



Forest & Bird

TE REO O TE TAIAO | *Giving Nature a Voice*

Submission on the Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021

29 November 2022

To: Otago Regional Council
By email: fpisubmission@orc.govt.nz

From: Royal Forest and Bird Protection Society NZ (Forest & Bird)
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- Forest & Bird could not gain an advantage in trade competition through this submission.
- Forest & Bird wishes to be heard in support of this submission, and would be prepared to consider presenting this submission in a joint case with others making a similar submission at any hearing.

INTRODUCTION

1. Forest & Bird is New Zealand's largest non-governmental conservation organisation with many members and supporters. Volunteers in 50 branches carry out community conservation projects around New Zealand, of which there are four branches in Otago. Forest & Bird's constitutional purpose is:

To take all reasonable steps within the power of the Society for the preservation and protection of the indigenous flora and fauna and the natural features of New Zealand.

2. In support of that purpose, Forest & Bird regularly participates in resource management processes at the national, regional and district level.
3. This is a submission on the Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021, on behalf of Forest & Bird's branches and Forest & Bird nationally. It begins with general overall submissions followed by specific submissions on each provision of interest to Forest & Bird.

SUBMISSION

4. Attachment One contains a submission table setting out Forest & Bird's detailed submission points. Forest & Bird also seeks further or alternative relief as may be necessary and appropriate to address concerns identified in this submission.
5. The land and freshwater section lacks an overarching vision and objective for freshwater in Otago. This means the FMU specific visions have no overall objective and are presently inconsistent and lacking in many ways. Without an overall vision for freshwater in Otago, Forest & Bird fears the requirements of the National Policy Statement for Freshwater Management 2020 (NSPFM 2020) will not be achieved.
6. Amendments are also required to ensure the policy direction on natural wetlands does not overstep the bounds of the NSPFM 2020 and the Freshwater Planning Process, and into the domain of the New Zealand Coastal Policy Statement (NZPCS). The effects management hierarchy referred in the NSPFM 2020 do not apply within the coastal environment, and it is important the direction reflecting the NSPFM 2020 is complimentary, rather than inconsistent with, the NZPCS.

ATTACHMENT ONE: SUBMISSION TABLE

Provision	Oppose or support (with amendments)	Submission-Reasons	Submission- decision sought
Definition of terms			
Specified infrastructure	Support in part	Using the same definitions as set out in higher order documents can be helpful, however the scope of matters to which definitions are applied may not be the same. The approach to “specified infrastructure” set out in the NPSFM 2020 is not appropriate beyond freshwater, particularly where other directives under the NZCPS and section 6 of the RMA apply.	Amend as follows: “ <u>in relation to freshwater</u> , 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)”
SRMR – Significant resource management issues for the region			
SRMR–I5 – Freshwater demand exceeds capacity in some places	Support	This provides a fairly accurate general overview	Retain.

SRMR-I6 – Declining water quality has adverse effects on the environment, our communities, and the economy	Support	This provides a fairly accurate general overview	Retain.
SRMR-I9 – Otago lakes re subject to pressures from tourism and population growth	Support	This provides a fairly accurate general overview	Retain.
LF – Land and freshwater			
LF-WAI-O1	Support	Captures the concepts set out in the NPSFM 2020.	Retain.
LF-WAI-P1 – Prioritisation	Support in part	Broadly support and note the consistency with the NPSFM. Should be amended to provide clarity that the consumption of harvested resources is from those harvested directly from the waterbody and not, for example, irrigated crops. This would prevent a	Amend LF-WAI-P1 as follows: “In all management of <i>fresh water</i> in Otago, prioritise: 1) first, the health and well-being of <i>water bodies</i> and <i>freshwater</i> ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of <i>mana whenua</i> to uphold these, ⁴⁷

		<p>misinterpretation that abstraction for irrigation is a second order rather than third order priority as the NPSFM intends.</p> <p>Further, to provide clarity and ensure EIT policies aren't misinterpreted, the third priority should be amended to make it clear that use or allocation of fresh water for hydroelectricity generation is a third order priority.</p>	<p>2) second, the health and well-being needs of people, te hauora o te tangata; interacting with <i>water</i> through ingestion (such as <i>drinking water</i> and consuming harvested resources <u>harvested from the waterbody</u>) and immersive activities (such as harvesting resources and bathing), and</p> <p>3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future, <u>including hydroelectricity generation.</u>"</p>
LF-WAI-AER2	Support in part	This must be extended to direct restoration of water bodies where they are degraded.	<p>Amend LF-WAI-ARE2 as follows:</p> <p>"The mauri of Otago's <i>water bodies</i> and their health and well-being is protected <u>and restored where degraded.</u>"</p>
LF-VM – Visions and management			
LF-VM-O1 – Otago wide vision	New provision	<p>The NPSFM 2020 (clause 3.3) requires visions to be ambitious and clear on what the outcomes to be achieved are - noting that they are to be difficult to achieve but not impossible. There is currently no overarching vision for which the specific FMU visions are set to achieve.</p> <p>Forest & Bird notes the requirement to work with mana whenua and communities on developing FMU</p>	<p>Add a new overarching vision to apply to all FMUs in Otago as follows:</p> <p><u>"LF-VM-O1 – All of Otago catchment vision</u></p> <p><u>By no later than 2040, in all Otago catchments:</u></p> <p><u>(1) water bodies are protected at, or restored to a state of good health, well-being and resilience,</u></p> <p><u>(2) activities relating to water support the health, well-being and resilience of affected water bodies,</u></p>

	<p>visions. It is unclear what process has been followed to do this and the extent to which communities have been involved.</p> <p>The FMU specific visions do not add up to an overall view of the whole. Many also miss basic aspects of river management and required values of the NPS-FM, yet these are present in other visions creating an inconsistent and sometimes contradictory approach. At present, these visions won't achieve the required outcomes in the LF-WAI chapter.</p> <p>Some of the wording is imprecise and not helpful for providing policy direction (e.g. 'creative ecological approaches' is unclear).</p> <p>The dates in the FMU visions are too far away and do not meet the ambition required by the NPSFM. Some aspects fail to put timeframes on at all.</p> <p>In the Central Otago context, with catchments affected by over-abstraction, deemed permit holders have already had 30 years to improve</p>	<p><u>(3) the natural form and function of water bodies, including with respect to water quality, sedimentation and flows, mimics that of their natural behaviour,</u></p> <p><u>(4) ecosystem connections between freshwater, wetlands and the coastal environment are protected and restored,</u></p> <p><u>(5) wetland, estuary and lagoon extent has been restored as much as practical where it has been lost, and their quality is protected and restored,</u></p> <p><u>(6) the habitat of indigenous species is protected and restored, and indigenous species are able to migrate easily within and between catchments,</u></p> <p><u>(7) kai/food is available to be harvested from water bodies in abundance and is safe to consume,</u></p> <p><u>(8) people have abundant, quality opportunities to connect with and recreate within or close to a wide range of water bodies,</u></p> <p><u>(9) there are no direct discharges of untreated wastewater to water bodies, and</u></p> <p><u>(10) freshwater is managed in accordance with the LF-WAI objectives and policies.”</u></p> <p>Make the required consequential amendments to specific FMU visions in LF-VM-O2 to LF-VM-O6 to ensure the overarching vision above applies to all of them while retaining FMU specific provisions and timeframes where these are more stringent than what is provided for in LF-VM-O1.</p>
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		<p>practise and reduce environmental effects.</p> <p>The relevant goals within the vision objectives should all be achieved by, at most, 2040. Forest & Bird supports retaining shorter timeframes where these are already proposed.</p> <p>Forest & Bird proposes an overarching vision for all FMUs in Otago to resolve these issues. We note that the indicative wording provided may need to be expanded to capture aspects we can't speak for.</p>	
LF-VM-O2 - LF-VM-O6	Support in part	For the reasons for LF-VM-O1 above.	Make the required consequential amendments to specific FMU visions in LF-VM-O2 to LF-VM-O6 to ensure the overarching vision set out in LF-VM-O1 above applies to all of them while retaining FMU specific provisions and timeframes where these are more stringent than what is provided for in LF-VM-O1.
LF-FW – Fresh water			
LF-FW-O8 – Fresh water	Support in part	Clarity is needed to ensure the visions for catchments in Otago set out above are achieved.	Add the following clause to LF-FW-O8 – Fresh water: <u>(6) the objectives set out in LF-VM-O1 - LF-VM-O6 are achieved</u>

LF-FW-09 - <i>Natural wetlands</i>	Support		Retain.
LF-FW-P7 – Fresh water	Support in part	Resilience of water bodies is also important	(1) the health, <u>resilience</u> , and well-being of <i>water bodies</i> is maintained or, if <i>degraded</i> , improved, (2) the habitats of indigenous species associated with <i>water bodies</i> are protected, including by providing for fish passage, ... (5) existing <i>over-allocation</i> is phased out and future <i>over-allocation</i> is avoided, and <i>fresh water</i> is allocated within environmental limits and used efficiently.
LF-FW-P9 – Protecting <i>natural wetlands</i>	Oppose in part	LF-FW-P9 reflects direction contained in the NSPFM 2020 (clause 3.22) which is directed at natural inland wetlands. “Natural inland wetland” is defined to mean “a natural wetland that is not in coastal marine area”. The New Zealand Coastal Policy Statement applies to coastal wetlands (NZCPS Policies 10, 11, 13, and 14). Provisions on coastal wetlands (and arguably Policy LF-FW-P9 in itself) are outside the scope of the Freshwater Planning Process. ¹ LF-FW-P9 would enable the effects management hierarchy to apply to	Amend the introductory words as follows: “Protect <i>natural inland wetlands</i> by:” Include a definition of “natural inland wetlands” reflecting that contained in the NPSFM 2020.

¹ *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2022] NZHC 1777 at [200], [202].

		<p>coastal wetlands, which is inconsistent with more absolute bottom lines in the NZCPS, including Policy 11.</p> <p>Accordingly, amendments are needed to clarify LF-FW-P9 applies to natural inland wetlands. This ensures the NZCPS directives pertaining to coastal wetlands do not become compromised.</p>	
LF-FW-P10	Support in part	'Where possible' needs to be deleted as it introduces a degree of judgement in the policy direction and lacks clarity.	Improve the ecosystem health, hydrological functioning, <i>water</i> quality and extent of <i>natural wetlands</i> that have been degraded or lost by requiring, where possible :
LF-FW-P15	Support in part	Minimise does not provide strong enough direction to improve water quality. It is not appropriate to discharge any wastewater into freshwater unless it is appropriately treated and an appropriate effects management hierarchy should be in place.	<p>Minimise <u>Avoid</u> the adverse <i>effects</i> of direct and indirect <i>discharges</i> of <i>stormwater</i> and <i>wastewater</i> to <i>fresh water</i> by:</p> <ol style="list-style-type: none"> 1. except as required by LF-VM-02 and LF-VM-04, preferring <u>require</u> <i>discharges</i> of <i>wastewater</i> to <i>land</i> over <i>discharges</i> to <i>water</i>, unless adverse <i>effects</i> associated with a <i>discharge</i> to <i>land</i> are greater than a <i>discharge</i> to <i>water</i>, and 2. requiring: <ol style="list-style-type: none"> 1. all sewage, industrial or trade waste to be <i>discharged</i> into a reticulated <i>wastewater</i> system, where one is available, 2. all <i>stormwater</i> to be <i>discharged</i> into a reticulated system, where one is available, 3. 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 <i>stormwater</i> and <i>wastewater</i> systems,

			<ol style="list-style-type: none"> 4. on-site <i>wastewater</i> systems to be designed and operated in accordance with best practice standards, 5. <i>stormwater</i> and <i>wastewater discharges</i> to meet any applicable water quality standards set for <i>FMUs</i> and/or <i>rohe</i>, and 6. the use of water sensitive urban design techniques to avoid or mitigate the potential adverse <i>effects</i> of <i>contaminants</i> on receiving <i>water bodies</i> from the <i>subdivision</i>, use or development of <i>land</i>, wherever practicable, and 3. promoting <u>providing for</u> the reticulation of <i>stormwater</i> and <i>wastewater</i> in urban areas.
LF-LS-Land and Soil			
LF-LS-P21- <i>Land use and fresh water</i>	Support		Retain

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