farm plans will be a means to achieve catchment and wider FMU outcomes once those have been developed in the land and water regional plan. On this basis, I accept all submissions relating to clause (1), but only recommend removing the reference to the RMA and regulations.
939. I disagree with Moutere Station that more science is required to understand the full effects associated with adopting practices that reduce the risk of sediment and nutrient loss to water. I consider there is a considerable volume of information around good management practices for reducing sediment and nutrient loss to water, as previously discussed in relation to LF-LS-P18. I consider that clause (1)(b) is not prescriptive in the practises required, with the ability for these to be tailored to fit each situation, subject to achieving the water quality outcomes. I recommend rejecting this submission point.
940. In terms of specific best practices sought by Fish and Game in clause (1)(b), I consider that pugging is captured by the management of critical sources areas, and the practices as notified capture the key risk pathways on steep slopes. I note that the wording of the clause is “the adoption of practices that reduce the risk of sediment and nutrient loss to water, including...” (my emphasis). This is not an exhaustive list and it is anticipated that other measures to achieve the same outcomes will also be identified in the land and water regional plan. I do not recommend accepting the submission point.
941. While I agree with Wise Response that minimising the use of supplementary nutrients is a means to reduce nutrient losses to water, I am unsure how this would be implemented given that nutrients could include both artificial and natural fertilisers, as well as nutrient supplements fed directly to stock. In addition, the use of supplementary nutrients in some circumstances may aid in reducing nutrient losses to water, rather than increase those losses, as implied by submitter. I consider that specific management of nutrient inputs is best managed by the regional plan, alongside the synthetic nitrogen provisions in the NESF. I recommend rejecting the submission point.
942. As with supplementary nutrients, I consider that the additional clauses sought by Greenpeace and Lloyd McCall are best placed in the regional plan, particularly where the direction can be tailored to specific FMUs and their values and visions. Phasing out the use of synthetic nitrogen fertiliser and intensive dairy farming would have significant costs for Otago’s communities and the submitters have not provided any analysis to support the relief they seek, particularly in relation to the costs and benefits as required

by section 32 of the RMA. I am also unclear how ORC would promote implementation of certain farming techniques. I recommend rejecting both submission points.

943. I acknowledge that clause (1)(b) and (d) would appear to apply to plantation forestry, despite the provisions of the NESPF. The NESPF contains regional and district rules and is therefore most relevant to that 'level' of planning document. In my view, it is acceptable for a regional policy statement to contain broader direction which is then interpreted and given effect through the relevant regional and district plans. I consider that the specific and detailed requirements of the NESPF will inform the development of any regional plan rules for these types of land uses. Therefore, I do not consider it is necessary to specify in the pORPS 2021 every instance where the NESPF (or any other NES) may apply.

Clause (2)

944. In relation to Wise Response's amendments to clause (2), I consider it is not clear what 'active promotion' would look like in practice, nor how the relevant land use changes that are compatible with net zero carbon goals would be identified. I recommend rejecting this submission point.
945. As discussed in relation to LF-LS-P20(1), I recommend retaining reference to efficiency of use as this is the direction provided in Policy 12 of the NPSFM. Additionally, any water use will be required to comply with other relevant direction in the LF chapter, including LF-WAI. On this basis, I recommend rejecting the submission point of Kāi Tahu ki Otago.

Additional matters

946. I note that the amendments sought by OWRUG to require mapping of highly productive land are consistent with the submissions by CODC, Trojan and Wayfare on LF-LS-P19. I agree that mapping provides certainty to regional and district plans about the area where particular policy direction applies (or not). I do not agree that the land and water regional plan is the appropriate place to contain the maps. One of the key threats to highly productive land is urban development, therefore maps of highly productive land will be equally as important for territorial authorities, however district plans only have to be "not inconsistent" with regional plans in accordance with section 75(4)(b).
947. Where and by whom highly productive land is identified is a matter covered by the dNPSHPL which proposed that regional councils would identify highly productive land and map those areas in their regional policy statements. While I acknowledge that document is only a draft and therefore does not have legal effect, I am aware that on 14 March 2022 the Ministry for Primary Industries (which is the agency responsible for leading the development of the dNPSHPL) advised publicly that Cabinet would consider the dNPSHPL in May 2022 and, if approved, the dNPSHPL would likely take effect in June 2022 (Ministry for Primary Industries, 2022). This is problematic timing for the pORPS which will be in hearings at that time. In light of this uncertainty, I consider that at this stage it would be preferable for the pORPS to retain its direction as notified and not specifically identify where or by whom highly productive land will be identified. If the dNPSHPL is released as expected, there will be an opportunity to reconsider the submission points by OWRUH, Blackthorn Lodge, Trojan, and Wayfare through evidence. At this stage I do not recommend accepting these submission points for this reason.

948. I acknowledge the concerns of COES and Lynne Stewart around identifying areas that may not be suitable for particular land uses. However, I consider that this type of activity-specific management is more appropriately considered in the regional plan. I understand that the Council's new land and water regional plan will set out the environmental outcomes to be achieved in each FMU as well as any limits on resource use needed to meet those outcomes. That will provide an opportunity for the Council, in consultation with communities, to identify and evaluate the methods available to achieve the outcomes sought. On this basis, I recommend rejecting the submission point.

949. I note that clause (3) refers to LF-LF-P22 which does not exist. The correct reference is to LF-LS-P22. I recommend this change be made under clause 16(2) of Schedule 1 of the RMA.

32.1.1.4. Recommendation

950. I recommend amending LF-LS-M11 to:

LF-LS-M11 – Regional plans

Otago Regional Council must publicly notify a Land and Water Regional Plan no later than 31 December 2023 and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans*, as required by the RMA and any regulations,⁹³²
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of animal effluent systems storage and the applications systems of animal effluent to land,⁹³³ and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient allocation and use of *fresh water*, and
- (3) implement policies LF-LS-P16 to LF-LS-P22.⁹³⁴

⁹³² 00231.066 Fish and Game, 00226.208 Kāi Tahu ki Otago

⁹³³ 00240.032 NZ Pork

⁹³⁴ Clause 16(2) Schedule 1, RMA

32.2. Draft supplementary evidence

No supplementary evidence prepared.

NO LEGAL STATUS

33. LF-LS-AER14

33.1. Previous section 42A report content

33.1.1. LF-LS-AER14

33.1.1.1. Introduction

951. As notified, LF-LS-AER14 reads:

LF-LS-AER14 The use of *land* supports the achievement of *environmental outcomes* and objectives in Otago's *FMUs* and rohe.

33.1.1.2. Submissions

952. LF-LS-AER14 is supported by QLDC⁹³⁵. No other submissions on LF-LS-AER14 were received.

33.1.1.3. Recommendation

953. I recommend retaining LF-LS-AER14 as notified.

33.2. Draft supplementary evidence

No supplementary evidence prepared.

MAP1

⁹³⁵ 00138.106 QLDC