
BRIEF OF SUPPLEMENTARY EVIDENCE OF FELICITY ANN BOYD
INTRODUCTION AND GENERAL THEMES

Qualifications and Experience

- 1 My full name is Felicity Ann Boyd and I am an Associate employed by Incite, a planning consultancy. I hold a Bachelor of Social Science and a Master of Environmental Policy (First Class Honours) from Lincoln University. I am a full member of the New Zealand Planning Institute and am an accredited decision-maker under the Making Good Decisions programme.

- 2 I have over ten years of resource management and planning experience, largely in the public sector (including most recently in the private sector but primarily working for public sector clients). During this time, I have specialised in policy planning, including drafting provisions for regional policy statements, plans, and plan changes, along with associated section 32 evaluation reports, section 42A reports and reporting officer roles. I also have experience participating in Environment Court processes such as expert conferencing, mediation, and hearings on plans and plan changes. While I have a particular focus on freshwater management, I have a broad range of experience including coastal and air resources as well as urban planning.

- 3 I have been involved in the review of the Partially Operative Otago Regional Policy Statement 2019 and the preparation of the proposed Otago Regional Policy Statement 2021 (**pORPS**) since January 2020. I have provided technical oversight for provision drafting, the section 32 evaluation report, and the suite of section 42A reports as well as being a technical lead for particular chapters, most recently the *LF – Land and freshwater* and *IM – Integrated management* chapters.

Code of Conduct

- 4 I have read and agree to comply with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2014. I have complied with the Code in preparing my evidence. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have

not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

5 This supplementary statement of evidence updates the recommendations I made in my section 42A report titled *Chapter 1: Introduction and general themes* in relation to the following matters:

- 5.1 The term “environmental limit”, its definition, and its use throughout the pORPS;
- 5.2 Provision for the habitat of trout and salmon;
- 5.3 Use of the terms “control” and “manage” throughout the pORPS; and
- 5.4 Provision for extractive industries.

6 In the sections below, and in relation to each matter above, I have:

- 6.1 Identified the recommendation(s) that is to be amended or replaced.
- 6.2 Identified the authority relied upon to make these amendments or replacements.
- 6.3 Provided an explanation for the amendment or replacement.
- 6.4 Set out the proposed amendments to the relevant pORPS provisions.
- 6.5 Evaluated the amendment or replacement in accordance with section 32AA of the RMA.

7 Where I have recommended additional amendments to provisions, my recommendations are shown in addition to my original section 42A recommendations. The key below sets out how these different recommendations are shown.

Key to proposed amendments

Appearance	Explanation
Black text	Text as notified.
Black text with <u>underlining</u> or strikethrough	Amendments recommended in section 42A report.
Red text with <u>underlining</u> or strikethrough	Additional amendments recommended in supplementary evidence where there has been no previous amendment to the ‘as notified’ provision text.

Black text with <u>red underlining</u>	Text that was recommended to be deleted in s42A report but now recommended to be retained (“undeleted”) by supplementary evidence.
Red strikethrough with <u>black underlining</u> .	Text that was recommended to be inserted in s42A report (black underline) but now recommended to be deleted by supplementary evidence (red strikethrough).

- 8 In the same way as the original section 42A report recommendations, the scope for all proposed amendments is included as a footnote in the amended provisions. Where the amendments were recommended in the section 42A report, the supporting explanation is in the section 42A report. Where the amendments are recommended through this supplementary evidence, the supporting explanation is contained in this supplementary evidence.

Food and fibre production

- 9 In section 1.6.7 of Chapter 1 of my s42A report, I discussed submissions on “primary production” and other associated terms. As part of this discussion, I considered a number of submissions on the use of the term “primary production” in provisions managing highly productive land and, in particular, whether the term “primary production” and the activities included in its definition were appropriate to be prioritised on highly productive land.
- 10 Submitters sought a range of amendments to this term, both in relation to the term used (i.e. primary production or some other term) and to the activities included in the definition of the term (primarily in relation to mining, quarrying, and forestry activities). I recommended retaining the term “primary production” as I considered that its use was appropriate in some pORPS provisions but recommended replacing it with the term “food and fibre production” in LF-LS-O11, LF-LS-P19, LF-LS-E4, LF-LS-PR4 and UFD-P7 (the provisions relating to highly productive land).
- 11 As a result of pre-hearing discussions, I reconsidered this term and its definition. However, since then, the National Policy Statement for Highly Productive Land 2022 has been released and will come into effect on 17 October 2022. Its provisions directly affect the term used in these provisions and its definition. As a result, this statement of evidence does not address my section 42A recommendation to replace “primary production” with “food and fibre production”. A further statement of evidence will be published on 21 October with my analysis and recommendations in relation to provisions managing highly productive land and the implications of the new National Policy Statement.

Environmental limit

- 12 In section 1.6.3 of Chapter 1 of the s42A report, I discussed submissions on the terminology of and need for environmental limits. Fish and Game submitted that multiple provisions within the pORPS use wording akin to limits, such as “environmental limits”, “limits”, “bottom lines”, or “environmental constraints.”¹ The submitter considered that “environmental limits” was the most suitable terminology as it aligns with commonly used terminology and that clear and consistent language should be used in the pORPS.²
- 13 Several submitters seek similar changes to specific provisions, including:
- 13.1 Blackthorn Lodge, Fish and Game, Meridian, Trojan, Wayfare submit that the term “environmental bottom line” should be replaced with “environmental limits” in IM-P12.³
- 13.2 Waitaki Irrigators, who seek to include a definition for the term “threshold” in response to use of the term in IM-M1(6) but do not propose wording.⁴
- 13.3 Maryhill, LAC, Lane Hocking, Mt Cardrona Station and Universal Developments seek the deletion of IM-P14, as there is uncertainty surrounding the terms “environmental limits”, “limits” and “degraded”, as well as uncertainty around how limits will be set and by whom.⁵
- 14 In paragraph 147 of my s42A report, and in response to the submission by Fish and Game, I recommended including a definition of the term “environmental limit”, as well as consequential amendments to several provisions in the pORPS to replace the terms “limit”, “threshold”, “environmental bottom line” and “biophysical limit” with the term “environmental limit”.
- 15 I understand that some parties are concerned that the definition I recommended in my section 42A report is overly focused on biophysical limits, and that the use of the term “environmental limit” does not assist with policy interpretation in all provisions where the term was recommended to be used. As recommended in the Section 42A report:

¹ 00231.009 Fish and Game

² 00231.009 Fish and Game

³ 00119.003 Blackthorn Lodge, 00231.038 Fish and Game, 00306.025 Meridian, 00206.019 Trojan, 00411.030 Wayfare

⁴ 00231.015 Waitaki Irrigators

⁵ 00118.014 Maryhill, 00211.008 LAC, 00210.008 Lane Hocking, 00014.014 Mt Cardrona Station, 00209.008 Universal Developments

Environmental limit means, in relation to natural resources:

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

16 The NPSFM includes definitions for the terms “limit” and “limits on resource use” which are applicable in the context of freshwater management. This definition from the NPSFM is used in some provisions in the pORPS.

17 The term “limit” is defined and used in the NPSFM in two contexts, being:

limit means either a limit on resource use or a take limit.

limit on resource use means the maximum amount of a resource use that is permissible while still achieving a relevant target attribute state (see clauses 3.12 and 3.14)

take limit means a limit on the amount of water that can be taken from an FMU or part of an FMU, as set under clause 3.17

18 The use of the term “environmental limits” in the pORPS (and other, similar terms) was not intended to be restricted only to measurable biophysical limits. In many instances, use of the term sought to describe a range of restrictions, including the use of policy frameworks (such as effects management hierarchies). Having further considered this matter, I am no longer of the view that the definition of “environmental limit” is appropriate. I share submitters’ concerns that the definition may inappropriately and unintentionally narrow the use of the term to biophysical limits and therefore the application of the term in various provisions.

19 I have discussed the use of the term “environmental limits” with other reporting officers⁶ in order to understand the intent behind the use of the term where it appears in the pORPS. Those authors have confirmed that their intention in using this term (and/or other similar terms) was to describe ‘boundaries’ on the use and development of resources in order for that use and development to remain sustainable. In some chapters, for example LF – Land and freshwater, this was primarily in reference to biophysical limits such as those described in the NPSFM. In other chapters, for example CE – Coastal environment, this was more general and intended to capture biophysical limits as well as policy constraints.

20 In my opinion, “limit” as it has been used within the term “environmental limits” was intended by the authors to refer to the general meaning of the word, as described in the Oxford Dictionary (my emphasis added):

Any of the fixed points between which the possible or permitted extent, amount, duration, range of action, or variation of anything is confined; a bound which may not be passed, or beyond which something ceases to be possible or allowable.

21 The inclusion of “environmental” has the potential to introduce uncertainty as it is unclear whether that means limits originating in the environment or limits on the environment, which is a matter raised (indirectly) by some submitters. In addition, I consider this has become somewhat confused due to the use of the term, and its definition, in the NPSFM. In my view, “limit” is the correct term to use and I therefore recommend rescinding my section 42A recommendation to incorporate a definition of “environmental limit”, as well as consequential amendments to remove “environmental” throughout the pORPS provisions that use the term “environmental limits”. In relation to the term “limit”, I now recommend the following:

21.1 In the *LF – Land and freshwater* chapter, “limit” has the meaning defined in the NPSFM, and

21.2 Elsewhere in the pORPS, “limit” has its natural and ordinary meaning.

22 Mandatory direction 6 in *Standard 14: Definitions* of the National Planning Standards requires that:

⁶ Jacqui Todd (SRMR), Hannah Goslin (AIR), Andrew Maclellan (CE), Peter Stafford (EIT), Kyle Balderston (UFD).

If a term is used in more than one context (eg, 'bed' may relate to the bottom of a river or a place to sleep), local authorities must, in their Definitions chapter, add the context in which the term is defined in brackets after the term name eg, bed (in relation to lakes, rivers and the sea).

- 23 In accordance with this direction, I recommend that where “limit” appears in the *Interpretation* section of the pORPS that it is followed by “(in relation to freshwater)” and that consequential amendments to relevant pORPS provisions are made to reflect this.
- 24 I have reviewed the uses of the terms “limit” and “environmental limit”, as well as other similar terms, across the pORPS. Each instance, my analysis, and my updated recommendation, is contained in **Appendix A**.

Section 32AA evaluation

- 25 Deleting the recommended definition of “environmental limit” returns the pORPS to its notified state, which was assessed in the section 32 evaluation report.⁷ In my opinion, the amendments I now recommend are amendments of clarification rather than substance and therefore no further evaluation is required.

Habitat of trout and salmon

- 26 In section 1.6.8 of Chapter 1 of the s42A report, I discussed submissions on the habitats of trout and salmon. Broadly, Fish and Game seeks greater protection of the habitat of trout and salmon through a suite of specific amendments for the LF chapter⁸ and ECO chapter.⁹
- 27 I variously recommended accepting and rejecting the submission points by Fish and Game. In paragraph 294 of my section 42A report I recommended deleting the word “native” in LF-FW-O8(4) so that the clause applied to exotic as well as indigenous species and including a new clause (2A) in LF-FW-P7 for the protection of habitats of trout and salmon.
- 28 A number of pre-hearing discussions have occurred on this topic amongst parties with a particular interest in sports fish management. Those discussions

⁷ Section 32 Evaluation Report for the Proposed Otago Regional Policy Statement (May 2021). Available from <https://www.orc.govt.nz/media/10030/section-32-report-v61.pdf>

⁸ 00231.047 Fish and Game, 00231.05 Fish and Game, 00231.053 Fish and Game, 00231.055 Fish and Game, 00231.056 Fish and Game, 00231.057 Fish and Game, 00231.058 Fish and Game, 00231.059 Fish and Game, 00231.060 Fish and Game.

⁹ 00231.070 Fish and Game, 00231.074 Fish and Game

highlighted agreement amongst those parties that additional clarity on species management, and particularly the need for guidance on identifying areas where protecting the habitat of trout and salmon is either consistent or inconsistent with protecting the habitat of indigenous species, in line with Policies 9 and 10 of the NPSFM.

- 29 I continue to support the recommendations I made in my section 42A report with regard to my proposed amendments to LF-FW-O8(4) and LF-FW-P7(2A). However, I now also recommend including a new method in the LF-FW section to provide direction on implementing LF-FW-P7(2A). The drafting I recommend is set out below in paragraph 35.
- 30 There are a number of organisations with an interest or role in managing the interactions between trout and salmon and indigenous species. Clause (1) of the new method I recommend requires local authorities to have particular regard to the recommendations of the Department of Conservation, the relevant Fish and Game Council, and Kāi Tahu when making decisions involving interactions between trout and salmon and indigenous species. The intent of this clause is to encourage more collaborative, integrated management.
- 31 Clause (2) of the new method I recommend outlines a series of actions to be undertaken by the Otago Regional Council alongside the Department of Conservation, the relevant Fish and Game Council, and Kāi Tahu. The ultimate outcome is the development of an action plan or plans under the National Policy Statement for Freshwater Management 2020 (**NPSFM**).
- 32 As set out in clause 3.15(2) of the NPSFM, action plans may contain regulatory (including under the Resource Management Act 1991 but also other legislation such as the Biosecurity Act 1993) or non-regulatory actions. Given the number of organisations with differing roles (regulatory and non-regulatory) in species management, I consider an action plan to be a very useful tool for assisting with coordinated and integrated management.
- 33 Clause 3.26(6) of the NPSFM requires an action plan to be prepared for fish passage. There is overlap between the protection of the habitats of trout, salmon, and indigenous species, and the requirements in the NPSFM to provide for fish passage. In essence, fish passage must be provided unless it is undesirable to do so. This will include situations where it is undesirable to allow for the passage of exotic species that predate on indigenous species. There are clear synergies with the direction in Policy 10 of the NPSFM to protect the habitats of trout and

salmon insofar as this is consistent with protecting the habitats of indigenous species.

34 The phrasing of clause (2)(c) and its reference to action plan(s) is deliberate – I am conscious that the Council is still some 18 months from notifying its new regional plan and decisions on the number and type of action plans may not have been made yet. It may be that an action plan for species management incorporates elements of the mandatory action plan for fish passage, or vice versa. I consider those decisions should not be made now through the pORPS.

35 I recommend the following new method in the LF-FW section:

LF-FW-M8A – Identifying and managing species interactions between trout and salmon and indigenous species

(1) When making decisions that might affect the interactions between trout and salmon and indigenous species, local authorities will have particular regard to the recommendations of the Department of Conservation, the Fish and Game Council relevant to the area, Kāi Tahu, and the matters set out in LF-FW-M8A(2)(a) to (c), and

(2) Otago Regional Council will work with the Department of Conservation, the relevant Fish and Game Council and Kāi Tahu, to:

(a) identify areas where the protection of the habitat of trout and salmon, including fish passage, will be consistent with the protection of the habitat of indigenous species,

(b) identify areas where the protection of the habitat of trout and salmon will not be consistent with the protection of habitat of indigenous species, and

(c) for areas identified in (b), develop provisions for any relevant action plans(s) prepared under the NPSFM, including for fish passage, that will at minimum:

(i) determine information needs to manage the species,

(ii) set short-, medium- and long-term objectives,

(iii) identify appropriate management actions that will achieve objectives determined in (ii) and account for habitat needs, and

(iv) use tools available within the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, where appropriate.¹⁰

¹⁰ 00231.003 Fish and Game

Section 32AA evaluation

- 36 The new method I now recommend including in the LF-FW chapter specifies how the requirements in the NPSFM, as well as the pORPS provisions as I recommended them to be amended in my section 42A report, will be implemented. There may be additional costs for the local authorities and other organisations with responsibility for particular actions under this method, however these would likely have been required with or without the method in order to implement the NPSFM.
- 37 I consider the amendments are more effective and efficient than the wording recommended in my Section 42A report, on the basis that they set out a clear pathway for implementing LF-FW-P7(2) and therefore giving effect to Policy 10 of the NPSFM. The amendments will be more effective at achieving LF-FW-O8 because they assist with supporting healthy mahika kai populations and protecting taoka species from predation by exotic species.

Use of the terms “control” and “manage” throughout the pORPS

- 38 During pre-hearing discussions, submitters identified that the terms “control” and “manage” are used throughout the methods in the pORPS but not always in consistent ways. Submitters queried whether the inconsistency in the use of the terms was intentional.
- 39 The term “manage” is used in the following methods:
- 39.1 LF-FW-M6(5)(d) and (8);
 - 39.2 CE-M3(4);
 - 39.3 LF-FW-M12(1);
 - 39.4 HCV-WT-M2 (as recommended for amendment by the section 42A report author); and
 - 39.5 NFL-M3(3).
- 40 The term “control” is used in the following methods:
- 40.1 LF-FW-M6(5)(c);
 - 40.2 CE-M3(4)(d)(ii) and (5);

- 40.3 LF-LS-M12(1)(a);
- 40.4 ECO-M4(1A);
- 40.5 ECO-M5(2);
- 40.6 HCV-WT-M2 (as notified); and
- 40.7 NFL-M3(1).
- 41 LF-FW-M6(5)(c) now forms part of the Freshwater Planning Instrument and is therefore outside the scope of this evidence.
- 42 The Oxford Dictionary defines these terms as follows:
- manage***: to conduct, carry on, supervise, or control (a war, undertaking, operation, affair, etc).
- control***: to exercise power or authority over; to determine the behaviour or action of, to direct or commend; to regulate or govern.
- 43 I have discussed the use of these terms with the section 42A report authors of the chapters above.¹¹ We agree that “control” is intended to either convey greater restriction or reflect the functions of regional councils set out in section 30 of the RMA, whereas “manage” provides for a broader range of outcomes (which might range from permissive to restrictive). We also agree that some uses of the terms “manage” and “control” in the methods do not reflect the direction set out in the policies they are implementing.
- 44 No submitter has raised this matter in their submissions or sought specific amendments. However, I consider that amendments to clarify the intent of provisions (without altering that intent) are of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.
- 45 On that basis, I recommend the following amendments:

ECO-M4 – Regional plans

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

...

¹¹ Andrew MacLennan (CE and NFL), Melanie Hardiman (ECO), and Angela Fenemor (HCV).

(1A) ~~control~~ manage¹² the clearance or modification of *indigenous vegetation*, while allowing for *mahika kai*¹³ and kaimoana (seafood) activities.¹⁴

...

ECO-M5 – District plans

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

...

(2) ~~control~~ manage¹⁵ the clearance or modification of indigenous vegetation, while allowing for mahika kai¹⁶ activities.¹⁷

...

NFL-M3 – District plans

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

...

(3) ~~manage~~ control¹⁸ *wilding conifer* spread in accordance with NFL-P5.

...

Section 32AA evaluation

46 The amendments I recommend correct unintentional inconsistencies in the methods in the pORPS. The amendments do not alter the policy direction (which is set out in the policies in the relevant chapters) or the intent of the methods. I do not consider that further evaluation under section 32AA is required.

Provision for mining and other extractive industries

47 Following the conclusion of the pre-hearing discussions, the Council received correspondence from Oceana Gold (New Zealand) Limited (**OGNZL**) outlining that OGNZL continues to consider that the pORPS fails to make provision for mining. In its correspondence, OGNZL proposes a suite of amendments to the LF-LS, ECO and UFD chapters. The amendments proposed by OGNZL are more specific than those contained in its original submission, but ultimately have the same effect (i.e. to improve provision for mining and other extractive industries

¹² Clause 16(2), Schedule 1, RMA

¹³ 00226.0038 Kāi Tahu ki Otago

¹⁴ 00226.230 Kāi Tahu ki Otago / Aukaha

¹⁵ Clause 16(2), Schedule 1, RMA

¹⁶ 00226.0038 Kāi Tahu ki Otago

¹⁷ 00226.231 Kāi Tahu ki Otago

¹⁸ Clause 16(2), Schedule 1, RMA

in the pORPS). Many submitters sought similar amendments in their original submissions.¹⁹

- 48 I addressed the submissions seeking provision for mining and other extractive industries in section 1.6.5 of my section 42A report. I did not recommend any amendments in response to these submissions primarily because I did not agree with the submitters that there was sufficient justification for the wide-ranging ‘exemptions’ sought by the submitters from many policy frameworks in the pORPS.²⁰ My preliminary position was that if an exemption from a particular policy framework could be justified, then amendments should be made to those specific provisions.
- 49 In the sections below, I discuss the amendments sought by OGNZL to the LF-LS, ECO, and UFD chapters and provide a summary of my response.

Amendments sought to LF-LS – Land and soils provisions

- 50 In the LF-LS subsection, OGNZL proposes the following:
- 50.1 Amendments to LF-LS-O11;
 - 50.2 A new objective LF-LS-O13 on resource use and development;
 - 50.3 A new policy LF-LS-Px on access to mineral resources; and
 - 50.4 A consequential amendment to LF-LS-M12 to implement the new policy.
- 51 OGNZL seeks amendments to LF-LS-O11 to incorporate reference to access to land, replace the reference to “highly productive land” with just “land”, and replace “food and fibre production” with “primary production”.
- 52 Earlier in this statement of evidence, I have recommended amendments to the objectives in the LF-LS subsection, including splitting out the direction on highly productive land from LF-LS-O11 and incorporating it in a new LF-LS-O11A. In light of that recommendation, I will discuss OGNZL’s proposed amendments in relation to my updated recommendations in this statement of evidence, rather

¹⁹ For example, 00022 Graymont, 00010 Phillip Joostens, 00021 Matakanui Gold, 00108 Tony Sewhoy, 00016 Alluvium and Stoney Creek, 00322 Fulton Hogan, 00015 Aggregate and Quarry, 00019 Straterra, 00017 Danny Walker and Others, 00006 Brent & Kelly Duncan, 00008 Foothills Mining

²⁰ Including those for areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes, outstanding natural character, outstanding water bodies, natural wetlands, and places or areas containing historic heritage of regional or national significance.

than the section 42A version. The amendments OGNZL seeks are relevant to new LF-LS-O11A.

- 53 OGNZL's proposed new objective LS-LF-O13 is broad, seeking to recognise the role of resource use and development within Otago and its contribution to enabling people and communities to provide for their social, economic, and cultural wellbeing. The objective relates to all resource use but is set within the *LF-LS – Land and soil* subsection, which only manages land and soil resources. Even with the addition of the new policy sought by OGNZL, the suite of policies in this subsection would be unlikely to achieve the objective as they do not collectively address all resource use and development.
- 54 New policy LF-LS-Px sought by OGNZL requires recognising the benefits of mineral and aggregate resources (clauses (1) and (3)) and the functional and operational constraints they face (clause (2)). I do not oppose this type of direction in principle and I note that there are other provisions in the pORPS which address similar matters (for example, EIT-INF-P10 recognises resource requirements for infrastructure and CE-P11 requires taking into account the needs and benefits of aquaculture activities). However, I am not convinced that the LF-LS subsection is the appropriate place for it, given the focus of this part of the pORPS on highly productive land and soils. I note that there is some duplication with the new policy proposed for the UFD chapter which I discuss later in my evidence.
- 55 The other part of this policy is the introduction of a management framework in clause (4) for mineral and aggregate resources that would override a number of other frameworks set out elsewhere in the pORPS for:
- 55.1 Significant natural areas;
 - 55.2 Outstanding natural features and landscapes;
 - 55.3 Natural wetlands;
 - 55.4 Outstanding water bodies;
 - 55.5 Areas of high or outstanding natural character;
 - 55.6 Areas or places of significant or outstanding historic heritage;
 - 55.7 Wāhi tūpuna and areas with protected customary rights; and

55.8 Areas of high recreational and high amenity value.

56 The accompanying letter from OGNZL setting out its explanation for this policy refers to implementing the direction in the draft National Policy Statement for Indigenous Biodiversity (**draft NPSIB**) for significant natural areas, and in the National Policy Statement for Freshwater Management (**NPSFM**) and National Environmental Standard for Freshwater (**NESF**) when the activity is in a water body or natural wetland.²¹ This appears to relate to the matters in paragraphs 55.1, 55.3, and 55.4 above. OGNZL states in its correspondence that:

It is hoped that this direct reference to the operative national direction will address ORC's concern that the draft NPSIB has no legal standing and does not need to be followed. Whilst OGNZL accepts that the draft NPSIB has no legal effect, OGNZL considers that the exposure draft NPSIB is consistent with both the previous version of the draft NPSIB and the proposed changes to the NESF in providing a consenting pathway for mining. The ORC has not addressed how it proposes to "give effect" to the NPSIB once it comes into force, something which is likely to happen before the RPS hearing process concludes, and a reference to the NPSIB in the RPS will help ensure the new ORPS is not outdated and flawed from the outset.

57 I do not consider that including a direct reference to the draft NPSIB can fulfil the Council's obligations to give effect to that document prior to it coming into force. With or without a reference, the Council will be required to give effect to the NPSIB if it comes into force and that will require an examination of the content of the NPSIB alongside the content of the pORPS. At this stage, the draft NPSIB is not in force and therefore there is no clarity about the content the Council may be required to give effect to. There is also no legal requirement for the Council to consider its content. I note that the draft NPSIB has been under development since 2011 and to date no version of it has come into force.

58 A similar rationale applies to the NPSFM and the NESF. Although it is not clear from the correspondence from OGNZL, I understand the submitter is referring to proposed amendments to these documents that were consulted on from May to July 2022. At the time of writing, those changes had not been formally incorporated into the NPSFM or the NESF and so remain draft proposals with no legal weight. In my opinion, there is little value in attempting to pre-empt the

²¹ OGNZL letter dated 21 July 2022, page 2.

decision-making of the Government and it is more efficient (and likely effective) for the Council to consider its implementation of national direction as and when that direction comes into force.

- 59 There is no explanation or justification for overriding the policy frameworks for the other matters set out above, namely in paragraphs 55.2, 55.5, 55.6, 55.7 and 55.8. In paragraph 208 of my section 42A report, and in response to a very similar proposal by other submitters, I stated the following (my emphasis added):

“I do not consider that any of the relevant submissions have provided sufficient justification to warrant [overriding the policy frameworks managing areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes, outstanding natural character, or places or areas containing historic heritage or regional or national significance]. The matters listed above comprise the majority of Otago’s most significant and valued natural and physical resources and any proposal to provide for those to be negatively affected should be very carefully considered. There is a range of policy frameworks in the pORPS for managing adverse effects on these matters, and it is not clear from the submissions whether all of those policy frameworks are equally as restrictive of mining activities or whether the issue as identified by the submitters is predominantly in relation to one or other matter.”

- 60 At this stage, I have no further evidence in front of me on these matters. I note that these policy frameworks are all bespoke for the matters they seek to manage and, as such, impose varying levels of restrictions on activities. For example, NFL-P2 requires protecting outstanding natural features and landscapes by avoiding adverse effects on the values of the features and landscapes where there is limited or no capacity to absorb change, whereas HCV-WT-P2 requires protecting wāhi tūpuna by avoiding significant adverse effects on the cultural values of identified wāhi tūpuna. In both of these examples, there is a requirement to avoid some types of adverse effects, but not all. In my opinion, there are already ‘pathways’ for activities to be designed, located, and carried out in ways that comply with the policy direction.

- 61 As no further evidence has been provided on these matters, I maintain my position as described above in paragraph 204 of my section 42A report.

Amendments to ECO – Ecosystems and indigenous biodiversity provisions

- 62 In the ECO chapter, OGNZL proposes the following:
- 62.1 A new objective ECO-O4 for social, economic, and cultural wellbeing;
 - 62.2 A new clause in ECO-P4 to provide for the development, operation, maintenance, or upgrade of mineral and/or aggregate extraction activities;
 - 62.3 Deleting the effects management hierarchy in ECO-P6; and
 - 62.4 Consequential amendments to ECO-M4 and ECO-M5.
- 63 I have discussed these amendments with the section 42A report author for this chapter, Melanie Hardiman, to inform my evaluation.
- 64 I consider that the new objective sought by OGNZL captures an outcome already set out in IM-O3. In my supplementary evidence on that chapter, I have recommended amendments to IM-O3 that aligns it more closely with the objective sought by OGNZL by using the wording “[communities] provide for their social, economic, and cultural well-being in ways that support and restore environmental integrity, form, function, and resilience...” For this reason, I do not consider the proposed objective ECO-O4 is necessary.
- 65 ECO-P4 provides for new activities within significant natural areas. OGNZL seeks an amendment to include provision for the development, operation, maintenance, or upgrade of mineral or aggregate extraction activities that provide significant national or regional benefit and that has a functional or operational need to locate in these areas. OGNZL states in its correspondence that this amendment reflects indicative national direction (presumably in the draft NPSIB).
- 66 As I have set out previously, at this stage the draft NPSIB has no legal weight and the Council is not required to implement its direction until (and if) it comes into force. In addition, the other activities listed in ECO-P4 largely relate to supporting the social and cultural well-being of people and communities, and their health and safety, rather than economic development. I do not recommend making the amendment sought for these reasons.
- 67 ECO-P6 sets out an effects management hierarchy which is the primary way indigenous biodiversity is intended to be maintained under the pORPS, assisting to fulfil the functions of local authorities under sections 30(1)(ga) and 31(1)(b)(iii). It is also relied on in ECO-P3 as part of the policy framework for protecting

significant natural areas (a matter of national importance under section 6(c) of the RMA). OGNZL seeks to delete the effects management hierarchy set out in ECO-P6(1) to (5) but retain the use of the phrase in the chapeau of the policy and elsewhere in the ECO provisions, including ECO-P3. “Effects management hierarchy (in relation to indigenous biodiversity)” is defined as being the hierarchy in ECO-P6. Without the hierarchy, the term has no meaning.

68 There is no explanation for deleting the hierarchy in the correspondence from OGNZL. It is unclear whether the submitter intended to remove a central plank of the policy framework in this chapter or understood the implications of deleting the hierarchy for the protection of significant natural areas. The general reasoning provided by OGNZL relates to recognising the importance of mining and aggregate extraction and their locational constraints. I do not consider that this merits erasing the core tenet of the protection of significant natural areas and maintenance of indigenous biodiversity.

69 Without the amendments to the objective and policies, I do not consider the consequential amendment to ECO-M5 is necessary.

Amendments to UFD – Urban form and development provisions

70 In the UFD chapter, OGNZL proposes:

70.1 Amendments to UFD-O4 and UFD-P7 to provide for access to land for economic development;

70.2 A new policy UFD-Px for primary production activities which have a functional need or operational need; and

70.3 A consequential amendment to UFD-M2.

71 I have discussed these amendments with the author of the supplementary evidence for this chapter, Liz White, to inform my evaluation.

72 Some of these amendments are no longer relevant as the reporting officer now recommends deleting the clauses OGNZL seeks to amend. This is the case for UFD-O4(1) and UFD-P7(7). Similarly, the amendment sought to UFD-P7(6) is addressed by another amendment recommended by the reporting officer. For these reasons, I have not considered those amendments further.

73 OGNZL seeks to replace “rural areas” with “land” in UFD-O4(4). I do not consider that is a helpful amendment as the chapeau of the objective still limits the

application of the objective to rural areas. I note that rural areas are defined in the pORPS as “any area of land that is not *urban area*”. I understand most mineral and aggregate extraction occurs in rural areas.

- 74 OGNZL seeks to expand the scope of UFD-P7 to apply to land for economic development. I am unsure what the submitter intends by this, as arguably all land is land for economic development (whether that is for housing, commercial use, or primary production). The policy applies to rural areas which, as I have set out above, is all land that is not an urban area. I do not consider the amendments sought improve the clarity of this policy.
- 75 In clause (4) of UFD-P7, OGNZL seeks to replace “facilitates” with “enables” and to include reference to activities occurring in locations where they have access to the natural and physical resources that they depend on. In my experience, “enables” is often linked to a permitted activity status. I am not convinced that will always be an appropriate outcome and therefore prefer the notified “facilitates”. I agree that mineral and aggregate extraction is locationally constrained in that those activities need to locate where the resource occurs.
- 76 OGNZL seeks to introduce a new policy UFD-PX regarding primary production activities that have a functional need to locate where a particular resource is located. Clauses (a) and (b) recognise the benefits of these activities. Clause (c) requires adverse effects to be appropriately managed which I consider is vague as there is no further explanation of what “appropriate” means. There appears to be some duplication with the policy proposed for the LF-LS subsection. Reading the two together, I presume the intent is for the specific management framework in LF-LS-PX to prevail over the more general direction in UFD-PX(c).
- 77 Clause (d) requires maintaining and, where appropriate, enhancing access to natural and physical resources. I am unsure what is intended by “access” or whether this falls within the jurisdiction of regional and district plans. I do not consider that clause (e) regarding reverse sensitivity is necessary as UFD-P7(6) already addresses reverse sensitivity. Finally, I am unsure what is meant by “ensuring positive environmental outcomes are achieved” in clause (f) or how this would be achieved, given the proposed LF-LS policy would allow policy frameworks protecting parts of the environment to be overridden.
- 78 Overall, while I consider there is merit in some parts of the amendments sought by OGNZL, I do not recommend incorporating UFD-PX as proposed.

Summary of response

79 There are two parts of the amendments proposed by OGNZL that I consider have merit:

79.1 Recognition of the benefits of mineral and aggregate extraction for the provision of infrastructure and the social and economic well-being of Otago's communities; and

79.2 Recognition of the locational constraints faced by these activities.

80 These matters arise in clauses (1) and (2) of OGNZL's proposed new policy LF-LS-PX as well as in the amendments proposed to UFD-P7 and the proposed new policy UFD-PX. As set out previously, I have concerns with these amendments as drafted and do not recommend their inclusion.

81 Mining and aggregate extraction does not clearly fit within any of the chapters of the pORPS. The two most appropriate, in my opinion, are the LF-LS subsection and the UFD chapter, as identified by OGNZL. Having considered the proposed amendments, as well as the scope and intent of both chapters, I consider that the UFD chapter is the most appropriate place for additional policy direction. This is primarily because the UFD chapter manages rural areas and the activities likely to occur within them, including primary production (which includes mining and quarrying).

82 For this reason, I agree with OGNZL that some amendments could be made to UFD-P7 to recognise the matters I have set out above. I recommend the following amendments:

UFD-P7 – Rural areas

The management of *rural areas*:

...

(4) facilitates primary production,²² *rural industry* and supporting activities and recognises:

(a) the importance of mineral and aggregate resources for the provision of infrastructure and the social and economic well-being of Otago's communities, and

(b) the requirement for mineral and aggregate activities to be located where those resources are present,

²² 00226.310 Kāi Tahu ki Otago, and General Themes Section, in response to 00235.008 OWRUG and consequential to amendment to subclause 2

...

Section 32AA evaluation

83 The amendments I now recommend to the UFD chapter highlight two particular matters for decision-makers to consider when managing rural areas. I do not consider that this alters the overall policy intent or the original evaluation of the costs and benefits contained in the Section 32 Evaluation Report. In my view, the amendments provide additional clarity on what is required when managing rural areas. I do not consider any further evaluation is necessary under section 32AA.

Felicity Ann Boyd

11 October 2022

Appendix 1: Environmental limits

Provision	Wording	Analysis	Recommended amendment	
Definition – Environmental limit	Environmental limit ²³	means, in relation to natural resources: (1) <u>the minimum biophysical state (where biophysical means relating to biotic or abiotic physical features); or</u> (2) <u>the maximum amount of harm or stress that may be permitted; and</u> (3) <u>may be:</u> (a) <u>qualitative or quantitative;</u> (b) <u>set at different levels for different circumstances and locations; or</u> (c) <u>set in a way that integrates more than 1 natural resource</u>	Delete definition.	
Definition – Limit	Limit ²⁴	has the same meaning as in clause 1.4(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below) <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 5px auto;">means either a limit on resource use or a take limit</div>	This is the definition from the NPSFM and, in accordance with the National Planning Standards, should clarify when this definition applies.	Limit ²⁵ <u>(in relation to freshwater)</u> ²⁶
SRMR Introduction	While the issues in this section are considered individually, this RPS considers and responds to them in a joined-up manner as part of a complex system with <u>biophysical environmental limits</u> ²⁷ , inherent uncertainty, potentially irreversible and sometimes catastrophic impacts, and interdependent behaviours.	This reference is referring to the general response to the issues in the	While the issues in this section are considered individually, this RPS considers and responds to them in a joined-up manner as part of a complex system with <u>biophysical</u>	

²³ 00231.009 Fish and Game

²⁴ Clause 16(2), Schedule 1, RMA

²⁵ Clause 16(2), Schedule 1, RMA

²⁶ 00231.009 Fish and Game

²⁷ 00231.009 Fish and Game

		pORPS. I recommend replacing “limits” with “constraints” to differentiate from “limits” in the NPSFM context.	environmental limits, ²⁸ inherent uncertainty, potentially irreversible and sometimes catastrophic impacts, and interdependent behaviours.
SRMR-I1 Economic impact	For industry, hazards can damage production assets and <i>infrastructure</i> with associated costs, disrupt service delivery and limit availability and access to goods and services, and cause decline in sales and increased costs.	Used in the ordinary sense.	No change.
SRMR-I2 Economic impact	However, these benefits may be limited by negative <i>effects</i> of <i>climate change</i> such as prolonged drought and increased flood <i>risk</i> .	Used in the ordinary sense.	No change.
SRMR-I5 Context	Population growth and land-use intensification in urban and rural environments can create increased demand for <i>freshwater</i> for human consumption, irrigation and other economic uses. <i>Freshwater</i> resources in some places are reaching, or are beyond, their sustainable abstraction limits .	“Limits” here could be in the NPSFM if those limits have been established but may refer to broader limitations (particularly before limits have been established in plans).	No change.
SRMR-I8 Context	Otago’s coastal environment <u>includes land adjoining the coast where coastal characteristics apply (as outlined in NZCPS Policy 1), and the coastal marine area is generally considered to extend from the land that forms the first significant ridgeline²⁹ out to the twelve nautical miles seaward limit.</u>	Reference is to a specific type of limit (i.e. the boundary of the territorial sea).	No change.

²⁸ 00231.009 Fish and Game

²⁹ 00137.035 DOC

SRMR-I9 Social impact	<i>Infrastructure</i> capacity limits can, for example, result in an increased number of wastewater overflows to the environment when demand on the network exceeds capacity.	Used in the ordinary sense.	No change.
SRMR-I9 Economic impact	At the same time tourism can negatively impact on how agriculture <i>primary production</i> ³⁰ can operate, potentially limiting its contribution to the regional economy.	Used in the ordinary sense.	No change.
SRMR-I11 Environmental impact	At the same time a <i>resilience</i> approach is needed that identifies thresholds and sets environmental ³¹ limits on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.	Used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.	At the same time a <i>resilience</i> approach is needed that identifies thresholds and sets environmental limits ³² on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.
RMIA	<i>Several uses of the term “limited”.</i>	Used in the ordinary sense.	No change.
IM-P12	<u>Despite other provisions in this RPS, Where³³ a proposed activity provides or will provide enduring regionally or nationally significant <i>climate change mitigation</i> mitigation³⁴ of climate change impacts, with commensurate benefits for the well-being of people and communities and the wider <i>environment</i>, decision makers may, at their</u>	In the chapeau, “environmental limits” is used in the ordinary sense but should not be italicised as a	<u>Despite other provisions in this RPS, Where³⁸ a proposed activity provides or will provide enduring regionally or nationally significant <i>climate change</i></u>

³⁰ 00235.051 OWRUG

³¹ 00231.009 Fish and Game

³² 00231.009 Fish and Game

³³ 00306.025 Meridian

³⁴ 00301.014 Port Otago

³⁸ 00306.025 Meridian

	<p>discretion, allow non-compliance with an environmental bottom line limit³⁵ set in, or resulting from,³⁶ any policy or method of this RPS only if they are satisfied that:</p> <p>...</p> <p>(5) the activity will not contravene a bottom line <u>an environmental limit</u>³⁷ set in a national policy statement or national environmental standard.</p>	<p>consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.</p> <p>In (5), this may refer to both limits under the NPSFM as well as other types of limitations. The reference is unnecessary here as it is not only limits but the entirety of an NPS or NES that cannot be contravened.</p>	<p>mitigation mitigation³⁹ of climate change impacts, with commensurate benefits for the well-being of people and communities and the wider <i>environment</i>, decision makers may, at their discretion, allow non-compliance with an environmental bottom line limit⁴⁰ set in, or resulting from,⁴¹ any policy or method of this RPS only if they are satisfied that:</p> <p>...</p> <p>(5) the activity will not contravene a bottom line <u>an environmental limit set in</u>⁴² a national policy statement or national environmental standard.</p>
IM-P14	When preparing <i>regional plans and district plans</i> , P preserve ⁴³ opportunities for future generations by:	In (1), “limits” is used in the	When preparing <i>regional plans and district plans</i> , P preserve ⁴⁹

³⁵ 00231.009 Fish and Game

³⁶ 00306.025 Meridian

³⁷ 00231.009 Fish and Game

³⁹ 00301.014 Port Otago

⁴⁰ 00231.009 Fish and Game

⁴¹ 00306.025 Meridian

⁴² 00231.009 Fish and Game

⁴³ 00235.071 OWRUG

⁴⁹ 00235.071 OWRUG

	<p>(1) identifying <i>environmental</i>⁴⁴ <i>limits</i> wherever practicable,⁴⁵ to both growth and adverse effects of human activities beyond which the environment will be degraded,</p> <p>(2) requiring that activities are established in places, and carried out in ways, that are within those <i>environmental</i>⁴⁶ <i>limits</i> and are compatible with the natural capabilities and capacities of the resources they rely on, and</p> <p>(3) regularly assessing and adjusting <i>environmental limits</i> and thresholds⁴⁷ for activities over time in light of the actual and potential environmental impacts, including those related to climate change, and⁴⁸</p> <p>...</p>	<p>ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.</p> <p>The references to “environmental limits” in (2) and (3) are consequential to (1) and should therefore adopt the same terminology.</p>	<p>opportunities for future generations by:</p> <p>(1) identifying <i>environmental limits</i>⁵⁰ wherever practicable,⁵¹ to both growth and adverse effects of human activities beyond which the environment will be degraded,</p> <p>(2) requiring that activities are established in places, and carried out in ways, that are within those <i>environmental limits</i>⁵² and are compatible with the natural capabilities and capacities of the resources they rely on, and</p> <p>(3) regularly assessing and adjusting <i>environmental limits</i> and thresholds⁵³ for activities over time in light of the actual and potential environmental impacts, including those related to climate change, and⁵⁴</p>
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⁴⁴ 00231.009 Fish and Game

⁴⁵ 00235.071 OWRUG

⁴⁶ 00231.009 Fish and Game

⁴⁷ 00231.009 Fish and Game

⁴⁸ 00226.102 Kāi Tahu ki Otago

⁵⁰ Clause 16(2), Schedule 1, RMA

⁵¹ 00235.071 OWRUG

⁵² 00231.009 Fish and Game

⁵³ 00231.009 Fish and Game

⁵⁴ 00226.102 Kāi Tahu ki Otago

			...
IM-M1	<p>Local authorities must prepare or amend and maintain their <i>regional plans</i>⁵⁵ and <i>district plans</i> to:</p> <p>...</p> <p>(6) establish <u>environmental limits</u> wherever practicable to support⁵⁶ clear thresholds for, and limits on, activities that have the potential to adversely affect healthy ecosystem services and <i>intrinsic values</i>.</p>	<p>This method implements IM-P14 and should therefore adopt the same terminology.</p>	<p>Local authorities must prepare or amend and maintain their <i>regional plans</i>⁵⁷ and <i>district plans</i> to:</p> <p>[...]</p> <p>(6) establish <u>environmental limits</u> wherever practicable to support⁵⁸ clear thresholds for, and limits on, activities that have the potential to adversely affect healthy ecosystem services and <i>intrinsic values</i>.</p>
IM-PR1	<p>The provisions seek to enshrine an explicit recognition and implementation of these facets into plan making and resource consenting processes. They⁵⁹ set an expectation of integrated resource management that flows through to all other provisions of the RPS, and informs the <u>limits and thresholds</u> we set on human activities for protecting environmental health.</p>	<p>This explanation relates to IM-P14 and should therefore adopt the same terminology.</p>	<p>The provisions seek to enshrine an explicit recognition and implementation of these facets into plan making and resource consenting processes. They⁶⁰ set an expectation of integrated resource management that flows through to all other provisions of the RPS, and informs the <u>limits and thresholds</u>⁶¹ we set on human activities for protecting environmental health.</p>

⁵⁵ Clause 16(2), Schedule 1, RMA

⁵⁶ 00231.009 Fish and Game

⁵⁷ Clause 16(2), Schedule 1, RMA

⁵⁸ 00231.009 Fish and Game

⁵⁹ 00236.041 Horticulture NZ, 00235.075 OWRUG

⁶⁰ 00236.041 Horticulture NZ, 00235.075 OWRUG

⁶¹ 00231.009 Fish and Game

IM-AER1	Monitoring shows the <u>environmental limits and thresholds</u> ⁶² set for human activities are adhered to and are resulting in <u>environmental well-being and resilience in the natural environment</u> . ⁶³	This AER relates to IM-P14 and should therefore use “limits” for consistency.	Monitoring shows the <u>environmental limits and thresholds</u> ⁶⁴ set for human activities are adhered to and are resulting in <u>environmental well-being and resilience in the natural environment</u> . ⁶⁵
AIR-P1	AIR-P1 – Maintain good ambient air quality Good ambient air quality is maintained across Otago by: (1) ensuring discharges to air comply with ambient air quality limits where those limits have been set, and (2) where limits have not been set, only allowing discharges to air if the adverse effects on ambient air quality are no more than minor.		
AIR-P2	Poor-Degraded ambient air quality is improved across Otago by: (1) establishing, maintaining and enforcing plan provisions that set <u>limits</u> and timeframes for improving ambient air quality, including by managing the spatial distribution of activities and transport, and	Used in the ordinary sense.	No change.
CE-O5	Activities in the coastal environment: ... (3) are only provided for within appropriate locations and <u>limits</u> , and	Used in the ordinary sense.	No change.

⁶² 00231.009 Fish and Game

⁶³ 00223.059 Ngāi Tahu ki Murihiku

⁶⁴ 00231.009 Fish and Game

⁶⁵ 00223.059 Ngāi Tahu ki Murihiku

CE-P3	<p>Improve coastal water quality Coastal water quality is improved,⁶⁶ where it is considered to have deteriorated to the extent described within CE-P42(2),⁶⁷ and otherwise managed <u>water quality</u>⁶⁸ by so that:</p> <p>...</p> <p>(7) <u>setting appropriate <i>environmental limits</i> for coastal water quality, including ecosystem health, sediment, kaimoana gathering, contact recreation and habitats of taoka species.</u>⁶⁹</p>	<p>In (7), “limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.</p>	<p>Improve coastal water quality Coastal water quality is improved,⁷⁰ where it is considered to have deteriorated to the extent described within CE-P42(2),⁷¹ and otherwise managed <u>water quality</u>⁷² by so that:</p> <p>[...]</p> <p>(7) <u>setting appropriate <i>environmental limits</i></u>⁷³ for coastal <u>water quality, including ecosystem health, sediment, kaimoana gathering, contact recreation and habitats of taoka species.</u>⁷⁴</p>
CE-P5	<p>Protect indigenous <i>biodiversity</i> in the coastal environment by:</p> <p>(1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:</p> <p>...</p> <p>(d) habitats of indigenous species where the species are at the <u>limit</u> of their natural range, or are naturally rare,</p> <p>...</p>	<p>Used in the ordinary sense.</p>	<p>No change.</p>
CE-P11	<p>Provide for the development and operation of <i>aquaculture activities</i> within appropriate <u>locations and limits</u>, taking into account:</p> <p>...</p>	<p>This policy assists with implementing CE-O5 and should therefore</p>	<p>No change.</p>

⁶⁶ 00139.064 DCC, 00226.138 Kāi Tahu Ki Otago, 00223.070 Ngāi Tahu ki Murihiku

⁶⁷ 00226.138 Kāi Tahu Ki Otago, 00137.054 DOC, 00301.020 Port Otago, 00121.043 Ravensdown, 00223.070 Ngāi Tahu ki Murihiku, 00234.019 Te Runanga o Ngāi Tahu

⁶⁸ 00139.064 DCC, 00226.138 Kāi Tahu Ki Otago, 00223.070 Ngāi Tahu ki Murihiku

⁶⁹ 00226.138 Kāi Tahu Ki Otago, 00234.019 Te Rūnanga o Ngāi Tahu

⁷⁰ 00139.064 DCC, 00226.138 Kāi Tahu Ki Otago, 00223.070 Ngāi Tahu ki Murihiku

⁷¹ 00226.138 Kāi Tahu Ki Otago, 00137.054 DOC, 00301.020 Port Otago, 00121.043 Ravensdown, 00223.070 Ngāi Tahu ki Murihiku, 00234.019 Te Runanga o Ngāi Tahu

⁷² 00139.064 DCC, 00226.138 Kāi Tahu Ki Otago, 00223.070 Ngāi Tahu ki Murihiku

⁷³ 00231.009 Fish and Game

⁷⁴ 00226.138 Kāi Tahu Ki Otago, 00234.019 Te Rūnanga o Ngāi Tahu

		adopt the same terminology.	
CE-M3	<p>Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> no later than 31 December 2028 to:</p> <p>...</p> <p>(4) manage the <i>discharge of contaminants</i> into <i>coastal water</i> <u>to achieve environmental limits for water quality</u>⁷⁵ by:</p> <p>...</p> <p>(7) identify areas appropriate for aquaculture and the forms and limits associated with providing for aquaculture that will enable achievement of objectives CE-O1 to CE-O5,</p>	<p>In (4), “limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.</p> <p>In (7), “limits” is used in the ordinary sense so no change is required.</p>	<p>Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> no later than 31 December 2028 to:</p> <p>[...]</p> <p>(4) manage the <i>discharge of contaminants</i> into <i>coastal water</i> <u>to achieve environmental limits for water quality</u>⁷⁶ by:</p>
LF-WAI-P3	<p>Manage the use of <i>freshwater</i> and <i>land</i>, in accordance with tikanga and kawa, using an integrated approach that:</p> <p>(8)⁷⁷ the need to apply <u>applies</u>⁷⁸ a precautionary approach where there is <u>limited</u> available information or uncertainty about potential adverse <i>effects</i>.⁷⁹</p>	Used in the ordinary sense.	No change.

⁷⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.153 Kāi Tahu ki Otago

⁷⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.153 Kāi Tahu ki Otago

⁷⁷ 00231.047 Fish and Game

⁷⁸ 00231.047 Fish and Game

⁷⁹ 00239.072 Federated Farmers, 00022.016 Graymont, 00409.005 Ballance

LF-WAI-E1	Access to <i>water</i> , within appropriate environmental limits , is an important contributor achieving social, cultural and economic well-being within Otago. ⁸⁰	The term “limit” is used in the NPSFM sense and should therefore be italicised and include the qualifier.	Access to <i>water</i> , within appropriate environmental limits , ⁸¹ is an important contributor achieving social, cultural and economic well-being within Otago. ⁸²
LF-VM-P6	<p>Where rohe have been defined within <i>FMUs</i>:</p> <p>...</p> <p>(3) <i>limits</i> and action plans to achieve <i>environmental outcomes</i> may be developed for the <i>FMU</i> or the rohe or a combination of both,</p> <p>(4) any <i>limit</i> or action plan developed to apply within a rohe:</p> <p>(a) prevails over any <i>limit</i> or action plan developed for the <i>FMU</i> for the same <i>attribute</i>, unless explicitly stated to the contrary, and</p> <p>(b) must be no less stringent than any <i>limit</i> set for the parent <i>FMU</i> for the same <i>attribute</i>, and</p> <p>(c) must not conflict with any <i>limit</i> set for the underlying <i>FMU</i> for <i>attributes</i> that are not the same, and</p>	The term “limit” is used in the NPSFM sense and should therefore be italicised and include the qualifier.	<p>Provision is part of the Freshwater Planning Instrument and therefore not within scope of this process. However, for consistency with the rest of the pORPS, the following amendments should be made through the freshwater planning process:</p> <p>Where rohe have been defined within <i>FMUs</i>:</p> <p>...</p> <p>(3) <i>limits (in relation to freshwater)</i>⁸³ and action plans to achieve <i>environmental outcomes</i> may be developed for the <i>FMU</i> or the rohe or a combination of both,</p> <p>(4) any <i>limit (in relation to freshwater)</i>⁸⁴ or action plan</p>

⁸⁰ 00235.082 OWRUG

⁸¹ 00231.009 Fish and Game

⁸² 00235.082 OWRUG

⁸³ Clause 16(2), Schedule 1, RMA

⁸⁴ Clause 16(2), Schedule 1, RMA

			<p>developed to apply within a rohe:</p> <ul style="list-style-type: none"> (a) prevails over any <i>limit (in relation to freshwater)</i>⁸⁵ or action plan developed for the <i>FMU</i> for the same <i>attribute</i>, unless explicitly stated to the contrary, and (b) must be no less stringent than any <i>limit (in relation to freshwater)</i>⁸⁶ set for the parent <i>FMU</i> for the same <i>attribute</i>, and (c) must not conflict with any <i>limit (in relation to freshwater)</i>⁸⁷ set for the underlying <i>FMU</i> for <i>attributes</i> that are not the same, and
LF-VM-PR2	The result of that assessment will then inform the development of <i>regional plan</i> provisions in the <i>FMU</i> , including <i>environmental outcomes</i> , <i>attribute</i> states, target <i>attribute</i> states and <i>limits</i> .	The term “limit” is used in the NPSFM sense and should therefore be italicised and include the qualifier.	The result of that assessment will then inform the development of <i>regional plan</i> provisions in the <i>FMU</i> , including <i>environmental outcomes</i> , <i>attribute</i> states, target <i>attribute</i> states and <i>limits (in relation to freshwater)</i> . ⁸⁸

⁸⁵ Clause 16(2), Schedule 1, RMA

⁸⁶ Clause 16(2), Schedule 1, RMA

⁸⁷ Clause 16(2), Schedule 1, RMA

⁸⁸ 00231.009 Fish and Game

LF-FW-P7	<p><i>Environmental outcomes, attribute states (including target attribute states) and limits</i> ensure that:</p> <p>...</p>	<p>The term “limit” is used in the NPSFM sense and should therefore be italicised and include the qualifier.</p>	<p>Provision is part of the Freshwater Planning Instrument and therefore not within scope of this process. However, for consistency with the rest of the pORPS, the following amendments should be made through the freshwater planning process:</p> <p><i>Environmental outcomes, attribute states (including target attribute states) and limits (in relation to freshwater)</i>⁸⁹ ensure that:</p> <p>...</p>
LF-FW-M6	<p>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 <i>regional plan</i> to:</p> <p>...</p> <p>(5) include <i>limits on resource use</i> that:</p> <p>...</p> <p>(6) provide for the off-stream storage of surface <i>water</i> where storage will:</p> <p>...</p> <p>(c) not prevent a surface <i>water body</i> from achieving identified <i>environmental outcomes</i> and remaining within any <i>limits on resource use</i>, and</p>	<p>“Limits on resource use” is a defined term so no changes are required.</p>	<p>No change.</p>
LF-FW-PR2	<p>The provisions in this section will underpin the development of the Council’s <i>regional plans</i> and provide a foundation for implementing the requirements of the NPSFM, including the development of <i>environmental outcomes, attribute states, target attribute states and limits</i>.</p>	<p>The term “limit” is used in the NPSFM sense and should therefore be italicised and include the qualifier.</p>	<p>Provision is part of the Freshwater Planning Instrument and therefore not within scope of this process. However, for consistency with the rest of the pORPS, the following amendments should be made through the freshwater planning process:</p>

⁸⁹ Clause 16(2), Schedule 1, RMA

			The provisions in this section will underpin the development of the Council's <i>regional plans</i> and provide a foundation for implementing the requirements of the NPSFM, including the development of <i>environmental outcomes</i> , <i>attribute states</i> , target <i>attribute states</i> and <i>limits (in relation to freshwater)</i> . ⁹⁰
LF-FW-AER4	<i>Fresh water</i> is allocated within limits that contribute to achieving specified <i>environmental outcomes</i> for <i>water bodies</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF-VM section of this chapter.	The term “limit” is used in the NPSFM sense and should therefore be italicised and include the qualifier.	Provision is part of the Freshwater Planning Instrument and therefore not within scope of this process. However, for consistency with the rest of the pORPS, the following amendments should be made through the freshwater planning process: <i>Fresh water</i> is allocated within <i>limits (in relation to freshwater)</i> ⁹¹ that contribute to achieving specified <i>environmental outcomes</i> for <i>water bodies</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF-VM section of this chapter.
LF-LS-PR4	Otago's highest quality soils (in terms of suitability for <i>food and fibre production</i> primary production ⁹²) are mainly on the Taieri Plain, North Otago downlands, South Otago lowlands, parts of Central Otago and the Strath Taieri, and along some <i>river</i> margins. Their extent is <i>limited</i> and use of these soils can be constrained by external	Used in the ordinary sense.	No change.

⁹⁰ Clause 16(2), Schedule 1, RMA

⁹¹ Clause 16(2), Schedule 1, RMA

⁹² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00235.008 OWRUG

	factors such as economics, erosion, natural and human induced hazards, animal, and plant pests.		
ECO-P9	Reduce the impact of <i>wilding conifers</i> on indigenous <i>biodiversity</i> by: ... (2) supporting initiatives to control existing <i>wilding conifers</i> and limit their further spread.	Used in the ordinary sense.	No change.
EIT-EN-O2	The generation capacity of <i>renewable electricity generation activities</i> in Otago: (1) is protected and ⁹³ maintained, and if practicable maximised, within environmental limits and ...	“Limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.	The generation capacity of <i>renewable electricity generation activities</i> in Otago: (1) is protected and ⁹⁴ maintained, and if practicable maximised, within environmental limits, ⁹⁵ and ...
EIT-EN-M1	Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> to: ... (4) provide for the operation and maintenance of existing <i>renewable electricity generation activities</i> , including their <i>natural and physical resource</i> requirements, within the ⁹⁶ environmental limits and	“Limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental	Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> to: ... (4) provide for the operation and maintenance of existing <i>renewable electricity generation activities</i> , including their <i>natural and physical resource</i>

⁹³ 00318.024 Contact

⁹⁴ 00318.024 Contact

⁹⁵ 00231.009 Fish and Game

⁹⁶ 00223.106 Ngāi Tahu ki Murihiku

		limits” and to delete “environmental” for clarity.	requirements, within the ⁹⁷ environmental limits, ⁹⁸ and
EIT-INF-O4	Effective, efficient and resilient <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> ⁹⁹ enables the people and communities of Otago to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth in within the region, ¹⁰⁰ within <i>environmental limits</i> .	“Limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.	Effective, efficient and resilient <i>infrastructure, nationally significant infrastructure and regionally significant infrastructure</i> ¹⁰¹ enables the people and communities of Otago to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth in within the region, ¹⁰² within environmental limits. ¹⁰³
EIT-TRAN-O10	<i>Commercial port activities</i> operate safely and efficiently, and within <i>environmental limits</i> .	“Limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation	<i>Commercial port activities</i> operate safely and efficiently, and within environmental limits. ¹⁰⁴

⁹⁷ 00223.106 Ngāi Tahu ki Murihiku

⁹⁸ 00231.009 Fish and Game

⁹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00313.020 Queenstown Airport

¹⁰⁰ 00239.124 Federated Farmers

¹⁰¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00313.020 Queenstown Airport

¹⁰² 00239.124 Federated Farmers

¹⁰³ 00231.009 Fish and Game

¹⁰⁴ 00231.009 Fish and Game

		to define “environmental limits” and to delete “environmental” for clarity.	
EIT-TRAN-P23	<p>Recognise the national and regional significance of the <i>commercial port activities</i> associated with the ports at Port Chalmers and Dunedin (respectively) by:</p> <p>(1) within <i>environmental limits</i> as set out in Policies CE-P3 to CE-P12, providing for the efficient and safe operation of these ports and efficient connections with other transport modes,</p> <p>(2) within the <i>environmental limits</i> set out in Policies CE-P3 to CE-P12, providing for the development of the ports’ capacity for national and international shipping in and adjacent to existing port activities, and</p> <p>...</p>	<p>“Limits” is used in the ordinary sense but should not be italicised as a consequence of rescinding my earlier recommendation to define “environmental limits” and to delete “environmental” for clarity.</p>	<p>Recognise the national and regional significance of the <i>commercial port activities</i> associated with the ports at Port Chalmers and Dunedin (respectively) by:</p> <p>(1) within environmental limits¹⁰⁵ as set out in Policies CE-P3 to CE-P12, providing for the efficient and safe operation of these ports and efficient connections with other transport modes,</p> <p>(2) within the environmental limits¹⁰⁶ set out in Policies CE-P3 to CE-P12, providing for the development of the ports’ capacity for national and international shipping in and adjacent to existing port activities, and</p> <p>...</p>
EIT-TRAN-M7	<p>Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> to:</p> <p>...</p> <p>(3) within <i>environmental limits</i>, facilitate the safe and efficient operation and development of <i>commercial port activities</i> at Port Chalmers and Dunedin. This</p>	<p>This method implements EIT-TRAN-P23 and therefore should</p>	<p>Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> to:</p> <p>...</p>

¹⁰⁵ 00231.009 Fish and Game

¹⁰⁶ 00231.009 Fish and Game

	<p>includes previously approved <i>resource consents</i> for the following activities in the coastal development area mapped in MAP2:</p> <p>...</p>	adopt the same terminology.	<p>(3) within environmental limits, ¹⁰⁷ facilitate the safe and efficient operation and development of <i>commercial port activities</i> at Port Chalmers and Dunedin. This includes previously approved <i>resource consents</i> for the following activities in the coastal development area mapped in MAP2:</p> <p>...</p>
HAZ-NH-M5	<p><i>Local authorities</i> are encouraged to consider the use of other mechanisms or incentives to assist in achieving Policies HAZ-NH-P1 to HAZ-NH-P11, including <u>but not limited to</u>:¹⁰⁸</p> <p>...</p>	Used in the ordinary sense.	No change.
NFL-P2	<p>Protect outstanding natural features and landscapes by:</p> <p>(1) avoiding adverse <i>effects</i> on the values <u>of the natural features and landscapes where there is limited or no capacity to absorb change</u>¹⁰⁹ that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and</p> <p>...</p>	Used in the ordinary sense.	No change.
NFL-P5	<p>Reduce the impact of <i>wilding conifers</i> on outstanding and highly valued natural features and landscapes by:</p> <p>...</p> <p>(2) supporting initiatives to control existing <i>wilding conifers</i> and <u>limit</u> their further spread.</p>	Used in the ordinary sense.	No change.

¹⁰⁷ 00231.009 Fish and Game

¹⁰⁸ 00219.005 FENZ

¹⁰⁹ 00318.034 Contact Energy

UFD-P4	<p>Expansion of existing <i>urban areas</i> is facilitated where the expansion:</p> <p>...</p> <p>(7) locates the new urban/rural zone boundary interface by considering:</p> <p>(a) adverse <i>effects</i>, particularly <i>reverse sensitivity</i>, on <i>rural areas</i> and existing or potential <u>primary production</u>¹¹⁰ productive or rural industry¹¹¹ activities beyond the new boundary, and</p> <p>(b) <u>utilising</u>¹¹² key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future <i>development infrastructure</i> expansion and connectivity beyond the new boundary does not need to be provided for, or</p> <p>(c) reflects a short or medium term, intermediate or temporary <u>utilising</u>¹¹³ zoning or infrastructure servicing boundary <u>that reflects a short or medium term, intermediate or temporary limit</u>,¹¹⁴ where provision for future <i>development infrastructure</i> expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated.</p>	Used in the ordinary sense.	No change.
UFD-P7	<p>The management of <i>rural areas</i>:</p> <p>...</p> <p>(7) otherwise <u>limits</u> the establishment of residential activities, <i>sensitive activities</i>, and non-rural businesses to those that can demonstrate:</p> <p>(a) <u>an functional need or</u>¹¹⁵ <i>operational need</i> to be located in <i>rural areas</i>; <u>and</u>¹¹⁶</p> <p>(b) <u>methods to avoid adverse effects, including by way of reverse sensitivity, on rural productive capacity and amenity values, or where avoidance is not practicable, remediation or mitigation, and</u>¹¹⁷</p> <p>...</p>	Used in the ordinary sense.	No change.

¹¹⁰ 00208.010 AgResearch, 00213.040 Fonterra, 00322.040 Fulton Hogan,

¹¹¹ 00410.008 Rural Contractors NZ

¹¹² 00405.011 Glenpanel, 00402.014 Sipka Holdings

¹¹³ 00405.011 Glenpanel, 00402.014 Sipka Holdings

¹¹⁴ 00221.014 Silver Fern Farms, 00405.011 Glenpanel, 00402.014 Sipka Holdings

¹¹⁵ 00321.095 Te Waihangā

¹¹⁶ 00231.091 Fish and Game, 00411.135 Wayfare, 00206.072 Trojan, 00321.095 Te Waihangā

¹¹⁷ 00221.015 Silver Fern Farms

UFD-E1	This more detailed determination must, however, be informed by evidence and information collated through appropriately scaled <i>strategic planning</i> processes and <u>which will identify how constraints to urban development, such as hazards, landscapes, highly productive land, and environmental limits, are responded to, and opportunities for meeting demand, integration with lifeline utilities, infrastructure and other requirements may be provided for.</u>	“Limits” is used in the ordinary sense but “environmental” should be deleted for clarity.	This more detailed determination must, however, be informed by evidence and information collated through appropriately scaled <i>strategic planning</i> processes and <u>which will identify how constraints to urban development, such as hazards, landscapes, highly productive land, and environmental <u>limits</u>¹¹⁸ are responded to, and opportunities for meeting demand, integration with lifeline utilities, infrastructure and other requirements may be provided for.</u>
UFD-PR1	Upgrade and replacement of the existing development and infrastructure will also continue to be required even where growth is <u>limited</u> , resulting in changes in the built environment. Some of these changes will also be driven by changes in the <i>natural environment</i> , including the impacts of climate change. Urban areas are highly dynamic by nature, so the provisions in this chapter seek to manage, rather than <u>limit</u> , the form, function, growth and development of urban areas in a way that best provides for the community’s well- being both now and into the future.	Used in the ordinary sense.	No change.
APP1 and APP2	<i>Various references to “limits” and “limited”.</i>	Used in the ordinary sense.	No change.

¹¹⁸ 00231.009 Fish and Game