

**BEFORE THE COMMISSIONERS APPOINTED ON BEHALF
OF THE OTAGO REGIONAL COUNCIL**

Under The Resource Management Act 1991
(**Act/RMA**)
In the Matter of a submissions on the Proposed
Otago Regional Policy Statement
2021 (non-freshwater parts) (**PRPS**)
On behalf of **OTAGO WATER RESOURCE USER
GROUP (OWRUG)**
Submitter OS00235 and FS00235
**FEDERATED FARMERS OF NEW
ZEALAND**
Submitter OS00239 and FS00239
DAIRYNZ LIMITED
Submitter FS00601

**APPENDIX 2 TO OPENING LEGAL SUBMISSIONS OF COUNSEL FOR
OWRUG, FEDERATED FARMERS OF NEW ZEALAND, AND DAIRY NZ
LIMITED**

DATED 1 MAY 2023



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Appendix 2

1. OWRUG and Federated Farmers made extensive submissions. OWRUG, Federated Farmers and Dairy NZ also made further submissions. The submissions by the parties have been reduced into higher level concerns that may require structural changes to the PRPS to be addressed. It is our submission that amendments will be required to the SRMR issues as well as a new rural chapter, based on the evidence that the parties have presented. We summarise these high-level concerns and the proposals to address those concerns in the first part of the table below (Table 1). We have not provided specific wording in the first instance as we consider that relief that the submitters are seeking could be dealt with in several different ways.
2. In addition to our high-level concerns, we also seek specific changes to the PRPS. The specific changes are set out in the second table (Table 2). The parties continue to rely on their initial submissions in full, and if the consequential changes to the SRMR issues and the adoption of a new rural chapter is not accepted, consideration should be given to the initial submissions by the parties as to the required changes within the existing PRPS framework.
3. For completeness, we have also included the changes that Dr Mike Freeman proposes in his expert evidence. This is in the third table (Table 3).

Table 1: high level relief sought

High Level Concern	Proposed Relief
Food and fibre is a regionally significant use of land in Otago which is not recognised or provided for in the PRPS.	Amendments to the SRMR issues to accurately reflect the significance of food and fibre production to the region and the adoption of a rural chapter.
The food and fibre sector requires access to resources in Otago and this is not appropriately provided for in the PRPS.	Implementation of the JWS conclusions on natural and physical resource users and the development of a rural chapter.
The NPSHPL in the context of the integrated management of land based primary production, including supporting activities and how these interact with freshwater planning at a catchment level is not provided for in the PRPS.	Amendments to the SRMR chapters and the development of a rural chapter.
There has been a failure by the PRPS to identify what change is required of the food and fibre sector and the transition times for that change.	The RPS provides for the establishment of a rural advisory panel, with directive language to set up a memorandum of understanding between the Council and the rural advisory panel. The panel will be involved in advising the Council on the timing and transition of change that is required to meet the planning framework under the RPS and new Land and Water Plan. Panel members will be representative of farming systems in Otago and nominated through a fair process.

The PRPS fails to give effect to the NPSFM because it does not provide for decision making at a catchment and sub-catchment level.	Amendments to the IM chapters to provide for decision making at a catchment and sub-catchment level.
There is an inconsistent use of phrases throughout the PRPS relating to food and fibre production. This makes it unclear which groups are captured.	The adoption of a definition of food and fibre production
There is a lack of data on land use impacts on water degradation and the impact of the changing farming practices on improvement of water quality.	The adoption of a method to continue to assess the impact of land use on water quality to ensure that the policy framework is solving a problem.
The PRPS adopts multiple bottom lines and prohibitive effects management hierarchies without adequate consideration of the complexity and diversity of farming systems in Otago. The PRPS does not address that what may be necessary to manage effects in one farming system will result in perverse outcomes in neighbouring farming systems.	The adoption of a rural chapter which has policies, objectives and methods that are fit for purpose in Otago.

Table 2: specific amendments sought for the PRPS

PROVISION	OWRUG DECISION SOUGHT	Federated Farmers DECISION SOUGHT	Outcome sought
Regionally significant infrastructure		<p>Amend as follows or similar:</p> <p><i>Regionally Significant infrastructure means:</i></p> <ol style="list-style-type: none"> 6. roads classified as being of regional importance in accordance with the One Network Road Classification, 7. electricity sub-transmission infrastructure, 8. renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility, 9. telecommunication and radiocommunication facilities, 10. facilities for public transport hubs, including terminals and stations, 11. the following airports: Dunedin, Queenstown, Wanaka, Alexandra, Balclutha, Cromwell, Oamaru, Taieri. 12. navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant, 13. defence facilities, a. community potable water systems drinking water abstraction, supply treatment and distribution infrastructure that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution infrastructure (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking water supplies) 	Adoption of the definition of regionally significant infrastructure as proposed by Federated Farmers

		<p>b. <u>community stormwater and land drainage infrastructure,</u></p> <p>c. <u>wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households, and</u></p> <p>d. <u>Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes and</u></p> <p>e. <u>Established community-scale irrigation and stockwater infrastructure.</u></p>	
<p>SRMR-I2 – Climate change is likely to impact our economy and environment – Impact Statement / Economy / Regional Industry</p>	<p>Amend SRMR- I2 Impact Statement / Economy / Regional Industry as follows:</p> <p><i>Climate change may also result in shifting land-use activities to adapt to altered climate conditions, which will incur costs, and potentially enable resources previously unviable to come into production.</i></p> <p><u>Diversification to different farm systems and transition to lower emission production systems presents an opportunity to reduce emissions and support the transition to a low emissions economy. It is important that decision makers can assess the benefits of land use change and that the resource management framework facilitates these transitions by providing certainty to enable investment. This includes the utilisation of water to support low emission production systems.</u></p> <p><i>However, these benefits may be limited by negative effects of climate change such as prolonged drought and increased flood risk. Some of these impacts can be mitigated by adaptation, for example, planting new crops that are better suited to new climatic conditions or through changes in crop intensification, or water harvesting and storage practices.</i></p>	<p>Add the following (or similar):</p> <p><u>Some of the responses to mitigate climate change such as increased afforestation for carbon offsetting, lead to other risks, such as further drying out of catchments, increased risk of wildfire, fragmentation of pastoral systems, increased pest numbers, and a resultant decline in rural communities.</u></p>	<p>In August 2022 the Climate Change Adaptation Plan was released, which the Council must consider under s 61 of the Act.</p> <p>The submitters seek the removal and adoption of the following wording to reflect the Climate Change Adaptation Plan in the Environmental Impact Snapshot</p> <p>Human adaptation to climate change, such as building or expanding dams or flood protection schemes, may give rise to adverse impacts on ecosystems, in addition to those imposed by climate change itself, and may also exacerbate the original risk.</p> <p><u>Landowners, food and fibre businesses and rural communities are especially vulnerable to both acute climate events and more gradual climate change impacts that affect water availability and security. These effects also limit options for landowners to implement climate resilient land uses, including owners of underdeveloped land (much of which is Māori-owned).</u></p>

<p>SRMR-12 – Climate change is likely to impact our economy and environment Environment</p>	<p>Amend SRMR-12 to recognise the risk on water resources due to afforestation of plantation forests for carbon sequestration.</p>	<p>Add the following (or similar): <u><i>There is also the potential for inequality between rural and urban dwellers, as responses to climate change may focus on the areas with greatest population density, and climate change mitigation strategies such as increased afforestation for carbon offsetting may directly impact rural communities.</i></u></p>	<p>The Submitters seek an amendment to recognise the negative impacts of afforestation for solely carbon sequestration purposes on communities.</p>
<p>SRMR-17 – Rich and varied biodiversity has been lost or degraded due to human activities and the presence of pests and predators</p>	<p>Amend SRMR- 17 as follows:</p> <p>Environmental Add the following paragraph <u><i>Despite the above, in some cases land management or water use practices are enabling indigenous species to persist. It is therefore important to carefully manage significant changes in such practices where they might give rise to unintended consequences.</i></u></p> <p>Economic Amend 'agriculture' to 'the food and fibre sector'.</p>	<p>Amend as follows or similar: <u><i>Fragmentation, loss and isolation of populations and communities of indigenous species has been ongoing across New Zealand, and Otago is no exception. Biodiversity mapping indicates Otago is one of the most modified regions in New Zealand. This can be attributed to habitat loss, land use changes, vegetation clearance and the presence of pests and predators. Further, many of these effects are a result of the cumulative changes of past and current development. These cumulative effects have often not been identified, managed or measured. Leadership and coordination of the various initiatives to address biodiversity loss has also been lacking, along with incentives, support and advice to assist landowners to protect and/or restore biodiversity where it remains or where it has been lost.</i></u></p>	<p>The Submitters seek the adoption of both OWRUG's submission that ensures the connection between biodiversity and freshwater as well as the changes sought by Federated Farmers that relate to incentives to restore or protect biodiversity. These changes would need to flow through into the new rural chapter.</p>

Table 3: Dr Mike Freeman's proposed changes to the S42A report recommendations on the IM and LFW chapters. We note that the section 42A writer has now recommended that some of these changes are accepted

S42A report Integrated management objective recommendations	Comment	Recommended changes
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<p>IM-O1 – Long term vision</p> <p>The management of <i>natural and physical resources in Otago</i>, by and for the people of Otago, including in partnership with Kāi Tahu, and as expressed in all resource management plans and decision making, achieves a healthy, <u>and resilient,</u> and safeguarded natural systems <u>environment, and including</u> the ecosystem services they offer it provides, and supports the well-being of present and future generations, (mō tātou, ā, mō kā uri ā muri ake nei).</p>	<p>The wording largely repeats RMA Section 5 directions with the addition of the partnership statement and the omission of a clear reference to social, cultural, and economic well-being.</p> <p>The significance of this omission is likely to lead to subsequent unproductive debate.</p> <p>I can see the benefit of a high-level objective that clarifies that the RMA will be implemented in partnership with Kāi Tahu.</p>	<p>Delete the objective or delete everything past the word “Tahu”.</p>
<p>IM-O2 – Ki uta ki tai</p> <p>The management of n<i>Natural and physical resources management and decision making in Otago</i> embraces ki uta ki tai, recognising that the <i>environment</i> is an interconnected system, which depends on its connections to flourish, and must be considered <u>managed</u> as an interdependent whole.</p>	<p>The suggested changes are an improvement. However, the term “flourish” is not an established RMA term, is simply descriptive and therefore that clause should be deleted.</p>	<p>Delete “, which depends on its connections to flourish,”</p>
<p>IM-O3 – Environmentally s<u>Sustainable impact</u></p> <p>_____ Otago’s communities carry out their activities in a way <u>provide for their social, economic, and cultural well-being in ways that support or restore</u> preserves environmental integrity, form, function, and resilience, so that the life-supporting capacities of air, water, soil, <u>and</u> ecosystems <u>are safeguarded, and indigenous biodiversity endure</u> for future generations.</p>	<p>Support the changes with the minor suggestion that the RMA terminology and scientific more accurate word “functioning” be used instead of “function”.</p> <p>The former word more accurately describes the multiple linkages of ecosystems.</p>	<p>Replace the word “function” with “functioning”.</p>

<p>IM-O4 – Climate change</p> <p>Otago’s communities, including Kāi Tahu, understand what <i>climate change</i> means for their future, and <u>responses to climate change</u> responses in the region, (including <i>climate change adaptation</i> and <i>climate change mitigation actions</i>); (1) _____ are aligned with national level <i>climate change</i> responses,</p> <p>(2) <u>assist with achieving the national target for emissions reduction</u>, and</p> <p>(3) are recognised as integral to achieving the outcomes sought by this RPS.</p>	<p>The addition of clause (2) is likely to result in an expectation that resource consent applicants would have to demonstrate that a proposal would “assist with achieving the national target for emissions reductions...”. This would conflict with RMA Section 104E. The additional clause (2) is inappropriate, unnecessary and should be deleted.</p>	<p>Delete Clause (2)</p>
<p>IM-P1 – Integrated approach to decision-making</p> <p>Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:</p> <p>(1) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p>	<p>The first part of the recommended provision would repeat an RMA requirement and is therefore unnecessary. However, the second part of the policy brings in a new consideration, namely the mauri (life force) of the natural environment. It is not clear how this would be given effect to in regional and district plans or how regard would be given to it in the resource consent process. This would be better encapsulated in a specific policy that requires consideration of cultural matters such as the mauri of the natural environment.</p> <p>I appreciate the cultural significance of the mauri of the natural environment. However, under the current RMA framework, there does not appear to be a planning justification to insert the term mauri into a policy at the same level as the life-supporting capacity and the health needs of people.</p> <p>I appreciate that the mauri of freshwater is included in the Canterbury RPS example given earlier. However, the Canterbury objective is written very differently.</p> <p>I consider that such a policy would be best developed separately with guidance from Kāi Tahu. There would also need to be some clear guidance on how the mauri of the natural environment would be measured, for example, if a set of measurable indicators reached specific targets, then perhaps a conclusion could be drawn that this would contribute to enhancing the mauri</p>	<p>Streamline the policy to improve its clarity and effectiveness, as proposed below:</p> <p>“Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:</p> <p>(1) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.”</p>

	of that resource. This would assist to ensure that the extent to which the policy has succeeded can be assessed.	
IM- P2 Decision priorities Recommend deletion	Agreed	Deletion

<p>IM-P4—Setting a strategic approach to ecosystem health Healthy and resilient ecosystems and ecosystem services are achieved by developing regional and district plans through a planning framework that:</p> <p>(1) protects having particular regard to their intrinsic values of ecosystems, (2) takes taking take a long- term strategic approach that recognises changing environments and ongoing environmental change, including the impacts of climate change, (3) recognises recognising recognise and provides providing provide for ecosystem complexity and interconnections, and (4) anticipates anticipating anticipate, or responds responding respond swiftly to, changes in activities, pressures, and trends.</p>	<p>The recommended provision is an improvement. However, there are still issues with the suggested approach.</p> <p>The wording of (1) simply repeats the existing requirement of Section 7 of the RMA. Therefore, the provision should be deleted.</p> <p>A "long-term strategic approach" is vague, provides no direction and should be replaced with a more certain commitment that incorporated a clear time-framed commitment.</p> <p>The Incorporation of the word "resilient" introduces uncertainty and should be deleted. It has been incorporated as indicated in the S42A report, in part because of an Otago Fish and Game submission. However, that submission doesn't provide any detailed technical information to justify making a distinction between 'health' and 'resilience'.</p>	<p>Either delete the whole policy or replace it with a policy that provides meaningful direction.</p>
<p>IM-P5 – Managing environmental interconnections</p> <p>Coordinate the management of interconnected <i>natural and physical resources</i> by recognising and providing for:</p> <p>(1) situations where the value and function of a <i>natural or physical resource</i> extends beyond the immediate, or directly adjacent, area of interest,</p> <p>(2) the effects of activities on a <i>natural or physical resource</i> as a whole, or on the environment, when that resource is managed as sub-units,</p> <p>and (3) the impacts of management of one <i>natural or physical resource</i> on the values of another, or on the <i>environment</i>.</p>	<p>The RMA definition of "environment" includes "all natural and physical resources". Therefore, the final clause needs modifying.</p>	<p>Change Clause (3) to: "the impacts of the management of one natural or physical resource on the wider environment".</p>

<p>IM-P6 – Acting on best available information</p> <p>Avoid unreasonable delays <u>and manage uncertainties</u> in decision-making processes by using the best information available at the time, including but not limited to <u>complete and scientifically robust data, mātauraka Māori, local knowledge, and reliable partial data.</u> <u>and:</u></p> <p>(1) <u>in the absence of complete and scientifically robust data, using</u> information obtained from <u>modelling, reliable partial data, and local knowledge, but in doing so:</u></p> <p>(a) prefer sources of <u>information that provide the greatest level of certainty, and</u></p> <p>(b) <u>take all practicable steps to reduce uncertainty, and</u></p> <p><u>adopt a precautionary approach towards activities whose effects are uncertain, unknown, or little understood, but potentially significantly adverse.</u></p>	<p>The recommended changes are a significant improvement and use appropriate wording based on that in the NPSFM.</p> <p>The key aspect of the policy that is missing is the need to improve the limited investment in environmental monitoring and investigations in Otago. Compared to some other regions, for example, Canterbury and Southland, my experience is that over the past 30 years there appears to have been relatively less investment in environmental investigations and monitoring. Therefore, the policy should include a clear commitment to investigate and monitor the environment to endeavour to ensure that scientifically robust information is available to assist decision-making.</p> <p>However, the introduction of the undefined term “precautionary approach” is highly likely to result in diverging opinions on what this means in practice. It would be preferable to follow the approach taken in the NPSFM.</p>	<p>Replace Clause (2) with the following (borrowed from the NPSFM with only the word “National” changed to “Regional”):</p> <p>“(2) A person who is required to use the best information available at the time:</p> <p>(a) must not delay making decisions solely because of uncertainty about the quality or quantity of the information available; and</p> <p>(b) if the information is uncertain, must interpret it in the way that will best give effect to this Regional Policy Statement</p> <p>Add:</p> <p>(3) ensure that investigations and monitoring of Otago’s natural and physical resources are undertaken to enhance the evidence basis for decision- making.”</p>
<p>IM-P7 – Cross boundary management</p> <p>Coordinate the management of <u>Otago’s natural and physical resources and the environment</u> across jurisdictional boundaries and, whenever possible, between overlapping or related agency responsibilities.</p>	<p>Largely repeats existing statutory requirements. The word “environment” includes “natural and physical resources”.</p>	<p>The policy is not needed and does not provide any direction beyond existing statutory responsibilities. If it is retained the words “natural and physical resources” should be deleted.</p>

<p>IM-P8 – Effects of Climate change impacts Recognise and provide for the <u>effects of climate change processes and risks</u> by:</p> <p>(1) identifying the <u>effects of climate change impacts</u> in Otago, including impacts from a te ao Māori the perspectives of Kāi Tahu as mana <u>whenua</u>,</p> <p>(2) assessing how the impacts <u>effects</u> are likely to change over time, and</p> <p>(3) anticipating <u>taking into account</u> those changes in resource management processes and decisions.</p>	<p>The policy would benefit from clarifying who is expected to identify the effects of climate change and how they are expected to change over time.</p> <p>For example, would this be implemented by expecting individual resource consent applicants to undertake research and investigations into climate change effects?</p>	
<p>IM-P9 – Community response to climate change impacts By 2030 Otago's communities have established responses for adapting to the impacts of <u>climate change</u>, are adjusting their lifestyles to follow them, and are reducing their <u>greenhouse gas emissions</u> to achieve net zero carbon emissions by 2050.</p>	<p>Agreed. The proposed policy is not a ...” course of action to achieve or implement the objective...”</p>	<p>Deletion</p>

<p>IM-P10 – Climate change adaptation and climate change mitigation Identify and implement <i>climate change adaptation</i> and <i>climate change mitigation</i> methods for Otago that:</p> <p>(1) minimise the effects of <i>climate change processes or risks to existing activities on the environment</i>,</p> <p>(2) prioritise avoiding the establishment of new activities in areas subject to <u>significant risk</u> from the effects of <i>climate change</i>, unless those activities reduce, or are resilient to, those <u>significant risks</u>, and</p> <p>(3) provide Otago’s communities, including Kāi Tahu, with the best chance to thrive, even under the most extreme <i>climate change</i> scenarios., and</p> <p><u>enhance environmental, social, economic, and cultural resilience to the adverse effects of climate change, including by facilitating activities that reduce negative human impacts on the environment.</u></p>	<p>Clause (3) does not recognise the current trajectory of climate change.</p> <p>It is inappropriate to mix the concept of ‘thriving’ with “the most extreme climate change scenarios”. The two concepts are not compatible. The policy should recognise the reality of the level of threat posed by climate change and focus on mitigation and adaptation.</p> <p>There is a need for additional wording that recognises the need for a proactive approach to working with communities to develop responses to climate change. However, the proposed wording includes undefined broad terms such as “cultural resilience” that introduces unnecessary uncertainty and should therefore be deleted. The wording “the best chance to thrive” is similarly uncertain.</p>	<p>Replace clauses (3) and (4) with:</p> <p>(3) Facilitate adaptation to the effects of climate change, including by facilitating activities that would reduce the effects of climate change on the environment including communities.</p>
<p>IM-P11 – Enhancing environmental resilience to effects of climate change Enhance environmental <i>resilience to the adverse effects of climate change</i> by facilitating activities that reduce human impacts on the <i>environment</i>.</p>	<p>Agreed</p>	<p>Deletion</p>

<p>IM-P12 – Contravening environmental bottom lines <u>limits for climate change mitigation</u></p> <p>Despite other provisions in this RPS, where a proposed activity provides or will provide enduring regionally or nationally significant <u>climate change mitigation</u> of climate change impacts, with commensurate benefits for the well-being of people and communities and the wider environment, decision makers may, at their discretion, allow non-compliance with an environmental bottom line <u>limit</u> set in, or resulting from, any policy or method of this RPS only if they are satisfied that:</p> <p>(1) the activity is designed and carried out to have the smallest possible environmental impact consistent with its purpose and functional needs, adverse effects on the environment resulting from the activity are avoided, remedied, or mitigated so that they are reduced to the smallest amount reasonably practicable,</p> <p>(2) the activity is consistent and coordinated with other regional and national <u>climate change mitigation</u> activities,</p> <p>(3) adverse effects on the environment that cannot be avoided, remedied, or mitigated are offset, or compensated for, and for adverse effects on indigenous biodiversity: if an offset is not possible, in accordance with any specific criteria for using offsets or compensation, and ensuring that any offset is:</p> <p style="padding-left: 20px;">(aa) where there are residual adverse effects after avoidance, remediation, and mitigation, residual adverse effects are offset in accordance with APP3, and</p> <p style="padding-left: 20px;">(ab) if biodiversity offsetting of residual adverse effects is not possible, then those residual adverse effects are compensated for in accordance with APP4,</p> <p style="padding-left: 20px;">(a) undertaken where it will result in the best ecological outcome,</p> <p style="padding-left: 20px;">(b) close to the location of the activity, and) within the same ecological district or coastal marine biogeographic region,</p> <p>(4) the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and</p> <p>(5) the activity will not contravene a bottom line an <u>environmental limit</u> set in a national policy statement or national environmental standard</p>	<p>This “policy” attempts to direct resource consent decision makers rather than specify a proactive method to achieve an objective. Therefore, it is not clear exactly what objective or outcome the policy is endeavouring to achieve.</p> <p>The policy is potentially internally inconsistent (allows non-compliance with an environmental limit but indicates that that applies only to those limits that are not set in an NPS or NES) and therefore potentially inconsistent with the RMA and specifically the concept of national bottom lines in the NPSFM.</p> <p>Most importantly, the policy includes such a range of subjective assessments that it provides little or no certainty.</p> <p>It introduces a new term “environmental limit” that is different from the terminology used in NPSs.</p> <p>As a consequence of the above the policy should be deleted.</p>	<p>Deletion</p>
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<p>IM-P13 – Managing cumulative effects Otago’s environmental integrity, form, function, and resilience, and opportunities for future generations, are protected by recognising and specifically managing the cumulative effects of activities on natural and physical resources in plans and explicitly accounting for these effects in other resource management decisions.</p>	<p>Agreed</p>	<p>Deletion</p>
<p>IM-P14 – Human impact When preparing <i>regional plans</i> and <i>district plans</i>, Ppreserve opportunities for future generations by:</p> <ol style="list-style-type: none"> (1) identifying <u>environmental limits wherever practicable, to both growth and adverse effects of human activities beyond which the environment will be degraded,</u> (2) requiring that activities are established in places, and carried out in ways, that are within those <u>environmental limits</u> and are compatible with the natural capabilities and capacities of the resources they rely on, and (3) regularly assessing and adjusting <u>environmental limits and thresholds</u> for activities over time in light of the actual and potential environmental impacts, <u>including those related to climate change, and</u> (4) <u>promoting activities that reduce, mitigate, or avoid adverse effects on the environment.</u> 	<p>The policy is not at all clear about how opportunities for future generations would be preserved. The four specific matters provide no direction about opportunities for future generations.</p> <p>Each sub-clause effectively restates existing objectives or policies or statutory requirements with no linkage to the introductory policy wording.</p> <p>The result is a policy that provides no direction and should be deleted. An alternative would be to replace the four sub-clauses with one or more that clarify what specific opportunities are being sought. For example, I am aware that in some regions, natural resources are allocated for specific future community needs.</p>	<p>Deletion</p>

<p>IM-P15 — Precautionary approach Adopt a precautionary approach towards proposed activities whose effects are uncertain, unknown or little understood, but could be significantly adverse, particularly where the areas and values within Otago have not been identified in plans as required by this RPS.</p>	<p>Agreed. The concept of a “precautionary approach” is inadequately defined and subject to very broad potential interpretations.</p>	<p>Deletion</p>
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S42A report Land and freshwater objective and policy recommendations	Comment	Recommended changes
<p>LF-WAI-P2 – Mana whakahaere</p> <p>Recognise and give practical effect to Kāi Tahu rakatirataka in respect of <i>fresh water</i> by:</p> <ol style="list-style-type: none"> (1) facilitating partnership with, and the active involvement of, <i>mana whenua</i> in <i>freshwater</i> management and decision-making processes, (2) sustaining the environmental, social, cultural and economic relationships of Kāi Tahu with <i>water bodies</i>, (3) providing for a range of customary uses, including mahika kai <i>mahika kai</i>, specific to each <i>water body</i>, and (4) incorporating mātauraka into decision making, management and monitoring processes, and (5) <u>managing wai and its connections with whenua in a holistic and interconnected way – ki uta ki tai.</u> 	<p>The potential applications of the policy in the resource consent process need to be considered. For example, how would the policy be interpreted in the consideration of notification decisions in the resource consent process? There is a risk that the policy could be interpreted in a way that meant that the “practical” and “active” could result in Kāi Tahu being identified as a potentially adversely affected party for all resource consents that relate to water e.g., every land use consent application to install a bore. It is otherwise not clear why the words “practical” and “active” are needed in the policy.</p> <p>It is not clear why a land and freshwater policy is limited to freshwater. It is likely that some land use matters could adversely affect water and would warrant Kāi Tahu input.</p>	<p>Delete the words “practical” and “active”.</p> <p>Change the wording of clause (1) as follows: “facilitating partnership with, and the active involvement of, mana whenua in freshwater management and decision-making processes, that relate to <u>freshwater management and land use management where there are effects on freshwater</u>”</p>

S42A report Land and freshwater objective and policy recommendations	Comment	Recommended changes
<p>LF-WAI-P3–Integrated management/kiuta ki tai</p> <p>Manage the use of <i>freshwater</i> and <i>land</i>, in accordance with tikanga and kawa, using an integrated approach that:</p> <ol style="list-style-type: none"> (1) recognises, and sustains <u>and, where degraded or lost, restores</u> the <u>natural</u> connections and interactions between <i>water bodies</i> (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral), (2) sustains and, wherever possible <u>where degraded or lost, restores</u> the <u>natural</u> connections and interactions between <i>land</i> and <i>water</i>, from the mountains to the sea, (3) sustains and, wherever possible, restores the habitats of māhika kai <i>māhika kai</i> and indigenous species, including taoka species associated with the water body <u>bodies</u>, (4) manages the <i>effects</i> of the use and development of <i>land</i> to maintain or enhance the health and well-being of <i>freshwater</i>, and coastal water <u>and associated ecosystems</u>, (5) encourages the coordination and sequencing of regional or urban growth to ensure it is sustainable, (6) has regard to foreseeable <i>climate change</i> risks <u>and the potential effects of climate change on water bodies</u>, and (7) has regard to cumulative <i>effects</i>, and (8) the need to apply <u>applies</u> a precautionary approach where there is limited available information or uncertainty about potential adverse <i>effects</i>. 	<p>The policy appears to be trying to address multiple objectives in one policy and is effectively repeating some policies that are already detailed in the Mana whenua and Integrated management sections.</p> <p>All the wording is very high level and none is specifying a course of action. Many provisions simply repeat higher-order provisions albeit with slightly different words or identify a broad direction that may not realistically be achievable. For example, would clause (1) anticipate a process to be started to restore the connections degraded by the Clyde Dam?</p> <p>For example, clause (7) adds no more direction than currently exists in the RMA.</p> <p>Therefore, the policy does not add anything to the existing planning framework and is more likely to result in debates about the meaning and implications of new or additional wording such as “sequencing”.</p>	<p>Deletion.</p>

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<p>LF-WAI-P4 – Giving effect to <i>Te Mana o te Wai</i> All persons exercising functions and powers under this RPS and all persons who use, develop or protect resources to which this RPS applies must recognise that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding <i>Te Mana o te Wai</i>, and must be given effect to when making decisions affecting <i>fresh water</i>, including when interpreting and applying the provisions of the LF chapter.</p>	<p>This policy appears to be trying to establish an alternative framework for developing plans and the resource consent process.</p> <p>It is not appropriate to have a policy that is not consistent with the current planning framework. Policies need to operate with the existing legal and planning framework.</p> <p>It would be more appropriate to signal here that there will be a proactive programme to support people and communities to make the transition to give effect to <i>Te Mana o te Wai</i></p>	<p>Replace the clause with the following: “When giving effect to <i>Te Mana o te Wai</i> facilitate the transition of natural and physical resource use to minimise the impact on the social, economic and cultural well-being of people and communities.”</p>
<p>LF-VM-O7 – Integrated management</p> <p><i>Land and water management apply the ethic of ki uta ki tai and are managed as integrated natural resources, recognising the connections and interactions between fresh water, land and the coastal environment, and between surface water, groundwater and coastal water.</i></p>	<p>The word “ethic” is not consistent with how the term <i>Ki uta ki tai</i> is referenced or defined elsewhere. It is generally taken to indicate the connection concept of ‘from the mountains to the sea’.</p>	<p>Change the word “ethic” to “concept”</p>
<p>LF-FW-O10 – Natural character</p> <p>The natural character of <i>wetlands, lakes and rivers</i> and their margins is preserved and protected from inappropriate subdivision, use and development.</p>	<p>Repeats the requirement of RMA Section 6(a).</p>	<p>Deletion.</p>
<p>LF-FW-P8 – Identifying <i>natural wetlands</i></p> <p><u>By 3 September 2030, identify and map <i>natural wetlands</i> that are:</u></p> <ol style="list-style-type: none"> (1) 0.05 hectares or greater in extent, or (2) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral <i>wetland</i>) and known to contain threatened species. 	<p>No issues were identified.</p>	<p>No change.</p>

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<p>LF-FW-P11 — Identifying Otago's outstanding water bodies</p> <p>Otago's <i>outstanding water bodies</i> are:</p> <ol style="list-style-type: none"> (1) the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997, (2) Lake Wanaka and the outflow and tributaries described in the Lake Wanaka Preservation Act 1973, (3) any water bodies <i>body or part of a water body</i> identified as being wholly or partly within an outstanding natural feature or landscape in accordance with NFL-P1, and (4) any other <i>water bodies</i> identified in accordance with APP1. 	<p>One potentially significant limitation of clauses (3) and (4) is that the policy does not make it clear what specific process would be used to apply the criteria identified in APP9. For example, an ORC technical report could apply APP9 and create a list that may be considered to qualify under this policy. Then that list could quite possibly be applied to the resource consent process. This scenario is quite possible and would be inappropriate. Therefore, the two clauses should be deleted</p>	<p>Add the word "currently" after the word "are". Delete clauses (3) and (4) and add a footnote to briefly explain the plan change and WCO processes that can be used to identify outstanding water bodies.</p>
<p>LF-FW-P12 — Protecting Identifying and managing outstanding water bodies</p> <p>The significant and outstanding values of outstanding water bodies are:</p> <ol style="list-style-type: none"> (1) identified in the relevant regional and district plans, and (2) protected by avoiding adverse effects on these values. <p><u>Identify outstanding water bodies and their significant and outstanding values in the relevant regional plans and district plans and protect those values by avoiding adverse effects on them, except as provided by EIT-INF-P13 and EIT-INF-P13A.</u></p>	<p>No issues identified.</p>	<p>No change.</p>

<p>LF-FW-P13 – Preserving natural character and in-stream values</p> <p>Preserve the natural character <u>and in-stream values</u> of <i>lakes</i> and <i>ivers</i> and <u>the natural character of their beds</u> and margins by:</p> <p>(1) avoiding the <i>loss of values</i> or extent of a <i>river</i>, unless:</p> <p>(a) there is a <i>functional need</i> for the activity in that location, and</p> <p>(b) the <i>effects</i> of the activity are managed by applying:</p> <p>(i) for <i>effects</i> on indigenous <i>biodiversity</i>, either ECO-P3 or <u>the <i>effects management hierarchy (in relation to indigenous biodiversity)</i></u> in ECO-P6 (whichever is applicable), and</p> <p>(ii) for other <i>effects</i> <u>(excluding those managed under (1)(b)(i))</u>, the <i>effects management hierarchy (in relation to natural wetlands and rivers)</i> in LF-FW-P13A,</p> <p>(2) not granting resource consent for activities in (1) unless Otago Regional Council <u>the consent authority</u> is satisfied that:</p> <p>(a) the application demonstrates how each step of the <i>effects management hierarchies hierarchy (in relation to indigenous biodiversity)</i> in (1)(b)(i) and <u>the <i>effects management hierarchy (in relation to natural wetlands and rivers)</i></u> in (1)(b)(ii) will be applied to the <i>loss of values</i> or extent of the <i>river</i>, and</p> <p>(b) any consent is granted subject to conditions that apply the <i>effects management hierarchies hierarchy (in relation to indigenous biodiversity)</i> in (1)(b)(i) and <u>the <i>effects management hierarchy (in relation to natural wetlands and rivers)</i></u> in (1)(b)(ii) in respect of any <i>loss of values</i> or extent of the <i>river</i>,</p> <p>(3) establishing environmental flow and level regimes and <i>water quality</i> standards that</p>	<p>The policy appears to be endeavouring to combine many considerations into one policy.</p> <p>The term “in-stream values” is not defined. It is also not defined in the RMA or NPSFM.</p> <p>It doesn’t appear useful to have suites of policies that state that other policies apply. Those other policies have the status that they have.</p> <p>The ‘effects management hierarchy’ has status already under the NPSFM and should not be applied in a different manner in the ORPS.</p> <p>A policy should specify a course of action to achieve an objective rather than attempt to direct resource consent decision makers. Objectives and policies should set a clear framework for decision-makers rather than direct them what decision to make or not make. For example, the NES Freshwater includes some decision-making direction but only as a temporary measure because of the absence of comprehensive regional plans.</p> <p>Subsequent clauses largely and/or poorly repeat NPSFM provisions or attempt to replicate existing legislation or WCOs.</p> <p>For example, the clause relating to Lake Wanaka does not include the emergency provisions in the Lake Wanaka Preservation Act 1973.</p> <p>Similarly, the implementation of WCOs does not need an RPS policy, it is already provided for under Section 217 of the RMA.</p> <p>A policy preceded by the term “wherever possible” is at risk of unintended consequences.</p> <p>Prevention of any permanent modification that would reduce the braided character of a river could prevent the replacement of many aging bridges in Otago and similarly prevent the replacement of some water supply</p>	<p>Delete “and in-stream values” or provide a robust definition. Delete clauses (1)(b), 2, 3, 4, 5, 6, 7, and 8.</p> <p>Change the proposed new Clause 9 as follows: “maintaining or enhancing the values of riparian margins to support habitat and biodiversity and <u>reduce contaminant loss to sedimentation of water bodies.</u>”</p>
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<p>support the health and well-being of the <i>water body</i>,</p> <p>(4) wherever possible, sustaining the form and function of a <i>water body</i> that reflects its natural behaviours,</p> <p>(5) recognising and implementing the restrictions in Water Conservation Orders,</p> <p>(6) preventing the impounding or control of the level of Lake Wanaka,</p> <p>(7) preventing <u>permanent</u> modification that would reduce the braided character of a <i>river</i>, and</p> <p>(8) controlling the use of <i>water</i> and <i>land</i> that would adversely affect the natural character of the <i>water body</i>, <u>and</u></p> <p>(9) <u>maintaining or enhancing the values of riparian margins to support habitat and biodiversity and reduce sedimentation of water bodies.</u></p> <p><u>LF-FW-P13A — Effects management hierarchy (in relation to natural wetlands and rivers)</u> <u>The effects management hierarchy (in relation to natural wetlands and rivers) referred to in LF-FW- P9 and LF-FW-P13 is the approach to managing adverse effects of activities that requires that: (1)</u> <u>adverse effects are avoided where practicable,</u></p> <p>(2) <u>where adverse effects cannot be avoided, they are minimised where practicable,</u></p> <p>(3) <u>where adverse effects cannot be minimised, they are remedied where practicable,</u></p> <p>(4) <u>where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible,</u></p> <p>(5) <u>if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided, and</u></p> <p>(6) <u>if aquatic compensation is not appropriate, the activity itself is avoided.</u></p>	<p>intake structures. A more nuanced policy is needed, and a regional plan would be a better place to develop such a policy.</p> <p>The proposed additional wording relating to sedimentation of water bodies needs modifying to recognise that the benefit is broader, and literally sedimentation occurs on the bed of the water body.</p>	

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<p>LF-FW-P14 – Restoring natural character <u>and instream values</u> Where the natural character <u>or instream values</u> of <i>lakes</i> and <i>ivers</i> and <u>or the natural character of</u> their margins has been reduced or lost, promote actions that:</p> <ol style="list-style-type: none"> (1) restore a form and function that reflect the natural behaviours of the <i>waterbody</i>, (2) improve <i>water</i> quality or quantity where it is <i>degraded</i>, (3) increase the presence, <i>resilience</i> and abundance of indigenous flora and fauna, including by providing for fish passage within <i>river</i> systems <u>and creating fish barriers to prevent predation where necessary</u>, (4) improve <i>water body</i> margins by naturalising bank contours and establishing indigenous vegetation and habitat, and (5) restore <i>water</i> pathways and natural connectivity <u>between and within</u> <i>water</i> systems. 	<p>The term “instream values” is not defined. It is also not defined in the RMA or NPSFM.</p> <p>It is not clear what is meant by the term “natural behaviours”.</p> <p>It is not clear how resilience of indigenous flora and fauna would be increased or assessed.</p> <p>It is not clear what a “water pathway” is.</p>	<p>Delete “and instream values” or provide a robust definition.</p> <p>In Clause (1) replace “reflect the natural behaviours” with “is consistent with the natural character”.</p> <p>In Clause (5) delete “water pathways and”.</p>