

Section 42A Hearing Report

Proposed Otago Regional Policy Statement

**Parts considered to be a Freshwater Planning Instrument
under section 80A of the Resource Management Act 1991**

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1. Introduction and planning context

1.1. Purpose

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

1.2. Abbreviations and submitter names

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

Table 1: Abbreviations

NPSHPL	National Policy Statement for Highly Productive Land
ASPM	Average score per metric
DRP	Dissolved Reactive Phosphorus
E.coli	Escherichia coli
FPI	Freshwater Planning Instrument
MCI	Macroinvertebrate community index
NESPF	Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017
NESF	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
NOF	National Objectives Framework
NPSFM	National Policy Statement for Freshwater Management 2020
NPSREG	National Policy Statement for Renewable Electricity Generation 2011

NNN	Nitrite-nitrate nitrogen
ORC	Otago Regional Council
pORPS	Proposed Otago Regional Policy Statement 2021
PC6A	Plan Change 6A to the Water Plan
PC6AA	Plan Change 6CC to the Water Plan
PC7	Plan Change 7 to the Water Plan
PC8	Plan Change 8 to the Water Plan
RMA	Resource Management Act 1991
Section 32 Evaluation Report	Section 32 Evaluation Report for the Proposed Otago Regional Policy Statement 2021
SE Regs	Resource Management (Stock Exclusion) Regulations 2020
SQMCI	Semi-Quantitative Macroinvertebrate Community Index
TN	Total Nitrogen
TP	Total Phosphorus
Waste Plan	Regional Plan: Waste for Otago
Water Plan	Regional Plan: Water for Otago

6. There are also abbreviations of submitter names. These are set out in Table 2 below.

Ballance	Ballance Agri-Nutrients Ltd
Beef + Lamb and DINZ	Beef + Lamb New Zealand Ltd and Deer Industry New Zealand
COWA	Central Otago Winegrowers Association
Contact	Contact Energy Limited
DairyNZ	DairyNZ Limited
DCC	Dunedin City Council
DOC	Director-General of Conservation
Duncan Kenderdine	Duncan Kenderdine
ECan	Canterbury Regional Council (Environment Canterbury)
Edgar Parcell	Edgar Parcell
Federated Farmers	Federated Farmers of New Zealand
Fish and Game	Otago Fish and Game Council and the Central Island Fish and Game Council (Fish and Game)
Fonterra	Fonterra Co-operative Group Limited
Forest and Bird	Royal Forest and Bird Protection Society of New Zealand Incorporated

Fulton Hogan	Fulton Hogan Ltd
Greenpeace	Greenpeace Aotearoa
Hamilton Runs	Hamilton Runs Limited
Horticulture NZ	Horticulture New Zealand
Kāi Tahu ki Otago	Te Rūnanga o Moeraki, Kāti Huirapa ki Puketeraki, Te Rūnanga o Ōtākou, and Hokonui Rūnaka.
Manawa Energy	Manawa Energy Ltd
Manuherikia Group	Manuherikia Catchment Group (Incorporated Society)
McArthur Ridge	McArthur Ridge Vineyard Ltd
Meridian	Meridian Energy Limited
Moutere Station	Moutere Station Ltd
NZDF	New Zealand Defence Force
Ngāi Tahu ki Murihiku	Waihōpai Rūnaka, Te Rūnanga Ōraka Aparima and Te Rūnanga o Awarua
Oceana Gold	Oceana Gold (New Zealand) Limited
Otago Forestry Companies	Port Blakely, Calder Stewart, City Forests, Ernslaw One Ltd, and Wenita
OWRUG	Otago Water Resource Users Group
QLDC	Queenstown-Lakes District Council
Ravensdown	Ravensdown Limited
Rayonier	Rayonier Matariki Forests
Realnz	Real Group Ltd (Realnz)
Silver Fern Farms	Silver Fern Farms Ltd
The Fuel Companies	Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited
Transpower	Transpower New Zealand Limited
NZSki	NZSki Ltd
Waka Kotahi	Waka Kotahi NZ Transport Agency
Waterfall Park	Waterfall Park Developments Limited
Wise Response	Wise Response Society Inc

1.3. Background to the pORPS

1.3.1. Notification of the Proposed Otago Regional Policy Statement (June 2021)

7. The pORPS underpins the planning framework in Otago, directing and informing the content of both regional and district plans, and in some cases other types of plans and strategies

(such as the Regional Land Transport Plan). It is therefore a critical document for the management of natural and physical resources in Otago.

8. Otago's first Regional Policy Statement became operative on 1 October 1998. In 2014 a review of that RPS was commenced with the intent of developing a new regional policy statement to replace it. Following a full review and development process, a proposed Regional Policy Statement was notified in 2015. The Council made decisions on the document in 2016 and it was made largely operative in 2019 (with the exception of Chapter 3), with all remaining provisions being made operative in 2021, excluding a package of provisions relating to port activities at Port Chalmers and Dunedin which is still under appeal.
9. There were three primary regulatory drivers for preparing the pORPS:
 - a. The requirement to implement the structure and format standards in the National Planning Standards by May 2022,
 - b. To implement the recommendations of the Minister for the Environment in response to the section 24A review of ORC's planning functions undertaken by Professor Skelton, and
 - c. To respond to a range of new and amended national direction promulgated since the pORPS 2019 was developed.
10. The first set of National Planning Standards (Planning Standards/ Standards) was gazetted in April 2019 and included a mandatory structure and format for planning documents, including regional policy statements. At the time, the Planning Standards required the structure and format standards to be implemented in regional policy statements by either May 2022 or earlier if a proposed regional policy statement was notified after April 2019. The May 2022 deadline was amended to May 2024 in February 2022. However, this does not apply to the pORPS as it was notified after April 2019.
11. The structure required by the Planning Standards is significantly different to the structure adopted in the Partially Operative ORPS 2019. It is not possible to simply 'rearrange' its provisions into the groupings required by the Planning Standards – implementing the Standards required revisiting many of the provisions and separating parts of them into different chapters. Complying with the structural requirements of the Planning Standards required a rewrite of the pORPS 2019 which could not be undertaken without using one of the planning processes set out in Schedule 1 of the RMA.
12. In May 2019, a review of ORC's planning functions was commissioned by the Minister for the Environment and undertaken by his appointee, Honorary Professor Peter Skelton. After receiving Professor Skelton's report and recommendations,¹ in November 2019 the Minister concluded that ORC's current freshwater management framework was not fit for purpose and made a number of recommendations to ORC on the future of its freshwater planning framework. These were accepted by ORC in December 2019 and included agreement to:
 - a. take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent

¹ Appendix 1 of the Section 32 Evaluation Report for the pORPS 2021.

framework for assessing all water consent applications, including those that are to replace any deemed permits;

- b. develop and adopt a programme of work to achieve the following:
 - i. By November 2020 [later amended to June 2021 with the Minister’s approval], publicly notify a new regional policy statement, with the intention that it be made operative before the review of its LWRP is notified.
 - ii. By 31 December 2023 [later amended to 30 June 2024 with the Minister’s approval], publicly notify a new LWRP for Otago that includes region-wide objectives, strategic policies, region-wide activity policies and provisions for each of the Freshwater Management Units, covering all the catchments within the region.
 - iii. Prepare a plan change by 31 March 2020 to provide an interim planning and consenting framework to manage freshwater until discharge and allocation limits are set in the new LWRP, in line with the requirements in the relevant NPSFM.
13. The new RPS must comply with national directions which have been put in place since the Partially Operative ORPS 2019 was developed. These include amendments to existing national policy statements and new national direction, including:
 - New National Policy Statement for Freshwater Management 2020,
 - New National Environmental Standard for Fresh Water 2020,
 - New Regulations for stock exclusion from water bodies,
 - Amendments to Regulations for the Measurement and Reporting of Water Takes,
 - New National Policy Statement for Urban Development 2020.
14. In March 2020 ORC undertook a targeted review of the Partially Operative ORPS 2019, primarily to evaluate its compliance with higher order documents and the effectiveness of the provisions. The review found that the structure of the Partially Operative ORPS 2019 has led to issues with the effectiveness of the provisions. The development of the pORPS is set out in chapter 2 of the Section 32 Evaluation Report.
- 1.3.2. Notification of the Freshwater Planning Instrument part of the pORPS (September 2022)
 - 1.3.2.1. Process
15. At a meeting on 16 June 2021, the Council approved the pORPS for notification and affirmed its decision that all of the document was a freshwater planning instrument in accordance with section 80A(2) of the RMA.² The pORPS was then publicly notified for submissions on 26 June 2021. The Royal Forest and Bird Protection Society of New Zealand (Forest and Bird) wrote to the Council around this time, expressing its view that the pORPS, in its entirety, was not a freshwater planning instrument under section 80A(2). Subsequently, on 3 September 2021 the ORC and Forest and Bird filed an application under the Declaratory Judgments Act

² <https://www.orc.govt.nz/media/10005/31-rps-notification-considered-in-public.pdf>

1908 for a number of declarations including, in particular, a declaration that the whole of the pORPS was a freshwater planning instrument.

16. In its Judgment dated 22 July 2022, the High Court declared that the Council’s determination that the whole of the PORPS is a freshwater planning instrument was wrong.³ The High Court instructed the Council to satisfy itself as to which parts of the pORPS qualify as part of a freshwater planning instrument because they relate directly to the maintenance or enhancement of freshwater quality or quantity.
17. After receiving the Judgment of the High Court, the Council applied the approach set out in the Judgment, and at its meeting on 15 September 2022 determined that the parts of the pORPS set out in Table 2 below are those that directly relate to the maintenance or enhancement of the quality or quantity of freshwater and therefore comprise a freshwater planning instrument.

Table 2: FPI provisions

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

³ The Judgement is available on the Council’s website at <https://www.orc.govt.nz/media/12988/orc-v-forest-bird-judg-20220405.pdf>

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

1.3.2.2. Submissions and further submissions

18. The FPI part of the pORPS 2021 was publicly notified on 30 September 2022. The submissions period closed on 29 November 2022. There were 42 submissions received by the closing date and four after the closing date.
19. The Summary of Decisions Requested (SODR) was publicly notified on 21 January 2023 with an invitation for further submissions. The period for further submissions closed on 3 February 2023. A total of 21 further submissions were received by this date. On 31 January 2023, a further summary of decisions requested was publicly notified (known as the Corrigendum) which included changes to one submission that was incorrectly reflected in the SODR. Additionally, six submissions (in full) which had not been publicly notified (but which were included in the SODR) were made available to the public on this same date. The period for making further submissions on these submissions closed on 8 February 2023. One additional further submission was received on 7 February 2023. An additional Corrigendum (known as Corrigendum 2) was publicly notified on 7 February, which included changes to one submission and two email addresses for service which were incorrectly recorded in the SODR. The period for making further submissions on this submission point closed on 16 February 2023. One additional further submission was received on 16 February 2023.

1.4. Format and assessment approach

20. This section details the format and structure of this report including the reporting and evaluation approach taken to the assessment of submissions, and any assumptions made. The assessments made in this report generally follow the structure of the pORPS, assessing the provisions contained within each chapter sequentially. Matters applicable to more than one provision are usually assessed in the 'General themes' set out at the beginning of each section.
21. The FPI provisions span seven chapters of the pORPS:

- a. Interpretation – definitions and abbreviations,
 - b. RMIA – Resource management issues of significance to iwi authorities in the region,
 - c. SRMR – Significant resource management issues for the region
 - d. LF – Land and freshwater, including:
 - i. LF-WAI – Te Mana o te Wai,
 - ii. LF-VM – Visions and management,
 - iii. LF-FW – Freshwater, and
 - iv. LF-LS – Land and soils.
22. In all of those chapters, some provisions are in the FPI and some are in the non-FPI part of the pORPS. This requires careful consideration of the linkages between the two processes and the implications of recommendations in one process on the other process. For this reason, additional sections are included, where necessary, setting out any relevant linkages, the recommendations made in the non-FPI process that may affect the FPI provision(s), and any additional recommendations or matters to note in relation to the FPI provision(s).
23. Recommendations are made, where appropriate, and these are either to retain provisions without amendment, or amend the provisions (by way of deletion, replacement with new text or addition of new text) with the amendment shown by way of strikeout and underlining in the attached copy of the FPI. Where the authors consider that an amendment may be appropriate but consider it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report.
24. Clause 49(2) allows a freshwater hearings panel to make recommendations outside the scope of submissions made on an FPI. In very limited circumstances, the authors of this report have made ‘out of scope’ recommendations. In those cases, the author has provided justification for making the recommendation.
25. In the absence of a specific recommendation, the default position of the authors is to retain the provisions as notified in the pORPS. All recommended changes are set out in an accompanying ‘tracked changes’ version of the pORPS. The footnoted references set out a submission point and submitter name that provides the scope for the recommended change.
26. The pORPS must be prepared in accordance with the relevant statutory obligations set out in the RMA. Section 80A(3) provides that the FPI must be prepared in accordance with subpart 4 (Freshwater planning process) of Part 5 of the RMA and Part 4 (Freshwater planning process) of Schedule 1 of the RMA.
27. Clause 50 of Part 4 of Schedule 1 provides that the Freshwater Hearings Panel, in formulating its recommendations, must be sure that if the Council were to accept the Panel’s recommendations the following sections would be complied with (among other things). There are many other sections of the RMA which apply to the FPI in the same way as they apply to any other plan-making process. Those are not listed in full here for brevity.
28. Section 61(1) RMA provides:

- (1) *A regional council must prepare and change its regional policy statement in accordance with—*
 - (a) *its functions under section 30; and*
 - (b) *the provisions of Part 2; and*
 - (c) *its obligation (if any) to prepare an evaluation report in accordance with section 32; and*
 - (d) *its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and*
 - (da) *a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and*
 - (e) *any regulations.*

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

- (2) *In addition to the requirements of section 62(3), when preparing or changing a regional policy statement, the regional council shall have regard to—*
 - (a) *any—*
 - (i) *management plans and strategies prepared under other Acts; and*
 - (ii) *[Repealed]*
 - (iia) *relevant entry on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and*
 - (iii) *regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and*
 - (iv) *[Repealed]*
 - to the extent that their content has a bearing on resource management issues of the region; and*
 - (b) *the extent to which the regional policy statement needs to be consistent with the policy statements and plans of adjacent regional councils; and*
 - (c) *the extent to which the regional policy statement needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012;*
 - (d) *any emissions reduction plan made in accordance with section 5Z1 of the Climate Change Response Act 2002; and*

(e) *any national adaptation plan made in accordance with section 5ZS of the Climate Change Response Act 2002.*

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

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

(a) *the council must take into account any relevant planning document recognised by an iwi authority; and*

(b) *in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the council must, in accordance with section 93 of that Act,—*

(i) *recognise and provide for the matters in that document, to the extent that they relate to the relevant customary marine title area; and*

(ii) *take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.*

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

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

1.4.1. Submissions and further submissions

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

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

35. There are further submissions on a number of submission points. The further submissions have been closely reviewed along with the relevant submission point. The majority of further

submissions are from original submitters. For most further submission points, the issue is clearly 'live' from the submitters' original submission. On this basis, only in exceptional cases are further submission points noted.

1.5. Authors

36. This report has been prepared by a team of reporting officers. The table below sets out the parts of this report prepared by each author and the following sections outline their qualifications and experience.

Section	Author
1. Introduction and planning context (except 'Procedural and jurisdictional issues' which was prepared by Ross Dowling Marquet Griffin)	Felicity Boyd
2. Freshwater management in Otago	Felicity Boyd
3. Non-FPI provisions and other statutory considerations	Felicity Boyd
4. Common themes	Felicity Boyd
5. Definitions	Felicity Boyd
6. SRMR – Significant resource management issues for the region	Jacqui Todd
7. RMIA – Resource management issues of significance to iwi authorities	James Adams
8. LF – Land and freshwater	Felicity Boyd

1.5.1. Felicity Boyd

37. 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 an accredited decision-maker under the Making Good Decisions programme.
38. 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.

39. I have been involved in the review of the Partially Operative Otago Regional Policy Statement 2019 and the preparation of the pORPS since January 2020. I provided technical oversight for provision drafting, the section 32 evaluation report, and the suite of section 42A reports prepared for the whole of the pORPS when it was notified in June 2021, as well as being a technical lead for particular chapters, most recently the *LF – Land and freshwater* and *IM – Integrated management* chapters.
40. I have assisted ORC to apply the High Court judgment regarding identification of the FPI and continue to act as technical lead for the overall and *LF – Land and freshwater* parts of the FPI. Although a shared responsibility across the reporting officer team, I have primary responsibility for ensuring consistency across the two processes. I am also assisting ORC with developing its LWRP.

1.5.2. Jacqui Todd

41. My name is Jacqueline Ann Todd and I am a Senior Resource Management Consultant employed by Incite, a planning consultancy. I hold a Bachelor of Science (Zoology)(First Class Honours) from the University of Otago and a Post-graduate Diploma in Resource Studies (with Distinction) from Lincoln University. I am a full member of the New Zealand Planning Institute and an accredited decision-maker under the Making Good Decisions programme.
42. I have over 22 years of resource management and planning experience in the private and public sector. I have experience in policy development and resource consenting in a wide range of resource management activities, with a particular focus on freshwater. I also have experience in Environment Court processes including expert conferencing, mediation and hearings.
43. I have been involved in the review of the pORPS since March 2022. As technical lead for this topic, I prepared the SRMR s42A report for the non-FPI provisions and have participated in the hearing on that topic. For consistency, I am now also the technical lead for the SRMR provisions in the FPI. I am also assisting ORC with developing its LWRP.

1.5.3. James Adams

44. My name is James Adams and I am a Senior Policy Analyst employed by Otago Regional Council. I hold a Bachelor of Laws and a Bachelor of Arts from Otago University.
45. I have around 8 years of resource management and planning experience, based at Otago Regional Council. During this time, I have worked mainly on Regional Policy Statements, both the Partially Operative Otago Regional Policy Statement 2019 and the proposed Otago Regional Policy Statement 2021. This has included associated section 32 evaluation reports, section 42A reports and participating in Environment Court processes such as expert conferencing and mediation.
46. I have been involved in the review of the Partially Operative Otago RPS 2019 and the preparation of the pORPS 2021 since late 2019. I have been involved in drafting various

sections of the pORPS, and the section 32 evaluation report, as well as being involved in community, stakeholder and mana whenua engagement processes for the whole of the pORPS when it was notified in June 2021. I am the technical lead for a number of topics in the non-FPI parts of the pORPS, including *MW – Mana whenua* and RMIA. For consistency, I am now also the technical lead for the RMIA provisions in the FPI.

1.6. Procedural and jurisdictional issues

47. Detailed analysis of jurisdictional and specific legal issues raised by submissions can be found within this section of the report, with cross-references to this analysis in the relevant planning discussion.
48. The analysis in this section covers the following matters:
 - a. Validity of submissions
 - b. Out of scope recommendations
 - c. Planning process
 - d. Section 32
 - e. Application of higher order documents
 - f. Resource management reforms
 - g. Triennial agreement
49. The content of this section has been prepared by Ross Dowling Marquet Griffin, counsel for the Council.

1.6.1. Validity of submissions

1.6.1.1. Submissions

50. The closing time for submissions on the FPI part of the pORPS was 3pm on 29 November 2022. Four submissions were received after that time. For processing purposes, the ORC has treated these submissions as if they had been received in time. They have been included in the SODR. Late submissions have been open to further submissions. Late submissions are addressed in this section 42A report.
51. The submissions received on the FPI parts of the pORPS fall into four broad categories:
 - a. General submissions on the whole FPI and/or pORPS;
 - b. Submissions on the FPI provisions;
 - c. Submissions on non-FPI provisions; and
 - d. Submissions requesting new provisions.
52. The parts of the pORPS that form the FPI are set out in Table 2 previously.
53. The SODR is split into two parts: broadly, Part A contains submissions on the FPI provisions and Part B contains other submissions. When preparing the SODR, submission points on specific FPI provisions as well as general submissions on the whole of the FPI were included

in Part A. When preparing this report, it became apparent that a small number of general submissions on the whole of the FPI had been inadvertently included in Part B instead of Part A.⁴

54. A large number of submissions were received that included submission points on provisions that are not included in the FPI parts of the pORPS.⁵ These submission points are included in Part B of the SODR. Part B also contains submissions on other provisions as well as submission points seeking new provisions.⁶ Some of those relate to fresh water and some do not.
55. Additionally, Fish and Game is seeking that the following provisions contained in the non-FPI parts of the pORPS are instead included as part of this FPI hearing process: LF-FW-O8, LF-FW-P8, LF-FW-P11, LF-FW-P12, LF-FW-P13, LF-FW-P13A, LF-FW-P14, LF-FW-M5, and the definitions of 'degraded', 'effects management hierarchy', 'freshwater', 'freshwater management unit or FMU', 'lake', 'natural wetland', 'outstanding water body', 'river', 'Te Mana o te Wai', 'water body', and 'wetland'.⁷

1.6.1.2. Analysis

56. No prejudice arises to the Council in the four late submissions being received out of time and being considered by the Hearing Panel. There appears to be no prejudice to any other person. The panel may therefore grant the necessary waivers.
57. The Fish and Game submission that provisions in the non-FPI part of the pORPS be included in the FPI part of the pORPS must be rejected. The Hearing Panel has no jurisdiction to decide that. The decision has already been made by the ORC under section 80A of the RMA, and the FPI notified in accordance with ORC's decision. Jurisdiction for any challenge to the ORC's decision lies with the High Court upon proceedings seeking judicial review. No such proceedings have been issued.
58. Submissions made on provisions in the non-FPI part of the pORPS cannot be heard, even if those submissions relate in some way to freshwater. As noted in the preceding paragraph, the division of the pORPS under section 80A of the RMA has already occurred. Section 80A is no longer applicable. The provisions in the non-FPI part of the pORPS are solely within the jurisdiction of the non-FPI Hearing Panel.
59. Some submitters have sought a new provision be added to the FPI. Clause 49(2)(a) of Schedule 1 of the Act is relevant:

⁴ FPI043.020 OWRUG, FPI043.015 OWRUG, FPI007.058 John Highton, FPI036.002 Otago Forestry Companies.

⁵ For example, including FPI035.025 Wise Response, FPI035.027 Wise Response, FPI035.028 Wise Response, FPI037.001 Fish & Game.

⁶ FPI043.080 OWRUG, FPI037.003 Fish and Game, FPI038.004 NZSki, FPI039.006 Realnz, FPI037.002 Fish and Game, FPI038.005 NZSki, FPI039.007 Realnz, FPI043.054 OWRUG, FPI039.001 Realnz, FPI043.006 OWRUG, FPI043.007 OWRUG, FPI046.028 QLDC, FPI037.004 Fish and Game, FPI037.005 Fish and Game, FPI043.029 OWRUG.

⁷ FPI037.028, FPI037.029, FPI037.030, FPI037.031, FPI037.032, FPI037.033, FPI037.034, FPI037.035, FPI037.036, FPI037.037, FPI037.038, FPI037.040, FPI037.041, FPI037.042, FPI037.043, FPI037.044, FPI037.045, FPI037.046, and FPI037.047 Fish and Game.

“The freshwater hearings panel ... may make recommendations on any other matters relating to the freshwater planning instrument identified by the panel or any other person during the hearing.”

60. The key words are “relating to the freshwater planning instrument”.
61. The hearing panel may make a recommendation on a new provision sought by a submitter if the new provision meets either of the following criteria:
 - a. The new provision relates to a provision in the FPI (either as notified or as proposed to be amended by a submitter). That is so even if the new provision does not strictly relate to freshwater. This is because the test under clause 49(2)(a) is *“relating to the freshwater planning instrument”*. For example, a definition of a term used in the FPI.
 - b. The new provision does not relate to a provision in the FPI but does relate to freshwater. This is determined as follows:
 - i. The test in *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2022] NZHC 1777 must be applied.
 - ii. The test is that for a provision to relate to freshwater in terms of section 80A of the Act it must relate directly to the maintenance or enhancement of the quality or quantity of freshwater.
 - iii. This is the relevant test because for a completely new provision the issue is which of the two instruments decided under section 80A the provision relates to.
 - iv. The FPI includes only the provisions which relate directly to the maintenance or enhancement of the quality or quantity of freshwater. Provisions which do not meet this test are in the non-FPI part of the pORPS.
 - v. Therefore, completely new provisions will relate to one or other of the instruments according to whether they relate directly to the maintenance or enhancement of the quality or quantity of freshwater.

1.6.1.3. Recommendation

62. It is recommended that the Fish and Game submission that provisions in the non-FPI part of the pORPS be included in the FPI part of the pORPS be rejected as outside the jurisdiction of the Hearing Panel.
63. Appendix 1 contains the table comprising Part B of the SODR. It is recommended that the submissions shaded orange in Appendix 1 be rejected as outside the jurisdiction of the Hearing Panel because they relate to non-FPI pORPS provisions.
64. It is recommended that the submissions shaded green in Appendix 1 be accepted within the jurisdiction of the Hearing Panel, because they relate to the FPI.
65. It is recommended that the Hearing Panel grant a waiver of time for the late submissions.

1.6.2. Out of scope recommendations

66. Under clause 49(2)(a) of Schedule 1 of the Act the Hearing Panel is not limited to making recommendations only within the scope of submissions made on the freshwater planning instrument.
67. Any recommendation the Hearing Panel makes must however relate to the FPI under clause 49(2)(b) of Schedule 1 of the Act.
68. The criteria for determining whether a matter relates to the FPI are set out at paragraph 61 above.

1.6.3. Planning process

1.6.3.1. Submissions

69. Edgar Parcell requests that ORC need to consult with the community a lot more.⁸
70. DCC considers that it would be useful and efficient to provide the opportunity for pre-hearing mediation and expert caucusing, and asks that the Panel consider this request.⁹
71. DCC also requests that ORC do not amend content that has been agreed through the mediation and appeal process for the previous RPS, unless there is a compelling reason to do so.¹⁰

1.6.3.2. Analysis

72. ORC has consulted with its community in developing the FPI for notification, in accordance with its legal obligations. That consultation is described in detail in the s32 report. Members of the public have had an opportunity of making submissions on the notified FPI if they had objections to its contents. Implementation of the FPI and the NPSFM, especially the NOF, requires engagement with mana whenua and communities.
73. The FPI is part of a thorough-going review of the partially operative RPS 2019. The subject matter of the FPI is freshwater quantity and quality. The corresponding provisions in the previous RPS have become out-dated because of new national directions for fresh water, notably the NPSFM which mandates a radically different approach to fresh water management.

1.6.3.3. Recommendation

74. No changes to the FPI are recommended.

⁸ FPI011.001 Edgar Parcell

⁹ FPI001.055 DCC

¹⁰ FPI001.048 DCC

1.6.4. Section 32 assessment

1.6.4.1. Submissions

75. Two submissions were received on the section 32 report:
- a. The Fuel Companies seek general relief to meet the requirements of the statutory tests in section 32 of the RMA.¹¹
 - b. DairyNZ seeks that the s32 report is strengthened further, particularly in relation to the evaluation of options and their social and economic costs.¹²

1.6.4.2. Analysis

76. The ORC has prepared an evaluation report in accordance with section 32 of the RMA. A number of related matters are now for substantive consideration by the hearing panel in the content of specific FPI provisions, and taking account of submission made, evidence called, this report, and the section 32 report. These matters include:
- a. whether objectives are the most appropriate way of achieving the purpose of the RMA,
 - b. whether FPI provisions are the most appropriate way of achieving those objectives,
 - c. the appropriate level of detail,
 - d. the identification of other reasonably practicable options to achieve objectives,
 - e. the efficiency and effectiveness of provisions in achieving objectives,
 - f. the benefits and costs of provisions and their quantification, and
 - g. the risks of acting or not acting given the level of certainty or sufficiency of information.

1.6.4.3. Recommendation

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

1.6.5. Application of higher order documents

1.6.5.1. Submissions

78. Fish and Game seeks that the pORPS must provide direction on how to reconcile competing policy tensions in higher order documents.¹³

¹¹ FPI034.007 The Fuel Companies

¹² FPI024.038 DairyNZ

¹³ FPI037.067 Fish and Game

1.6.5.2. Analysis

79. There is no obligation for a RPS to reconcile National Planning instruments. It is not what is required by the Act. In some circumstances, the RPS will need to include text which does attempt to give effect to National Planning instruments which on their face might pull in different directions.
80. The relationships between policies are governed by the language used. Policies are to be read and applied in their terms. More directive provisions prevail over less prescriptive policies. In particular, the avoidance policies take precedence over policies to “provide for”, “consider” or “recognise”.¹⁴
81. The approach to interpretation set out in *King Salmon* can and should also be used to make national instruments work together as far as possible and if not, determine which prevails if they cannot be reconciled. The interpretation and interaction between national directions is a question of law. Their interpretation and effect have national significance and are not matters to be dealt with in a subordinate planning instrument.

1.6.5.3. Recommendation

82. No changes to the FPI are recommended.

1.6.6. Resource management reforms

1.6.6.1. Submissions

83. DCC seeks that ORC should consider whether any changes to methods are required to reflect the proposed changes through the RM reform process, such as the need to delay timeframes, or change references to planning documents (including references to Strategic Spatial Strategies). DCC considers that the pORPS is likely to be part of transitional provisions that would, under the new system, be part of a regional-scale plan.¹⁵

1.6.6.2. Analysis

84. At the date of this report the Natural and Built Environment Bill and Spatial Planning Bill, intended to replace the RMA, are under consideration by Parliament’s Environment Committee.
85. The Committee received over 3,000 submissions.
86. The Committee is to report to Parliament on the Bills by 27 June 2023.
87. After the Committee has reported the Bills have several stages to go through before being enacted.
88. The Government has stated it intends to have the Bills enacted before the general election.

¹⁴ *King Salmon*, at [126]-[132]

¹⁵ FPI001.041 DCC

89. The final content of the new legislation, including its transitional provisions, is not known.
90. It is not possible to amend the proposed RPS to accommodate anticipated legislative outcomes.

1.6.6.3. Recommendation

91. No recommendations are required.

1.6.7. Triennial agreement

1.6.7.1. Submissions

92. DCC notes that the RPS states roles and responsibilities for territorial authorities. It considers that agreements around roles and responsibilities should be negotiated through the triennial agreement, and not imposed via the pORPS.¹⁶

1.6.7.2. Analysis

93. After each triennial election, the local authorities of the region must enter into an agreement which must include:
- a. protocols for communication and co-ordination among the local authorities; and
 - b. a statement of the process by which the local authorities will comply with [section 16](#) of the Local Government Act 2002 in respect of proposals for new regional council activities; and
 - c. processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.
94. The agreement may also include:
- a. commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and
 - b. the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.
95. Under s62(1)(i), the RPS must state which local authority is responsible for management of natural hazards and indigenous biodiversity.
96. Territorial authorities must also give effect to the RPS in their district plans.
97. The submission by DCC does not identify any matters which should be dealt with in the triennial agreement and not in the RPS. It is very difficult to respond to the substance of the submission on its merits. DCC may wish to address the submission point more fully at the hearing.

¹⁶ FPI001.052 DCC

1.6.7.3. Recommendation

98. No recommendations are required.

1.6.8. Weighting of Kāi Tahu ki Otago submission

1.6.8.1. Submissions

99. Kāi Tahu ki Otago request that their submission is afforded status and weight appropriate to recognise their rakatirataka and exercise of kaitiakitaka over the Otago region, and generally support the references to the relationship with Kāi Tahu in the context of partnership.¹⁷

1.6.8.2. Analysis

100. ORC acknowledges its obligations to manage freshwater in partnership with mana whenua. In that partnership, ORC recognizes, Kāi Tahu rakatirataka and its exercise of kaitiakaka over the fresh water of the region. Its voice must be heard and accorded corresponding weight. In addition, the FPI is a direct response to the NPSFM which requires active engagement with mana whenua at all steps in its implementation, The principles of Te Mana o te Wai emphasised the vital roles of mana whenua in the management of fresh water.

101. While ultimately weight to be given to any submission is for the panel, the Kai Tahu submissions are the authentic voice of mana whenua whose place in this planning exercise and whose interests and values must be recognised in the outcomes.

1.6.8.3. Recommendation

102. No changes to the FPI are required.

¹⁷ FPI030.050, FPI 030.046 Kāi Tahu ki Otago

2. Freshwater management in Otago

2.1. Introduction

103. The section 32 evaluation report prepared for the pORPS, including the FPI part, sets out the background to the document and the drivers for its development.¹⁸ Because it was prepared for the whole pORPS, it did not set out the particular background to freshwater management in Otago. Given the much narrower focus of the FPI, that background is relevant to considering the provisions and submissions. This section provides an overview of:

- a. Otago's freshwater resources,
- b. State and trends: Water quantity,
- c. State and trends: Water quality,
- d. Indigenous freshwater species, and
- e. The current planning framework.

2.2. Otago's freshwater resources¹⁹

2.2.1. Overview of the region

104. The Otago region covers a land area of 32,000 km². The distinctive and characteristic landscape of Otago includes the Southern Alps and alpine lakes; large high- country stations; dry central areas, with tussock grassland and tors; and dramatic coastlines around the Otago Peninsula and the Catlins. Lowland pasture country is common in the west.

105. Climatic conditions in Otago are characterised by high rainfall in the Southern Alps and occasional very low rainfall in the semi-arid central Otago valleys. Despite the large water volumes in the region, parts of Otago are among the driest areas in New Zealand. Several rivers are characterised as 'water-short', including the Lindis, Manuherekiā, Taiari, Shag and Kākaunui (Kakanui) rivers and their tributaries.

106. Water is an integral part of Otago's natural environment. The region has a very significant water resource comprising surface water, groundwater, and wetlands. The character of the region's water bodies is diverse, reflecting the variation in environmental conditions.

2.2.2. Surface water

107. The Clutha River/Mata-au drains much of the Otago region and is the largest river in New Zealand in terms of the quantity of water carried each year. Its catchment area totals 21,000km² and 75% of the total flow of the Clutha River/Mata-au at Balclutha results from the catchments of the three major lakes: Lakes Hāwea, Wānaka and Whakatipu Waimāori/Lake Wakatipu. Larger rivers feeding into the Clutha catchment include the Cardrona, Lindis, Shotover, Nevis, Fraser, Manuherekiā, Teviot, Poumāhaka (Pomahaka),

¹⁸ Section 32 evaluation report – Proposed Otago Regional Policy Statement 2021, section 1.3.

¹⁹ The information in this section has been compiled from section 3.2 of the Water Plan and section 2 of Ozanne (2021)

Waitāhuna, and Te Waiwhero (Waiwera) rivers. The Clutha/Mata-au and its principal tributary the Kawarau River pass through gorges, two of which are dammed for hydro-electricity generation.

108. The second largest catchment in Otago is that of the Taiari (Taieri) River which comprises an area of 5,060km². Rising in the uplands of Central Otago, it meanders between mountain ranges before passing through an incised gorge and crossing the Taiari Plain where it joins the waters of the Lake Waipōuri (Waipori) and Waihola catchments and becomes tidal before making its way through another gorge to the sea at Taiari Mouth.
109. Other significant Otago rivers drain the coastal hills in catchments of varying character. In the north, the Kākaunui (Kakanui), Waianakarua, Shag and Waikōuaiti Rivers rise in high country and pass through predominantly dry downlands. The Tokomairaro (Tokomairiro) River flows through Milton, south of Dunedin, and drains rolling country between the Taiari and Clutha/Mata-au catchments. Rivers in the south of Otago, particularly the Catlins area, emerge from wetter, often forested hills.
110. These conditions leave their mark on Otago's water bodies, such as the Shotover River's distinctive colour resulting from a combination of high rainfall and erosion.
111. Otago contains many lakes of varying sizes. Approximately 23% of New Zealand's total lake surface area is in Otago. Despite the generally large water volumes present in the region, some parts of Otago are among the driest areas in New Zealand. The lack of water is observable in many small stream stretches, which dry up each summer.

2.2.3. Groundwater

112. Groundwater is an important resource in Otago and is used across the region for drinking, irrigation, industry and stock water supply. There are a number of localities in Otago where groundwater is of particular significance due to existing use or potential demand. In addition, groundwater discharge significantly impacts stream flow, water quality, and ecology in various catchments across the region (e.g. the Kākaunui-Kauru, Shag).
113. In contrast to the extensive gravel aquifers found in some New Zealand regions (e.g. the Canterbury Plains, Hawke's Bay) most of Otago's aquifers are small and occur within various geological settings, mainly disconnected basins that are associated with glacial outwash or moraine deposits in river valleys (i.e. alluvial/fluvial depositional environments), that can contain multiple aquifers depending on the environment in which they were formed.
114. The geological strata where aquifers have been identified within the Otago region include:
 - Quaternary outwash and recent alluvial gravel (unconfined aquifers)
 - Tertiary units of varying properties (normally confined/semi-confined aquifers)
 - Claybound alluvial gravels and sediments in higher and therefore older terrace settings (unconfined aquifers)
 - Volcanic deposits
 - Other units (limestone, fractured schist, and basal quartz conglomerates)

115. Although groundwater is present within the substrata of most localities within Otago, there are limited areas where bores can sustain a reliable supply of water. Within these restricted areas, bores can provide economically significant water.

2.2.4. Wetlands²⁰

116. Wetlands are an important component of Otago's water resource. They provide a diverse set of landscape elements, including high altitude blanket bogs and string bogs, saline areas, swamp forest remnants, shallow lake complexes, estuarine saltmarshes and valley floor swamps. These are of particular significance due to their scarcity and ecological and cultural values.

117. Upland wetlands such as those on Otago's block mountain ranges, are often considered important for supporting summer stream flows, as well as their near-pristine ecosystems. The most common wetlands in the hill country are Carex-dominant swamps in gullies, as well as copper tussock swamp and marsh wetlands in montane areas.

118. Lowland and montane wetlands provide important habitat for birds, including the Australasian bittern and South Island fernbird, particularly in eastern Otago as well as in the upper Taiari River, upper Manuhereki River, lower Dart River and Mātakitaki.

119. There are many ephemeral wetlands in the dry montane basins of inland Otago. These wetlands are considered a Critically Endangered and historically rare ecosystem type and are important habitats for Threatened and At Risk plant species as well as for bird such as the pied stilt and banded dotterel.

120. Distinctive scroll plains occur in the upper Taiari River and, to a smaller extent, the inflows of the Loganburn Reservoir and Lake Onslow. These scroll plains provide important habitat for rare plant species. The upper Taiari scroll plain and the large Waipōuri/Waihola wetland complex are wetland systems of significance for a range of indigenous wildlife.

2.2.5. Freshwater Management Units

121. As outlined in LF-VM-P5 of the pORPS, ORC has identified five FMUs: Clutha/Mata-au, Taiari, North Otago, Dunedin and Coastal, and Catlins. Due to its size, the Clutha/Mata-au FMU has been further divided into sub-units called rohe: Upper Lakes, Dunstan, Manuhereki, Roxburgh, and Lower Clutha. A description of the FMUs and rohe, including maps of their boundaries, is attached as Appendix 2.

2.3. State and trends: water quantity²¹

122. Unlike water quality, there does not appear to have been any state of the environment reporting on water quantity in Otago. Available technical information tends to be

²⁰ The information in this section is compiled from Wildlands (2021b) in Appendix 4 of the section 32 evaluation report

²¹ Statement of Evidence of Roderick Donald Henderson on behalf of the Otago Regional Council, 7 December 2020. In the matter of the Water Permits Plan Change – proposed Plan Change 7 to the Water Plan

catchment-specific.²² It is therefore difficult to identify the state and trends with relation to water quantity, other than in a broad sense.

123. The north-western parts of Otago have extremely high rainfall, with rainfall totals declining rapidly southeast of the catchments of Lakes Hāwea, Wānaka and Whakatipu Waimāori/Lake Wakatipu. Along the coast, there is a north to south gradient for rainfall, with the Catlins being wetter than North Otago. In terms of catchment yields, the distribution is similar to rainfall, with high yields upstream of the large lakes, and lower yields in Central Otago and coastal North Otago.
124. These patterns are reflected in the mean flows of FMUs, with the Clutha/Mata-au mean flow totalling 88% of the overall mean flow in Otago, despite covering only 67% of the region's area. The mean flows in the five rohe which make up the FMU, as percentages of the total, are:²³
- a. Upper Lakes: 72%
 - b. Dunstan: 15%
 - c. Roxburgh: 4%
 - d. Lower Clutha: 6%
125. The vast majority of takes are from surface water (approximately 91%) with more consents located in drier areas such as the North Otago FMU, Dunstan rohe and Manuherekia rohe. Evidence prepared for proposed Plan Change 7 to the Water Plan (PC7) indicated that levels of allocation are relatively high compared to the primary allocation limits for several freshwater bodies, including the Luggate, Manuherekia and Taiari catchments.²⁴
126. In its decision on PC7, the Environment Court noted that there is a high degree of uncertainty in the reliability of the existing water quantity information held by ORC, and that the operative regional plan does not give effect to the three relevant national policy statements.²⁵ The Court noted evidence on the range of issues affecting the coverage and continuity of flow recording in the region, including a lack of monitoring in some catchments, few or no measurements for smaller tributaries, diversions in/out of catchments, abstractions for out of stream use, and manipulation of flows due to storage.²⁶

2.4. States and trends: water quality

127. In comparison to water quantity, there is considerably more information on surface water and groundwater water quality in Otago.

²² For example, there is considerable technical information available on the Manuherekia catchment (<https://www.orc.govt.nz/plans-policies-reports/land-and-water-regional-plan/find-your-area/manuherekia-rohe>)

²³ Decision No. [2021] NZEnvC 164 – Interim Decision of the Environment Court, Annexure 5, para [2]

²⁴ Decision No. [2021] NZEnvC 164 – Interim Decision of the Environment Court, Annexure 5, para [6]

²⁵ Decision No. [2021] NZEnvC 164 – Interim Decision of the Environment Court, Annexure 5, para [18]

²⁶ Decision No. [2021] NZEnvC 164 – Interim Decision of the Environment Court, Annexure 5, para [9]

2.4.1. Surface water²⁷

128. Following the replacement of the NPSFM in 2020, ORC engaged Land Water People Limited to undertake a study of water quality state at river and lake monitoring sites, using the most up to date available data. The scope of the study was to evaluate water quality state and to grade each site into relevant attribute bands designated in Appendix 2A and 2B of the NPSFM. The data from that report were then used to prepare *State and trends of lake and river water quality in the Otago region 2000-2020* (Ozanne, 2021), attached as Appendix 3. This is the most recent reporting on surface water quality.
129. Overall, the report demonstrates that water quality is variable and ranges from excellent to poor. Of the 78 monitored sites, 46 did not meet the NOF bottom line for *E.coli* and 40 did not meet the bottom line for suspended fine sediment. For Dissolved Reactive Phosphorus (DRP), 14 sites were in the 'D' band. There were 25 sites for total nitrogen (TN) and 23 sites for DRP that were elevated above the 20% exceedance criteria, which is the level at which there is some risk that the chlorophyll-a response at some sites will exceed the desired chlorophyll-a thresholds, even if the DRP or TN targets are achieved. No lakes in Otago meet the bottom lines for chlorophyll-a but only one (Roto-nui-a-Whatu/Lake Tuakitoto) does not meet the NOF bottom line for TN and total phosphorus (TP).
130. The 20-year trends were mostly degrading for all variables except ammoniacal nitrogen. Results were more variable for ten-year trends, with trends depending on the water quality variable. Broadly, there were degrading trends at some sites for dissolved oxygen, DRP, *E.coli*, MCI, nitrite-nitrate nitrogen (**NNN**), semi-quantitative macroinvertebrate community index (**SQMCI**), TN, TP and turbidity. However, there were also improving trends for ammoniacal nitrogen, dissolved oxygen, DRP, *E.coli*, NNN, TN, TP and turbidity.
131. Given the region-wide variability, the sections below summarise the results in relation to each FMU and rohe.

2.4.1.1. Clutha/Mata-au FMU

Upper Lakes rohe

132. ORC monitors water quality at 23 river sites and 3 lake sites in this rohe. Water quality is generally very good which is to be expected given it covers largely river and stream reaches located at high or mountainous elevations with predominantly native cover. The NOF bottom line for *E.coli* was not met at four of the ten river sites and for suspended fine sediment at seven of the ten river sites (however all sites are affected by glacial melt-water). One site (Bullock Creek) did not meet the NOF bottom line for periphyton. All lake sites achieved 'A' band for all parameters assessed.
133. Only the Dart and Mātakitaki (Matukituki) River sites have been monitored for a sufficiently long period of time to undertake trend analysis. In the Mātakitaki, NNN has shown to be increasing over the past ten years. In both the Mātakitaki and Dart Rivers, TP trends are improving. In the lakes, total nitrogen TN is showing improving trends at the outlets of both

²⁷ The information in this section is compiled from Ozanne, R. (2021). *State and trends of lake and river water quality in the Otago region 2000-2020*. Otago Regional Council, Dunedin.

Whakatipu Waimāori/Lake Wakatipu and Lake Wānaka, but turbidity is showing declining trends in Lakes Hāwea and Wānaka.

Dunstan rohe

134. ORC monitors 16 river sites and three lakes in this rohe. Water quality is generally very good in the Dunstan rohe with few sites falling below NOF bottom lines. Most of these are for turbidity with two sites falling below the *E.coli* bottom line, one for the macroinvertebrate score per metric (ASPM) and one for the macroinvertebrate community index (MCI).
135. In terms of trends, the Cardrona River showed degradation in *E.coli*, TN, NNN and SQMCI. There were declines in turbidity at Mill Creek, Luggate Creek, and the Kawarau River as well as in NNN at Luggate Creek. Mill Creek showed improving trends for dissolved reactive phosphorous (DRP), *E.coli*, NNN, TN and TP.
136. Lake Dunstan showed an increasing trend in ammoniacal nitrogen and Lake Hāwea an increase in NNN. However, Lake Hāwea also showed decreases for TP and turbidity, as well as Lake Hayes showing decreases in DRP and TP.

Manuherekia rohe

137. ORC monitors eight river sites in this rohe. Upstream of the Falls Dam, water quality is generally very good – all sites achieved ‘A’ band for all attributes measured. In the upper Manuherekia, two sites achieved ‘B’ band for periphyton, but this dropped to ‘C’ band in the lower Manuherekia. For *E.coli*, sites in the upper Manuherekia were either ‘B’ or ‘C’ band but all dropped to ‘D’ band in the lower Manuherekia. The tributaries (Poolburn and Thomsons Creek) have poor water quality across all attributes other than toxicity, mainly achieving ‘D’ bands.
138. Trend analysis showed that there are a number of sites with degrading water quality trends for *E.coli*, NNN and turbidity over ten years and *E.coli*, NNN and TN over 20 years.

Roxburgh rohe

139. ORC monitors four river sites and one lake in this rohe. Water quality in the Roxburgh rohe is generally good, with NOF ‘A’ bands achieved for most attributes. The exceptions are suspended fine sediment at Teviot and the Bengier Burn. For the Teviot, this is likely due to Lake Onslow (a main input to the river), which is a shallow lake susceptible to sediment resuspension from wind-driven waves. *E.coli* was also below the NOF bottom line at these two sites.
140. Trend analysis showed that Lake Onslow has improving trends for NNN and TP, but degradation for turbidity. The Clutha River at Millers Flat also showed degradation for turbidity.

Lower Clutha rohe

141. ORC monitors 14 river sites and one lake in this rohe. Water in the Lower Clutha rohe generally has poor water clarity and high nutrient and bacteria concentrations. No sites achieve ‘A’ band in every attribute – all sites show some type of degradation. *E.coli* was

below the NOF bottom line at 12 of the 15 sites monitored, fine suspended solids at seven of the 15 sites and DRP at four of the sites. Roto-nui-a-Whatu/Lake Tuakitoto (fed mainly by Lovells Creek which has poor water quality) achieved 'D' bands for TP, TN and chlorophyll-a.

142. Trend analysis shows that the Heriot Burn is seeing improvement in *E.coli* and TN, and the Wairuna in ammoniacal nitrogen and DRP. Burkes Ford, in the lower Poumāhaka, is also showing improvement in DRP. The Waitahuna has degrading trends for DRP, *E.coli*, TN, TP and turbidity.
143. In the Poumāhaka catchment in particular, six sites achieve either 'D' or 'E' band for *E.coli*. This is considered to be due to insufficient effluent storage and extensive usage of subsurface drainage (such as mole and tile drains). There are fewer variables showing degrading trends over the past ten years in comparison to the 20-year time period.

Taiari FMU

144. ORC monitors 19 river sites and one lake in this FMU. The majority of sites achieve 'A' or 'B' bands for NOF attributes, except for DRP and TN attributes which were mainly 'C' band. The tributaries in the lower Taiari plain have some of the poorest water quality in Otago, with five sites failing to meet the national bottom line for *E.coli*. Three streams in the lower Taiari plain (Contour Channel, Silverstream and Ōwhiro Stream) are monitored. All three achieve C or D bands for *E.coli* and a mixture of C and D bands for other measures, including DRP (periphyton), TN (periphyton), suspended sediment, and ASPM. Although an artificial watercourse, the Contour Channel connects with natural watercourses so its water quality is important for those water bodies and the aquatic life they contain. Lake Waihola has nutrient and phytoplankton concentrations generally in 'C' bands which is typical of a productive lake with increased levels of nutrients and algae.
145. Trend analysis shows many degrading trends. Across the mainstem of the Taieri River, Tiroiti has degrading trends for DRP, *E.coli* and TN and Outram has degrading trends for *E.coli*, NN, TN, TP and turbidity. Silverstream shows a degrading trend for NNN. There are improvements along the mainstem with Stonehenge showing improvements in turbidity and Waipiata for DRP, NNN, TP and turbidity.

Dunedin and Coast FMU

146. ORC monitors eight river sites in this FMU. Water in this FMU generally has high bacteria and nutrient concentrations. *E.coli* was below the NOF bottom line in seven of the eight sites monitored and four of the sites achieved a 'D' band for TN. The Kaikarae achieved a 'C' band for ammonia toxicity, the lowest in the region. The Kaikarae and the Leith both fell below the bottom line for MCI.
147. Trend analysis shows more improving trends in the last ten years than degrading trends, but also shows continued degradation in urban streams. Over the 20-year period, the Kaikarae, Leith and Tokomairaro had degrading trends for TN and NNN. The Leith and Tokomairaro also had degrading trends for DRP and turbidity (respectively) over this period and the Kaikarae showed a degrading trend for TP over the ten-year period.

North Otago FMU

148. ORC monitors 15 river sites in this FMU. All sites in the North Otago FMU, except the Kauru and Upper Waihemo Shag, show at least one attribute achieving below the NOF bottom line. All sites return 'A' or 'B' bands for ammonia and nitrate toxicity, as well as 'A' bands for suspended fine sediment. However, *E.coli* achieves 'D' band at eight of 16 monitored sites, DRP in four of 16 monitored sites, and periphyton in four of eight monitored sites. Macroinvertebrate metrics were generally either 'C' or 'D' bands. Oamaru Creek returns the most 'D' bands results, likely due to the influence of urbanisation, and the Waiareka Creek and Awamoko, which are rurally situated, also return mostly 'D' bands.
149. Trend analysis shows a number of degrading trends over both the ten-year and 20-year periods, but there were fewer degrading trends over the last ten years compared to the last 20 years and there were more improving trends than degrading trends in the last ten years. In the ten-year period these included: Clifton Falls (*E.coli*), Waianakarua (*E.coli*, NNN, TN) and Waiareka creek (DRP, TP).

Catlins FMU

150. ORC monitors four river sites in this FMU. Water quality in the Catlins FMU is variable, likely due to the mixture of native vegetation in some parts and intensive farming activities in others. All sites achieve 'A' or 'B' bands for ammonia and nitrate toxicity, but 'C' bands for MCI. The Owaka and Takahopa achieve 'D' bands for *E.coli*. 'D' bands are also achieved for suspended fine sediment at all sites except Maclennan River, which achieved an 'A' band.
151. Trend analysis shows that over the 20-year period, there were four sites with degrading trends for *E.coli*, NNN, TP and TN but over the last ten years there were none.

2.4.2. Groundwater²⁸

The latest information on groundwater quality is reported in State of the Environment: Groundwater quality in Otago (Levy et al, 2021), attached as Appendix 4. This report summarises the state of groundwater quality in relation to drinking water quality as well as the potential impacts of groundwater nutrient concentrations²⁹ on surface water quality.

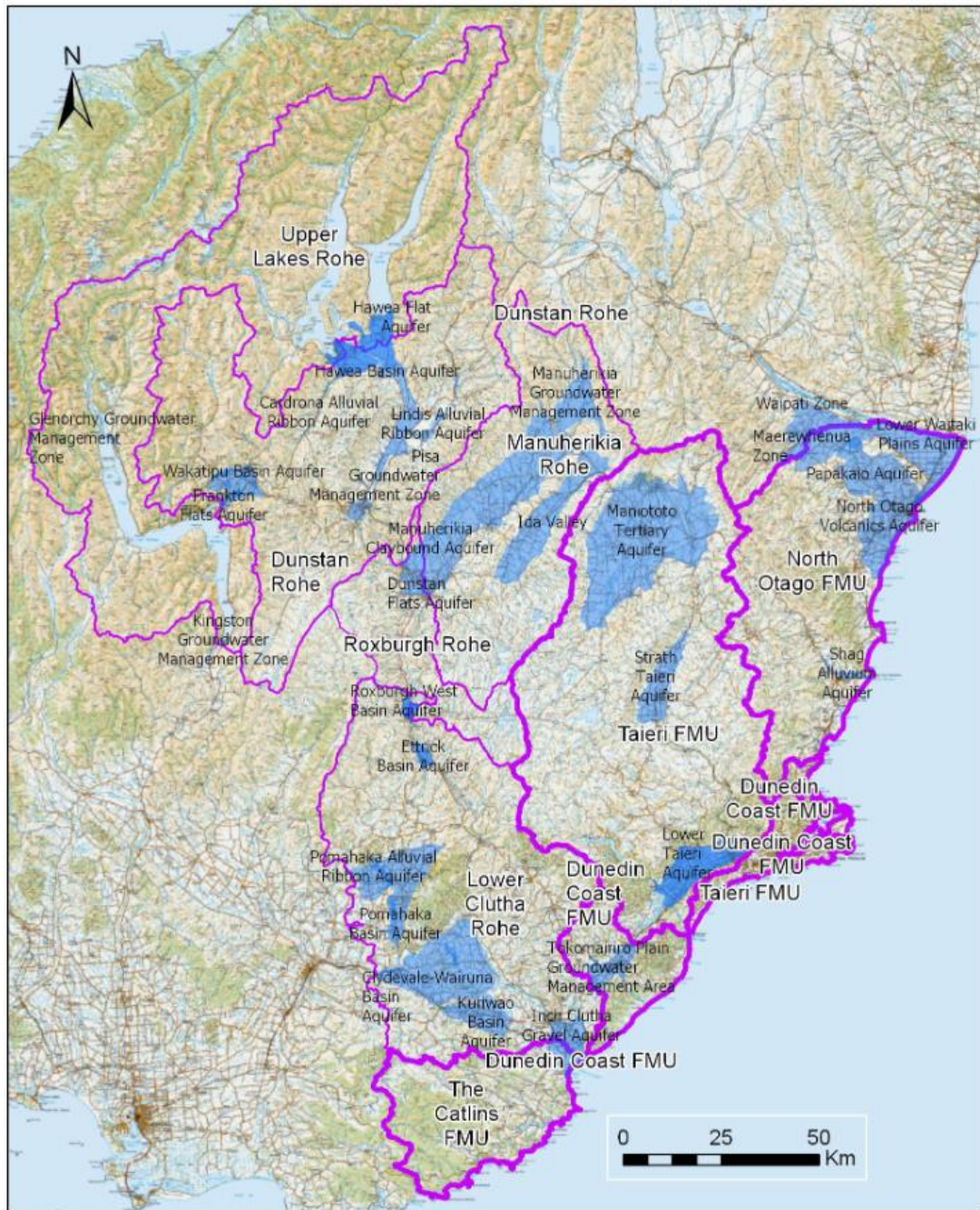
Figure 1: FMUs and rohe boundaries and aquifer locations

152. below shows the location of Otago's FMUs and rohe (purple) as well as aquifers (blue).

²⁸ The information in this section is compiled from Levy, A., Ettema, M., & Lu, X. (2021). *State of the environment: Groundwater quality in Otago*. Otago Regional Council, Dunedin.

²⁹ Nitrate nitrogen, DRP, and ammoniacal nitrogen (ammonia).

Figure 1: FMUs and rohe boundaries and aquifer locations



153. The groundwater quality assessment for each FMU/aquifer shows that, similar to surface water, groundwater quality across the region is highly variable. The sections below describe the results in each FMU and rohe.

2.4.2.1. Clutha/Mata-au FMU

154. The results from the Clutha FMU show high variability, with good groundwater quality in some rohe (i.e. the Upper Lakes, Dunstan) and degraded quality in others, particularly the Lower Clutha. The main issues in this FMU are elevated *E. coli* and dissolved arsenic concentrations in some bores, with elevated nutrient concentrations also common.

155. The results from the Upper Lakes and Dunstan rohes generally show compliance with the Drinking Water Standards for New Zealand (DWSNZ), although elevated *E. coli* counts were measured in some bores. Elevated dissolved arsenic concentrations were also measured in some bores, although their source is likely to be geological, i.e. the prevalent schist lithology. Nutrient concentrations are generally below the DWSNZ for nitrates. High DRP and nitrate concentrations were measured in Kingston and Glenorchy, likely due to high septic tanks density, shallow bores, and poor borehead security. These can potentially adversely impact water quality in Whakatipu Waimāori/Lake Wakatipu, although groundwater (and nutrient) fluxes into the Lake are likely to be substantially lower than the surface water inflows.

156. Groundwater quality in the Manuherekia rohe is generally fair although *E. coli* exceedances were measured in most bores, albeit at low counts. Nitrate concentrations are below the DWSNZ MAV in all monitoring bores, with concentrations in the Manuherekia Alluvium Aquifer and Manuherekia Claybound Aquifer monitoring bores generally near the low intensity land use reference value (<2.5mg/L). However, an increasing trend has been observed in the Manuherekia Groundwater Management Zone (GWMZ) monitoring bore, where concentrations exceed half of the Maximum Acceptable Value (MAV). No elevated arsenic concentrations were measured in any of the monitoring bores in the rohe. In relation to potential impacts on ecosystem health, the results from the shallow monitoring bores show that nitrate and DRP concentrations exceed the Water Plan limits. This suggests that groundwater-surface water interaction in this area can adversely impact surface water quality.

157. Results from the Lower Clutha rohe indicate some water quality issues, with elevated *E. coli* and nitrate concentrations in most bores, notably in the Ettrick and Clydevale basins. One of the bores in the Inch Clutha gravel aquifer has elevated arsenic concentrations above the MAV. The results show issues with elevated nutrient concentrations, some of which are due to shallow, poorly-secured monitoring bores. These results also support the reported poor surface water quality results from this area (ORC, 2017).

2.4.2.2. Taiari FMU

158. Results from the Taiari FMU indicate potential risk for faecal contamination, with *E. coli* exceedance measured in all three of the FMU's aquifers. The pattern of nitrate concentrations is mixed, with elevated concentrations (over half of the MAV) in some bores and others within the low intensity land use reference conditions. The assessment against the Water Plan surface water limits indicates potential issues, with several exceedances of

the nutrient limits. It is likely that some of these elevated results are due to monitoring bores being shallow, insecure, and located near dairy farms and/or septic tanks. Nevertheless, these can potentially adversely impact surface water quality.

2.4.2.3. North Otago FMU

159. The results from the North Otago FMU indicate significant water groundwater quality issues, particularly regarding *E. coli* exceedances and elevated nitrate concentrations, which are the highest in the region. Nitrate concentrations in monitoring bores in the North Otago Volcanic Aquifer and Kākaunui-Kauru aquifers substantially exceed the 11.3mg/L MAV, with concentrations in some bores exceeding 32.2mg/L (though the bores are not used for drinking). Nitrate concentrations in some bores in the Lower Waitaki aquifer are over ½ of the DWSNZ MAV.
160. Potential faecal contamination is also a concern, with elevated *E. coli* measured in some bores in each of the aquifers within the FMU. The results indicate potential adverse impacts on surface water quality, with elevated nutrient concentrations substantially exceeding the Water Plan and NPSFM limits, and this FMU having the region’s most degraded groundwater quality. Due to the strong groundwater-surface water interaction in many North Otago catchments, it is imperative to understand the groundwater and surface water interactions in this FMU.
161. In terms of groundwater, *E.Coli* data indicates that groundwater and bores in Otago are vulnerable to faecal contamination, although elevated *E.Coli* can be a local issue, and is strongly dependent on bore security. Nitrate nitrogen contamination is variable, although none of the aquifers has a median concentration that exceeds the MAV³⁰ of 11.3 mg/L.

2.5. Indigenous freshwater species³¹

162. Otago river catchments, particularly those of the Clutha River/Mata-Au and Taiari River, are strongholds for threatened endemic galaxias species. Thirteen non-migratory species have been confirmed. Small, fragmented populations of these fish with restricted ranges are vulnerable to catastrophic decline and are disappearing. Many of New Zealand’s indigenous fish (e.g. whitebait, tuna/eel, kanakana/lamprey, redfin bully) migrate to and from the sea as part of their life cycle. Maintaining connections between freshwater habitats and migration routes is essential.
163. The key threats to indigenous freshwater species are:
- a. Predation and competition with introduced species;
 - b. Loss of habitat due to:
 - i. Modification of water ways;

³⁰ Maximum acceptable value of Nitrate, short term, expressed as NO₃-N, from Table 2 of the Water Services (Drinking Water Standards New Zealand) Regulations 2022

³¹ Statement of Evidence of Richard Mark Allibone on behalf of the Otago Regional Council, 7 December 2020. In the matter of the Water Permits Plan Change – Plan Change 7

- ii. Water abstraction;
 - iii. Water quality deterioration;
 - iv. Barriers to fish passage; and
- c. Predation by native taxa that are outside of their normal range.
164. In my reply report on the non-FPI part of the pORPS, I discuss the ecological evidence presented at the hearing.³² In summary, there are 32 indigenous fish species found in Otago, sixteen are diadromous (meaning they migrate to and from the sea) and the remainder non-diadromous (meaning they complete their full life cycle in freshwater). In terms of their threat classifications:
- a. 15 (47%) are considered Threatened and have the highest risk of extinction, comprising:
 - i. Four that are Nationally Critical, meaning they are most severely threatened and facing an immediate high risk of extinction,
 - ii. Five are Nationally Endangered, meaning they are facing high risk of extinction in the short term,
 - iii. Six are Nationally Vulnerable, meaning they are facing high risk of extinction in the medium term, and
 - b. Nine (28%) are considered At Risk, meaning they are not threatened but could quickly become so, comprising:
 - i. Seven are At Risk – Declining, meaning the population is declining but still moderately common,
 - ii. Two are At Risk – Naturally Uncommon, meaning they have a naturally small population and are therefore susceptible to harmful influences, and
 - c. Eight (25%) are Not Threatened.
165. In relation to aquatic macroinvertebrates, there are 14 threatened freshwater invertebrates present in Otago, comprising:
- a. Eight that are Nationally Critical,
 - b. Two that are Nationally Vulnerable, and
 - c. Two are At Risk – Declining.

2.6. The current planning framework

166. One of the key drivers for the pORPS, and particularly the FPI provisions, is to establish a foundation for the development of ORC's new Land and Water Regional Plan (LWRP) which will replace its current Water and Waste plans. It is therefore important to understand the current planning framework.

³² Reply report 1: Introduction and general themes, dated 23 May 2023.

167. The Water Plan was notified in 1998 and became operative in 2004. Since then, there have been 18 plan changes introduced which, in broad terms, have established flow and allocation regimes for some surface water catchments, groundwater allocation regimes for some aquifers, and provisions to manage water quality issues.
168. In the sections below, I briefly outline the following key components of and developments relevant to the Water Plan, and the FPI:
- a. Water quantity (including deemed permits),
 - b. Water quality,
 - c. The Minister for the Environment's section 24A investigation, and
 - d. ORC's response to the s24A investigation and current work programme.

2.6.1. Water quantity (including deemed permits)

169. The policies in Chapter 6 of the Water Plan provide for the establishment of environmental flow and level regimes, including allocations (take limits) for surface water and groundwater. Tailored primary allocation limits and minimum flows for 14 of the approximately 140 catchments in Otago are set in Schedules 2A and 2B. Tailored allocation limits (known as maximum allocation volumes) and take restrictions for specified aquifers in the region are set in Schedules 4A and 4B. All of the schedules were introduced before the introduction of the NPSFM 2020 and have not been determined in accordance with the NOF process.
170. For catchments and aquifers not listed in the schedules, the Water Plan sets a 'default' allocation limit which is determined as follows:
- a. For surface water bodies (and connected groundwater): 50% of the catchment's 7-day Mean Annual Low Flow (MALF), and
 - b. For unconnected groundwater, 50% of the aquifer's mean annual recharge (MAR).
171. Chapter 6 of the Water Plan does not apply to surface water takes (and connected groundwater takes) from Lakes Dunstan, Hāwea, Roxburgh, Wānaka or Whakatipu Waimāori/Lake Wakatipu, or the main stems of the Clutha River/Mata-au or Kawarau River.³³ Together these water bodies constitute the region's largest freshwater resource. For these water bodies, the Water Plan does not set a limit on the allocation of water or provide any policy guidance for the setting of environmental flows or levels.
172. The issues with the Water Plan's flow and allocation regimes have been highlighted in more recent years by the pending expiry of deemed permits. Prior to the RMA, these permits were known as "mining privileges" and were held as a property right. They were first established in 1858 to give gold-miners access to water and adjacent land for sluicing. Later, they were re-purposed for farm irrigation. Many were acquired by the Government to enable large-scale irrigation and dam construction.
173. When the RMA came into force, it provided for these privileges to be deemed water permits with an expiry date of 21 October 2021. As 2021 approached, most of Otago's catchments

³³ Policy 6.4.1, Water Plan

still did not have an adequate flow and allocation regime in place and approximately 300 deemed permits were due to be replaced. This posed a significant risk that allocation would be 'locked in' in advance of the NPSFM being fully implemented.

2.6.2. Water quality

174. In 2011, in response to water quality monitoring showing a decline in water quality in some parts of Otago, ORC released a Rural Water Quality Strategy³⁴ that set out an effects-based approach to managing rural discharges (primarily diffuse discharges) to water. The Strategy outlined the Council's decision to control the discharge of contaminants from land to water, instead of controlling land use activities and nutrient inputs. It was considered that this would reduce the effects of land use practices on water quality, without imposing unnecessary cost on land managers.³⁵
175. To implement the Rural Water Quality Strategy, ORC prepared Plan Change 6A (PC6A) to the Water Plan which was notified in 2012 and became operative in 2014. PC6A contained provisions that, broadly, sought to permit discharges that met specified limits for nitrogen, phosphorus, *E.Coli* and turbidity, prohibit discharges that resulted in undesirable physical changes to water and otherwise require consent for these discharges. Most of the permitted activity rules were due to come into effect on 1 April 2020.
176. By 2018, it had become apparent that the permitted activity rules are ambiguous, uncertain, and unenforceable.³⁶ They also rely on a version of Overseer that no longer exists.³⁷ Schedule 16A to the Water Plan, which contains the contaminant limits required to be met for discharges to remain a permitted activity, is considered to be "ambiguous to the extent that it would more than likely be incapable of application."³⁸ This is primarily because while it contains numerical thresholds for certain contaminants, it is silent on the application of those values. For example, it does not state whether the values are medians, averages, or 95th percentiles or what monitoring period is to be used. A strict application of this schedule could see activities permitted on some days and requiring consent on others.
177. Also in 2018, ORC approved the commencement of a full review of the Water Plan and publicly notified its Progressive Implementation Programme setting out the various actions it would take to implement the NPSFM 2014 in Otago and the associated timeframes for this work. Together, these work programmes were intended to fully revise and replace the Water Plan.

2.6.3. The Minister for the Environment's s24A investigation

178. In May 2019, the Minister for the Environment appointed Professor Peter Skelton under section 24A of the RMA to investigate whether ORC was adequately carrying out its functions

³⁴ Rural Water Quality Strategy. (2011). A new approach to water contamination from runoff, drains, and leaching. Otago Regional Council. Available from <https://www.orc.govt.nz/media/3733/rural-water-quality-strategy.pdf>

³⁵ Section 32 Report for PC6A, p.8

³⁶ Section 32 Report for PC6A, p.2.

³⁷ Section 32 Report for PC6A, p.2.

³⁸ [36] of Decision on PC6AA.

under section 30(1) of the RMA in relation to freshwater management and allocation of resources. This arose primarily due to concerns about the number of deemed permits expiring and the inadequacy of the planning framework for considering them, as well as issues with water quality (including the implementation issues with PC6A).

179. In his report dated 1 October 2019, Prof Skelton recommended the following:³⁹
- a. That ORC provides an adequate interim planning and consenting framework without delay to manage freshwater in the intervening period up to 2025, including PC6AA and PC8 which were being developed.
 - b. That the Minister initiate a legislative process to change the date for expiry of the deemed permits in Otago from 1 October 2021 to 31 December 2025.
 - c. That a review of the partially operative Otago Regional Policy Statement 2019 is notified by 2020, with the intention that it be made operative before the review of the Water Plan is notified.
 - d. That a new land and water regional plan is notified by 31 December 2023, with this plan to include region-wide objectives and policies, and provisions for each of the FMU sections that will cover all catchments in Otago.
180. Following Prof Skelton's recommendations, the NPSFM 2020 took effect in September 2020. This represented a 'paradigm shift' in freshwater management, making Te Mana o te Wai and the hierarchy of obligations the sole objective. The Water Plan had not been reviewed to implement the NPSFM 2014 and the significant change introduced by the NPSFM 2020 only served to widen the gap between the Water Plan and the relevant national direction.

2.6.4. ORC's response to the s24A investigation

181. ORC accepted the recommendations of the Minister. In summary, between accepting those recommendations and now:
- a. In October 2019, PC6AA was notified to delay the implementation of the PC6A provisions. PC6AA was made operative in May 2020, and extended the dates for the PC6A rules from 1 April 2020 to 1 April 2026.
 - b. In March 2020, PC7 was notified to introduce a framework to manage the replacement of expiring deemed permits and water permits, as a first step in the transition from the Water Plan to a new LWRP. PC7 was renotified by the EPA in July 2020 and made operative in March 2022. It introduced strong policy direction on limiting consent durations to no longer than six years for deemed permit replacements and other types of water permits, except in limited circumstances.
 - c. In July 2020, PC8 was notified and introduced targeted improvements to the Water Plan's management of discharges, including diffuse rural discharges, effluent discharges, and sediment from earthworks. PC8 was made operative in September 2022.

³⁹ Prof. Peter Skelton. (2019). Investigation of Freshwater management and Allocation Functions at Otago Regional Council. Report to the Minister for the Environment, page 38.

- d. In June 2021 the pORPS was notified, with the FPI part re-notified in September 2022.
- e. The Land and Water Regional Plan will be notified by June 2024, following a six-month extension to the original notification deadline granted by the Minister in early 2023.
- f. At the time of writing, ORC had processed the majority of deemed permit replacement applications, with only 22 still outstanding.⁴⁰

⁴⁰ ORC Council Meeting Agenda dated 22 March 2023, item 8.1, para 9. Available from <https://www.orc.govt.nz/media/14017/agenda-council-20230322.pdf>

3. Non-FPI provisions and other statutory considerations

3.1. Introduction

182. The FPI provisions span seven chapters of the pORPS: interpretation, RMIA, SRMR, LF-WAI, LF-VM, LF-FW, and LF-LS. In all of these chapters, some provisions are in the FPI and some are in the non-FPI part of the pORPS. The links between the two parts have been carefully considered in the preparation of this report and explained in more specific detail where necessary. This section outlines:

- a. Relevant material from the non-FPI process, and
- b. Key non-FPI recommendations for the FPI.

183. Since the pORPS was notified in June 2021, and since the FPI was notified in 2022, there have been amendments made to national direction, a new national policy statement introduced, and proposals made to amend or introduce other national directions. This section briefly summarises the impacts for the FPI provisions arising from:

- a. The amendments to the NPSFM in December 2022,
- b. The introduction of the NPSHPL,
- c. The exposure draft of the NPSIB, and
- d. Proposals to amend national direction on renewable electricity generation activities and electricity transmission.

3.1.1. Relevant material relating to the non-FPI part of the pORPS

184. Appendix 5 to this report contains a list of the material that was part of the hearing on the non-FPI part of the pORPS, with hyperlinks to where that evidence is located on the Council's website. Where the evidence on the non-FPI parts of the pORPS is particularly relevant or has been relied on for understanding or analysing the submission points on the FPI, it has been cross-referenced in the body of this Report.

185. The FPI is only part of the pORPS. When the separate Schedule 1 processes are completed, the two parts have to be brought together in a single, coherent document which meets the statutory requirement for one regional policy statement providing for the integrated management of the natural and physical resources of the region.

186. The members of the freshwater hearings panel have been appointed in part because they have been the commissioners considering submissions on the non-FPI part of the pORPS. In establishing the panel, the Chief Freshwater Commissioner noted the "awkward interface" between the two parts of the pORPS and considered their appointments "integration between the non-freshwater and the freshwater planning instrument can be better achieved [sic]"

187. The material in Appendix 5 is supplied to assist with integration of the separate parts of the pORPS. The panel therefore has formal access to all the material made available to the

commissioners in the non-FPI hearings. Submitters will also be aware of what is known to or available to this panel and can take it into account in presenting their cases on the FPI.

188. However, the non-FPI part of the pORPS is not within the scope of the FPI hearings and the FPI hearings are not an opportunity to address the non-FPI provisions.

3.1.2. Key non-FPI recommendations for the FPI

189. There are many non-FPI recommendations that are indirectly relevant to the FPI. This section focuses on those with a direct bearing on the FPI or to considering the submission on the FPI and summarises them briefly, with reference to where more fulsome discussion can be found. These are:

- a. Regionally significant issues,
- b. Rural sectors and land uses and the LF-LS chapter,
- c. Species interaction, and
- d. Definitions.

3.1.2.1. Regionally significant issues

190. There were many requests for additional issue statements to be added to the SRMR part of the pORPS, usually in relation to particular industries. Submitters attending conferencing proposed two new issue statements, one on infrastructure and one on resource use more generally. In her non-FPI *Reply report 5A: SRMR – Significant resource management issues for the region*, Ms Todd recommends one new issue statement:

The social, cultural, and economic well-being of Otago’s communities depends on the use and development of natural and physical resources, but that use and development can compromise or conflict with the achievement of environmental outcomes.

191. Similar submissions have been made on the FPI and I consider Ms Todd’s recommendation above addresses those, at least in part.

3.1.2.2. Rural sectors and land uses and the LF-LS chapter

192. Many submitters on the non-FPI part of the pORPS consider it does not adequately recognise or provide for the significance of rural sectors and land uses to the well-being of Otago’s communities. In response, I have recommended the following amendments:

- a. Expanding the scope of the LF-LS chapter to apply to rural land more generally,
- b. Recognising the role of land and soil resources in providing for the social, economic, and cultural well-being of Otago’s people and communities (LF-LS-O12), and
- c. Incorporating provisions from the UFD chapter that manage development in rural areas (primarily UFD-O4, UFD-P7, and UFD-P8 as well as relevant parts of methods, explanations, principal reasons, and anticipated environmental results).

193. There are similar themes in the submissions on the FPI, however they were made prior to my recommendations above. I consider these amendments address, at least in part, the concerns of both non-FPI and FPI submitters (many of whom are submitters in both processes).

3.1.2.3. Species interaction

194. In response to the submission by Fish and Game, and following discussions with that submitter as well as DOC and Kāi Tahu ki Otago, in my non-FPI *Reply report 9: LF – Land and freshwater* I have recommended incorporating a new method (LF-FW-M8A) addressing this matter. As Ms Baker-Galloway pointed out in her legal submissions for Fish and Game, the submitter seeks accompanying amendments to LF-FW-O8 and LF-FW-P7 which provide the ‘hooks’ for this new method. Fish and Game has made a submission on the FPI provisions, including those it considers should be amended to better manage species interaction, and I have address these in relation to the provisions they are relevant to.

195. I note that in her legal submissions, Ms Baker-Galloway indicated Fish and Game’s preference for progressing the inclusion of new LF-FW-M8A was through its submission on the FPI, which seeks inclusion of the same. However, its submission on the non-FPI part was not withdrawn and therefore is a valid matter for that hearing panel to consider.

3.1.2.4. Definitions

196. In response to amendments to the NPSFM, I have recommended amendments to the following terms used in FPI provisions:

- a. Degraded,⁴¹
- b. Limit, and⁴²
- c. Natural wetland,⁴³

197. I have also recommended including new definitions arising from implementing the NPSHPL which are not used in FPI provisions but relate to the general submissions outlined above on the importance of the rural sector and rural land uses. These are:

- a. Highly productive land,⁴⁴
- b. Land-based primary production,⁴⁵

⁴¹ Addressed in Fourth brief of supplementary evidence of Felicity Ann Boyd: LF (NPSFM amendments) dated 23 February 2023, paras 78-81

⁴² Addressed in Brief of supplementary evidence of Felicity Ann Boyd (Introduction and general themes) dated 11 October 2022, paras 12-24

⁴³ Addressed in Fourth brief of supplementary evidence of Felicity Ann Boyd: LF (NPSFM amendments) dated 23 February 2023, paras 40-45

⁴⁴ Addressed in Brief of second supplementary evidence of Felicity Ann Boyd: LF (Highly productive land) dated 21 October 2022, paras 37-42

⁴⁵ Addressed in Brief of second supplementary evidence of Felicity Ann Boyd: LF (Highly productive land) dated 21 October 2022, paras 25-35

- c. LUC 1, 2, or 3 land, and⁴⁶
 - d. Productive capacity,⁴⁷
198. Mr Langman in his *Reply report 11: EIT – Energy, infrastructure and transport*⁴⁸ has also recommended including ‘established community-scale irrigation and stockwater infrastructure’ in the definition of regionally significant infrastructure.
199. Mr Adams in his *s42A Report 4: MW – Mana whenua* recommended including a definition of the term ‘mahika kai’. That term is used in FPI provisions and I have italicised it where it occurs so that the definition recommended in the non-FPI part is also adopted in the FPI provisions.

3.1.3. Amendments to the National Policy Statement for Freshwater Management 2020 (December 2022)

3.1.3.1. Background

200. Following gazettal of the NPSFM and NESF, issues were raised by councils and sector groups about the application of the NESF, the way natural wetlands were defined, and the lack of consenting pathways for some activities. In response, the following occurred:
- a. In September 2021, the Ministry for the Environment (MfE) published a discussion document called *Managing our wetlands*⁴⁹ outlining potential options for changes to wetland provisions in the NPSFM and NESF;
 - b. Submissions on the discussion document were received between 1 September and 27 October 2021;
 - c. In May 2022, MfE published a report called *Report, recommendations and summary of submissions*⁵⁰ on the proposed changes and the consultation;
 - d. Also in May 2022, MfE released an exposure draft⁵¹ of potential amendments along with a document setting out the policy rationale for those amendments⁵² and received written feedback on these until 10 July 2022.

⁴⁶ Addressed in Brief of second supplementary evidence of Felicity Ann Boyd: LF (Highly productive land) dated 21 October 2022, paras 25-35

⁴⁷ Addressed in Brief of second supplementary evidence of Felicity Ann Boyd: LF (Highly productive land) dated 21 October 2022, paras 44-53

⁴⁸ Paras 35-37

⁴⁹ Available from <https://environment.govt.nz/assets/publications/managing-our-wetlands-discussion-document.pdf>

⁵⁰ Available from <https://environment.govt.nz/assets/publications/essential-freshwater-amendments-report-recommendations-summary-submissions-may2022.pdf>

⁵¹ Available from https://consult.environment.govt.nz/freshwater/npsfm-and-nesf-exposure-draft/user_uploads/exposure-draft-changes-to-rm-nesf-regulations-2020.pdf

⁵² Available from <https://environment.govt.nz/assets/publications/managing-our-wetlands-policy-rationale-exposure-draft-amendments-31May2022.pdf>

201. On 8 December 2022, a suite of amendments was made to the NPSFM, the NESF and the Resource Management (Stock Exclusion) Regulations 2020. The amendments to the NPSFM have been incorporated into the NPSFM and came into effect on 5 January 2023.⁵³

3.1.3.2. Council's obligation to implement the amendments

202. Clause 4.1 of the NPSFM sets out the timing for giving effect to the NPSFM, and states:

(1) *Every local authority must give effect to this National Policy Statement as soon as reasonably practicable.*

(2) *Local authorities must publicly notify any changes to their regional policy statements, regional plans, and district plans that are necessary to give effect to this National Policy Statement as required under the Act.*

203. The amendments to the NPSFM do not contain any compulsory direction that must be included in a regional policy statement without being subject to a Schedule 1 process.

204. In accordance with section 62(3) of the RMA, a regional policy statement must give effect to a national policy statement. Because the amendments to the NPSFM have been introduced 'mid-process', in a normal Schedule 1 planning process the extent to which the amendments can be given effect to is confined by the scope of the submissions lodged that seek changes to the FPI provisions. However, as set out previously, freshwater hearings panels are not limited only to the scope of submissions and may make recommendations on any other matters identified by the panel or any other person during the hearing.

205. Some of the NPSFM amendments affect provisions in the non-FPI part of the pORPS. Those provisions are not before this hearing panel. However, the recommendations of the non-FPI will be relevant to the FPI provisions due to the overlap and interlinkages between the two parts.

3.1.3.3. Overview of the amendments

206. The amendments to the NPSFM broadly address:

- a. The management of wetlands;
- b. The addition of principles for aquatic offsetting (new Appendix 6) and aquatic compensation (new Appendix 7);
- c. Clarifying that limits on the volume and/or rate of water are both a type of "take limit" as defined by the NPSFM;
- d. Amendments to the NPSFM provisions for attributes affected by nutrients, including minor and technical changes to the measurement and monitoring of some attributes set out in Appendix 2A; and
- e. Amendments seeking to improve the clarity of policies, reduce the complexity of drafting, and correct errors.

⁵³ The 2022 version of the NPSFM is available from <https://environment.govt.nz/publications/national-policy-statement-for-freshwater-management-2020-amended-december-2022/>

207. For completeness, I note that there have been no changes to the fundamental concept of Te Mana o Te Wai as set out in Part 1.3, including the 6 principles and the hierarchy of obligations. Further, its objective and policies (set out in Part 2) remain the same, aside from a minor amendment to Policy 5.⁵⁴
208. Some of the NPSFM amendments are relevant to the non-FPI part of the pORPS and I have discussed them and the implications for FPI provisions in my supplementary evidence. Where my analysis is set out in that statement, and that analysis remains current, I have simply referenced the relevant parts of my supplementary evidence and focused on outlining my recommended amendments to FPI provisions as a result of that analysis.
209. In the following sections, I have discussed the NPSFM amendments and their implications under the following headings:
- a. Wetlands in the coastal environment and the definition of “natural inland wetland”
 - b. Consenting pathways for specific activities in natural inland wetlands
 - c. Principles of aquatic offsetting and compensation
 - d. Definitions of ‘limit on resource use’, and ‘take limit’
 - e. Definition of ‘over-allocated’
 - f. Transparent decision making

3.1.3.4. Wetlands in the coastal environment and the definition of “natural inland wetland”;

210. In paragraphs 19-45 of my supplementary evidence, I have traversed the various definitions of wetlands in the NPSFM, the amendments made to them in 2022, and the implications for the pORPS. In summary:
- a. The NPSFM now uses only “natural inland wetlands” which are natural wetlands outside the coastal marine area,
 - b. “natural inland wetlands” can include wetlands in the part of the coastal environment inland from the landward extent of the coastal marine area and, in those cases, the provisions of the NPSFM and the NZCPS both apply, and
 - c. In the non-FPI process, I have recommended amending the definition of “natural wetland” to mirror the NPSFM definition of “natural inland wetland” except for the exclusion in the coastal marine area, meaning in the pORPS “natural wetland” applies to everything (including in the coastal environment and the coastal marine area).
211. As I have discussed in my supplementary evidence, there are five key provisions for managing natural wetlands in the pORPS: LF-FW-O9, LF-FW-P8, LF-FW-P9, LF-FW-P10, LF-FW-P13A, and LF-FW-M6(7). As notified, those provisions applied to “natural wetlands” which included wetlands in the coastal environment and coastal marine area. My

⁵⁴ The new Policy 5 states (additions underlined): “Freshwater is managed (including through a National Objectives Framework) to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.”

recommendation on the definition of “natural wetland” therefore seeks to retain this same scope, regardless of the amendments to the NPSFM.

3.1.3.5. Consenting pathways for specific activities in natural inland wetlands

212. In paragraphs 55-61 of my supplementary evidence, I have outlined the changes to the NPSFM to provide additional consenting pathways for activities occurring in natural inland wetlands. In summary, the amendments to the definitions in the NPSFM and clause 3.22 (Natural inland wetlands) introduce new consenting pathways for the following activities:
- a. Wetland maintenance or biosecurity, supported by new definitions for both terms;⁵⁵
 - b. Construction or upgrade of specified infrastructure, the definition of which has been amended to include water storage infrastructure, specified defence facilities, and ski area infrastructure;⁵⁶
 - c. Urban development that contributes to a well-functioning urban environment (as defined in the NPSUD);⁵⁷
 - d. Quarrying, extraction of minerals other than coal, and extraction of coal as part of an existing coal mine;⁵⁸
 - e. Constructing or operating a new or existing landfill or cleanfill area.⁵⁹
213. These amendments affect two FPI provisions: LF-FW-P9 and the definition of ‘specified infrastructure.’

LF-FW-P9

214. LF-FW-P9 as notified largely reflected the content of clause 3.22 of the NPSFM as it appeared in the 2020 version. The differences are:
- a. In the pORPS, the direction in the chapeau is to protect natural wetlands by avoiding a reduction in their values or extent unless exemptions apply and restoration is addressed separately in LF-FW-P10 whereas in the 2020 NPSFM clause 3.22 requires that the loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration promoted, except where exemptions apply.
 - b. In the pORPS, the biodiversity effects management hierarchy in the ECO chapter applies to effects on indigenous biodiversity instead of the effects management hierarchy set out in the NPSFM.
215. As a result of the amendments to the NPSFM, LF-FW-P9 became more stringent than the NPSFM because it did not refer to all of the additional activities included through the NPSFM amendments.

⁵⁵ Clause 3.22(1)(a)(ii), NPSFM and new definitions in clause 3.21(1). The exception for restoration activities was already provided for.

⁵⁶ Clause 3.22(1)(b)(i) and new definitions in clause 3.21(1).

⁵⁷ Clause 3.22(1)(c).

⁵⁸ Clauses 3.22(1)(d) and (e).

⁵⁹ Clause 3.22(1)(f).

216. I have analysed the submissions on this provision in section 1417 of this report. Rather than repeating the very lengthy and detailed provision set out in clause 3.22 of the NPSFM, I recommend amending the provision to require protection of natural wetlands by implementing clause 3.22, except that:
- a. In the coastal environment, natural wetlands must also be managed in accordance with the NZCPS, and
 - b. When managing the adverse effects of an activity on indigenous biodiversity, the effects management hierarchy (in relation to indigenous biodiversity) applies instead of the effects management hierarchy (in relation to natural wetlands and rivers).
217. The first matter ensures that both the NZCPS and NPSFM are applied in the coastal environment. The second is consistent with the recommendations I made in relation to LF-FW-P13 and recognise that the indigenous biodiversity hierarchy is more stringent than that hierarchy for natural inland wetlands and rivers, as set out in the NPSFM.
218. My recommended amendment to LF-FW-P9 means that the new definitions in the NPSFM for ‘wetland maintenance’ and ‘biosecurity’ do not affect the FPI provisions because none use those terms.

Definition of ‘specified infrastructure’

219. The NPSFM amendments changed the definition of ‘specified infrastructure’ by adding water storage infrastructure, defence facilities and ski area infrastructure. They also introduced a definition of ‘ski area infrastructure’. LF-FW-P9 as notified is the only provision in the pORPS that used the defined term ‘specified infrastructure’. As a result of my recommended amendments to LF-FW-P9 (set out in section 1417 of this report), ‘specified infrastructure’ will no longer be used anywhere in the pORPS therefore as a consequential amendment I recommend deleting this definition.
220. Mr Langman in his non-FPI *Reply report 11: EIT – Energy, infrastructure and transport* recommends including ‘ski area infrastructure’ in the definition of ‘regionally significant infrastructure’ and so, as a consequential amendment, including the definition from the NPSFM. This does not affect the FPI provisions in the LF chapter for the reasons I have set out above.

3.1.3.6. Principles of aquatic offsetting and compensation

221. Clause 3.22(3) (Natural inland wetlands) and clause 3.24(3) (Rivers) of the NPSFM require avoiding the loss or extent of natural inland wetlands and rivers unless specific exceptions apply. In these cases, the clauses direct the matters to be considered by decision-makers on resource consent applications for these activities, including that adverse effects are to be managed by the effects management hierarchy set out in the NPSFM.⁶⁰ Both clauses have been amended as follows:

⁶⁰ “Effects management hierarchy” is defined in clause 3.21(1) of the NPSFM.

- a. if aquatic offsetting or aquatic compensation are applied as part of applying the effects management hierarchy, applicants must comply with principles set out in new Appendices 6 and 7 of the NPSFM (clauses 3.22(3)(a)(ii) and 3.24(3)(a)(ii));⁶¹
 - b. there must be measures proposed to ensure that the offsetting or compensation will be maintained and managed to achieve the conservation outcomes (clauses 3.22(3)(a)(iii) and 3.24(3)(a)(iii)); and
 - c. any consent granted is subject to conditions that specify how the requirements above will be achieved (clauses 3.22(3)(b)(iii) and 3.24(3)(b)(ii)).⁶²
222. Appendices 6 and 7 each contain principles that apply to the use of aquatic offsets and aquatic compensation (respectively) for the loss of extent or values of natural inland wetlands and rivers.
223. These amendments affect LF-FW-P9 which implements clause 3.22 and LF-FW-P13 and LF-FW-P13A, which implement clause 3.24. In relation to LF-FW-P9, and as set out in the previous section, I have recommended replacing this policy with a reference to clause 3.22 so no amendments are necessary to implement the amended NPSFM provisions. Because there are fewer exceptions to the requirements in clause 3.24, I have recommended retaining the content rather than a cross-reference in LF-FW-P13. In my supplementary evidence on the non-FPI parts of the LF chapter, I recommended including two additional clauses outlining the requirements to apply or have regard to (as appropriate) the offsetting and compensation principles in the appendices.

3.1.3.7. Definitions of 'limit on resource use' and 'take limit'

224. The NPSFM defines the term 'limit on resource use'. That definition has been amended as follows:
- means the maximum amount of resource use that is permissible while still achieving a relevant target attribute state or a **nutrient outcome needed to achieve a target attribute state** (see clauses 3.12 and 3.14)*
225. The bolded phrase above is also now defined:
- means the instream concentrations and exceedance criteria, or instream loads, for nitrogen and phosphorous, adopted under clause 3.13(4)*
226. Clause 3.13 of the NPSFM requires that for any nutrient attribute, and any attribute affected by nutrients, instream concentrations and exceedance criteria, or instream loads, must be set for nitrogen and phosphorus. Clause 3.13(4) specifies that these criteria or loads must be adopted as nutrient outcomes, to achieve target attribute states. On this basis, the nutrient outcomes referenced in the definition of 'limit on resource use' form part of the package of NOF requirements to achieve target attribute states, which is the intention of the term in both the original and amended definitions.

⁶¹ An applicant must comply with Principles 1 to 6 in Appendices 6 and 7, and must have regard to the remaining principles (as appropriate).

⁶² NPSFM, clause 3.22(3)(a)(ii)-(iii) and (b)(ii), and clause 3.24(3)(a)(ii)-(iii) and (b)(ii).

227. The NPSFM defines ‘take limit’ which has also been amended, as follows:

means a limit on the ~~amount~~ volume, rate, or both volume and rate, of water that can be taken or diverted from, or dammed in, an FMU or part of an FMU, as set under clause 3.17

228. This change was made because ‘amount’ in the original definition implied a reliance only on volumes of water, whereas clause 3.17 (which sets out the requirements for identifying take limits) provides for take limits to be a volume, a rate, or both.

229. Neither ‘limit on resource use’ or ‘take limit’ are used in the pORPS so their definitions are also not included. However, in my non-FPI supplementary evidence on the topic of limits,⁶³ I recommended that when used in the LF chapter the term ‘limit’ should have the same meaning as in the NPSFM and as a consequential amendment, that definition is recommended to be included in the pORPS. The definition is:

means either a limit on resource use or a take limit

230. Indirectly, therefore, the amendments to ‘limit on resource use’ and ‘take limit’ affect the application of LF-VM-P6, LF-FW-P7 and LF-FW-M6 which all use the term ‘limit’. There are also references in LF-WAI-E1, LF-VM-PR2, LF-FW-PR3, and LF-FW-AER4.

231. As the amendments are clarifications to reflect existing content in the NPSFM, I do not consider there is any material effect on the definition of ‘limit’ or its use in the provisions above.

3.1.3.8. Definition of ‘over-allocation’

232. The definition of “over-allocation” in the pORPS adopted the definition from the NPSFM as it was gazetted in 2020. That definition was amended in 2022 as follows:

Over-allocation, or over-allocated, in relation to both the quantity and quality of freshwater, ~~is~~ means the situation where:

(a) *resource use exceeds a limit; or*

(b) *if limits have not been set, an FMU or part of an FMU is degraded or degrading;*
or

(c) *an FMU or part of an FMU is not achieving an environmental flow or level set for it under clause 3.16.*

233. In my view, this amendment clarifies the original wording. Clause 3.17(1) has always directed that “[i]n order to meet environmental flows and levels, every regional council: (a) must identify take limits for each FMU...” In my view, it has always been clear that take limits are for the purpose of achieving environmental flows and levels and therefore the amendment to the definition of ‘over-allocation’ is simply clarification, rather than a material change.

⁶³ Brief of supplementary evidence of Felicity Ann Boyd (Introduction and general themes) dated 11 October 2022, paras 12-24

234. I recommend amending the pORPS definition to align with the NPSFM. No submitter seeks this specific relief, however The Fuel Companies⁶⁴ seek general relief to give effect to the NPSFM, which I consider this amendment does. I recommend accepting this submission point in part.

3.1.3.9. Transparent decision making

235. Clause 3.6 (Transparent decision-making) now applies to all decisions made by regional councils in giving effect to NPSFM (rather than just relating to clauses 3.4 – Tangata whenua involvement and 3.15 – Preparing action plans). Accordingly, every regional council must:

- a. record matters considered and all decisions reached,
- b. specify the reasons for each decision reached, and
- c. publish the matters considered, decisions reached, and the reasons for each decision, as soon as practicable after the decision is reached, unless publication would be contrary to any other legal obligation.

236. This applies in addition to any requirement under the RMA relating to processes for making regional policy statements. However, new clause 3.6(4) states that where these requirements are met by complying with the RMA (e.g., by publishing a s32 report), no additional action is required. I consider that as the FPI has followed the applicable processes set out in Schedule 1 of the RMA, no additional action is required.

3.1.3.10. Introduction of the NPSHPL

237. The NPSHPL came into force in October 2022, post-dating the notification of the pORPS (including the FPI part). I addressed its implications in my non-FPI supplementary evidence and recommended a range of amendments to non-FPI provisions.⁶⁵ In response to submissions, I made further recommendations in my non-FPI *Reply report 9: LF – Land and freshwater*, including to align LF-LS-O11 and LF-LS-P19 with the NPSHPL by ‘protecting’ rather than ‘maintaining’ highly productive land and to ensure that, until highly productive land has been mapped in accordance with the NPSHPL, land suitable for horticulture and viticulture is protected from other uses of rural land.

238. I do not consider my recommendations, or the content of the NPSHPL, is directly relevant to the FPI provisions. However, there are many submissions on FPI provisions seeking greater recognition of the importance of highly productive land, and the industries it supports, which I consider is addressed, in part, by the non-FPI recommendations I have made.

239. Many submitters say that access to water is critical to determining the productivity of some land in Otago. I agree and note that Policy 2 of the NPSHPL requires that the identification and management of highly productive land is undertaken in an integrated way that considers the interactions with freshwater management. In my opinion, the criteria for mapping highly productive land in the NPSHPL allow water availability to be considered. In addition to

⁶⁴ FPI034.007 The Fuel Companies

⁶⁵ Brief of second supplementary evidence of Felicity Ann Boyd: LF – Land and freshwater (Highly productive land), dated 21 October 2022

identifying land that is in a general rural or rural production zone, is predominantly Land Use Capability class (LUC) 1, 2, or 3, and forms a large and geographically cohesive area, regional councils may also map land that is, or has the potential to be (based on current uses of similar land in the region), highly productive, having regard to:

- a. The soil type,
- b. Physical characteristics of the land and soil, and
- c. Climate of the area.

240. Reading Policy 2 alongside the criteria set out in clause 3.4, it is evident that the interactions between land and water must form part of the identification process.

3.1.4. The exposure draft of the National Policy Statement for Indigenous Biodiversity

241. The exposure draft of the NPSIB was released in June 2022 and a final version was expected to be gazetted in 2023. That has not yet occurred. For completeness, I note that clause 1.3 of the exposure draft NPSIB states that it does not apply to aquatic indigenous biodiversity, except in limited circumstances.⁶⁶

3.1.5. Proposals to amend national direction on renewable electricity generation

242. In his non-FPI *Reply report 11: EIT – Energy, infrastructure and transport*, Mr Langman outlines that on 20 April 2023, the Government released:

- a. A proposed NPSREG (to replace the current NPSREG 2011),⁶⁷
- b. A proposed National Policy Statement for Electricity Transmission (to replace the current policy statement dated 2008),⁶⁸

243. The discussion document accompanying these documents also proposes amending the existing NESET and introducing a new a new National Environmental Standard for Renewable Electricity Generation (NESREG). The proposals relating to renewable electricity generation may be relevant to the FPI provisions, but because they are in draft form and have no legal weight, I have not assessed their implications.

⁶⁶ These are: the management of highly mobile fauna, which may or may not use water bodies for part of their life cycle (clause 3.13), provisions for restoration include wetlands (clauses 3.21 and 3.22) and the scope of regional biodiversity strategies, which can include water bodies (clause 3.23).

⁶⁷ <https://www.mbie.govt.nz/dmsdocument/26314-proposed-national-policy-statement-for-renewable-electricity-generation>

⁶⁸ <https://www.mbie.govt.nz/dmsdocument/26315-proposed-national-policy-statement-for-electricity-transmission>

4. Common themes

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

- Purpose and philosophy of the FPI
- Rural sectors and land uses
- Quarrying activities
- Environmental limits and capacity for development
- Relationship with Kāi Tahu and use of te reo terms
- Format, drafting, and terminology
- Other submissions on the whole of the pORPS

4.1. Purpose and philosophy of the FPI

4.1.1. Introduction

245. The pORPS (including the FPI part) has been supported by some submitters and opposed by others. Those in support generally seek to retain the FPI as notified, except where specific amendments are sought elsewhere in their submissions.

246. A number of submitters consider that the philosophy underpinning the pORPS (and FPI) is too heavily in favour of environmental protection and does not adequately recognise or provide for the social or economic well-being of Otago's communities. Similar submissions have been made on particular chapters or provisions of the FPI and those are addressed in relation to those parts later in this report.

4.1.2. Submissions

247. Several submitters express general support for the pORPS.⁶⁹ A number of submitters clarify that their general support is subject to the amendments sought elsewhere in submission.⁷⁰ Many submitters seek general recognition of particular activities or industries they have an interest in (such as primary production), as a general request for change, but often accompanied by more specific amendments to provisions.⁷¹ Those submitters generally also seek any necessary consequential amendments as a result of amendments to address their concerns.

⁶⁹ For example, FPI008.008 Greenpeace, FPI012.001 Minister for the Environment,

⁷⁰ For example, FPI039.026 Realnz, FPI030.052 Kāi Tahu ki Otago, FPI017.001 Ravensdown, FPI044.001 DOC, FPI042.145 Ngāi Tahu ki Murihiku, FPI038.025 NZSki Ltd

⁷¹ For example FPI019.011 Fonterra, FPI033.008 Fulton Hogan, FPI020.030 Silver Fern Farms, FPI037.054 Fish and Game, FPI038.024 NZSki, FPI039.027 Realnz, FPI043.061 OWRUG, FPI001.001 DCC, FPI027.002 Contact, FPI017.002 Ravensdown, FPI040.005 Duncan Kenderdine, FPI044.002 DOC, FPI034.008 The Fuel Companies, FPI031.015 Oceana Gold, FPI025.001 Beef + Lamb and DINZ

248. Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu both seek to retain the strong focus on Te Mana o te Wai and on sustaining the relationship of mana whenua with Wai Māori.⁷² Kāi Tahu ki Otago also notes that Kā Rūnaka strongly support the focus on integrated management in the pORPS.⁷³
249. Fish and Game submits that the pORPS will be improved if it adopts the concept of Te Mana o te Wai for the whole environment, by:⁷⁴
- a. Creating a clear and directive hierarchy, with the natural environment as the priority;
 - b. Imbuing the anthropogenic concepts of health, well-being and resilience upon the natural environment; and
 - c. Ensuring all actions support the health, well-being and resilience of the natural environment.
250. Greenpeace requests that the pORPS needs to correctly and fully reflect the priorities of Te Mana o te Wai.⁷⁵ Similarly to Fish and Game, Greenpeace also requests that Te Mana o te Wai should be put first, so that all other objectives in the pORPS are informed by the priority to care for water and keep it healthy.⁷⁶
251. Greenpeace also considers that communities should be made aware of the impacts their activities may have on freshwater, and that there should be observable changes in community behaviour towards more sustainable lifestyles. The submitter considers that rules and other tools will be essential to encourage and incentivise this anticipated environmental result, and drive action that meets the objectives of Te Mana o te Wai. Greenpeace also supports the adoption of the precautionary approach and considers that the pORPS needs to “go hard”, and phase out synthetic nitrogen fertiliser, improve river flows, to reclaim wild river margins from farming and support regenerative agriculture.⁷⁷
252. DCC considers that:
- a. The content of the pORPS should be limited to matters that have a clear link to the matters of regional significance, whose inclusion in the pORPS is necessary to set a higher order policy direction.⁷⁸
 - b. Where nationally significant issues are relevant to Otago, they would benefit from being framed in terms of specific impacts in or on the region.⁷⁹
 - c. More work is required to achieve the appropriate balance to promote sustainable management, the wellbeing of people and communities, and the environmental bottom lines. This policy evaluation must include the consideration of the costs of

⁷² FPI030.047 Kāi Tahu ki Otago, FPI032.029 Te Rūnanga o Ngāi Tahu

⁷³ FPI030.048 Kāi Tahu ki Otago

⁷⁴ FPI037.048 Fish and Game

⁷⁵ FPI008.020 Greenpeace

⁷⁶ FPI008.001 Greenpeace

⁷⁷ FPI008.022 and FPI008.019 Greenpeace

⁷⁸ FPI001.049 DCC

⁷⁹ FPI001.050 DCC

improved environmental outcomes, and the ability of communities to pay, as required by s32 of the RMA.⁸⁰

253. Moutere Station opposes the FPI parts of the pORPS on the basis that:⁸¹
- a. It may result in environmentally perverse outcomes which threaten the concept of Te Mana o te Wai, including the proliferation of weeds resulting in reduced access to water ways, and creating a shortage of land for winter grazing which may result in expansion of paddocks used for winter grazing and have an unnecessary impact on food and fibre production. It will also likely result in increased numbers of bird species, such as duck and geese, which contribute strongly to the *E.Coli* in the waterways.
 - b. There will be a loss of intergenerational farms in Otago to either exotic forestry or offshore ownership with the additional (unnecessary) environmental and regulatory burdens and the economic cost included in the pORPS.
 - c. It has the potential to destroy the rural community and the rural way of life that has been the cultural lifeblood of Otago for over 200 years.
254. Fish and Game seeks that the pORPS should:
- a. Create a clear and directive hierarchy, with the natural environment being the priority. This approach mirrors that taken in the NPSFM.⁸²
 - b. Recognise and provide for people's connection with the environment, including recreation in and around water and harvesting food from water bodies.⁸³
255. Fish and Game seeks unspecified amendments to explicitly acknowledge that water bodies that support recreation and amenity values are highly valued features.⁸⁴ As an alternative to adopting the various relief sought, Fish and Game seeks the deletion of the pORPS, including the FPI provisions. As a proposed document cannot be deleted, I assume the submitter means withdrawn.⁸⁵
256. NZSki and Realnz request that new provisions be inserted into the pORPS which explicitly promote the benefits of, and provide for, people's well-being including the use of and access to the natural environment for transport, the visitor industry (including commercial recreation) and ancillary commercial and industry services.⁸⁶
257. The Fuel Companies seek that the pORPS should be amended to ensure that it achieves the following:⁸⁷
- a. The purpose and principles of the RMA, and consistency with sections 6-8 of the RMA.

⁸⁰ FPI001.040 DCC

⁸¹ FPI023.011 Moutere Station

⁸² FPI037.065 Fish and Game

⁸³ FPI037.068 Fish and Game

⁸⁴ FPI037.053 Fish & Game

⁸⁵ FPI037.055 Fish and Game

⁸⁶ FPI038.001 NZSki, FPI039.001 Realnz

⁸⁷ FPI034.007 The Fuel Companies

- b. Gives effect to National Policy Statements, Environmental Standards and Regulations, including the NPSFM and NZCPS.
- c. Assists ORC to carry out its functions under s30 of the RMA.
- d. Meets the requirements of the statutory tests in s32 of the RMA.
- e. Avoids, remedies or mitigates any relevant and identified environmental effects.

It is not clear from the submission which aspects of the FPI provisions do not achieve the RMA requirements.

258. Wendy Gunn requests that an immense amount of emphasis is placed on the protection of groundwater.⁸⁸
259. Federated Farmers considers that the pORPS needs to provide a robust, clear framework to provide guidance and clarity for the region on freshwater, and that this guidance needs to recognise and value all aspects of the region that contribute to its core.⁸⁹ Federated Farmers also considers that the pORPS needs to ensure that its directions for change have reasonable timeframes. The submitter notes that farm systems are complex, and changes in practices can take some time to implement and demonstrate a change in effect.⁹⁰
260. Fulton Hogan is concerned that the FPI provisions of the pORPS fail to provide an appropriate level of guidance through objectives and policies relating to freshwater. The submitter considers that the pORPS provides little region-specific context for the NPSFM, and fails to address the potential conflict that exists between competing water uses.⁹¹
261. Duncan Kenderdine seeks that the pORPS includes clear and directive objectives, policies and methods to clarify and/or direct that:
- a. Water quality and quantity is managed under the pORPS to uphold the priorities of Te Mana o te Wai as set out in the NPSFM 2020 and apply an integrated management approach consistent with the concept of ki uta ki tai.⁹²
 - b. Water allocated under a resource consent cannot be transferred or used for a different use.⁹³
 - c. The baseline state for the consideration of water quality and quantity is natural state (the state the water would be in without human intervention).⁹⁴
 - d. Many of Otago's freshwater bodies are actually or effectively degraded in respect of water quality and are actually or effectively overallocated in respect of water quantity, and that waterbodies need to be restored and further contamination prevented.⁹⁵

⁸⁸ FPI006.004 Wendy Gunn

⁸⁹ FPI026.040 Federated Farmers

⁹⁰ FPI026.041 Federated Farmers

⁹¹ FPI033.010 Fulton Hogan

⁹² FPI040.003 Duncan Kenderdine

⁹³ FPI040.001 Duncan Kenderdine

⁹⁴ FPI040.002 Duncan Kenderdine

⁹⁵ FPI040.004 Duncan Kenderdine

262. Contact seeks that the pORPS appropriately recognises the national direction of the NPSFM and the NPSREG, with the latter providing direction for renewable electricity generation more generally.⁹⁶
263. McArthur Ridge considers that the pORPS fails to provide direction on how Otago’s land and water planning framework should provide for the needs of different primary sector producers, and in particular direction on how to address water allocation for consumptive uses (such as frost fighting and irrigation) in over-allocated catchments like the Manuherekia. The submitter also seeks unspecified amendments to:
- a. provide greater direction on promoting and providing for land and water uses that are efficient, have minimal impact on the environment, and provide significant economic and social benefits, such as viticulture, orchards and other uses, and⁹⁷
 - b. better address the issues identified in SRMR-15 by providing better direction on how the competing needs of freshwater-reliant industries should be prioritised, especially in water short catchments.⁹⁸
264. Realnz requests that new provisions are inserted, or amendments to current provisions are made, to provide clear policy direction about how competing interests in the take and use of water will be addressed.⁹⁹
265. Wise Response seeks unspecified amendments to focus on improving all water bodies, including by rebuilding biophysical capacity and ecosystem function, rather than outstanding water bodies and the values people decide are important.¹⁰⁰
266. Ngāi Tahu ki Murihiku seeks to recognise that over-allocation is a significant issue of concern for mana whenua in the region and to provide further clarification in the pORPS regarding the management of over-allocation (both water quality and quantity), including how to recognise over-allocation when limits have not been set in an FMU or part of an FMU.¹⁰¹ Ngāi Tahu ki Murihiku seeks further clarification within the pORPS regarding the management of dams and weirs.¹⁰²
267. DairyNZ seeks that the extent of evidence and facts that underpinned the identification of significant resource management issues is clarified, acknowledging that community consultation during the development of the pORPS was held during a pandemic.¹⁰³
268. Horticulture NZ seeks that the pORPS, and freshwater policy in particular, should take an integrated approach to climate adaptation and natural hazard risk management, to optimise benefits to urban and rural communities and wider economic, social and cultural well beings.¹⁰⁴

⁹⁶ FPI027.001 Contact

⁹⁷ FPI041.014 McArthur Ridge

⁹⁸ FPI041.015 McArthur Ridge

⁹⁹ FPI039.002 Realnz

¹⁰⁰ FPI035.031 Wise Response

¹⁰¹ FPI042.001 Ngāi Tahu ki Murihiku

¹⁰² FPI042.002 Ngāi Tahu ki Murihiku

¹⁰³ FPI024.039 DairyNZ

¹⁰⁴ FPI047.002 Horticulture NZ

4.1.3. Analysis

269. I consider that the amendments I have recommended to the LF chapter retain the focus on Te Mana o te Wai and clarify its application. I therefore recommend accepting the submission points by Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu.
270. The FPI provisions are limited to fresh water, therefore I do not consider the requests by Fish and Game or Greenpeace for the entirety of the pORPS to adopt the concept of Te Mana o te Wai can be progressed through this process. I do not recommend accepting these submission points.
271. I consider that Te Mana o te Wai has been prioritised in the management of freshwater and land through the structure of the *LF – Land and freshwater* chapter, whereby LF-WAI sits ‘above’ the other three sections in this chapter, which must give effect to the objective and policies in LF-WAI. I agree with Greenpeace that there will need to be observable changes in behaviour in order to give effect to Te Mana o te Wai, including in response to rules and other tools. In my view, decisions about particular land uses are best addressed through the LWRP in implementing the NOF.
272. Rather than focusing on particular activities (such as regenerative agriculture or reclamation), the pORPS sets out a framework for managing resource use that gives effect to higher order documents and responds to the identified issues in SRMR and RMIA. In relation to land use particularly, the LF-LS section requires:
- That the use of land maintains soil quality and contributes to achieving environmental outcomes for freshwater. (LF-LS-O12)
 - Minimising soil erosion and the associated risk of sedimentation in water bodies resulting from land use activities by implementing a series of actions. (LF-LS-P18)
 - Promoting changes in land use or land management practices that improve the sustainability and efficiency of water use, resilience to the impacts of climate change, or the health and quality of soil. (LF-LS-P20)
 - Achieving the improvement or maintenance of freshwater quantity or quality to meet environmental outcomes set for FMUs or rohe by reducing direct and indirect discharges of contaminants to water from the use and development of land and managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater. (LF-LS-P21)
273. The submission points by DCC appear to be directed to the pORPS as a whole, which is not within the scope of this process. In relation to sustainable management, I have addressed this and the planning framework of the pORPS in my non-FPI *Reply report 1: Introduction and general themes*. I do not recommend accepting this submission point.
274. I agree with McArthur Ridge that decisions about land uses will require consideration of the benefits and costs, including the negative impacts that may arise (such as spread of pests). These decisions will need to occur as part of the development of the LWRP when it is known what the environmental outcomes, target attribute states, and environmental flows and levels are. Those decisions will need to be considered at a high-level as well as in the detail – for example, the risk of increasing carbon forestry as a consequence of restricting other

productive land uses. I disagree that these costs should be included in the pORPS because they relate to matters addressed in the LWRP.

275. Fish and Game's submission point regarding prioritising the natural environment across the pORPS is not a matter that can be considered in this process. I agree with Fish and Game that water bodies support recreation and amenity values. In my view, those values are largely dependent on the physical health of those water bodies. For example, clean water provides good habitat for fish and therefore supports the use of water bodies for recreational fishing. In my opinion, the pORPS has appropriately focused on these health aspects of freshwater management, with the view that these 'primary values' will support other types of values, including recreation and amenity values. I am unsure what recognition the submitter seeks in relation to highly valued features, however I note that the NFL chapter sets out a framework for managing highly valued natural features and landscapes (which may include water bodies).
276. Withdrawing the pORPS in full, including the FPI provisions, would delay the implementation of the NPSFM in Otago by many years, which would appear to work against the other outcomes sought by the submitter. I do not recommend accepting the submission point by Fish and Game.
277. NZSki and Realnz made similar submissions on the pORPS with regard to the use of and access to the natural environment. Given the relief sought is broader than only freshwater, and the FPI provisions, I do not consider it can be addressed here (particularly the insertion of new provisions relating to access, including transport, which I do not consider to be 'freshwater-related').
278. I consider the FPI provisions have been prepared in accordance with all relevant statutory requirements, as set out in the section 32 evaluation report. I do not recommend accepting the submission point by the Fuel Companies.
279. The definition of 'water' in the RMA (and used in the pORPS) includes water under the ground and 'water body' includes water in aquifers (outside the coastal marine area). Therefore, many of the FPI provisions apply equally to surface and groundwater. Additionally, there is emphasis throughout the LF-WAI and LF-VM provisions on recognising the connections between different types of water and water bodies, including between surface and groundwater. I recommend accepting in part the submission point by Wendy Gunn.
280. Many submitters on the non-FPI parts of the pORPS, including Federated Farmers, also sought a transitional framework to be included in that part of the pORPS. I have addressed this in non-FPI *Reply report 9: LF – Land and freshwater*. In summary, I consider the transitional framework is directed by the NPSFM to be included in the LWRP, not the pORPS. What transition is required, the speed of transition, and the way this transition occurs (i.e. as a result of regulatory or non-regulatory interventions) will be determined in the NOF processes, and should not be pre-empted by the pORPS. I do not recommend accepting the submission point by Federated Farmers.
281. I am unsure what region-specific context Fulton Hogan considers should be included in the pORPS in relation to the NPSFM. I consider that there is an appropriate level of guidance

through the objectives and policies, and I note that these have been prepared to give effect to the NPSFM which contains further detail on some elements (for example, mapping natural inland wetlands and the steps for implementing the NOF). While I agree the pORPS could address the potential conflict between competing water uses, I am not convinced this is best addressed at a region-wide scale given the variety that exists between the various FMUs and rohe. Otago's catchments are not homogenous, and neither are their communities. There will be different types of competition for water depending on the context. In my view, managing uses of water (including competing demands) are best managed in the LWRP as part of implementing the NOF, where different approaches can be taken in different FMUs and parts of FMUs. I do not recommend accepting the submission point by Fulton Hogan.

282. In my opinion, the provisions in the FPI managing water quality and quantity give effect to Te Mana o te Wai and apply an integrated management approach (see LF-WAI in particular). Implementing restrictions on the transfer of consents is best addressed in the LWRP, which is the plan under which those consents are granted. With regard to natural state being used as a baseline, many of Otago's water bodies are modified and it can be very difficult to determine, for example, what a naturalised flow would be. In the context of the NPSFM, 'baseline state' is a defined term and does not require adopting a 'natural state' start point. 'Baseline state' is defined as:

***baseline state**, in relation to an attribute, means the best state out of the following:*

- (a) the state of the attribute on the date it is first identified by a regional council under clause 3.10(1)(b) or (c)*
- (b) the state of the attribute on the date on which a regional council set a freshwater objective for the attribute under the National Policy Statement for Freshwater Management 2014 (as amended in 2017)*
- (c) the state of the attribute on 7 September 2017*

283. Neither (a) nor (b) of that definition are applicable in Otago because the relevant parts of the NPSFM have not been implemented yet, meaning that 'baseline state' is at 7 September 2017, not natural state.

284. I agree with Duncan Kenderdine that some water bodies in Otago are degraded and/or over-allocated. I consider the provisions of the FPI provide an appropriate foundation for addressing those issues in order to improve the health and well-being of these water bodies. I recommend accepting this submission point in part.

285. Contact seeks a suite of specific amendments to FPI provisions that provide the detail of its general request for better recognition of the NPSREG. I note that many parts of the NPSREG are addressed in the non-FPI part of the pORPS, notably the EIT-INF and EIT-EN chapters. In response to submissions on LF-FW-P7, I have recommended including a new policy LF-FW-P7A which, among other things, requires providing for the allocation of water for renewable electricity generation where water is available and within limits. I consider this addresses the submission point by Contact in part.

286. In relation to the issue of allocation raised by McArthur Ridge, although I consider the specific details of allocation will need to be incorporated in the LWRP rather than the pORPS,

I have recommended including new policy LF-FW-P7A in part to recognise the importance of land-based primary production (which includes viticulture) in Otago. However, how much water is available (if any), and how it should be allocated, is something to be determined through the LWRP. I note that I have recommended amendments to non-FPI provisions to protect highly productive land in accordance with the NPSHPL as well as land suitable for horticulture and viticulture in the intervening period before maps of highly productive land are included in the pORPS. These amendments go some way to address the relief sought by McArthur Ridge in relation to providing for efficient land uses. In my view, addressing the competing needs of freshwater-reliant industries should occur in consultation with those communities affected and in the context of the particular area. Again, I consider that is most appropriately done in the LWRP through the NOF process. I recommend accepting in part the submission point by McArthur Ridge and rejecting the submission point by Realnz.

287. I consider that the provisions of the FPI, including the LF chapter, include direction on ecological health, as well as the wider health and well-being of water bodies and freshwater ecosystems. In addition, there is specific direction on the management of outstanding water bodies and their significant values in the NPSFM which the pORPS must give effect to. I do not recommend accepting the submission point by Wise Response.
288. I agree with Ngāi Tahu ki Murihiku that over-allocation is a significant issue for the region. I consider that the provisions in the LF chapter address this in a number of ways. Firstly, the LF-WAI sets out how to give effect to Te Mana o te Wai in Otago, which will not be possible as long as there is over-allocation of resources. Similarly, the freshwater visions in LF-VM will not be achieved as long as over-allocation is present. The LF-FW section contains more specific direction, including in LF-FW-P7(5) to phase out existing over-allocation and avoid future over-allocation as well as in LF-FW-M6(5)(b) to include methods and timeframes for phasing out over-allocation. I acknowledge that this likely does not provide the level of detail or certainty sought by the submitter, however in my experience resolving over-allocation is a highly complex and contentious matter that takes time to resolve. The methods and timeframes for resolving over-allocation will depend on the circumstances of each situation, which I consider is recognised by the pORPS. I therefore do not recommend accepting the submission point by Ngāi Tahu ki Murihiku.
289. I understand the concerns of Ngāi Tahu ki Murihiku in relation to dams and weirs and acknowledge that damming is referenced in a number of places in the pORPS. I have responded to this submission point in my non-FPI *Reply report 9: LF – Land and freshwater* where I note that although the pORPS does not contain any specific provisions for managing dams and weirs, there are many provisions (particularly in the LF chapter) that will be relevant to their management, including natural character.
290. The process for developing the significant resource management issues is set out in the section 32 report for the pORPS. In section 2 of this report, I have set out the evidence in relation to fresh water (insofar as it is available). I do not recommend accepting the submission point by DairyNZ.
291. I agree with Horticulture NZ that the FPI should take an integrated approach to climate adaptation and natural hazard risk management. Policy LF-WAI-P3(6) specifically requires this, including having regard to foreseeable climate change risks and the potential effects of

climate change on water bodies. Natural hazards are primarily addressed in the HAZ chapter, which also applies to land and fresh water.

4.1.4. Recommendation

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

4.2. Rural sectors and land uses

4.2.1. Submissions

293. McArthur Ridge seeks that the term “agriculture” is deleted and replaced with “primary production” throughout the pORPS.¹⁰⁵ Similarly, OWRUG seeks that the term “agriculture” is replaced with “Food and Fibre Sector” throughout the plan.¹⁰⁶

294. Federated Farmers requests that the pORPS provides a clear framework and guidelines that appropriately recognise the range of sectors, industries and businesses that keep the Otago region’s communities vibrant and sustainable.¹⁰⁷ Federated Farmers also seeks that through the pORPS, the Council should encourage and enable that contribution, and in particular recognise and value the positive contribution that the primary sector makes to the region, whether it is through the economy, the environment or to society generally.¹⁰⁸

295. Edgar Parcell considers that it is important to address the aspects of land use changes into the future which is not defined clearly.¹⁰⁹ The submitter also considers that the importance of the primary sector in Otago is not being articulated clearly enough in the pORPS, and that there is a need for the primary sector to be recognised as an important land use, as much as many others are throughout the document.¹¹⁰

296. DairyNZ seeks the addition of an objective and policy that set out a transition framework to recognise the importance of primary production in Otago and the support that will be put in place to transition farming practices into a planning framework that gives effect to Te Mana o te Wai.¹¹¹

297. Hamilton Runs Limited requests that guidance, rather than hard rules are used to enable farmers to prioritise what will be the most beneficial for the health of the waterways on their properties, while maintaining viability. The submitters also note that consideration must be given to the whole prosperity of Otago when making any decisions.¹¹²

298. Hamilton Runs Limited also expresses concern about the potential implications of increases to minimum flows for the viability of farmers in Otago. The submitter considers that being

¹⁰⁵ FPI041.016 McArthur Ridge Vineyard

¹⁰⁶ FPI043.020 OWRUG

¹⁰⁷ FPI026.042 Federated Farmers

¹⁰⁸ FPI026.039 Federated Farmers

¹⁰⁹ FPI011.003 Edgar Parcell

¹¹⁰ FPI011.002 Edgar Parcell

¹¹¹ FPI024.041 DairyNZ

¹¹² FPI010.002 Hamilton Runs Limited

asked to uphold and support artificially high minimum flow rates is a scary thought, and one that it does not support.¹¹³

299. Horticulture NZ requests several amendments, being:
- a. That the freshwater policy of the pORPS should prioritise the health of people by supporting the resilience of the domestic food system,¹¹⁴ with essential human health needs such as vegetables and fruit for domestic supply to be recognised within the second priority obligation in the Te Mana o te Wai hierarchy.¹¹⁵
 - b. That the freshwater policy of the pORPS should seek to support a transition to low emissions food production.¹¹⁶
 - c. That the pORPS take an integrated approach to freshwater management that recognises the value of highly productive land, and that prioritises and supports the use of highly productive land for primary production.¹¹⁷
 - d. That the freshwater policy of the pORPS should recognise food production, food supply and food security as issues that are promoted and considered alongside other uses for essential human health, when making trade-offs that will inevitably be required to meet natural environmental limits.¹¹⁸
 - e. That the pORPS acknowledge the national importance of the summer fruit sector in Otago in supporting national food security and the health of the nation, by including a new issue statement for Food Production, Food Supply and Food Security.¹¹⁹
300. Greenpeace submits that ORC should invest in regenerative farming that works with nature, not against it, to help mitigate the climate crisis and prevent water degradation.¹²⁰ The submitter also seeks that ORC should commit to phasing out synthetic nitrogen fertiliser by 2024 and lowering cow stocking rates, as the use of synthetic nitrogen fertiliser and intensive dairy farming are incompatible with protecting Te Mana o te Wai.¹²¹

4.2.2. Analysis

301. The submission points by McArthur Ridge and OWRUG are made in relation to the whole pORPS, which is beyond the scope of this process. However, I note that many amendments have been recommended by non-FPI reporting officers to replace ‘agriculture’ with other terms, usually ‘primary production’, but it is context-dependent. In FPI provisions, the term ‘agriculture’ is only used in SRMR provisions and is addressed in that section of this report.
302. I consider the relief sought by Federated Farmers and Edgar Parcell applies to the pORPS as a whole, rather than specifically to the FPI provisions. In my non-FPI *Reply report 1*:

¹¹³ FPI010.001 Hamilton Runs Limited

¹¹⁴ FPI047.001 Horticulture NZ

¹¹⁵ FPI047.007 Horticulture NZ

¹¹⁶ FPI047.016 Horticulture NZ

¹¹⁷ FPI047.003 Horticulture NZ

¹¹⁸ FPI047.004 Horticulture NZ

¹¹⁹ FPI047.006 Horticulture NZ

¹²⁰ FPI008.007 Greenpeace

¹²¹ FPI008.002 Greenpeace

Introduction and general themes, I have addressed the planning framework of the pORPS as well as rural sectors and land uses specifically. I have recommended a range of amendments to address this point, including expanding the scope of the LF-LS chapter and shifting key provisions for managing development in rural areas from UFD to LF-LS. In my view, this goes a considerable way to addressing the concerns of the submitter. I do not recommend accepting this submission point.

303. Many submitters on the non-FPI parts of the pORPS, including DairyNZ, also sought a transitional framework to be included. I have addressed this in non-FPI *Reply report 9: LF – Land and freshwater*. In summary, I consider the transitional framework is primarily directed to be included in the LWRP, not the pORPS. What transition is required, the speed of transition, and the way this transition occurs (i.e. as a result of regulatory or non-regulatory interventions) will be determined through the NOF processes and tailored to each FMU or part of a FMU, and should not be pre-empted by the pORPS. What the pORPS does, however, is acknowledge the validity of an appropriate transition.
304. In my opinion, the freshwater planning framework in Otago has been on the permissive end of the regulatory spectrum until recently, with the introduction of PC7 and PC8. Despite the lack of ‘hard rules’, there are still issues with the health of freshwater bodies in the region. This suggests that guidance has not been sufficient to address these issues. Further, the NPSFM requires the inclusion of provisions in regional plans. For example, environmental flows and levels,¹²² take limits,¹²³ and limits on resource use.¹²⁴ Policy 15 of the NPSFM requires enabling communities to provide for their social, economic, and cultural well-being in a way that is consistent with the NPSFM. This means that economic considerations, including viability of farming operations, will be a relevant consideration as the NOF is implemented. I consider there is a risk that the NPSFM would not be given effect to if the relief sought by Hamilton Runs was included in the FPI and do not recommend accepting this submission point.
305. With respect to minimum flows, under the NPSFM the development of environmental flows and levels must be in accordance with clause 3.16 of the NPSFM and, at every step of the NOF, ORC must apply the hierarchy of obligations (which requires prioritising, first, the health and well-being of water bodies and freshwater ecosystems). I am unsure what Hamilton Runs means by ‘artificially high minimum flow rates’. It is likely that in some parts of Otago more water will need to be left in rivers in order to prioritise the health and well-being of those water bodies. I do not recommend accepting this submission point.
306. I note that the first point by Horticulture NZ about the ‘location’ of food production within the hierarchy of obligations has also been made in relation to the policy setting out the priorities (LF-WAI-P1) and I have addressed it there.
307. In relation to the relief Horticulture NZ seeks for transitioning to low emissions food production, I consider that my recommendations on the non-FPI parts of the pORPS recognise the value of highly productive land and support the use of this land for land-based primary production in accordance with the NPSHPL. I also consider that my new

¹²² Clause 3.16, NPSFM

¹²³ Clause 3.17, NPSFM

¹²⁴ Clause 3.14, NPSFM

recommended policy LF-FW-P7A addresses this point by, within limits, providing for the allocation of water for land-based primary production.

308. Ms Todd has addressed the request for a new issue statement later in this report in relation to the SRMR chapter, however I note that in non-FPI *Reply report 9: LF – Land and freshwater*, I have recommended amendments to LF-LS-P19 specifically to protect land suitable for horticulture (including summer fruit) and viticulture until maps of highly productive land have been included in the pORPS in accordance with the NPSHPL, recognising that the NPSHPL ‘interim’ criteria do not provide sufficient protection for this land. I recommend accepting this submission point in part.
309. While I agree with Greenpeace that the expansion of dairy farming in Otago has contributed to degradation in some water bodies, I consider that decisions about restricting or promoting particular activities (including use of synthetic nitrogen fertiliser and stocking rates) should be made through the regional plan, rather than the pORPS. The process for implementing the NOF, as set out in the NPSFM, provides a comprehensive step-by-step approach to identifying values, developing environmental outcomes, and setting limits on resource use that will provide a forum for these types of conversations to occur with Otago’s communities, including mana whenua. I note that the application of synthetic nitrogen fertiliser to pastoral land is presently managed under the NESF. While I acknowledge that the Council may choose to have more stringent rules in its regional plan than the NESF regulations, whether greater stringency is justified and in what forms are matters for the LWRP and its accompanying section 32 evaluation report to consider.¹²⁵

4.2.3. Recommendation

310. I do not recommend any amendments except as provided for elsewhere in this report.

4.3. Quarrying activities

4.3.1. Submissions

311. Fulton Hogan seeks several amendments related to its quarrying and associated activities, as set out below:
- a. Ensure that the regulatory framework under the pORPS does not curtail its existing lawfully established activities.¹²⁶
 - b. Ensure that the policy framework does not unnecessarily constrain future activities or have unintended consequences as a result of not adequately recognising the breadth of activities associated with quarrying.¹²⁷
312. The submitter is also concerned that the pORPS fails to recognise the locational constraints of quarrying, by not providing a consenting pathway for quarrying activities within natural

¹²⁵ Regulation 6(1) of the NESF states that a district rule, regional rule, or resource consent may be more stringent than these regulations.

¹²⁶ FPI033.006 Fulton Hogan

¹²⁷ FPI033.007 Fulton Hogan

wetlands. The submitter notes that this is provided within the [then] exposure drafts of the NESF and NPSFM.¹²⁸

4.3.2. Analysis

313. The recognition of quarrying activities in the pORPS formed the basis of a number of submissions and evidence on the non-FPI parts of the pORPS. I discussed this topic in detail in my Supplementary Evidence on the non-FPI part of the pORPS, including in response to amendments to the NPSFM and NESF, which introduced additional consenting pathways for mineral extraction activities occurring in natural inland wetlands.¹²⁹
314. As I considered in that Supplementary Evidence, the definition of “primary production” in the pORPS includes mining and quarrying activities. The term “rural industry” is also used throughout the pORPS and it has been recommended that the mandatory definition of this term, as set out in the National Planning Standards, be included in the pORPS as part of the hearing on the non-FPI part.¹³⁰ That definition refers to primary production. Accordingly, any reference to rural industry in the pORPS is therefore also applicable to mining and quarrying through the reference to primary production.
315. Based on the provisions in the pORPS that relate to primary production and/or rural industry:
- a. The importance of primary production and the types of effects that impact primary production are recognised throughout the SRMR section;¹³¹
 - b. The management of Otago’s rural areas facilitates primary production and rural industry, including by recognising the importance of mineral and aggregate resources for the provision of infrastructure and the social and economic well-being of Otago’s communities and the locational constraints on these activities;¹³²
 - c. In rural areas, the establishment of activities that could adversely affect (including by way of reverse sensitivity) existing or potential primary production or rural industry activities are restricted;¹³³
 - d. The establishment, development, or expansion of rural lifestyle and rural residential areas only occurs where the impacts on existing primary production and rural industry activities are minimised.¹³⁴

¹²⁸ FPI033.009 Fulton Hogan

¹²⁹ Second Brief of Supplementary Evidence of Felicity Ann Boyd - Introduction and General Themes & LF (Mineral Extraction) dated 24 February 2023 (<https://www.orc.govt.nz/media/13878/supplementary-evidence-mineral-extraction-fb-v30.pdf>); Fourth Brief of Supplementary Evidence of Felicity Ann Boyd – LF (NPSFM Amendments) dated 24 February 2023 (<https://www.orc.govt.nz/media/13897/final-supplementary-evidence-npsfm-amendments-fb-v30.pdf>).

¹³⁰ Chapter 15: UFD – Urban form and development. (27 April 2022), section 15.4.4

¹³¹ SRMR-I1 – Context (para 2), SRMR-I3 – Statement, SRMR-I4 – Impact snapshot – Environmental (para 2), SRMR-I4 – Impact snapshot – Economic (para 1, bullet 1), SRMR-I6 – Economic (para 2) SRMR-I7 – Impact snapshot – Economic (para 1), SRMR-I8 – Context (para 2), SRMR-I10 – Statement.

¹³² UFD-P7(4)

¹³³ UFD-P7(6)

¹³⁴ UFD-P8(3)

316. I consider that these provisions in the non-FPI part of the pORPS appropriately recognise and provide for mining and quarrying activities in Otago and address potential reverse sensitivity effects from nearby activities. I do not consider that any further amendments are required to the FPI provisions to address this issue, subject to amendments related to consenting pathways for quarrying activities within natural wetlands, which I discuss below.
317. I have assessed the FPI provisions in relation to the consenting pathways for quarrying activities occurring in natural wetlands at section 3.1.3.5 and Chapter 8.5 of this Report. In summary, I recommend a number of amendments to the FPI provisions in those parts of this report to reflect the recent changes to the NPSFM and NESF that provide additional consenting pathways for activities occurring in “natural inland wetlands” (including specified quarrying and mineral extraction activities).
318. Fulton Hogan seeks specific relief to address its concerns on certain provisions of the FPI (including LF-WAI-P1, LF-FW-O9, LF-FW-P9). Those specific submission points are addressed at the relevant parts of this report in Chapter 8 LF – Land and freshwater.

4.3.3. Recommendation

319. I do not recommend any amendments except as provided for elsewhere in this report.

4.4. Environmental limits and capacity for development

4.4.1. Introduction

4.4.2. Submissions

320. Fish and Game highlights that multiple provisions within the pORPS use wording akin to limits, such as “environmental limits”, “limits”, “bottom lines”, or “environmental constraints.” Fish and Game submits that “environmental limits” is most suitable as it aligns with commonly used terminology and that clear and consistent language should be used in the pORPS.¹³⁵
321. NZSki and Realnz submit that the term “environmental bottom line” should be replaced with “environmental limits” because not all of the types of relevant provisions will be framed as bottom lines.¹³⁶
322. Wise Response seeks general amendments which identify, understand, and set benchmarks across Otago’s environmental limits, including adopting a common set of environmental standards across the region consistent with the pORPS vision that would need to be met by any FMU visions.¹³⁷ Wise Response also supports:¹³⁸
- a. efficient and sustainable management and use of environmental resources,
 - b. living within the biophysical capacity of the environment, and

¹³⁵ FPI037.050 Fish and Game

¹³⁶ FPI038.002 NZSki, FPI039.004 Realnz

¹³⁷ FPI035.031 Wise Response

¹³⁸ FPI035.033, FPI035.029 Wise Response

- c. prioritising behaviour modification over managing the environmental effects of activities.
323. Wise Response also seeks specific amendments across the pORPS which incorporate the use of the national net zero-carbon target for assessing what policies are necessary, realistic, a priority and sustainable in the medium and longer term.¹³⁹
324. Ngāi Tahu ki Murihiku requests that further clarification is provided in the pORPS regarding the management of the over-allocation of water quality and quantity, including how to recognise over-allocation when limits have not been set in an FMU or part of an FMU.¹⁴⁰
325. Greenpeace supports the consideration of cumulative effects, including the cumulative effects associated with intensive dairy farming, water extraction, greenhouse gas emissions, biodiversity loss, sedimentation and nitrates/nitrogen to air, water and soil within and across catchments.¹⁴¹ The submitter seeks that ORC should:
- a. Consider the cumulative effects of pollution, such as intensive dairying and too much synthetic nitrogen fertiliser, rather than simply in each catchment, as what happens upstream affects people, plants and animals downstream.¹⁴²
 - b. Tackle the climate crisis by lowering cow stocking rates and phasing out synthetic nitrogen fertiliser.¹⁴³ To identify limits based on environmental impacts, as required by the NPSFM, ORC must phase out synthetic nitrogen fertiliser.¹⁴⁴
 - c. Apply the precautionary principle to freshwater management. Intensive dairying and synthetic nitrogen fertiliser have long-term effects on water, climate and human health. With emerging research showing links between nitrate contamination from intensive dairying in drinking water and health effects including, but not limited to, bowel cancer, the Council must act now to protect the health of our communities.¹⁴⁵
 - d. Acknowledge and seek to limit, reduce and phase out the resource inputs and uses that have driven the exceedance of global limits regarding nitrogen and biodiversity and local/regional tipping points, through the pORPS.¹⁴⁶
 - e. Include triggers and benchmarks in the pORPS and subsequent rules to respond swiftly to changes pressures and trends. It goes on to note that the plan must include instruments and triggers for action against current ecological benchmarks, and pathways so that responses are timely and foreshadowed to affected communities.¹⁴⁷
326. DCC considers that climate mitigation is largely absent from the pORPS, while it is unclear in other places whether the pORPS refers to climate change adaptation or mitigation. The

¹³⁹ FPI035.030 Wise Response

¹⁴⁰ FPI042.001 Ngāi Tahu ki Murihiku

¹⁴¹ FPI008.015 Greenpeace

¹⁴²

FPI008.004 Greenpeace

¹⁴³ FPI008.003 Greenpeace

¹⁴⁴ FPI008.005 Greenpeace

¹⁴⁵ FPI008.006 Greenpeace

¹⁴⁶ FPI008.018 Greenpeace

¹⁴⁷ FPI008.011

submitter considers that it will be important to undertake both adaptation and mitigation, and that pORPS should specifically reference both.¹⁴⁸

4.4.3. Analysis

327. The point raised by Fish and Game, NZSki and Realnz regarding the various terms used in the pORPS to describe limits has been raised by a number of submitters on the non-FPI part of the pORPS. I have discussed it in detail in section 1.6.3 of *Report 1: Introduction and general themes*, including by examining the various terms and where they were used. In relation to the FPI, only one term is used (“limit”) and it is used in the definition of over-allocation, LF-VM-P6, LF-FW-P7, LF-FW-M6, LF-FW-PR3, and LF-FW-AER4. In these provisions, the term has been used consistently and with the same definition as appears in the NPSFM which I consider is appropriate. The term “environmental bottom line” is not used in any of the FPI provisions. I do not consider the relief sought by Fish and Game, NZSki or Realnz is relevant for the FPI and therefore do not recommend accepting these submission points.
328. Wise Response seeks broad relief relating to all natural resources, however the FPI is largely only relevant to freshwater. In my view, the type of environmental limits described by Wise Response are comparable to those set through the NOF process set out in the NPSFM (particularly limits on resource use and take limits, as well as the ‘bottom lines’ for various attributes in Appendix 2A) and the concept of Te Mana o te Wai. I do not consider an alternative approach is warranted and therefore do not recommend accepting this submission point.
329. I agree with Ngāi Tahu ki Murihiku that over-allocation is a significant issue for the region. I consider that the provisions in the LF chapter address this in a number of ways. Firstly, the LF-WAI provisions include how to give effect to Te Mana o te Wai in Otago, which will not be possible as long as there is over-allocation of resources. Similarly, the freshwater visions in LF-VM will not be achieved as long as over-allocation is present. The LF-FW section contains more specific direction, including in LF-FW-P7(5) to phase out existing over-allocation and avoid future over-allocation as well as in LF-FW-M6(5)(b) to include methods and timeframes for phasing out over-allocation. I acknowledge that this likely does not provide the level of detail or certainty sought by the submitter, however in my experience resolving over-allocation is a highly complex and contentious matter that takes time to resolve. The methods and timeframes for resolving over-allocation will depend on the circumstances of each situation. I therefore do not recommend accepting the submission point by Ngāi Tahu ki Murihiku.
330. While I agree with Greenpeace that the expansion of dairy farming in Otago has contributed to degradation in some water bodies, I consider that decisions about restricting or promoting particular activities (including stocking rates and use of synthetic nitrogen fertiliser) should be made through the regional plan, rather than the pORPS. The process for implementing the NOF, as set out in the NPSFM, provides a comprehensive step-by-step approach to identifying values, developing environmental outcomes, and setting limits on resource use that will provide a forum for these types of conversations to occur with Otago’s

¹⁴⁸ FPI001.051 DCC

communities, including mana whenua. I note that the application of synthetic nitrogen fertiliser to pastoral land is presently managed under the NESF. While I acknowledge that the Council may choose to have more stringent rules in its regional plan than the NESF regulations, whether greater stringency is justified and in what forms are matters for the LWRP and its accompanying section 32 evaluation report to consider.¹⁴⁹

331. The FPI does not contain any reference to climate change mitigation or climate change adaptation. The only references to climate change are in LF-VM-O3(6) and LF-VM-O4(8), and they refer to “resilience to the effects of climate change”. I do not consider the amendments sought by DCC are relevant to the FPI and therefore do not recommend accepting this submission point.

4.4.4. Recommendation

332. I do not recommend any amendments.

4.5. Relationship with Kāi Tahu and use of te reo Māori

4.5.1. Introduction

333. Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, and Te Rūnanga o Ngāi Tahu have lodged submissions relating to the recognition of their rakatirataka and exercise of kaitiakitaka over the Otago region. Several submissions also seek changes to the use of te reo Māori throughout the FPI.

4.5.2. Submissions

334. Ngāi Tahu ki Murihiku seek amendments which clearly recognise the partnership between Kāi Tahu and Otago Regional Council that has resulted in co-development of text and provisions within the FPI.¹⁵⁰ Ngāi Tahu ki Murihiku seek that issues of significance identified by Kāi Tahu are addressed in the pORPS, just as the pORPS directs regional and district plans to manage these issues.¹⁵¹ However, no specific amendments are sought.

335. Ngāi Tahu ki Murihiku seek further clarification within the pORPS regarding the terms ‘cultural landscapes’ and ‘wāhi tupuna’, and the intended management approach for these areas. The submitter seeks that the pORPS ensures that it is possible for ngā rūnanga to describe the cultural landscapes or wāhi tupuna within decision-making processes in a manner that fits with their preferred approach, in order to be able to appropriately address effects on them. Ngāi Tahu ki Murihiku sets out the following understanding of cultural landscapes and wāhi tupuna in provisions:

- a. Cultural landscapes can be found across the region and described by mana whenua according to cultural values and mātauraka.

¹⁴⁹ Regulation 6(1) of the NESF states that a district rule, regional rule, or resource consent may be more stringent than these regulations.

¹⁵⁰ FPI042.014 Ngāi Tahu ki Murihiku

¹⁵¹ FPI042.015 Ngāi Tahu ki Murihiku

- b. Cultural landscapes can be described as wāhi tupuna.
 - c. Some wāhi tupuna will be mapped and can include lands, waterbodies and parts of the coastal environment that need to be protected and managed in a culturally appropriate manner.
 - d. Wāhi tupuna may include outstanding and highly valued natural features, landscapes and seascapes, outstanding water bodies, places and areas of historic heritage.
 - e. Some site-specific land based wāhi tupuna will be mapped, including wāhi tapu and wāhi taoka, that need to be protected as they are particularly vulnerable to land uses.¹⁵²
336. Te Rūnanga o Ngāi Tahu considers that the freshwater provisions appropriately recognise and reflect the relationship of mana whenua to freshwater and provide clear direction on what is required to give effect to the NPSFM.¹⁵³ Te Rūnanga o Ngāi Tahu also supports the submission and detailed relief sought by Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku.¹⁵⁴
337. Greenpeace supports the recognition of mana whenua cultural values, Kāi Tahu, kaitiakitanga, the active participation of mana whenua in decision-making and implementation of solutions, mātauraka Māori, and connections to wāhi tūpuna, water and water bodies.
338. DCC also supports the consideration of the Treaty of Waitangi and working with mana whenua in the application of Te Mana o te Wai.¹⁵⁵
339. The use of te reo Māori throughout the pORPS (including the FPI) is supported by Kāi Tahu ki Otago, however amendments are sought to:¹⁵⁶
- a. Correct language use that does not adhere to accepted orthographic conventions for te reo Māori, including correct use of tohutō (macrons), and initial capitalisation.
 - b. Express the strong preference of Kā Rūnaka that Māori place names are rendered to reflect the traditional names. Kā Rūnaka wish to see historic misspellings of place names like Taiari (Tairi) and Waipōuri (Waipori) amended, and the use of tohutō in place names like Waikōuaiti normalised in the pORPS.
 - c. Better express Kāi Tahu perspectives, for example, through the use of language that reflects Kāi Tahu worldviews and through reframing descriptions to reflect Māori ways of sharing information.
340. Several submitters also seek to correct the use of Kāi Tahu place names and the inclusion of macrons, as below:

¹⁵² FPI042.017 Ngāi Tahu ki Murihiku

¹⁵³ FPI032.030 Te Rūnanga o Ngāi Tahu

¹⁵⁴ FPI032.028 Te Rūnanga o Ngāi Tahu

¹⁵⁵ FPI001.042 DCC

¹⁵⁶ FPI030.049 Kāi Tahu ki Otago

- a. that 'Wānaka',¹⁵⁷ 'Lake Hāwea',¹⁵⁸ and 'kōura'¹⁵⁹ all include macrons.
 - b. references to Lake Dunstan are replaced with "Te Wairere / Lake Dunstan" throughout the pORPS.¹⁶⁰
341. In relation to the LF chapter, several submitters seek that the spelling of particular words is corrected, including the use of the Kāi Tahu spelling, placement of macrons, or that defined terms are italicised, as below:
- a. Use of the term 'takata' instead of 'tangata' in LF-WAI-P1,¹⁶¹
 - b. Spelling of Tāwhirimātea in LF-VM-O2,¹⁶²
 - c. Italicise 'mahika kai' in LF-VM-O2, LF-FW-O8, LF-FW-P7, LF-FW-M6,¹⁶³
 - d. Spelling of Taiari, Waipōuri and Waikōuaiti in LF-VM-O4 and more generally in the plan, and¹⁶⁴
 - e. Use of the term 'mana whenua' instead of 'takata whenua' in LF-WAI-PR1 and LF-FW-E3.¹⁶⁵
342. DCC also supports the use of te reo Māori and seeks explanatory notes to be used where necessary to help with understanding.¹⁶⁶ In a similar vein, OWRUG seeks that te reo terms should be included in the interpretation section to improve the clarity and certainty of the pORPS.¹⁶⁷

4.5.3. Analysis

343. I am unsure what amendments are sought by Ngāi Tahu ki Murihiku to clearly recognise the role of partnership between Kāi Tahu and ORC that has resulted in co-development of text and provisions in the FPI. The *MW – Mana whenua* section of the pORPS describes the relationships between Kāi Tahu and local authorities, as well as the involvement and participation with mana whenua. Those provisions are not part of the FPI but do apply equally to FPI provisions. I note also that the section 32 evaluation report for the pORPS describes the involvement of Kāi Tahu in the development of the pORPS in sections 2.1 and 2.5.2. Without further clarification, I do not consider any amendments are necessary and therefore do not recommend accepting this submission point.
344. Regarding the points raised by Ngāi Tahu ki Murihiku on wāhi tūpuna and cultural landscapes, I note these same points were assessed in Ms Fenemor's *s42A Report 13: HCV –*

¹⁵⁷ FPI027.038 Contact, FPI042.142 Te Rūnanga o Ngāi Tahu, FPI042.132 Ngāi Tahu ki Murihiku

¹⁵⁸ FPI027.038 Contact

¹⁵⁹ FPI042.138 Ngāi Tahu ki Murihiku

¹⁶⁰ FPI027.038 Contact

¹⁶¹ Contact

¹⁶² FPI027.019 Contact

¹⁶³ FPI027.019, FPI027.024, FPI027.026 Contact

¹⁶⁴ FPI030.022, FPI030.049 Kāi Tahu ki Otago

¹⁶⁵ FPI032.016 Te Rūnanga o Ngāi Tahu, FPI030.017, FPI030.037 Kāi Tahu ki Otago, FPI027.017 Contact

¹⁶⁶ FPI001.057 DCC

¹⁶⁷ FPI043.015 OWRUG

*Historical and cultural values*¹⁶⁸ at section 13.5.2. As the *HCV-WT – Wāhi tūpuna* chapter of the pORPS is not part of the FPI, I do not consider any further amendments are necessary. However, if any recommendations are made in relation to the HCV-WT provisions that are applicable to the FPI provisions, I consider amendments should be made accordingly to the FPI provisions for alignment and consistency. At this stage, I am not aware that any such amendments are necessary.

345. I note the support for the freshwater provisions (including many in the FPI) described by Te Rūnanga o Ngāi Tahu and their support for the submissions of Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku. I also note the support outlined by Greenpeace and DCC on similar matters. Although I do not recommend any amendments, I recommend accepting these submission points.
346. I agree that te reo Māori used in the pORPS should be corrected where it does not adhere to accepted orthographic conventions and recommend accepting the submission points by Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, and Contact. Where misspellings have been identified across the pORPS, I recommend correcting those. However I acknowledge that, due to the size of the document and the limited expertise in te reo Māori within the team of reporting officers, some inaccuracies may remain. If the submitters identify any further misspellings in the s42A report version of the pORPS, they may wish to highlight those in their evidence.
347. I agree with Kāi Tahu ki Otago that using the correct spelling for Māori place names, including Taiari and Waipōuri, recognises the connection of mana whenua with those areas. I note the submitter made the same submission on the non-FPI part of the pORPS which I addressed in section 1.6.9.3 of *Report 1 – Introduction and general themes*.¹⁶⁹ My analysis and recommendations in that section are equally applicable to the FPI and therefore I adopt them here.
348. However, in paragraphs 313 and 314 of that report, I discussed two potential options for correcting the spelling of Māori place names. On further reflection, I consider any misspellings or incorrect use of tohutō should simply be corrected in the pORPS rather than pushed to a future process. In my view, this assists with recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka, which is a matter of national importance under section 6(e) of the RMA. I am not aware any submitters have opposed this in the non-FPI process.
349. In summary, I recommended the following corrections:

Table 3: Original name corrections

Name used in pORPS	Corrected
Karitane (p.7, 114)	Karitāne
Koputai (p.57)	Kōpūtai
Kopuwai (p.6)	Kōpūwai

¹⁶⁸ <https://www.orc.govt.nz/media/12188/13-hcv-s42a-report.pdf>

¹⁶⁹ <https://www.orc.govt.nz/media/12211/01-intro-and-general-themes-website.pdf>

Mapoutahi (p.114)	Māpoutahi
Muaūpoko Otago Peninsula (p.48)	Muaupoko
Oamaru (p. 7, 33, 60, 69, 114)	Ōamaru
Orokonui Inlet (p.114)	Ōrokonui Inlet
Otakou (p. 57, 114)	Ōtākou
Pomahaka (p. 56, 76)	Poumāhaka
Purakanui (p.57, 114)	Pūrākaunui
Taiari (p. 7, 33, 56, 57, 65, 67, 82, 125, 127, 128, 140)	Taiari
Waikouaiti (p. 48, 56-58, 114, 213)	Waikōuaiti
Waipori (p. 55, 125)	Waipōuri
Wanaka (p. 6, 7, 33, 71, 81, 82, 131, 132, 135)	Wānaka

350. Since then, I have become aware of additional misspellings that I consider should be corrected. These are identified in the table below.

Table 4: Additional name corrections

Name used in pORPS	Corrected
Lake Dunstan (p.9, 69, 103)	Te Wairere/Lake Dunstan
Lake Wakatipu (p. 97, 103)	Whakatipu Waimāori/Lake Wakatipu

351. In addition to the relevant recommendations from Table 3, I also recommend correcting the place names identified in Table 4. In relation to Whakatipu Waimāori/Lake Wakatipu, there is some inconsistency in the way this name is used in the pORPS:

- a. Whakatipu-wai-Māori (Lake Wakatipu): p.7, 9
- b. Whakatipu Wai Māori (Lake Wakatipu): p.69
- c. Whakatipu Wai Māori: p.70
- d. Lake Wakatipu: p.97, 103

352. I understand Kā Huru Manu is considered to be the most contemporary source of traditional place names for Kāi Tahu and it records the name as Whakatipu Waimāori. I therefore recommend using this name consistently in the pORPS.

353. I recommend accepting in part the submissions by Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, Te Rūnanga o Ngāi Tahu, and Contact. Some of these corrections relate to non-FPI parts of the pORPS and I have recommended the same amendments in *Reply report 1: Introduction and general themes* to ensure consistency.

354. The term 'kōura' is not used in the FPI provisions, and so I recommend that submission point be rejected.

355. I appreciate that it is important readers of the pORPS can understand the language used and that the use of te reo may make that more difficult for some readers. I note that many te reo terms are included in the glossary of the pORPS 2019. This approach was discussed with Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku during the development of the pORPS 2021 (including the FPI) and it is my understanding that their preference was not to include a glossary in the pORPS 2021 because of the difficulties that can arise when trying to translate a te reo term into English and the risk that terms are too narrowly defined. Instead, narrative descriptions of the environmental management perspectives and values of Kāi Tahu have been included in the Mana whenua section in Part 1 of the pORPS. This section provides an explanation of, and context for, a range of te reo terms and concepts used throughout the pORPS (including the FPI). Cognisant of my discussions with Kāi Tahu previously, I consider this is a more culturally appropriate form of assistance than a glossary.
356. That being said, I note that a number of te reo terms are defined in the Definitions section and that, where it is possible, te reo terms are accompanied by an English translation in the pORPS. For example, in the section titled Relationship of Kāi Tahu with their rohe:
- Mana whenua hold traditional customary authority and maintain contemporary relationships within an area determined by whakapapa (genealogical ties), resource use and ahikāroa (the long burning fires of occupation).*
357. While I do not recommend including any further te reo terms in the Definitions section, I recommend incorporating English translations for te reo terms in provisions where it is possible and appropriate to do so. This is consistent with my recommendations on the non-FPI parts of the pORPS.
358. I note that in her evidence-in-chief on the non-FPI parts of the pORPS, Ms Sandra McIntyre for Kāi Tahu ki Otago¹⁷⁰ has recommended deleting the bracketed additions I have recommended in LF-WAI-E1 for wai (water), atua (gods), tūpuna (ancestors), tikaka (customary practices or values), and mauri (life-force). I am unclear on her reasons for this and note that the same amendment is not sought in other parts of the pORPS.¹⁷¹
359. I note that tikaka and kawa are specifically described in the MW – Mana whenua chapter and therefore potentially do not need to be clarified again in LF-WAI-E1 however the other terms are not. I am conscious of the need to ensure non-te reo speakers can understand the text of the pORPS and, at the same time, of respecting Kāi Tahu desires to retain more narrative descriptions of concepts. Ms McIntyre may wish to address this in her evidence on the FPI – in my view, a consistent approach to this should be adopted in both the FPI and non-FPI parts.

4.5.4. Recommendation

360. I recommend the following amendments:
- a. Correcting the spelling of and, use of tohutō and initial capitalisation, where required on te reo terms and place names, and

¹⁷⁰ Appendix 1, p.28.

¹⁷¹ For example, in the 'Kāi Tahu values' section on pages 63-65.

- b. Including English translations of te reo terms where it is possible and appropriate to do so.

4.6. Format, drafting, and terminology

4.6.1. Introduction

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

4.6.2. Submissions

- 362. To support easier navigation of the pORPS Fish and Game request formatting provision codes so they can be navigated to via search functions on common internet browsers and pdf viewers.¹⁷² Similarly, DCC submits that it would be useful if sections and subsections could be numbered to make navigation of the large document easier.¹⁷³
- 363. Fish and Game supports Parts 1 and 2 of the pORPS but considers substantial changes could be made to aid in readability. Specific relief has not been sought as the submitter considers that these changes would be best proffered by the Council.¹⁷⁴
- 364. DCC seeks that that explanatory notes are used when using technical terminology,¹⁷⁵ and that cross-referencing is used rather than the rephrasing of subject matter throughout the pORPS.¹⁷⁶
- 365. A number of submissions were received relating to the terminology used in the pORPS. Broadly, these submissions seek to either clarify the use of particular terms or replace them with alternatives that are clearer and more explicit.
- 366. Fish and Game seeks that ambiguous and unclear wording is replaced with consistent, directive terms.¹⁷⁷ NZSki and Realnz seek that the term “possible” should be deleted and replaced with clearer achievable, or more practicable direction, or alternatively replaced with ‘practicable’.¹⁷⁸ NZSki and Realnz also consider that a range of terms such as “significant”, “sustainable”, “environmental limit”, “bottom line”, “environments”, and statements like “important features and values identified by this RPS” are too vague and should be replaced by terms with a practical or clearer/explicit meaning.¹⁷⁹ No specific amendments are sought.
- 367. Te Rūnanga o Ngāi Tahu seeks that the incorrect use of “harbor” is amended to “harbour”.¹⁸⁰

¹⁷² FPI037.025 Fish & Game

¹⁷³ FPI001.054 DCC

¹⁷⁴ FPI037.024

¹⁷⁵ FPI001.053 DCC

¹⁷⁶ FPI001.056 DCC

¹⁷⁷ FPI037.066 Fish & Game

¹⁷⁸ FPI038.003 NZSki, FPI039.005 Realnz

¹⁷⁹ FPI038.002 NZSki, FPI039.004 Realnz

¹⁸⁰ FPI042.133 Te Rūnanga o Ngāi Tahu

368. DCC raises a number of issues in relation to the style of the drafting of objectives and policies in the pORPS. DCC considers that objectives should be read as ‘end-states’ and should not include policy content (such as how to achieve the end-state or explanations).¹⁸¹ DCC also considers that policies should be a ‘course of action’ and describe how the objectives should be achieved, preferring an “active directive” drafting style.¹⁸² However, no specific amendments are sought.
369. DCC expresses concern around the use of the directive policy language terms “avoid” and “enable” throughout the pORPS and considers that it is better practice to use “avoid...unless” within a policy. The submitter also seeks that “avoid or minimise” be replaced with “avoid or minimise as far as practicable”.¹⁸³ DCC also has concerns with the use of the policy wording “avoid, remedy or mitigating other adverse effects” on the basis that DCC considers that it directs district plan policy that would allow applicants to pick the level of management they want and precludes the district council from setting a more stringent standard.¹⁸⁴
370. Fish and Game seeks to delete and redraft all of the explanations, principal reasons and anticipated environmental results for clarity.¹⁸⁵ The submitter considers that as currently drafted they are too long with potential to confuse users, however no preferred drafting examples have been provided.

4.6.3. Analysis

371. I understand the issue raised by Fish and Game relates to the use of ‘en dashes’ in provision numbering in the pORPS. Standard 10 of the National Planning Standards sets out the requirements for formatting provisions in policy statements and plans. Mandatory directions 18, 19, and 38 are particularly relevant to the pORPS and require the following:
- ...chapters, excluding chapters in the *Introduction and general provisions, Evaluation and monitoring, and Appendices and maps* parts, must be identified with a unique identifier consisting of the key two to five letters of the chapter title in capital letters, a space, an en-dash, a space, and the chapter title. For example, MIN – Mining.¹⁸⁶
 - ...sections, excluding chapters in the *Introduction and general provisions, Evaluation and monitoring, and Appendices and maps* parts, must be identified with a unique identifier consisting of the key two to five letters of the chapter title in capital letters, a space, an en-dash, a space, then the key two to five letters of the section title in capital letters, an en-dash, a space, and the section title. For example, CE – PA – Public access.¹⁸⁷
 - When used in chapters and zone sections, issues, objectives, policies, rules, methods, principal reasons and anticipated environmental results must be numbered using the

¹⁸¹ FPI001.045 DCC

¹⁸² FPI001.046 DCC

¹⁸³ FPI001.043 DCC

¹⁸⁴ FPI001.044 DCC

¹⁸⁵ FPI037.027 Fish & Game

¹⁸⁶ Mandatory direction 18, Standard 10 (Format standard), National Planning Standards

¹⁸⁷ Mandatory direction 19, Standard 10 (Format standard), National Planning Standards

relevant chapter or zone section unique identifier, a hyphen, then the first letter(s) of the provision type, and then a sequential number. For example, RMIA-I1.¹⁸⁸

- When used in sections, issues, objectives, policies, rules, methods, principal reasons and anticipated environmental results must be numbered using the relevant chapter or zone section unique identifier, a hyphen, then a unique identifier consisting of the key two to five letters of the section title in capital letters, a hyphen, then the first letter(s) of the provision type, and then a sequential number. For example, CE-PA-O1.¹⁸⁹

372. I note that the pORPS has incorrectly used en dashes instead of hyphens in the provision identifiers, which has contributed to difficulties with searching that are highlighted by Fish and Game. I recommend accepting this submission point and note that I made the same recommendation on the non-FPI parts of the pORPS.
373. I am unsure which sections and sub-sections DCC is referring to. The pORPS has been structured and chapters/sections labelled in accordance with Standards 2 (Regional policy statement structure standard) and 10 (Format standard). Without further clarification about the amendments sought, I do not recommend accepting this submission point.
374. Regarding Fish and Game's concerns about Parts 1 and 2, I note the same submission point has been made on the non-FPI parts of the pORPS and analysed in *Report 1: Introduction and general themes* at section 1.6.10. Given the vast majority of the content in those parts sits in the non-FPI part, I consider the FPI should align with whatever recommendation is made in the non-FPI process. As I understand it, the relevant reporting officers have not recommended making any significant changes to the length or content of Parts 1 and 2 therefore I do not recommend any amendments to the FPI.
375. I agree with DCC that explanations of technical terminology can assist readers. The submitter does not identify which terms in particular it is referring to and therefore at this stage I do not recommend any amendments. DCC may wish to clarify the terms it refers to in evidence and the reasons for seeking those definitions.
376. DCC has also raised concerns with the structure and cross-referencing approach adopted across the pORPS. In my view, given most of the pORPS is in the non-FPI part, this matter should be addressed as part of that process. A number of submitters, as well as members of the non-FPI hearing panel, have raised similar concerns throughout the hearing process and it remains a 'live issue' for that hearing panel to deliberate on. At this stage I do not recommend any amendments.
377. In relation to the ambiguous and unclear wording, Fish and Game has not identified the terms that this submission point relates to. In response to other submissions, amendments have been recommended to improve the clarity of provisions. I therefore recommend accepting this submission point in part.
378. NZSki and Realnz have made a number of specific submission points seeking amendments to wording throughout the FPI, including the terms highlighted in these submission points

¹⁸⁸ Mandatory direction 37, Standard 10 (Format standard), National Planning Standards

¹⁸⁹ Mandatory direction 37, Standard 10 (Format standard), National Planning Standards

(such as “where possible”). Many of the same issues have been raised by these submitters and others in relation to the non-FPI parts of the pORPS. Across the pORPS, there are a range of qualifiers used in provisions, including “where possible.” In the non-FPI hearing, submitters have raised issues with that phrasing because, technically, anything is possible (especially if you avoid the activity giving rise to the adverse effects sought to be managed). Those submitters have generally preferred “where practicable”. Other submitters consider that wording reduces an assessment purely to a financial consideration. I can see both sides of this issue and agree that a ‘mid ground’ would be most appropriate – somewhere between “anything within the realm of possibility” and “the minimum financially viable”.

379. The submitters have separately raised this issue in relation to specific provisions, I have recommended some amendments in response to those points elsewhere. In response to the same issue being raised in the non-FPI hearing, I have recommended using “to the greatest extent practicable” rather than either “where possible” or “where practicable”, noting that there are differences across chapters due to the different contexts of the provisions.
380. I agree with Te Rūnanga o Ngāi Tahu that the spelling of harbour should be corrected. However this term is not used in the FPI provisions, so I recommend rejecting the submission point.
381. I agree with DCC that there is some inconsistency in the way objectives and policies have been drafted in the pORPS and with the submitter’s description of what objectives and policies should ‘look like’. This has been raised by submitters on the non-FPI parts of the pORPS and I consider it is more relevant to that part of the pORPS given only a small number of the objectives and policies are contained in the FPI. At this stage I do not recommend any amendments.
382. The point raised by DCC in relation to use of the word “avoid” is also a matter that has been raised by submitters on the non-FPI part, as well as members of the hearing panel, and is a ‘live issue’ for the relevant reporting officers. In relation to the FPI provisions, “avoid” is used in LF-FW-P7(5), LF-FW-P9(1), LF-FW-P15(2)(f), and LF-FW-M7(2). In the first two instances, the term is used consistently with Policy 11 and clause 3.24 of the NPSFM (respectively) and I do not consider any amendments are necessary. In the case of LF-FW-P15(2)(f), the term is used alongside “or mitigate” and therefore is not a ‘hard avoid’ so I do not consider any amendments are necessary. Finally, the ‘avoid’ in LF-FW-M7(2) reflects the notified wording of LF-FW-P12. I have recommended amendments to LF-FW-P12 to address the use of ‘avoid’ and I have subsequently recommended consequential amendments to LF-FW-M7 as a result. I recommend accepting this submission point in part.
383. None of the FPI provisions contain direction to “avoid, remedy, or mitigate” adverse effects therefore I do not consider the submission point by DCC is relevant. I do not recommend accepting this part of the submission point.
384. In relation to the submission point by Fish and Game regarding explanations, principal reasons, and anticipated environmental results, I note the same submission was made on the non-FPI parts of the pORPS. In both cases, the submitter has not identified how it wants these provisions to be redrafted. In my view, this is a matter that should be decided through the non-FPI part of the pORPS rather than the FPI given the number of provisions it affects.

However, I am not aware that the submitter has progressed this request any further through the non-FPI process. On that basis, I do not recommend accepting this submission point.

4.6.4. Recommendation

385. I recommend reformatting the provision identifiers in the FPI provisions so that they are compliant with the National Planning Standards.

4.7. Other submissions on the whole of the FPI

4.7.1. Introduction

386. There are several submissions made on the whole of the FPI that do not fall into one of the categories above. These are addressed in this section.

4.7.2. Submissions

387. Ngāi Tahu ki Murihiku seeks amendments which provide clear guidance about how to achieve objectives in situations where mapping is intended but has not yet occurred and when targets or limits are required but have not yet been set.¹⁹⁰ The submitter highlights instances where there is currently a gap in guidance, for example relating to over-allocation of water quantity in particular, and for the period of time that limits are not set for an FMU or part of an FMU.

388. DCC seeks that the pORPS should give greater consideration to how the potential adverse effects associated with the growth of Dunedin and other parts of Otago may be otherwise mitigated or remedied.

389. DCC also seeks that the pORPS should be amended to ensure that the district plan change requirement dates are realistic and achievable, and aligned with the relevant dates of the RM reform process. The submitter requests that content be added to the pORPS to allow these dates to be changed by mutual agreement, in consideration of other priorities.¹⁹¹

390. DCC submits that they, and other asset managers, need certainty that infrastructure can be used to discharge stormwater and wastewater, as well as being able to install the pipes, pumping stations and tanks. This uncertainty relates to the tension between the INF provisions, and the CE and LF provisions. The submitter is of the view that while the former enables the installation and maintenance of infrastructure, the latter two sections limit the ability of those assets to discharge contaminants.¹⁹²

391. Edgar Parcell considers that the identification of natural resources is not complete, and that the actual features should be identified in the pORPS to allow the lower order documents to take more of an integrated approach. The submitter includes examples of criteria being

¹⁹⁰ FPI042.016 Ngāi Tahu ki Murihiku

¹⁹¹ FPI001.002 DCC

¹⁹² FPI001.047 DCC

included for outstanding water bodies, landscapes and soils, but no detail on what native species and/or taoka species are.¹⁹³

392. Otago Forestry Companies request that new policy direction is included to stipulate that while a precautionary approach may be appropriate, s32 of the RMA requires some certainty that any policy intervention would have a projected benefit and would achieve environment outcomes.¹⁹⁴
393. Realnz seeks new or amended provisions to provide clear policy direction that provides for the ability of people to clear debris/slip movements out of waterbodies or adjoining land.¹⁹⁵

4.7.3. Analysis

394. I understand the concern raised by Ngāi Tahu ki Murihiku, however in relation to freshwater targets and limits I do not consider there is a significant risk given that these provisions are currently under development as part of the LWRP and are due to be notified by June 2024. In accordance with the NPSFM, target attribute states must specify timeframes for their achievements and environmental flow and level regimes may take a phased approach to meeting environmental outcomes and long-term visions (within the timeframes specified in those visions). I do not recommend accepting this submission point.
395. It is not clear to me which FPI provisions DCC considers need to give greater consideration to the adverse effects of growth of Dunedin and other parts of Otago. Without further clarification, I do not recommend accepting this part of the submission point.
396. I note that DCC has raised the issue of the timeframes for undertaking district plan changes in the non-FPI part of the pORPS and I have responded in my *Reply Report 1: Introduction and general themes* recommending, generally, removal of these timeframes. This issue affects LF-FW-M7 (which requires district plans to be amended no later than 31 December 2026), and I consider it would be most efficient for LF-FW-M7 to be amended to align with the approach is taken in the non-FPI part of the pORPS. I recommend accepting this submission point and removing the timeframe from LF-FW-M7.
397. DCC has correctly described that while the EIT-INF section enables the installation and maintenance of infrastructure, the CE and LF chapters place restrictions on discharges from that infrastructure, including wastewater and stormwater systems. The significant changes in freshwater policy over the last ten years have 'raised the bar' for management of our freshwater resources and it is unrealistic to imagine that discharges of contaminants, including from infrastructure, can simply carry on as they always have. Improving water quality requires all users of water, including urban and rural areas, to improve their practices and to, first, prioritise the health and well-being of water bodies and freshwater ecosystems. I do not consider any amendments are necessary and recommend rejecting this submission point.
398. I agree with Edgar Parcell that ideally all significant natural resources would be identified in the pORPS to support consistency in lower order plans. However, at the time the pORPS was

¹⁹³ FPI011.004 Edgar Parcell

¹⁹⁴ FPI036.001 Otago forestry companies

¹⁹⁵ FPI039.003 Realnz.

prepared the information to do this was not available and there was insufficient time and resourcing available to do so. I do not recommend accepting this submission point.

399. The tests under s32 relate to appropriateness (for objectives), and efficiency and effectiveness (for policies and methods). In assessing the effectiveness and efficiency, s32(2) requires identifying and assessing the benefits and costs of the environmental, economic, social and cultural effects anticipated from implementing the provisions, including opportunities that are anticipated to be provided or reduced, employment anticipated to be provided or reduced, and, if practicable, quantifying the costs and benefits. Projected benefits (and costs) are part of this assessment. It also requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter, which the s32 report for the pORPS has included. I do not recommend accepting the submission point by Otago Forestry Companies.
400. The type of amendments sought by Realnz in relation to clearing debris are more appropriately addressed in the regional plan, which manages this activity. I do not recommend accepting this submission point.

4.7.4. Recommendation

401. I do not recommend any amendments.

5. Definitions

5.1. Introduction

402. There are nine definitions included in the FPI:

Certified freshwater farm plan
Drinking water
National Objectives Framework
Natural hazard works
Other infrastructure
Over-allocation
Specified infrastructure
Specified rivers and lakes
Wetland utility structure

403. These terms and their definitions were identified on the basis that they are defined terms that appear only in provisions that comprise the FPI. They are all statutory definitions that appear in the RMA, NPSFM, or NESF. Few submissions were received on their content.

5.2. Links with non-FPI provisions

404. In addition to the definitions above, there are a range of definitions in the non-FPI part of the pORPS that are used in FPI provisions. Any amendments recommended in this process to those definitions will need to take into account the implications for the use of the defined term in non-FPI provisions., and vice versa.

405. Most of the definitions used in FPI provisions are definitions from the RMA, NPSFM, or National Planning Standards.¹⁹⁶ These have generally either not been submitted on or the relevant reporting officer is not recommending any amendment to the definition. Unless that changes, they are unlikely to be relevant to the FPI. These definitions are:
- a. **Degraded (in relation to fresh water)**, from the NPSFM. A minor amendment to the NPSFM definition was made in the December 2022 amendments to that document. I recommend the same amendment to this definition.
 - b. **Limit (in relation to fresh water)**, from the NPSFM. The definition refers to ‘limit[s] on resource use’ and ‘take limit[s],’ which are defined in the NPSFM but as they are not used in the pORPS they are not included in the definitions list.
 - c. **Loss of values**, from the NPSFM. The definition refers to ‘natural inland wetlands’ which are defined in the NPSFM but as it is not used in the pORPS it is not included in the definitions list. In the pORPS, the definition of ‘loss of values’ also applies to ‘natural wetlands.’
 - d. **Mana whenua**, from the RMA.
 - e. **Ski area infrastructure**, from the NPSFM. This definition was not in the pORPS as notified but has been recommended for inclusion by the reporting officer for the EIT chapter as a result of including this infrastructure in the definition of ‘regionally significant infrastructure.’
 - f. **Wāhi tūpuna**. This definition is not from a higher order document but no changes are recommended to it, other than to correct a typographical error.
 - g. **Wastewater**, from the National Planning Standards.
 - h. **Wetland**, from the RMA.
406. There are other non-FPI definitions that are used in FPI provisions which have been recommended to be amended by reporting officers. These are:
- a. **Effects management hierarchy**. As notified, the definition referred to the effects management hierarchy as defined in the NPSFM. However, as there is also an effects management hierarchy in the ECO chapter, I recommend moving the notified definition into a policy (LF-FW-P13A) so it is consistent with the approach in the ECO chapter and replacing the definition with two definitions: effects management hierarchy in relation to indigenous biodiversity, which refers to ECO-P6, and effects management hierarchy in relation to natural wetlands and rivers, which refers to LF-FW-P13A.
 - b. **Natural wetlands**. As notified, this definition referred to the definition of the same term previously included in the NPSFM. Following amendments to the NPSFM in December 2022, which included deleting this term and incorporating its content into

¹⁹⁶ These definitions are: amenity values, attribute, bed, biodiversity, climate change, coastal marine area, coastal waters, contaminants, discharges, district plan, effects, environmental outcomes, fresh water, freshwater management units, groundwater, Kaitiakitaka, lake, land, outstanding water bodies, regional plan, river, stormwater, takata whenua, water, water bodies.

a new definition of 'natural inland wetland', I recommend a new definition which retains the notified content but also incorporates the clarified components of the definition of 'natural inland wetland'. This is discussed in detail in my non-FPI supplementary evidence on the NPSFM amendments.¹⁹⁷ Parties were provided an opportunity to respond to my evidence and no party did.¹⁹⁸

- c. **Te Mana o te Wai.** As notified, this definition replicated the content of clause 1.3 of the NPSFM. In response to submissions highlighting that this clause is not strictly a definition, I recommend replacing the content clarifying that the term has the same meaning as described in clause 1.3 of the NPSFM instead.

5.3. General submissions

5.3.1. Submissions

407. Forest and Bird made two submission points on the definitions as a whole:

- a. To retain them as notified, subject to relief sought, and¹⁹⁹
- b. To refine the definitions section so it is smaller and easier to use, within the bounds of what is possible under the NPF 2019 [sic] and national planning standard.²⁰⁰

408. In relation to the second point, the submitter states that most definitions are simple references to definitions in other documents and that the current approach of including those definitions in full makes the section difficult to navigate.

5.3.2. Analysis

409. The approach taken to formatting definitions in the pORPS (including the FPI) mirrors the definitions list included in Standard 14 of the National Planning Standards. I acknowledge that this format is not specifically required by the mandatory directions in Standard 14, however given that one of the purposes of the National Planning Standards is to ensure consistency between planning documents, I consider it is appropriate for the pORPS (including the FPI) to adopt the same format to its definitions list. This also makes it simpler for plan users who do not need to cross-reference to other documents to find out the definition of a term.

5.3.3. Recommendation

410. I do not recommend any amendments.

¹⁹⁷ *Fourth brief of supplementary evidence of Felicity Ann Boyd – LF (NPSFM amendments)*, 24 February 2023, paras 19-45

¹⁹⁸ Evidence was filed by Ms Claire Hunter for Oceana Gold but did not address this definition.

¹⁹⁹ FPI037.056 Fish and Game

²⁰⁰ FPI037.026 Fish and Game

5.4. Definitions sought to be retained as notified

411. All submissions received on the following definitions seek to retain the definitions as notified:

Certified freshwater farm plan²⁰¹

Drinking water²⁰²

National Objectives Framework²⁰³

Natural hazard works²⁰⁴

Other infrastructure²⁰⁵

Specified rivers and lakes²⁰⁶

Wetland utility structure²⁰⁷

412. LF-FW-P9 as notified is the only provision in the pORPS that used the defined term ‘other infrastructure’. As a result of my recommended amendments to LF-FW-P9 (set out in section 1417 of this report), ‘other infrastructure’ will no longer be used anywhere in the pORPS therefore as a consequential amendment I recommend deleting this definition and rejecting the submission points seeking it be retained.

413. I do not recommend any amendments to the remaining definitions listed above and therefore recommend accepting all of the submission points seeking their retention.

5.5. Over-allocation

5.5.1. Submissions

414. Eight submissions seek to retain the definition of “over-allocation” as notified.²⁰⁸ Ngāi Tahu ki Murihiku seek to amend the definition and clarify the meaning as it relates to the definition of ‘degraded’ when a limit has not been set in an FMU or part of an FMU.²⁰⁹

²⁰¹ FPI026.001 Federated Farmers, FPI032.001 Te Rūnanga o Ngāi Tahu, FPI024.001 DairyNZ, FPI030.001 Kāi Tahu ki Otago, FPI025.002 Beef + Lamb and DINZ

²⁰² FPI026.002 Federated Farmers, FPI020.001 Silver Fern Farms, FPI032.002 Te Rūnanga o Ngāi Tahu, FPI027.003 Contact, FPI024.002 DairyNZ, FPI030.002 Kāi Tahu ki Otago, FPI016.001 Meridian, FPI025.003 Beef + Lamb and DINZ

²⁰³ FPI020.002 Silver Fern Farms, FPI032.003 Te Rūnanga o Ngāi Tahu, FPI024.003 DairyNZ, FPI030.003 Kāi Tahu ki Otago, FPI016.002 Meridian, FPI025.004 Beef + Lamb and DINZ

²⁰⁴ FPI020.003 Silver Fern Farms, FPI032.004 Te Rūnanga o Ngāi Tahu, FPI027.004 Contact, FPI024.004 DairyNZ, FPI030.004 Kāi Tahu ki Otago, FPI016.003 Meridian, FPI025.005 Beef + Lamb and DINZ

²⁰⁵ FPI020.004 Silver Fern Farms, FPI032.005 Te Rūnanga o Ngāi Tahu, FPI027.005 Contact, FPI024.005 DairyNZ, FPI030.005 Kāi Tahu ki Otago, FPI016.004 Meridian, FPI025.006 Beef + Lamb and DINZ

²⁰⁶ FPI026.004 Federated Farmers, FPI020.007 Silver Fern Farms, FPI032.008 Te Rūnanga o Ngāi Tahu, FPI027.008 Contact, FPI024.008 DairyNZ, FPI030.008 Kāi Tahu ki Otago, FPI016.007 Meridian, FPI025.008 Beef + Lamb and DINZ

²⁰⁷ FPI026.005 Federated Farmers, FPI032.009 Te Rūnanga o Ngāi Tahu, FPI027.009 Contact, FPI024.009 DairyNZ, FPI030.009 Kāi Tahu ki Otago, FPI016.008 Meridian, FPI025.009 Beef + Lamb and DINZ

²⁰⁸ FPI016.005 Meridian, FPI020.005 Silver Fern Farms, FPI024.006 DairyNZ, FPI025.007 Beef + Lamb and DINZ, FPI026.003 Federated Farmers, FPI027.006 Contact, FPI030.006 Kāi Tahu ki Otago, FPI032.006 Te Rūnanga o Ngāi Tahu

²⁰⁹ FPI042.140 Ngāi Tahu ki Murihiku

5.5.2. Analysis

415. In section 3.1.3.8 of this report I address the December 2022 amendments to the definition of ‘over-allocation’ in the NPSFM and recommend making the same amendments to the definition in the pORPS. The definition, as I recommend it be amended, reads:

Over-allocation, or over-allocated, in relation to both the quantity and quality of freshwater, ~~is~~ means the situation where:

- (a) resource use exceeds a limit; or
- (b) if limits have not been set, an FMU or part of an FMU is degraded or degrading;
or
- (c) an FMU or part of an FMU is not achieving an environmental flow or level set for it under clause 3.16.

416. Clause (b) of the definition addresses the situation of concern to Ngāi Tahu ki Murihiku. The term ‘degraded’ is defined in the NPSFM (and the same definition is in the non-FPI part of the pORPS):

degraded, in relation to an FMU or part of an FMU, means that as a result of something other than a naturally occurring process:

- (a) a site or sites in the FMU or part of the FMU to which a target attribute state applies:
 - (i) is below a national bottom line; or
 - (ii) is not achieving or is not likely to achieve a target attribute state; or
- (b) the FMU or part of the FMU is not achieving or is not likely to achieve an environmental flow and level set for it; or
- (c) the FMU or part of the FMU is less able (when compared to 7 September 2017) to provide for any value described in Appendix 1A or any other value identified for it under the NOF

417. Clause (a) does not apply prior to limits being set because it relies on the existence of target attribute states, which are a prerequisite to setting limits. ‘Environmental flows and levels’ are required to be set under clause 3.16 of the NPSFM which states specific requirements for their content, including that they must be set at a level that achieves the environmental outcomes for the values relating to the FMU or part of an FMU and all relevant long-term visions. ‘Environmental flows and levels’ is not a defined term in the NPSFM and is common terminology for describing various types of flow and level regimes in plans. Clause (b) may apply to these existing regimes and therefore apply prior to limits being set. Clause (c) may apply in respect of the compulsory values set out in Appendix 1A as those values apply to every FMU, but will not otherwise apply unless a council has completed its value identification process as required by the NOF.

418. I agree with Ngāi Tahu ki Murihiku that the definition of ‘degraded’ is unhelpfully focused on provisions that are developed under the NOF, and provide little assistance to assessing whether a water body is ‘over-allocated’ in accordance with that definition, in the time prior

to the NOF being implemented. Despite this, I do not consider this to be a particularly significant issue in Otago due to the timing of its current planning processes.

419. ORC committed to notifying its LWRP by 31 December 2023, but recently sought and was granted a six-month extension to that deadline by the Minister for the Environment, making the new deadline 30 June 2024.²¹⁰ Although I agree with Ngāi Tahu ki Murihiku that there is an unhelpful focus on NOF implementation in the definition of ‘over-allocated’, given the short time between a decision on the FPI being issued (i.e. prior to the LWRP being notified) and the LWRP being notified in June 2024, I do not consider there is a need to address this particular issue in the pORPS. I consider amending the definition of ‘over-allocated’ to align with the amendment to the NPSFM definition addresses the submitter’s concerns to some degree and therefore recommend accepting this submission point in part.

5.5.3. Recommendation

420. I recommend the following amendments:

Over-allocation, or over-allocated,²¹¹ in relation to both the quantity and quality of freshwater, ~~is~~ means²¹² the situation where:

- (a) resource use exceeds a limit; or
- (b) if limits have not been set, an FMU or part of an FMU is degraded or degrading;
or
- (c) an FMU or part of an FMU is not achieving an environmental flow or level set for it under clause 3.16.²¹³

5.6. Specified infrastructure

5.6.1. Submissions

421. Nine submissions seek to retain the definition of “specified infrastructure” as notified.²¹⁴

422. Forest & Bird seeks to amend the definition as follows:²¹⁵

“in relation to freshwater, has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)”

423. Transpower seeks that the definition of “specified infrastructure” be retained as notified, and requests that the definition of “regionally significant infrastructure” be amended to include the National Grid.

²¹⁰ <https://www.orc.govt.nz/news-and-events/news-and-media-releases/2023/february/extension-sought-on-land-and-water-plan>

²¹¹ Clause 16(2), Schedule 1, RMA.

²¹² Clause 16(2), Schedule 1, RMA.

²¹³ Clause 16(2), Schedule 1, RMA.

²¹⁴ FPI003.001 New Zealand Defence Force, FPI016.006 Meridian, FPI020.006 Silver Fern Farms, FPI022.001 Manawa Energy, FPI024.007 DairyNZ, FPI027.007 Contact, FPI030.007 Kāi Tahu ki Otago, FPI032.007 Te Rūnanga o Ngāi Tahu, FPI034.001 The Fuel Companies.

²¹⁵ FPI045.001 Forest & Bird

424. As a form of alternate relief, Transpower seeks that the definition of “specified infrastructure” be amended to include reference to the National Grid.²¹⁶

5.6.2. Analysis

425. The definition of ‘regionally significant infrastructure’ is not an FPI provision and therefore cannot be amended through this process. I note that the National Grid is included in the definition of ‘nationally significant infrastructure’ and that Mr Langman’s non-FPI *Reply report 11: EIT – Energy, infrastructure, and transport* recommends amending the definition of ‘regionally significant infrastructure’ to clarify that it incorporates all nationally significant infrastructure. The submission point by Transpower has therefore been addressed in that process.

426. LF-FW-P9 as notified is the only provision in the pORPS that used the defined term ‘specified infrastructure’. As a result of my recommended amendments to LF-FW-P9 (set out in section 1417 of this report), ‘specified infrastructure’ will no longer be used anywhere in the pORPS therefore as a consequential amendment I recommend deleting this definition. I do not recommend accepting the submission point by Transpower.

5.6.3. Recommendation

427. I recommend deleting the definition of ‘specified infrastructure’ as a consequential amendment arising from my recommended amendments to LF-FW-P9.

5.7. New definitions sought

5.7.1. Community drinking water supply

5.7.1.1. Submissions

428. DCC seeks to include a definition of “community drinking water supply” to improve clarity but does not suggest wording for the definition.²¹⁷

5.7.1.2. Analysis

429. This term is used once in the pORPS in LF-FW-M6(5)(a):

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water Regional Plan no later than 31 December 2023 and, after it is made operative, maintain that regional plan to:

...

(4) include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai and provide for:

²¹⁶ FPI013.001 Transpower

²¹⁷ FPI001.030 DCC

...

(f) *community drinking water supplies, and*

...

430. I agree with DCC that clarification will be needed about what a community drinking water supply is. However, I am not convinced that this is a matter that needs to be addressed in the pORPS. In my view, there are benefits to allowing flexibility for the LWRP to provide for these supplies in a way that is specific to the water body or FMU. In the absence of a particular definition being sought by DCC, I consider there are a range of existing sources that could be considered. For example:

a. Regulation 6 of the NESDW states that regulations 7 and 8 (which relate to the granting of water or discharge permits upstream of abstraction points) apply to activities with the potential to affect a registered drinking-water supply that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year.

b. The definition of 'regionally significant infrastructure' in the pORPS includes (my emphasis added):

community 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)

c. 'Drinking water supply' is defined in section 9 of the Water Services Act 2021 and does not contain any reference to numbers of households (noting that a 'drinking water supplier' is also defined and does not include 'domestic self-supply' where a dwelling supplies its own drinking water).

d. Schedules 1B and 3B of the Water Plan contain specific water takes from surface water and groundwater (respectively) for public or community water supply purposes. It is not clear how many people these takes serve.

431. In my opinion, whether any of these concepts is applicable to providing for community drinking water supplies in environmental flow and level regimes is a question of detail and is better addressed in the LWRP where it can be considered alongside the management of water takes more generally and the relevant environmental flow and level regimes. I do not recommend accepting this submission point.

5.7.1.3. Recommendation

432. I do not recommend any amendments.

5.7.2. Effects management hierarchy (other matters)

5.7.2.1. Submissions

433. OWRUG seeks to include a definition of “effects management hierarchy (other matters)”, with the following definition proposed:²¹⁸

means an approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of a, outstanding natural feature or landscape, outstanding water bodies (excluding natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wahi tapu, wahi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:

- (a) Adverse effects are avoided where practicable,
- (b) Where adverse effects cannot be avoided, they are minimised where practicable,
- (c) Where adverse effects cannot be minimised, they are remedied where practicable,
- (d) Where adverse effects cannot be remedied, they are mitigated to the extent practicable,
- (e) Where more than minor adverse effects cannot be avoided, _____ minimised, remedied or mitigated offsetting and/or environmental compensation must be considered, where appropriate

434. The addition of this definition is opposed through further submissions by Kāi Tahu ki Otago and Oceana Gold.²¹⁹

5.7.2.2. Links with non-FPI provisions

435. In the notified version of the non-FPI part of the pORPS, there were two effects management hierarchies identified: one applying to indigenous biodiversity and set out in ECO-P6 and one applying to natural wetlands and rivers and set out in a definition of the term which was used in LF-FW-P9 and LF-FW-P13.
436. OWRUG, and other submitters, made the same request for a definition of “effects management hierarchy (other matters)” in the non-FPI process. There were also submissions seeking greater consistency in the approach to identifying and setting out the hierarchies.
437. My analysis of these submission points is set out in section 1.6.6.3 of *Report 1: Introduction and general themes*. In summary, I recommended including two new terms in the *Definitions* sections of the pORPS: one for “effects management hierarchy (in relation to natural wetlands and rivers)” and one for “effects management hierarchy (in relation to indigenous biodiversity)”, with both definitions referring readers to the relevant policies (LF-FW-P13A and ECO-P6) setting out those separate effects management hierarchies. As a consequential

²¹⁸ FPI043.080 OWRUG

²¹⁹ FSFPI030.090 Kāi Tahu ki Otago, FSFPI031.115 Oceana Gold

amendment, I also recommended replacing the term “effects management hierarchy” where it is used in provisions with one or other of these two specific terms), including to LF-FW-P13. In my non-FPI *Reply report 1: Introduction and general themes*, I have also recommended deleting the non-specific definition of ‘effects management hierarchy’, leaving only the two specific terms relating to indigenous biodiversity and natural wetlands and rivers.

438. It was not within the scope of my report to make recommendations to LF-FW-P9, however for consistency I recommend that the same approach be adopted in both parts, as set out below.

5.7.2.3. Analysis

439. I do not consider it would be appropriate to accept this submission given that the definition sought would ‘cut across’ the policy frameworks for managing a range of topics that are not within the scope of this process (for example, outstanding natural features and landscapes and wāhi tūpuna). For this reason, I do not recommend accepting this submission point.

440. I continue to recommend the amendments described above in the non-FPI part of the pORPS and, as stated, consider that any use in the FPI should be consistent with those recommendations. As I have identified above, there is a general reference to “effects management hierarchy” in LF-FW-P9, however in section 7.5.7.4 of this report I have recommended replacing this with references to the specific definitions I have recommended including in the non-FPI part.

5.7.2.4. Recommendation

441. I do not recommend any amendments.

5.7.3. Food and fibre sector

5.7.3.1. Submissions

442. OWRUG seeks to include a definition of “food and fibre sector”, with the following definition proposed:²²⁰

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

443. The submitter also seeks amendments throughout the pORPS to refer to the “food and fibre sector”, mostly in provisions that are not in the FPI part.²²¹ The FPI provisions where the submitter seeks to include reference to the term “food and fibre sector” are LF-VM-O2, LF-VM-O4, and LF-FW-O8.

²²⁰ FPI043.006 OWRUG

²²¹ Such as Description of the Region, SRMR-I1, SRMR-I2, LF-WAI-P3, LF-WAI-E1, LF-LS-O11A, and UFD-O3.

5.7.3.2. Analysis

444. The question of whether to introduce a definition of a term is subsidiary to the decision about whether to use that term in the provisions identified. I have addressed the relevant parts of the objectives OWRUG seeks to amend to refer to “food and fibre sector” in my analysis of those provisions later in this report. In summary, I have recommended changes to the provisions that I consider remove the need to use a term such as “food and fibre sector” and therefore do not recommend accepting this submission point.

5.7.3.3. Recommendation

445. I do not recommend any amendments.

5.7.4. Highly productive land

5.7.4.1. Submissions

446. OWRUG seeks to include a definition of “highly productive land”, with the following definition proposed:²²²

- a) Land that has been identified as highly productive land using LF-LS-P19; OR
- b) where identification has not occurred as in a), land in the rural area that is classified as LUC 1,2 3 or 4 as mapped by the NZ Land Resource Inventory or by more detailed site mapping.

447. Oceana Gold opposes this definition in their further submission.²²³

5.7.4.2. Links with non-FPI provisions

448. The term “highly productive land” is used in a range of non-FPI provisions: LF-LS-O11A, LF-LS-P19, LF-LS-M11A, LF-LS-M12, LF-LS-E4, LF-LS-AER13, UFD-O4, UFD-P4, UFD-P7, UFD-P8, and UFD-E1. In my second statement of supplementary evidence on the non-FPI parts of the LF chapter, I addressed the impacts of the NPSHPL and recommended a range of amendments, including inserting the definition of “highly productive land” as it appears in the NPSHPL.

5.7.4.3. Analysis

449. The term “highly productive land” is not used in any FPI provisions therefore I do not recommend accepting this submission point. As noted above, I have recommended including the definition of “highly productive land” from the NPSHPL in the non-FPI part of the pORPS.

5.7.4.4. Recommendation

450. I do not recommend any amendments.

²²² FPI043.007 OWRUG

²²³ FSFPI031.113 Oceana Gold

5.7.5. Minimise

5.7.5.1. Submissions

451. Fish and Game, NZSki and Realnz seek to include a definition of “minimise”, with the following definition proposed:²²⁴

Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.

452. The submitters consider that the term “minimise” is used but not defined, and the directive nature of the pORPS could be improved if this term was defined.

453. Further submissions were received both in support of²²⁵ and in opposition²²⁶ to this new definition.

5.7.5.2. Analysis

454. Minimise is a common term that is well used and understood within resource management. Further, I do not consider the specific wording provided adds any clarity beyond its use and understanding as a common term with ordinary meaning. It is used widely within the pORPS and in a variety of contexts and to define it could be overly restrictive.

455. Further, and specific to its use within the pORPS, where this term has been used in an objective, policy or method, an action of how to ‘minimise’ is often set out within that objective, policy or method.

456. In my view, the combination of it being a common term, with a common meaning, and the structure of the provisions in the pORPS make it unnecessary to define the term. The same request was made in the non-FPI process and Ms Hawkins did not recommend its inclusion. I recommend rejecting these submission points and accepting the further submissions in opposition.

5.7.5.3. Recommendation

457. I do not recommend any amendments.

5.7.6. Natural environment

5.7.6.1. Submissions

458. Fish and Game seeks to include a definition of “natural environment”, with the following definition proposed:²²⁷

means:

²²⁴ FPI037.003 Fish and Game, FPI038.004 NZSki, FPI039.006 Realnz

²²⁵ FSFPI016.024 Meridian, FSFPI044.007 DOC

²²⁶ FSFPI024.023 DairyNZ, FSFPI030.074, FSFPI030.098 Kāi Tahu ki Otago, FSFPI031.108 Oceana Gold

²²⁷ FPI037.002 Fish and Game

- (a) land, water, air, soil, minerals, energy, and all forms of plants, animals and other living organisms, whether native to New Zealand or introduced, and their habitats,
- (b) ecosystems, their constituent parts and the natural processes that sustain these,
- (c) the natural landscape and landforms that are formed by the interactions between (a) and (b), and
- (d) excludes pests and domestic and farmed animals.

459. The submitter considers that the term “natural environment” is used at critical points in the pORPS, but never defined, and that any term using the word “natural” is difficult to use in practice as it means different things to different people. The definition sought is modified from the definition of the term in the Natural and Built Environment Bill. The submitter notes that consequential amendments may be required where “natural and physical resources” are referred to in the pORPS. Further submissions were received both in support of²²⁸ and in opposition²²⁹ to this new definition.

460. NZSki and Realnz seek a similar addition to Fish and Game, but in their definition only clauses (a) and (b) of the Fish and Game definition are included, with clause (b) excluding the reference to natural processes.²³⁰

5.7.6.2. Links with non-FPI provisions

461. The term “natural environment” is used predominantly in non-FPI provisions. Across the pORPS, it is used in the following places:

- MW – Mana whenua
 - Description of ki uta ki tai
 - Description of wai māori
 - Chapeau of MW-P3 – Supporting Kāi Tahu well-being
- SRMR-I4, Impact snapshots (Environmental and Social)
- SRMR-I7, Context
- SRMR-I9, Context
- SRMR-I10, Statement
- SRMR-I11, Statement
- RMIA-MKB-I1
- RMIA-CE-I2
- IM-P2(1)
- UFD-PR1

462. Fish and Game seeks the same relief in the non-FPI part of the pORPS which I have addressed in section 6.4.1.2 of *Report 6: IM – Integrated management*. In summary, I did not

²²⁸ FSFPI044.006 DOC

²²⁹ FSFPI027.001 Contact, FSFPI030.073 Kāi Tahu ki Otago, FSFPI024.022 DairyNZ, FSFPI031.107 Oceana Gold

²³⁰ FPI038.005 NZSki, FPI039.007 Realnz

recommend including a definition as the term is mostly used in contextual or supporting information that is not a “provision” of the pORPS and therefore whether it is defined or not is largely inconsequential.

5.7.6.3. Analysis

463. The term “natural environment” only appears in the context section of SRMR-I9. For the same reasons as I have outlined above in relation to the non-FPI part of the pORPS, I do not recommend accepting this submission point.

5.7.6.4. Recommendation

464. I do not recommend any amendments.

5.7.7. Precautionary approach

5.7.7.1. Submissions

465. Fish and Game seeks to include a definition of “precautionary approach” as follows:²³¹

means an approach that:

(a) avoids not acting due to uncertainty about the quality of quantity of the information available, and

(b) interprets uncertain information in a way that best supports the health, well-being and resilience of the natural environment.

466. The submitter considers that without a definition, the effective use of this concept will be hindered. The submitter acknowledges there will be a reluctance to place a priority on the natural environment as required by clause (b), but that this is consistent with the IM chapter provisions.

467. Further submissions were received both in support of²³² and in opposition²³³ to this new definition.

5.7.7.2. Links with non-FPI provisions

468. The term “precautionary approach” is used in objectives, policies and methods across the non-FPI part of the pORPS.²³⁴ Fish and Game seeks the same relief on that part, which Ms Hawkins has addressed in section 3.6.10 of *Report 3: Interpretation (Definitions and abbreviations)*. In summary, she does not recommend including the definition sought.

²³¹ FPI046.028 QLDC

²³² FSFPI044.008 DOC

²³³ FSFPI024.024 DairyNZ, FSFPI030.075 Kāi Tahu ki Otago, FSFPI031.109 Oceana Gold

²³⁴ IM-P15; CE-M3, CE-M4; LF-WAI-P3; ECO-P3, HAZ-NH-P5, HAZ-NH-M2, HAZ-NH-M3, HAZ-NH-M4

5.7.7.3. Analysis

469. The term “precautionary approach” is not used in any FPI provisions. Therefore I do not recommend accepting this submission point. I note that this is consistent with the approach recommended by Ms Hawkins in relation to the non-FPI provisions.

5.7.7.4. Recommendation

470. I do not recommend any amendments.

5.7.8. Restoration or restore

5.7.8.1. Submissions

471. QLDC seeks to include a definition of “restoration”, with the following definition proposed:²³⁵

means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.

472. The submitter requests that the term “restoration” be defined, or otherwise be struck from provision LF-FW-P9. Further submissions were received both in support of²³⁶ and in opposition²³⁷ to the definition put forward by QLDC.

473. Fish and Game also seeks to include a definition of “restore”, with the following definition proposed:²³⁸

means to return to a state of good health, well-being and resilience

474. The submitter considers that without a definition, the concept will be difficult to implement because it is unclear to what standard restoration should aim for. The submitter notes that the wording has been developed so that restoration is not required when the object of restoration is already in a state of good health, well-being and resilience. This means consequential changes can be made elsewhere in the pORPS to remove any additional language that adds uncertainty.

475. Further submissions were received both in support of²³⁹ and in opposition²⁴⁰ to the definition put forward by Fish and Game.

5.7.8.2. Links with non-FPI provisions

476. Fish and Game seeks the same relief in the non-FPI part of the pORPS. Ms Hawkins has addressed this in section 3.6.10 of *Report 3: Interpretation (Definitions and abbreviations)*. In summary, she does not recommend including the definition sought. She considers the

²³⁵ FPI046.028 QLDC

²³⁶ FSFPI031.116 Oceana Gold

²³⁷ FSFPI016.026 Meridian, FSFPI030.094 Kāi Tahu ki Otago, FSFPI037.116 Fish and Game

²³⁸ FPI037.005 Fish and Game

²³⁹ FSFPI031.110 Oceana Gold, FSFPI044.009 DOC

²⁴⁰ FSFPI016.025 Meridian, FSFPI030.076 Kāi Tahu ki Otago

term is used in a range of contexts and that one single definition may not be applicable to all contexts in the same way. I agree with Ms Hawkins – as an example, NFL-O1 as recommended to be amended by Mr Maclennan refers to restoration of outstanding and highly valued natural features and landscapes. It would be difficult to apply the definition proposed by Fish and Game, which refers to ‘good health, well-being, and resilience’ in that context.

5.7.8.3. Analysis

477. The relief sought by QLDC is only in relation to LF-FW-P9. I have addressed that policy in section 1417 of this report. The amendments I recommend would remove the specific reference to restoration and instead refer to clause 3.22(1) to (3) of the NPSFM. Clause 3.22(1) sets out a mandatory policy for inclusion in regional plans that still refers to restoration in subclauses (a)(ii). However, the NPSFM contains a definition of “restoration” that applies to the policy. In summary, while I consider the specific relief sought by QLDC is no longer relevant due to the amendments I have recommended to LF-FW-P9, the term is already defined in the same context in the NPSFM and it would not be helpful to include a different definition in the pORPS. I do not recommend accepting this submission point.
478. For the reasons set out above in relation to the non-FPI part of the pORPS, and for consistency with that approach, I do not recommend accepting the submission point by Fish and Game.

5.7.8.4. Recommendation

479. I do not recommend any amendments.

5.7.9. Water sensitive urban design

5.7.9.1. Submissions

480. DCC seeks to include a definition of “water sensitive urban design” to improve clarity but does not suggest wording for the definition.²⁴¹

5.7.9.2. Analysis

481. ‘Water sensitive urban design’ is used in LF-FW-P15. In my analysis on that provision, I have recommending deleting ‘urban’ as I understand these techniques are not limited only to applying in urban areas. I do not consider that the term requires definition. I understand this is a commonly used and well-understood term and consider there are benefits in allowing flexibility for territorial authorities to determine what this looks like in their districts. I do not recommend accepting the submission point by DCC.

5.7.9.3. Recommendation

482. I do not recommend any amendments.

²⁴¹ FPI001.036 DCC

6. SRMR – Significant resource management issues for the region

6.1. Introduction

483. Under section 62(1(a)) of the Resource Management Act 1991, regional policy statements are required to identify the significant resource management issues for the region. The Significant Resource Management Issues for the Region (SRMR) chapter provides the key regional issue statements to which the pORPS responds.
484. The chapter is contextual for the objectives, policies and methods which follow in other chapters of the Regional Policy Statement. It does not look to provide solutions or guiding language for subsequent regional plans, it is solely issue focused.
485. The SRMR section in Part 2 of the pORPS comprises a statement of the issues as well as a summary of their environmental, economic, and social impacts. There is some overlap across the identified issues, but they have been grouped to the extent possible for clarity. The pORPS, including the FPI, is focused on responding to these issues and establishing a future where they are resolved to the extent possible through the planning process. It is important to note that the complexity and significant overlap across the issues requires the integrated approach that underpins the pORPS.
486. Eleven significant issues have been identified for the region and seven of these are included in the non-FPI part of the pORPS. The three issue statements assessed in this report are those which have been identified as relating to freshwater in accordance with section 80A(2):
- a. SRMR-I5 – Freshwater demand exceeds capacity in places;
 - b. SRMR-I6 – Declining water quality has adverse effects on the environment, our communities, and the economy; and
 - c. SRMR-I9 – Otago lakes are subject to pressures from tourism, and population growth.
487. The issue statements addressed in this report are also partially relevant to the non-FPI parts of the pORPS, and similarly, some of the issues identified in the non-FPI part of the pORPS are partially relevant to the management of freshwater.

6.2. Overall approach

488. The purpose of the SRMR chapter is to outline the most significant resource management issues facing the Otago region. The intention is to provide a statement of each issue to the extent necessary for the issue to be understood and responded to by the objectives, policies and methods in the various chapters of the pORPS.
489. Given that the purpose of the SRMR chapter is to outline the issues at a high level, the issue statements are not intended to provide extensive detail or reference specific industries. For this reason, in most cases, I do not recommend adopting submissions seeking more extensive detail, including reference to specific industries.

490. Similarly, for many of the issues, examples have been included to clarify the statements made. These examples are not intended to be an exhaustive list, but rather one or two examples are provided to illustrate the issue. Therefore, in most cases I do not recommend the addition of more examples where I do not consider them to be necessary, or they go into a greater level of detail than is required to understand the issue.
491. The SRMR chapter outlines the issues but does not provide solutions or responses to the issue, and for this reason I do not recommend adopting submissions which seek to discuss responses or solutions. Solutions and responses are established in the objectives, policies and methods of the pORPS and implemented through the regional and district plans.

6.3. General submissions

6.3.1. Submissions

492. Four general submissions have been received which relate to the entire SRMR chapter. In regard to a. to c. below, the same submissions were received for the significant resource management issues in the non-FPI parts of the pORPS:
- a. NZSki and Realnz consider that the SRMR section is written too negatively with limited reference to any positive or beneficial resource management issues. If the focus is to remain on adverse effects, they seek that the title of each impact snapshot be amended to “Adverse impact snapshot”.²⁴²
 - b. Fish and Game requests that the SRMR chapter be redrafted in its entirety to reflect the issues as solutions.²⁴³
 - c. Ngāi Tahu ki Murihiku request amendments to improve the consistency of references to mana whenua values, cultural values and cultural well-being throughout the issues.²⁴⁴
 - d. DairyNZ seeks that the extent of evidence and facts that underpinned the identification of significant resource management issues is clarified, noting that community consultation during the development of the pORPS was held during a pandemic.²⁴⁵

6.3.2. Analysis

493. Regarding the submissions stating that the SRMR chapter is framed from a negative perspective, I note that the purpose of this chapter is to state the significant resource management issues for the region, and that issues are often phrased in the negative to assist with defining the various solutions. I do not agree that it is necessary to change the title of the impact snapshots and consider that the existing headings are appropriate.

²⁴² FPI038.018 NZSki, FPI039.020 Realnz

²⁴³ FPI037.057 Fish and Game

²⁴⁴ FPI042.003 Ngāi Tahu ki Murihiku

²⁴⁵ FPI024.039 DairyNZ

494. I am not aware of any requirement in the RMA or NZ Planning Standards for the issues to be prioritised and discussed from a solutions perspective. In the absence of a reference to this requirement, no amendments are recommended in response to the submission from Fish and Game.
495. In response to the submission from Ngāi Tahu ki Murihiku, I agree that references to mana whenua values, cultural values and cultural well-being should be consistent across the chapters. However, in the absence of specific amendments it is unclear to me what additional relief would address these concerns.
496. The response to the submission by DairyNZ is discussed later in this report in regard to the specific amendments sought to SRMR-I5, SRMR-I6 and SRMR-I9.
497. I do not recommend any amendments in response to the general submissions.

6.4. New Provisions

6.4.1. Submissions

498. Four submitters seek new issue statements or provisions recognising the benefits to people and communities from the use of natural and physical resources:
- a. NZSki and Realnz seek a new section to identify and discuss, in a positive way, the benefits to people and the environment from subdivision, use and development of natural and physical resources. They also request that the section identifies and discusses the well-being benefits (and need) of ensuring people can access and use the rural and natural environment.²⁴⁶

This relief is supported in the further submissions of Oceana Gold and QLDC (in part);²⁴⁷
 - b. Fish and Game seeks a new significant resource management issue to recognise that the social, cultural and economic well-being of Otago's communities depends on use and development of natural and physical resources;²⁴⁸

This relief is supported in the further submissions of Oceana Gold, Fulton Hogan, Contact (in part) and DOC (in part) and opposed in the further submission of Dairy NZ, Forest and Bird (in part) and Horticulture NZ (in part).²⁴⁹
 - c. Fonterra seeks a new significant resource management issue focusing on the impact that restricted resource use may have on the social and economic well-being of the region (or alternatively amendments to SRMR-I6).²⁵⁰

²⁴⁶ FPI038.017 NZSki, FPI039.019 Realnz

²⁴⁷ FSFPI031.036 Oceana Gold, FSFPI046.045 QLDC, FSFPI027.002 Contact

²⁴⁸ FPI037.006 Fish and Game

²⁴⁹ FSFPI031.037 Oceana Gold, FSFPI033.001 Fulton Hogan, FSFPI027.004 Contact, FSFPI044.031 DOC, FSFPI024.001 Dairy NZ, FSFPI045.022 Forest and Bird, FSFPI047.017 Horticulture NZ

²⁵⁰ FPI019.002 Fonterra

- d. Finally, DCC seeks a new issue identifying damming of the Te Mata-au Clutha River as a regionally significant issue and legacy effect (alongside the addition of relevant objectives and polices to address this issue).²⁵¹

This relief is opposed in the further submission of Contact and supported in the further submission of QLDC.²⁵²

6.4.2. Analysis

499. With the exception of the submission by DCC, the new significant resource management issues sought in the FPI part of the RPS are also sought in the non-FPI part of the RPS. As part of that process, parties were given the opportunity to caucus on new significant resource management issues for the region. All other submitters were then given an opportunity to respond to any proposed new issues. Caucusing was undertaken by two separate groups of planning experts in March 2023, and as a result two new significant resource management issues for the region are proposed by these parties, in addition to the new significant resource management issues still being sought by individual submitters.

500. With the exception of the new issue sought by DCC (discussed below) the new issue statements being sought are not specific to freshwater and are more appropriately considered in the non-FPI process in my opinion. This will allow the Hearing Panel to consider all of the proposed new issue statements for the SRMR chapter together, along with any responses from other submitters in regard to the requests for new issue statements.

501. Regarding the submission by the DCC, I do not agree that the information supplied demonstrates that the damming of the Te Mata-au Clutha River is a regionally significant issue and do not recommend accepting this submission. In regard to the effects of the dams on native fish, I note that this is recognised in SRMR-17 (Environmental impact snapshot).

502. I do not recommend the addition of any new significant resource management issues for the Region in the FPI part of the SRMR chapter.

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

6.5.1. Introduction

503. SRMR-15 considers the issue of freshwater usage in the region and the tensions between demand, ecological capacity, economic utilities, and social wellbeing. This issue addresses the demand for water resources rather than water quality, which is considered as a separate issue (SRMR-16).

6.5.2. Submissions

504. A total of 30 submissions have been received in relation to SRMR-15, including four submissions which support SRMR-15 and seek to retain it as notified.²⁵³ The remaining

²⁵¹ FPI001.003 DCC

²⁵² FSFPI027.003 Contact, FSFPI027.003 QLDC.

²⁵³ FPI045.002 Forest and Bird, FPI032.010 Te Rūnanga o Ngāi Tahu, FPI030.010 Kāi Tahu ki Otago, FPI031.001 Oceana Gold

submissions seek a broad range of amendments across the whole of SRMR-15 as summarised below.

6.5.2.1. General

505. DairyNZ requests amendments to SRMR-15 to address its concern that the issues in the SRMR chapter are based on a theme of resource use having a negative effect, without acknowledgment that resource use, particularly farming, also contributes in a positive sense to many aspects of the community and landscape.²⁵⁴ It requests amendments in the impact snapshots to include both negative and positive aspects of resource use, including the positive contribution of primary industries to the Otago economy, and the importance of reliable access to water for primary production. No specific wording is provided. This relief is supported in the further submission of Oceana Gold.²⁵⁵

6.5.2.2. Statement

506. OWRUG and Horticulture NZ seek amendments to the statement to recognise that rural land-uses are responding to increasing food production demands and *climate change*, and to ensure consistency with the language in the NPSFM with respect to Te Mana o te Wai:²⁵⁶

In *water*-short catchments, *freshwater* availability may not be able to meet competing demands from the health and well-being needs of the *environment freshwater*, the health and well-being needs of people, and the ability of people and communities to provide for their social, economic and cultural well-being. Many of these catchments are also experiencing urban growth, changes in rural *land uses*, and to meet food and fibre supply demands from growing populations and the need to implement change to respond to *climate change*, including increased demand for hydro-electric generation.²⁵⁷

507. Horticulture NZ's requested amendment is similar but only includes reference to food supply rather than food and fibre supply.

6.5.2.3. Context

First paragraph

508. In regard to the first paragraph, three submitters request more detail on "deemed permits", including identifying where they are an issue, and what the issues are.²⁵⁸
509. The Minister for Environment also seeks more recognition of over-allocation as a significant issue for the region. Specific amendments are not provided.²⁵⁹ This relief is supported in the further submission of QLDC and Forest and Bird (in part).²⁶⁰

²⁵⁴ FPI024.010 DairyNZ

²⁵⁵ FSFPI031.041 Oceana Gold

²⁵⁶ FPI043.022 OWRUG, FPI047.008 Horticulture NZ

²⁵⁷ FPI043.022 OWRUG

²⁵⁸ FPI012.002 Minister for the Environment, FPI001.004 DCC, FPI007.001 John Highton

²⁵⁹ FPI012.002 Minister for the Environment

²⁶⁰ FSFPI046.005 QLDC, FSFPI045.023 Forest and Bird

510. Conversely, Federated Farmers seeks to have the reference to “deemed permits” deleted, and other minor amendments.²⁶¹

Second paragraph

511. Queenstown Lakes District Council seeks the following amendments:

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, irrigation and other economic uses. Some of these uses are more efficient and have greater beneficial effects on the environment and communities than others. *Freshwater* resources in some places are reaching, or are beyond, their sustainable abstraction limits. The RMA enables the allocation of water amongst competing activities.²⁶²

512. This relief is supported in the further submissions of Horticulture NZ.²⁶³

513. Horticulture NZ and OWRUG highlight the interrelationship between water and food production, noting population growth increases the demand for food production which can increase the demand for freshwater. They seek insertion of a reference to food and fibre production to acknowledge this issue.²⁶⁴ This relief is supported in the further submissions of Federated Farmers and QLDC.²⁶⁵

514. OWRUG also raises concern that the pORPS fails to acknowledge the long-term complexities of managing water use issues on the community, whilst still giving effect to the NPSFM and recognising other climate change challenges. It seeks the following addition to the second paragraph:²⁶⁶

... However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs. Whatever the outcome of those debates there will need to be significant change implemented over appropriate timeframes to adjust to the new allocation regime. Managing this transition carefully will be necessary to manage the impacts that will affect the social, economic and cultural wellbeing, including mental health of the community.

515. Federated Farmers also seeks amendments to recognise the need for transition to changes in resource use, and other changes to acknowledge recreation and other social and cultural uses which increase demand for freshwater:²⁶⁷

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, recreation, other social and cultural uses, irrigation and other economic uses. *Freshwater* resources in some places are reaching, or are beyond, their sustainable ~~abstraction~~

²⁶¹ FPI026.006 Federated Farmers

²⁶² FPI046.001 QLDC

²⁶³ FSFPI047.018 Horticulture NZ

²⁶⁴ FPI047.009 Horticulture NZ, FPI043.022 OWRUG

²⁶⁵ FSFPI026.003 Federated Farmers, FSFPI046.008 QLDC

²⁶⁶ FPI043.022 OWRUG

²⁶⁷ FPI026.006 Federated Farmers

replenishment limits. However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs, and critical to that is the need to provide for sufficient transitioning for any required change in resource use.

516. Finally, Ngāi Tahu ki Murihiku and Contact suggest changes to the final sentence to better reflect the hierarchy of obligations within the NPSFM, noting that it is incorrect to refer to balancing rather than prioritisation.²⁶⁸
517. The relief sought by Contact on SRMR-15 is supported in the further submissions of Meridian and Manawa Energy and opposed in the further submission of Forest and Bird.²⁶⁹

Third paragraph

518. Submitters request changes to the discussion about the NPSFM and Te Mana o te Wai, including:
- a. Replace the word “damage” with “degradation” to be consistent with the definitions in the NPSFM;²⁷⁰
 - b. Remove the reference to the five year goal to improve *freshwater* quality, which some submitters consider incorrectly states the objectives of the NPSFM;²⁷¹

This relief is opposed in the further submissions of QLDC and Forest and Bird.²⁷²

519. Finally, Meridian seeks a new paragraph in the Context subsection recognising the importance of the Te Mata-au Clutha hydro-electricity scheme and renewable electricity generation to give effect to the NPSFM and NPSREG.²⁷³

6.5.2.4. Environmental

520. Four submitters seek changes to the Environmental subsection of SRMR-15 as follows.
521. To align SRMR-15 with the Te Mana o te Wai priority on the health and well-being of water bodies and freshwater ecosystems, Fish and Game seeks insertion of the following text:²⁷⁴

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

²⁶⁸ FPI047.004 Ngāi Tahu ki Murihiku [there is a typological error in this submission point coding in the SODR, which should refer to the correct submitter number for Ngāi Tahu ki Murihiku being FPI042.004], FPI027.010 Contact

²⁶⁹ FSFPI016.003 Meridian, FSFPI022.002 Manawa Energy, FSFPI045.025 Forest and Bird

²⁷⁰ FPI027.010 Contact, FPI026.006 Federated Farmers

²⁷¹ FPI025.010 Beef + Lamb and DINZ, FPI026.006 Federated Farmers

²⁷² FSFPI046.009 QLDC, FSFPI045.026 Forest and Bird

²⁷³ FPI016.009 Meridian

²⁷⁴ FPI037.007 Fish and Game

regimes, taking into account magnitude, frequency, timing, duration and rate of change, and ecosystem capacity to recover.

522. This relief is supported in the further submissions DOC.²⁷⁵

523. Federated Farmers considers that the level of detail in the Environmental subsection is unnecessary and seeks the following amendments:²⁷⁶

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

524. This relief is opposed in the further submissions Fish and Game and DOC.²⁷⁷

525. Similarly, Moutere Station considers that the Environmental snapshot fails to take into account the positive management of freshwater that is taking place to maintain and enhance waterways, and seeks the following amendments:²⁷⁸

Freshwater abstraction can reduce water level or flow and connections between different *water bodies*. *Freshwater* abstraction may also assist with maintaining the ecosystem by reducing weed and willow pressure and sustaining indigenous species. This can negatively impact ecosystems by affecting *freshwater* habitat size and the shape and condition of the water body, including bed, banks, margin, riparian vegetation, connections to *groundwater*, water chemistry (for example by increasing concentrations of pollutants), and interaction between species and their habitat. How much an ecosystem is affected by taking *freshwater* will require a consideration of the ecosystem of the farming system as a whole and may be determined by departure from existing extraction, natural flow regimes, taking into account magnitude, frequency, timing, duration and rate of change, and ecosystem capacity to recover.

526. This relief is opposed in part in the further submissions of Forest and Bird and Fish and Game.²⁷⁹

527. OWRUG seeks the addition of several paragraphs to the Environmental snapshot to acknowledge that some catchments in Otago are irreversibly changed by a combination of exotic species and hydrological flow alterations, including dams, which also add value to the community.²⁸⁰

²⁷⁵ FSFPI044.032 DOC

²⁷⁶ FPI026.007 Federated Farmers

²⁷⁷ FSFPI037.039 Fish and Game, FSFPI044.076 DOC

²⁷⁸ FPI023.001 Moutere Station

²⁷⁹ FSFPI045.024 Forest and Bird, FSFPI037.040 Fish and Game

²⁸⁰ FPI043.022 OWRUG

6.5.2.5. Economic

528. COWA and Manawa Energy support retention of the Economic impact snapshot as notified.²⁸¹ Alternatively, COWA request amendments that give effect to its overall submission.²⁸² No specific amendments to SRMR-15 are provided.
529. The first sentence of the Economic impact snapshot acknowledges that freshwater in the Otago region is a factor of production that directly contributes to human needs and various industries and sectors. A number of submitters seek changes to this sentence to:
- Add reference to tourism;²⁸³
 - Add reference to industry and rural industry;²⁸⁴
 - Add reference to food production (and food and fibre production in the second sentence);²⁸⁵ and
 - Replace agriculture with primary production.²⁸⁶
530. Moutere Station seeks a number of amendments to the Economic impact snapshot to recognise that:²⁸⁷
- Irrigation needs to be based on the land use and contour, and changes in the type of irrigation will not always result in a positive economic outcome;
 - The NPSFM Appendix 1B identifies irrigation and cultivation and production of food and fibre as a mandatory value, whereas tourism is not.
531. It seeks the following amendments:²⁸⁸

Freshwater in the Otago region is a factor of production that directly contributes to human needs (urban water supply), agriculture (including irrigation), hydro-electric power supply, and *mineral* extraction. Freshwater and agriculture also indirectly contributes to the tourism industry through maintenance of *freshwater* assets for aesthetic and commercial recreational purposes. Lack of *freshwater* will disproportionately impact agriculture and have a devastating impact on the economy in Otago. ~~can negatively impact economic output of those industries that rely on water in the production process. To varying degrees these impacts can be mitigated through water efficiency measures and innovation. A change in the type of irrigation may result in more efficiencies but the availability to change irrigation will be limited given the land use and contour make types of irrigation more suitable to each location. At the same time other industries, such as tourism that rely on the aesthetic characteristic of rivers and lakes to them and instead rely on management regimes that sustain flows and water levels suitable for their activities.~~

²⁸¹ FPI009.001 COWA, FPI022.002 Manawa Energy

²⁸² FPI009.001 COWA

²⁸³ FPI038.020 NZSki and FPI039.022 RealNZ

²⁸⁴ FPI019.001 Fonterra, FPI020.008 Silver Fern Farms

²⁸⁵ FPI043.022 OWRUG

²⁸⁶ FPI041.001 McArthur Ridge Vineyard

²⁸⁷ FPI023.002 Moutere Station

²⁸⁸ FPI023.002 Moutere Station

532. This relief is supported in the further submission of Oceana Gold and opposed in the further submissions of Fish and Game.²⁸⁹
533. Finally, the Economic impact snapshot discusses ways that lack of freshwater can be mitigated, and Silver Fern Farms seeks to add “development of water storage” to the list of mitigation measures.²⁹⁰

6.5.2.6. Social

534. Federated Farmers and Moutere Station seek amendments to the first sentence of the Social impact snapshot to acknowledge that rural communities also require appropriate freshwater supply.²⁹¹
535. Two submitters seek amendments to recognise the role of renewable electricity generation:
- a. Manawa Energy seeks the addition of a sentence recognising that the use of freshwater for renewable electricity generation provides for and supports a range of activities associated with people’s wellbeing;²⁹²
 - b. Contact seeks an additional paragraph recognising the importance of the Te Mata-au Clutha Hydro Scheme in climate change mitigation and acknowledging that providing for hydroelectricity generation is necessary to give effect to the NPSREG.²⁹³
536. The relief sought by Contact on SRMR-15 is supported in the further submissions of Meridian and Manawa Energy and opposed in the further submissions of Forest and Bird.²⁹⁴
537. Horticulture NZ notes that the Social impact snapshot does not discuss water as an essential human health need and its link to food production. It references Part 2 of the RMA which requires the health and safety of communities to be provided for. To address this, it requests amendments to the Social impact snapshot to reference health and safety issues associated with water demand, including drinking, sanitation and food production. No specific wording is provided.²⁹⁵
538. Fish and Game considers that the SRMR chapter does not discuss the way in which people interact with the environment for recreation, or otherwise value its amenity values, and gain well-being from it. It suggests two options for amendments to the Social impact snapshot:²⁹⁶
- a. Amend the final sentence:

These values are strongly linked to environmental values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values (including people’s wellbeing).

Or

²⁸⁹ FSFPI031.039 Oceana Gold, FSFPI037.041 Fish and Game

²⁹⁰ FPI020.008 Silver Fern Farms

²⁹¹ FPI026.008 Federated Farmers, FPI023.003 Moutere Station

²⁹² FPI022.002 Manawa Energy

²⁹³ FPI027.010 Contact

²⁹⁴ FSFPI016.003 Meridian, FSFPI022.002 Manawa Energy, FSFPI045.025 Forest and Bird

²⁹⁵ FPI047.009 Horticulture NZ

²⁹⁶ FPI037.007 Fish and Game

- b. Amend the final sentence and add a sentence:

These values are strongly linked to environmental, health, landscape and aesthetic values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values. The way in which people interact with water is one aspect of why a waterbody may be considered a highly valued natural feature.

539. Similarly, NZSki and Realnz seek the addition of “*including people’s wellbeing*” to the end of the final sentence. They also seek a minor amendment to the first sentence of the social impact snapshot to improve readability.²⁹⁷

540. OWRUG considers that the Social impact snapshot does not discuss the importance of water to food and fibre production and rural communities. It seeks an additional paragraph to address this:²⁹⁸

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

6.5.3. Analysis

6.5.3.1. General

541. Regarding the submission from Dairy NZ seeking reference to the positive effects of resource use, I do not agree that this is needed to define the issue. I note that there are already references in the Statement, Context and Impact snapshots, particularly the Economic impact snapshot, which acknowledge this more broadly. I also consider that this concern is related to the request by submitters for a new issue statement about the importance of the use of natural and physical resources to the well-being of the community, discussed in section 5.4 of this report.

²⁹⁷ FPI038.020 NZSki, FPI039.022 Realnz

²⁹⁸ FPI043.022 OWRUG

6.5.3.2. Statement

542. In regard to the submission by OWRUG and Horticulture NZ, I do not agree that it is necessary to change the reference to “the well-being needs of the environment” to “the well-being needs of freshwater” in regard to the impacts of freshwater availability. Freshwater availability impacts the broader environment, as captured by the RMA definition of the environment, rather than just freshwater.
543. I consider that the other amendments sought provide unnecessary detail which do not assist in defining the issue about freshwater demand, given that those matters are covered more generally by the statements about urban growth, changes in rural land use and increased demand for hydro-electricity.

6.5.3.3. Context

First paragraph

544. In regard to the submissions about deemed permits, I do not consider that any of the requested amendments are necessary because:
- a. The Context already acknowledges the impact that deemed permits have had on the allocation and use of water in the region and makes a brief statement about their history. This is an appropriate level of detail for the issues statement in my opinion; and
 - b. The reference to deemed permits is intended to provide historical context but given that they have expired (as of October 2021), it is not useful to detail specific problem areas associated with deemed permits in this body of text.
545. I agree that over-allocation is an issue in Otago, and this is acknowledged in part by the statement about freshwater resources reaching or exceeding their sustainable abstraction limits in some places.²⁹⁹ However, in the absence of suggested amendments, it is unclear to me what additional relief would address the submission by the Minister for the Environment requesting more recognition of over-allocation as an issue.
546. I do not agree with the submission by Federated Farmers to delete the references to deemed permits. In my opinion the discussion about deemed permits provides useful context and background to the issue of freshwater demand and allocation.

Second paragraph

547. I agree that final sentence could be amended to more correctly interpret the prioritisation required under the Te Mana o te Wai framework. To address this, I recommend adopting the amendments suggested by Ngāi Tahu ki Murihiku;
548. In my opinion the following amendments are not necessary because they are covered more generally in [SRMR-I5](#), and the additional detail does not assist in defining the issue. In addition, the amendments sought stray into solutions and responses in some cases:

²⁹⁹ SRMR-I5, second paragraph of the Context

- a. The amendments sought by QLDC to add more detail about the efficiency and benefits of different uses of water, and noting that the RMA enables allocation of water amongst competing activities;
- b. Additional references to food and fibre production; and
- c. Additional text about the long-term complexities of managing water use issues and the need for sufficient transitioning.

Third paragraph

549. In regard to the third paragraph, I agree that:

- a. “Degradation” is a more appropriate word than “damage”; and
- b. Minor amendments are appropriate to ensure that the reference to the five year timeframe to improve freshwater quality³⁰⁰ is consistent with the stated goals of the Essential Freshwater Work Programme.³⁰¹

550. Finally, I do not agree that a new paragraph is necessary to recognise the importance of the Te Mata-au Clutha hydro-electricity scheme and renewable electricity generation to give effect to the NPSFM and NPSREG. Instead, I consider that it is appropriate to add acknowledgement of the potential for increased demand for freshwater for hydro-electricity in the Context. In addition, I note that the increased demand for water for hydroelectricity is already acknowledged in the Statement and the Economic impact snapshot. I consider that this is sufficient to acknowledge the potential for increased demand for water for renewable electricity generation.

6.5.3.4. Environmental

551. I do not agree with any of the requested amendments to the Environmental impact snapshot for the following reasons:

- a. The amendment sought by Fish and Game is covered more generally by the acknowledgement that ecosystems can be negatively impacted by the matters listed in the second sentence;
- b. The matters that Federated Farmers and Moutere Station seek to delete are all relevant in terms of impacts of changing levels and flows on water bodies;
- c. I do not consider that sufficient information has been provided by Moutere Station to support the statements that freshwater abstraction can assist with maintaining ecosystems, or that how much an ecosystem will be affected requires consideration of the ecosystem of the farming system as a whole; and
- d. In my opinion the amendments sought by OWRUG:

³⁰⁰ While the statement is about the goals in regard to water quality, it is relevant to the issue of freshwater demand, given the relationship between water quantity and quality.

³⁰¹ The NPSRM and NESF are part of the Essential Freshwater Work Programme

- i. Do not assist in outlining the issue of freshwater demand exceeding capacity;
- ii. Are not directly about freshwater demand (particularly the statements about exotic freshwater species); and
- iii. Are more about solutions to the issue.

6.5.3.5. Economic

552. Regarding submissions on the first sentence:

- a. I agree that industry is relevant and recommend that it be added as requested by Fonterra;
- b. I do not agree that references to tourism, food production, or rural industry are necessary, as they are covered more generally by the existing text in the first two sentences (and recommended addition of “industry”).
- c. I agree that it is appropriate to replace agriculture with primary production, given that the definition of primary production includes a range of industries and sectors that contribute to human needs. I note that as a consequence, mineral extraction no longer needs to be specifically mentioned in the same sentence, given that mining is included in the definition of primary production.

553. Regarding the amendments sought by Moutere Station, I do not agree that is appropriate or necessary to state that agriculture contributes to the tourism industry, given that the sentence is about the contribution of freshwater to the tourism industry in the context of SRMR-15 and freshwater demand. I consider that the other amendments sought have not been adequately justified and go into unnecessary detail which is not required to adequately describe the economic impacts relevant to SRMR-15.

554. Finally, I disagree that it is necessary to add “development of water storage” to the sentence about mitigation of water demand through water efficiency measures and innovation. In my opinion water storage is an efficiency measure and could also be considered innovative, and therefore it is already captured by these terms.

6.5.3.6. Social

555. Regarding the social impact snapshot, I agree that:

- a. Rural communities also require appropriate freshwater supply, and recommend that this be acknowledged in the first sentence;
- b. The minor amendments sought by NZSKI and Realnz improve the readability of the first sentence; and
- c. How people interact with the environment is linked to well-being, and that connection to the environment is not limited to recreational use. I recommend accepting in part the amendments suggested by NZSKI, Realnz and Fish and Game to recognise this.

556. In my opinion:

- a. It is not necessary to discuss the role of renewable electricity generation in the social impact snapshot, given that this is already acknowledged in the Statement, Context and Economic impact snapshot, which are the relevant sections to acknowledge it in my opinion; and
- b. The amendments requested by Horticultural NZ and OWRUG are not necessary, because they go into more detail than is required to define the social impacts of increased water demand. The matters they refer to are covered more generally in the existing text.

6.5.4. Recommendation

557. I recommend the following amendments to SRMR-15:

- a. In the Context:
 - i. Amend the first sentence of the second paragraph as follows:³⁰²

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, irrigation, renewable electricity generation and other economic uses.
 - ii. Amend the final sentence of the second paragraph as follows:³⁰³

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

They have a goal of making immediate improvements so that improving³⁰⁴ *freshwater* quality is materially improving³⁰⁵ within five years, reversing past ~~damage~~ degradation³⁰⁶ and bringing New Zealand's *freshwater* resources, waterways and ecosystems to a healthy state within a generation.
- b. In the Economic impact snapshot:
 - i. Amend the first sentence as follows:

Freshwater in the Otago region is a factor of production that directly contributes to human needs (~~urban~~³⁰⁷ water supply) ~~agriculture~~

³⁰² FPI016.009 Meridian

³⁰³ FPI047.004 Ngāi Tahu ki Murihiku [there is a typological error in this submission point coding in the SODR, which should refer to the correct submitter number for Ngāi Tahu ki Murihiku being FPI042.004]

³⁰⁴ FPI025.010 Beef + Lamb and DINZ, FPI026.006 Federated Farmers

³⁰⁵ FPI025.010 Beef + Lamb and DINZ, FPI026.006 Federated Farmers

³⁰⁶ FPI027.010 Contact, FPI026.006 Federated Farmers

³⁰⁷ Consequential amendment to FPI026.008 Federated Farmers, FPI023.003 Moutere Station

primary production³⁰⁸, industry³⁰⁹, and hydro-electric power supply, and mineral extraction³¹⁰.

c. In the Social impact snapshot:

i. Amend the first sentence as follows:

Ensuring appropriate *freshwater* supply for human use ~~is available~~ is essential, including³¹¹ as part of planned urban growth and to support rural communities³¹² ~~is essential~~.³¹³

ii. Amend the final sentence as follows:

These values are strongly linked to environmental, health, landscape and aesthetic³¹⁴ values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values, including people's wellbeing.³¹⁵

6.6. SRMR-I6 – Declining water quality has adverse effects on the environment, our communities, and the economy

6.6.1. Introduction

558. SRMR-I6 considers the issues associated with declining water quality and the adverse effects on the environment, communities and the economy.

6.6.2. Submissions

559. A total of 30 submissions were received in relation to SRMR-I6, including five submissions which support SRMR-I6 and seek to retain it as notified.³¹⁶ The remaining submissions seek a broad range of amendments across the whole of SRMR-I6 as summarised below.

6.6.2.1. General

560. NZSki and Realnz seek the following amendment to the title:³¹⁷

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

³⁰⁸ FPI041.001 McArthur Ridge Vineyard

³⁰⁹ FPI019.001 Fonterra, FPI020.008 Silver Fern Farms

³¹⁰ Consequential amendment to FPI041.001 McArthur Ridge Vineyard

³¹¹ FPI038.020 NZSki, FPI039.022 Realnz

³¹² FPI026.008 Federated Farmers, FPI023.003 Moutere Station

³¹³ FPI038.020 NZSki, FPI039.022 Realnz

³¹⁴ FPI037.007 Fish and Game

³¹⁵ FPI037.007 Fish and Game, FPI038.020 NZSki, FPI039.022 Realnz

³¹⁶ FPI045.003 Forest and Bird, FPI032.011 Te Rūnanga o Ngāi Tahu, FPI027.011 Contact, FPI030.011 Kāi Tahu ki Otago, FPI031.002 Oceana Gold.

³¹⁷ FPI038.021 NZSki, FPI039.023 Realnz

561. John Highton seeks more acknowledgment about the deterioration of water quality under current policies, and that a change of focus and tightening of policy is needed. No specific wording is provided.³¹⁸ This relief is supported in the further submission of Forest and Bird.³¹⁹
562. DairyNZ requests amendments in the impact snapshots to include both negative and positive aspects of resource use, including the positive contribution of primary industries to the Otago economy, and the importance of reliable access to water for primary production. No specific wording is provided.³²⁰

6.6.2.2. Statement

563. A number of submitters seek amendments to the first sentence of the Statement
- a. NZSki and Realnz seek to change the description of water quality in Otago to “very good”, rather than “good”,³²¹

This relief is opposed in the further submission of Forest and Bird.³²²
 - b. Federated Farmers seeks amendments to reflect that effects on water quality are not always due to discharges from land use intensification and land management practices, and the addition of a sentence about improving trends in water quality in some degraded areas, while acknowledging there is more work to be done,³²³
 - c. Similarly, Beef + Lamb and DINZ seek an amendment to acknowledge that nutrients from rural activities are not the only contaminants affecting water quality;³²⁴ and
 - d. OWRUG seeks the addition of “and aquatic pest species” at the end of the first sentence to recognise the impact of pest species, such as lake snow, lagarosiphon, and didymo, on water quality.³²⁵

This relief is opposed in the further submissions of Kāi Tahu ki Otago and Oceana Gold.³²⁶
564. Beef + Lamb and DINZ seek a minor amendment to the second sentence to acknowledge the impact of urban discharges on water quality rather than focussing solely on rural sources.³²⁷ This relief is supported in the further submission of Silver Fern Farms and opposed in the further submissions of Forest and Bird and Kāi Tahu ki Otago.³²⁸
565. Silver Fern Farms seeks the addition of a sentence in the Statement acknowledging the need to manage activities that affect water quality within an acceptable envelope of effects and

³¹⁸ FPI007.002 John Highton

³¹⁹ FSFPI045.031 Forest and Bird

³²⁰ FPI024.011 Dairy NZ

³²¹ FPI038.021 NZSki, FPI039.023 Realnz

³²² FSFPI045.035 Forest and Bird

³²³ FPI026.011 Federated Farmers

³²⁴ FPI025.011 Beef + Lamb and DINZ

³²⁵ FPI043.023 OWRUG

³²⁶ FSFPI030.084 Kāi Tahu ki Otago, FSFPI031.044 Oceana Gold

³²⁷ FPI025.011 Beef + Lamb and DINZ

³²⁸ FSFPI020.001 Silver Fern Farms, FSFPI045.032 Forest and Bird, FSFPI030.001 Kāi Tahu ki Otago

still allow for activities, such as food production, that have wider societal benefit.³²⁹ This relief is supported in the further submissions of Horticulture NZ and Oceana Gold and opposed in the further submission of Forest and Bird.³³⁰

6.6.2.3. Context

First paragraph

566. OWRUG seeks clarification that it is poorly managed land use in urban and rural environments that impacts on water quality.³³¹ This relief is opposed in the further submissions of Kāi Tahu ki Otago and Oceana Gold.³³²

Second paragraph

567. COWA seeks clarification to the last sentence that it is poorly managed agriculture and urbanisation that cause some of the biggest impacts on water quality.³³³

568. Silver Fern Farms requests the addition of drinking water supply and food production as examples of human survival needs that are impacted by water quality,³³⁴ whereas Horticulture NZ and OWRUG seek that the same sentence be amended to state:³³⁵

Water quality affects a wide range of environmental health factors, human health and survival needs....

Third paragraph

569. Submitters seek the following amendments in regard to the discussion about the NPSFM, which are similar to the amendments sought for SRMR-15:

- a. Replace the word “damage” with “degradation” to be consistent with the definitions in the NPSFM;³³⁶
- b. Remove the reference to the five year goal for improving water quality;³³⁷
- c. Add more detail about the requirements and implications of the NPSFM and NESF.³³⁸

570. The relief sought in a. and b. above is supported in the further submission of Fonterra and opposed in the further submissions of Forest and Bird and DOC.³³⁹ The relief sought by OWRUG in c. is opposed in the further submissions of Kāi Tahu ki Otago and Oceana Gold.³⁴⁰

³²⁹ FPI020.009 Silver Fern Farms

³³⁰ FSFPI047.019 Horticulture NZ, FSFPI031.048 Oceana Gold, FSFPI045.030 Forest and Bird

³³¹ FPI043.023 OWRUG

³³² FSFPI030.084 Kāi Tahu ki Otago, FSFPI031.044 Oceana Gold

³³³ FPI009.002 COWA

³³⁴ FPI020.009 Silver Fern Farms

³³⁵ FPI047.010 Horticulture NZ, FPI043.023 OWRUG

³³⁶ FPI026.012 Federated Farmers

³³⁷ FPI026.012 Federated Farmers, FPI025.011 Beef + Lamb and DINZ

³³⁸ FPI025.011 Beef + Lamb and DINZ, FPI043.023 OWRUG, FPI014.002 Rayonier

³³⁹ FSFPI019.002 Fonterra, FSFPI045.036 Forest and Bird, FSFPI044.077 DOC

³⁴⁰ FSFPI030.084 Kāi Tahu ki Otago, FSFPI031.044 Oceana Gold

Additional paragraph

571. Rayonier seeks the insertion of a new sentence about the introduction of the NESPF in 2018.³⁴¹

6.6.2.4. Environmental

General

572. Federated Farmers opposes the ordering of the paragraphs, stating it is ideological rather than fact-based.³⁴²

First paragraph

573. Four submitters seek changes to paragraph one of the Environmental impact snapshot:

- a. OWRUG considers that the environmental snapshot is overly general and does not reflect the State of Environment report that it references. In regard to paragraph one it seeks the addition of the word “some” to clarify that there is only concern about water quality in some areas.³⁴³
- b. Federated Farmers also considers that the wording in the Environmental impact snapshot does not align with the State of the Environment Report. It seeks a number of changes to the impact snapshot to more accurately reflect the report, including the addition of an introductory sentence to paragraph one as follows:

Otago water systems are highly varied and include as well as lakes and rivers, scroll plains and saltwater lakes.³⁴⁴

This relief is supported in the further submission of Oceana Gold and opposed in the further submission of DOC and Forest and Bird (in part).³⁴⁵

- c. Moutere Station seeks the deletion of paragraph one in its entirety because it refers to reports of declining water bodies without identifying any characteristics of what is causing this degradation. In conjunction with the deletion of paragraph 8, it seeks to replace both paragraphs with the following:³⁴⁶

Any change in agricultural use must consider that the economic health of farms depends on their environmental health – healthy waterways, healthy pastures, healthy animals contribute to more production and a more positive market image for local and foreign buyers. Any regulation must recognise that farmers have maintained the healthy waterways for many generations but there are some areas for improvement, notably [insert specific land use concerns and areas that have higher rates of E.Coli]. The Council recognises that it is beneficial

³⁴¹ FPI014.002 Rayonier

³⁴² Federated Farmers (not captured on SODR)

³⁴³ FPI043.023 OWRUG

³⁴⁴ FPI026.013 Federated Farmers

³⁴⁵ FSFPI031.046 Oceana Gold, FSFPI044.078 DOC, FSFPI045.027 Forest and Bird

³⁴⁶ FPI023.004 Moutere Station

for the landowner to take responsibility for maintaining and improving healthy waterways on their farm at a reasonable rate.

This relief is opposed in the further submission of Forest and Bird.³⁴⁷

Second paragraph

574. OWRUG seeks to add aquatic pests to the list of factors which impact Otago's central lakes.³⁴⁸

575. Federated Farmers seeks a number of amendments to paragraph two to address its concern about alignment with the State of the Environment report:³⁴⁹

Water quality across Otago is variable with some areas such as the Upper Clutha and the upper Taieri having excellent water quality, with other areas, such as urban streams in the Dunedin locale, intensified catchments in North Otago and some tributaries of the Poumāhaka having poorer water quality. River water quality is best at river and stream reaches located at high or mountainous elevations under predominantly native vegetation cover, and mostly good in the upper areas of large river catchment and outlets from large lakes. These sites tend to be associated with the upper catchments of larger rivers (e.g. Clutha River/Matau-Au, Taieri River and Lindis River) and the outlets from large lakes (e.g. Hawea, Wakatipu and Wanaka). Water quality is generally poorer in smaller low-elevation streams and coastal shallow lakes where they receive water from upstream pastoral areas or urban catchments. For example, catchments such as the Waiareka Creek (North Otago), Owhiro Stream (Mosgiel), Kāikorai Stream (Dunedin), and sub-catchments within the lower Clutha catchment, have some of the worst-poorest water quality in the region. The Waikouaiti River has the best water quality of the lowland sites.

576. This relief is supported in the further submission of Oceana Gold and opposed in the further submission of DOC and Forest and Bird (in part).³⁵⁰

Sixth paragraph

577. Paragraph six of the Environmental impact snapshot discusses the impacts of stock entering waterbodies and the practice of wintering cattle in Otago. A number of submissions were received on this paragraph.

578. Federated Farmers has a number of concerns with paragraph six, stating:³⁵¹

- a. Stock access into waterways is dramatically reducing across the country. Placing livestock at the top of the list suggests bias without foundation;
- b. There is no supporting information to justify the statements made in this paragraph other than reference to a staff survey;

³⁴⁷ FSFPI045.029 Forest and Bird

³⁴⁸ FPI043.023 OWRUG

³⁴⁹ FPI026.013 Federated Farmers

³⁵⁰ FSFPI031.046 Oceana Gold, FSFPI044.078 DOC, FSFPI045.027 Forest and Bird

³⁵¹ FPI026.013 Federated Farmers

- c. It is inaccurate to say that wintering cattle in Otago is a growing practice. Wintering has always occurred and practices in this area are improving;
- d. There should be a reference to increased numbers of feral animals across Otago that will have a negative impact on water quality.

579. It seeks the following amendments to address these concerns, as well as the addition of a statement about the positive work catchment groups have been doing to actively monitor and improve water quality:³⁵²

Farmed livestock can negatively impact unfenced riparian areas but can also have a positive impact by managing weeds and aggressive introduced grasses. Feral pests~~Stock entering water bodies can lead to pugging and destruction of riparian areas, soils and beds that play an important role in filtering contaminants as well as excreting directly in waterways. The growing practice of wintering cattle in Otago can exacerbate leaching effects, which may not connect to surface water until spring, creating spikes in nutrient loads.~~

Catchment group initiatives in Otago are making positive changes in terms of addressing water quality concerns in local areas.

This relief is supported in the further submission of Oceana Gold and opposed in the further submission of DOC and Forest and Bird (in part).³⁵³

580. Similarly, Dairy NZ and Beef + Lamb and DINZ request that the discussion about the impacts of stock entering waterbodies and winter grazing be deleted, or that text be added to recognise that these activities are now regulated under the Resource Management (Stock Exclusion) Regulations 2020 and NESF.³⁵⁴ This relief is supported in the further submission of Silver Fern Farms and opposed in the further submissions of Forest and Bird and Kāi Tahu ki Otago.³⁵⁵

6.6.2.5. Seventh paragraph

581. Paragraph seven of the environmental impact snapshot discusses the impacts of sediment on freshwater quality including the impact of sediment from urban development and activities such as agricultural intensification, mining and forestry. Submitters seek the following changes to paragraph seven:

- a. Replace “agricultural intensification” with “agricultural land use”;³⁵⁶
- b. Add arable, horticultural and pastoral farming to the list of activities in the last sentence which contribute to sedimentation.³⁵⁷

³⁵² FPI026.013 Federated Farmers

³⁵³ FSFPI031.046 Oceana Gold, FSFPI044.078 DOC, FSFPI045.027 Forest and Bird

³⁵⁴ FPI025.011 Beef + Lamb and DINZ, FPI024.011 Dairy NZ

³⁵⁵ FSFPI020.001 Silver Fern Farms, FSFPI045.032 Forest and Bird, FSFPI030.001 Kāi Tahu ki Otago

³⁵⁶ FPI019.002 Fonterra, FPI043.023 OWRUG

³⁵⁷ FPI036.002 Otago Forestry companies (incorrectly recorded in Part B of the SODR).

- c. The addition of the words “pastureland or farming” before the words “agricultural intensification” to recognise that farming on pastureland can contribute to sediment discharges.³⁵⁸
- d. Amendments to recognise that while activities such as agricultural land-use, mining and forestry can contribute to sedimentation, they are also critical to the social and economic well-being of the community.³⁵⁹

This relief is supported in the further submission of Federated Farmers and Oceana Gold and opposed in the further submissions of Forest and Bird.³⁶⁰

Eighth paragraph

582. Paragraph eight of the environmental impact snapshot discusses the impact of agricultural intensification on nutrient leaching into groundwater and surface water. OWRUG seeks to change “agricultural intensification” to “poorly managed agricultural land-use” because they consider that linking water quality issues to agricultural intensification is an oversimplification.³⁶¹

Ninth paragraph

583. Finally, paragraph nine of the environmental impact snapshot discusses the impact of urban environmental contaminants on water quality.
584. Fonterra seeks the following amendments to recognise the potential for reduced social and economic well-being as a result of prioritising the protection of natural resources over the use and development of those resources:³⁶²

~~Urban environments~~ is a matter of national significance and relies on the ability to use natural resources, for example, for discharges of (treated) stormwater and wastewater. But urban development can degrade water quality including the flushing of unfiltered contaminants include hydrocarbons, and metals from roads and structures. ~~They often wash into urban stormwater systems and pass unfiltered into water bodies, or the coastal marine area; Stormwater effects, particularly in urban areas, are poorly understood. and inadequacies with~~ Wastewater and stormwater systems may not be adequate in some places due to aging infrastructure, rapid growth pressure, or insufficient investment in replacement or upgrades. Overflows of wastewater (sewage and waste products) create significant risks for water quality. These can enter the environment either directly or through stormwater systems, particularly in flood events.

³⁵⁸ FPI014.001 Rayonier

³⁵⁹ FPI019.002 Fonterra

³⁶⁰ FSFPI026.004 Federated Farmers, FSFPI031.047 Oceana Gold, FSFPI045.028 Forest and Bird

³⁶¹ FPI043.023 OWRUG

³⁶² FPI019.002 Fonterra

585. Federated Farmers states that contamination from roads is not just an urban impact, and streams in rural areas may also be impacted by contamination from roads. No specific amendments are sought in relation to this statement.³⁶³

6.6.2.6. Economic

586. A number of submitters seek changes to the Economic impact snapshot.

First paragraph

587. In regard to paragraph one:

- a. Submitters seek the addition of human health,³⁶⁴ food production,³⁶⁵ the primary sector³⁶⁶ and rural communities and agriculture³⁶⁷ to the list of industries and sectors adversely affected by water pollution;
- b. Federated Farmers seeks to add “contaminants” to the list of water pollution sources;³⁶⁸
- c. Moutere Station requests that the specific locations in Otago affected by water pollution are identified.³⁶⁹

Second paragraph

588. Moutere Station requests the following amendments to recognise the economic benefits of using nitrogen and phosphorus on production and economic output in Otago and that the use of fertiliser and healthy waterways go hand-in-hand:³⁷⁰

These impacts can be direct (varying the quality of primary production outputs such as fish or unhealthy stock); increasing costs of production through mitigation or remediation costs (drinking water treatment cost, riparian restoration); loss of enjoyment and benefit from tourism uses, and indirect such as cost to human health and associated medical costs, or reduction in brand value (e.g. Brand New Zealand).

Low stock rate farming systems are unique and it is acknowledged that they can maintain and improve water quality. The economic impact as a result of any decreased application of nutrients and therefore decreased production will also have far reaching effects, including tourism, farm values, agricultural output, exports, recreational hunting, and the large percentage of the population that rely on agriculture for employment.

³⁶³ FPI026.013 Federated Farmers

³⁶⁴ FPI043.023 OWRUG, FPI047.011 Horticulture NZ

³⁶⁵ FPI043.023 OWRUG, FPI047.012 Horticulture NZ

³⁶⁶ FPI026.014 Federated Farmers

³⁶⁷ FPI023.005 Moutere Station

³⁶⁸ FPI026.014 Federated Farmers

³⁶⁹ FPI023.005 Moutere Station

³⁷⁰ FPI023.005 Moutere Station

Additional paragraph

589. Fonterra requests the addition of a new paragraph in the Economic impact snapshot to recognise the potential for reduced social and economic well-being as a result of prioritising the protection of natural resources over the use and development of those resources.³⁷¹
590. Federated Farmers seeks to have the Economic impact snapshot amended to include consideration of the future need for water storage. No specific wording is provided.³⁷²

6.6.2.7. Social

591. Fish and Game seeks amendments to the first paragraph to recognise the importance of the way in which people interact with the environment for recreation or otherwise value its amenity values and gain wellbeing from it:³⁷³

For the wider community, water is a source of kai and of recreation, including swimming, fishing and water sports. There are multiple dimensions to the way water quality impacts on peoples' interaction with water bodies, including environmental, health, landscape, and aesthetic factors. Otago's rivers, lakes, estuaries and bays are important destinations for recreational use including swimming, fishing and water sports. The way in which people interact with water is one aspect of why a waterbody may be considered a highly valued natural feature. Eighty-two per cent of Otago's rivers and lakes are swimmable. Where water quality cannot support ~~these~~ recreation activities, the lifestyle of those living in Otago is impacted.

592. This relief is supported in the further submission of DOC.³⁷⁴
593. Federated Farmers cites data from Land, Air, Water, Aotearoa (LAWA) – River Quality which indicates water quality in Otago lakes and rivers is better than in other regions and seeks the following amendments to the third sentence of the first paragraph to acknowledge this:³⁷⁵
- ... Eighty-two per cent of Otago's rivers and lakes are swimmable-, which is very high on a nationwide comparison. However, ~~W~~where water quality cannot support these activities, the lifestyle of those living in Otago is impacted.
594. Federated Farmers also requests an amendment to the Social impact snapshot to add reference to the positive contribution the primary sector makes to the region. No specific wording is provided.³⁷⁶ This relief is supported in the further submissions of Fonterra and Oceana Gold.³⁷⁷
595. OWRUG is concerned that the Social impact snapshot only acknowledges some of the benefits of clean water. It seeks amendments to both paragraphs of the social impact

³⁷¹ FPI019.002 Fonterra

³⁷² FPI026.009 Federated Farmers.

³⁷³ FPI037.008 Fish and Game

³⁷⁴ FSFPI044.033 DOC

³⁷⁵ FPI026.015 Federated Farmers

³⁷⁶ FPI026.010 Federated Farmers

³⁷⁷ FSFPI019.001 Fonterra, FSFPI031.045 Oceana Gold

snapshot to improve readability and to acknowledge all of the benefits of clean water to the well-being of the community, including for food and fibre production.³⁷⁸

596. Horticulture NZ is concerned that the Social impact snapshot does not consider water as an essential human health need, and the link to food production. It seeks amendments to reference the health and safety issues associated with water quality, including drinking, sanitation and food production. It also suggests that the impact snapshot should be linked to the FMU vision statements. No specific wording is provided.³⁷⁹

6.6.3. Analysis

6.6.3.1. General

597. Regarding the submissions from NZSki and Realnz, I disagree that the SRMR-I6 title requires an amendment to refer to the “natural *environment*”. The impact of poor water quality extends to the broader environment, as captured by the RMA definition of the *environment*, and I therefore recommend these submissions are rejected.
598. I do not consider that it is appropriate to highlight the role the regional council has played in relation to the current state of water quality, over and above any other group or industry. I do not recommend accepting the submission requesting this addition.

6.6.3.2. Statement

599. In regard to the first sentence, I agree that:
- a. The amendment sought by NZSki and Realnz to insert “very” as a qualifier in the opening sentence results in a better reflection of the water quality in the pristine areas of Otago.
 - b. The word “often” would be a useful addition to clarify that effects on water quality are not always due to discharges from land use intensification and land management practices, which addresses in part the submissions from Federated Farmers and Beef +Lamb and DINZ.
600. I do not agree that;
- a. It is appropriate to add aquatic pest species at the end of the first sentence, because this sentence is about sediment and nutrients being deposited into freshwater as a result of erosion, run-off and soil loss. The relationship between pest species and water has been highlighted in SRMR-I3 which I consider is the appropriate issue to discuss the impact of aquatic pests;
 - b. Sufficient information has been provided to demonstrate that water quality is improving in some areas, or that it is necessary to state that more work needs to be done, as I consider that this is an inherent part of any issue statement;

³⁷⁸ FPI043.023 OWRUG

³⁷⁹ FPI047.011 Horticulture NZ

- c. It is necessary to specify that erosion and run-off is from rural and urban activities. Given that this covers all sources it does not add value to the statement in my opinion;
- d. An additional sentence about managing activities within an acceptable level of effects is appropriate, as this is about the response to the issue, and is more a matter to be addressed in other chapters of the pORPS and the regional plan.

6.6.3.3. Context

First paragraph

601. I do not agree with the submission by OWRUG requesting an amendment to the last sentence in the first paragraph to qualify land uses impacting the quality of water as being “poorly managed”. While surface water quality tends to be poorer in smaller, low-elevation streams draining pastoral or urban catchments,³⁸⁰ no evidence has been provided that it is only poorly managed land uses that impact on water quality. I do not recommend accepting this submission point.

Second paragraph

602. Similarly, I do not recommend that a similar submission by COWA in regard to the impacts of agriculture on water quality be accepted.

603. I recommend accepting the submissions from OWRUG and Horticulture NZ in which they seek reference be included to human health rather than just health. This amendment represents an improvement to the description of the issue, and better aligns with known effects of poor water quality (i.e., poor water quality may impact human health without necessarily impacting on human survival). In my opinion this covers the amendment sought by Silver Fern Farms more generally.

Third paragraph

604. In regard to the third paragraph of the Context:

- a. I agree that it is appropriate to replace “damage” with “degradation”.
- b. I consider that minor amendments are appropriate to ensure that the reference to the five year timeframe to improve freshwater quality is consistent with the stated goals of the Essential Freshwater Work Programme.³⁸¹
- c. I do not consider that it is necessary to add more detail about the NPSFM, NESF or NESPF. The purpose of this paragraph is to state the overarching goals of the Essential Freshwater Programme (which includes the NPSFM and NESF) to give context to the water quality issue. It is not intended to go into more detail about what the actual requirements of the NPSFM or national regulations are. The requirements of the NPSFM are addressed elsewhere in the pOPRS, particularly the LF chapter.

³⁸⁰ Rachel Ozanne and Adam Uytendaal (2017) *State of the Environment Surface Water Quality in Otago 2006 to 2017*: Otago Regional Council p ii

³⁸¹ The NPSRM and NESF are part of the Essential Freshwater Work Programme

6.6.3.4. Environmental

General

605. Federated Farmers opposes the ordering of the paragraphs, stating it is ideological rather than fact-based. I note that the order of the paragraphs in this section of the pORPS is not intended to represent a hierarchy or order of priorities. I do not recommend any changes to the order of the paragraphs in response to this submission.

First paragraph

606. Several submitters raise concerns about the description of water quality in Otago and, in particular, how it aligns with the “State of the Environment Surface Water Quality in Otago 2006 to 2017” report. In this regard:

- a. I agree with submitters that the wording used in the issue statement could better align with the report cited. In my opinion, there is reason for concern about water quality and its trends in many, but not all, lakes and rivers, given the number of rivers that do not meet the NPSFM bottom lines.³⁸² Therefore I recommend amending the first sentence to clarify this, stating there is reason for concern in “many” lakes and rivers (rather than “some” as requested by OWRUG);
- b. I do not agree with the request by Federated Farmers to add a sentence about Otago water systems being highly varied, as I do not consider that this level of detail is required to outline the issue in regard to water quality. I consider that the existing text about water quality being variable is sufficient.
- c. I do not agree that paragraph one should be deleted, as suggested by Moutere Station, because the statement about declining water bodies is explained and referenced in the paragraphs that follow in the impact snapshot.
- d. In my opinion the sentence that Moutere Station seeks to add goes into a level of detail that does not assist in defining the issue, and also strays into solutions and regulations which are more appropriately dealt with in the regional plan.

Second paragraph

607. Regarding the second paragraph, I do not agree:

- a. That sufficient information has been provided about the impact of aquatic pest species on water quality to justify the addition of aquatic pests to the list of factors impacting on Otago’s central lakes (in the context of water quality); and
- b. With the amendments suggested by Federated Farmers because I do not think that more detail about water quality in particular locations in Otago is necessary to explain the issue.

³⁸² Rachel Ozanne and Adam Uytendaal (2017) *State of the Environment Surface Water Quality in Otago 2006 to 2017*: Otago Regional Council p 123

Sixth paragraph

608. Regarding the paragraph about stock access to waterbodies, I do not recommend accepting the submissions seeking deletion or amendments to this paragraph, because:
- a. In my opinion the adverse effects of stock entering waterbodies are well understood, hence the introduction of stock exclusion regulations at the national level. I consider it is still appropriate to retain reference to this as a contributing factor to poor water quality; and
 - b. While stock access and winter grazing are activities managed by national regulations, there may be a need to introduce additional restrictions or rules that are more appropriate in the Otago region, and necessary to achieve freshwater outcomes. I also note that many landowners are yet to comply with the regulations, and therefore the effects from these activities are still relevant to this issue.

Seventh paragraph

609. In regard to the amendments sought to the seventh paragraph:
- a. I agree it is not just “agricultural intensification” that contributes to sediment in waterways and recommend that this be replaced with “agricultural land use”;
 - b. I do not agree that it is appropriate in this paragraph to discuss the benefits of activities that cause sedimentation, as the purpose of this paragraph is to outline the environmental impacts of sedimentation on water quality.

Eighth paragraph

610. I agree in part with OWRUG that it is not just agricultural intensification that can contribute to nutrients leaching to groundwater or running off into surface waterbodies. However, I do not agree that is just poorly managed agricultural land use, that can cause contamination. Therefore, I recommend adopting this submission in part, and replacing “agricultural intensification” with “agricultural land use”.

Ninth paragraph

611. In my opinion the amendments sought to paragraph nine do not improve the discussion about urban contaminants. The purpose of this paragraph is to outline the main types and sources of urban contaminants, and the amendments sought do not add any value in this regard or improve readability of the paragraph. In the absence of suggested wording it is not clear how the statement by Federated Farmers about contamination from rural roads could be addressed, nor is it relevant to the paragraph about urban contaminants in my opinion.

6.6.3.5. Economic

First paragraph

612. In regard to the first paragraph:

- a. Several submitters request amendments to the types of industries and sectors affected by water pollution, by including reference to human health, the primary sector, rural communities and agriculture, and food production. I do not consider that it is necessary to expand on the list included in the Economic Impact Statement on the basis that they are all covered by the reference to “and many other sectors that depend on clean water”.
- b. I agree that it would be useful to add “or other contaminants” to the list of pollution sources in the first sentence to clarify that there are other contaminants which can cause water pollution.
- c. I do not consider that it is necessary to outline the specific locations in Otago affected by water pollution and consider that the more general statement is sufficient to outline the economic context of the issue.

Second paragraph

613. In regard to the submission by Moutere Station:

- a. I do not consider that it is necessary to add more examples of direct impacts of water pollution, as one example is sufficient to demonstrate the issue, and it is not intended to be an exhaustive list of impacts;
- b. I consider that the additional paragraph about low stock rate farming systems contains more detail than is necessary to clarify the economic context of the issue, and insufficient information has been provided to justify some of the statements made.

Additional paragraphs

614. I do not agree that it is necessary to add a paragraph to the Economic impact snapshot to recognise the potential for reduced social and economic well-being as a result of prioritising the protection of natural resources over the use and development of those resources. In my opinion this matter is more appropriately considered in relation to the submission requesting a new issue statement about the same matter.

615. Finally, in the absence of suggested wording, I am unclear what amendments would address Federated Farmers request for consideration of the future need for storage, and why this is relevant to the water quality issue.

6.6.3.6. Social

616. I agree with OWRUG and Fish and Game that the Social impact snapshot could be amended to improve the readability of the first paragraph and recognise the importance of the way in which people interact with the environment. I recommend amendments to like effect.

617. I do not agree with OWRUG that it is necessary to add reference to fibre and food production to define the issue, and in my opinion the amendments sought by OWRUG to the second paragraph do not improve the readability of the paragraph or assist in defining the issue. I do not recommend accepting this part of their submission.

618. I do not recommend accepting the submission from Federated Farmers seeking to amend the text to state that water quality in many parts of the region is “very high” compared to the rest of the nation. In my view, this statement detracts from the issue that water quality is declining in some areas.³⁸³ Additionally, this section deals with Otago’s significant resource management issues and should not be subject to comparisons regarding a wide variety of other regional contexts, situations and factors.
619. I also do not agree with Federated Farmers that it is necessary to add reference to the positive contribution the primary sector makes to the region because I do not consider that this is relevant to outlining the issue and social impacts in regard to water quality.
620. Finally, in the absence of specific wording I am unclear how to address Horticulture NZ’s submission about health and safety matters in the Social impact snapshot. However, I note that impacts on human health are acknowledged in the Statement.

6.6.4. Recommendation

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

a. In the Statement:

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

While the pristine areas of Otago generally maintain very³⁸⁴ good water quality, some areas of Otago demonstrate poorer quality and declining trends in *water* quality which often³⁸⁵ can be attributed to *discharges* from *land use* intensification (both rural and urban) and *land* management practices.

b. In the Context:

i. Amend the first sentence of the second paragraph as follows:³⁸⁶

Water quality affects a wide range of environmental health factors, human health and survival needs, and cultural, social, recreational, and economic uses.

ii. Amend the third paragraph of the Context as follows:

On 3 September 2020, new National Environmental Standards (NESF) and a new National Policy Statement (NPSFM)³⁸⁷ came into force to make immediate improvements to improve³⁸⁸ water quality within five years; and reverse past ~~damage~~ degradation³⁸⁹ and bring New Zealand’s

³⁸³ Rachel Ozanne and Adam Uytendaal (2017) *State of the Environment Surface Water Quality in Otago 2006 to 2017*: Otago Regional Council p ii

³⁸⁴ FPI038.021 NZSki, FPI039.023 Realnz

³⁸⁵ FPI026.011 Federated Farmers

³⁸⁶ FPI047.010 Horticulture NZ, FPI043.023 OWRUG

³⁸⁷ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

³⁸⁸ FPI026.012 Federated Farmers, FPI025.011 Beef + Lamb and DINZ

³⁸⁹ FPI026.012 Federated Farmers

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

c. In the Environmental impact snapshot:

i. Amend the first paragraph as follows:³⁹⁰

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

ii. Replace agricultural intensification with agricultural land use in the seventh paragraph:³⁹¹

Sediment is a key issue for *freshwater* quality throughout Otago, including coastal estuaries where it can significantly impact the life supporting capacity of water. Urban development is a key generator of sediment input to *lakes* and *rivers* in Central Otago, from building platforms and from stormwater contamination. Activities such as agricultural ~~intensification~~ land use, mining, and forestry also contribute.

iii. Replace agricultural intensification with agricultural land use in the eighth paragraph:³⁹²

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

d. In the Economic impact snapshot:

i. Amend the first sentence as follows:³⁹³

Water pollution (from nutrients, chemicals, pathogens, and sediment and other contaminants) can have far-reaching effects

e. In the Social impact snapshot:

i. Amend the first paragraph as follows:

For the wider community, *water* is a source of kai ~~and~~ for harvesting and food production. Water is also a source³⁹⁴ of recreation, including swimming, fishing and *water* sports. There are multiple dimensions to the way water quality impacts on peoples' interaction with water bodies, including environmental, health, landscape, and aesthetic factors.³⁹⁵ Otago's *rivers, lakes, estuaries* and bays are important

³⁹⁰ FPI043.023 OWRUG

³⁹¹ FPI019.002 Fonterra, FPI043.023 OWRUG

³⁹² FPI043.023 OWRUG

³⁹³ FPI026.014 Federated Farmers

³⁹⁴ FPI043.023 OWRUG

³⁹⁵ FPI037.008 Fish and Game

destinations for recreational use including swimming, fishing and water sports. Eighty-two per cent of Otago's rivers and lakes are swimmable. Where water quality cannot support these activities, the lifestyle of those living in Otago is impacted.

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

6.7.1. Introduction

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

6.7.2. Submissions

623. 15 submissions were received on SRMR-I9 including four submissions seeking it be retained as notified.³⁹⁶ The remaining submissions seek a range of amendments across SRMR-I9 and are summarised below.

6.7.2.1. General

624. John Highton considers that a number of activities impact Otago's lakes, including hydroelectricity generation and pressure from tourism (including camping and motorboating) and seeks amendments to recognise and manage these.³⁹⁷

625. OWRUG considers that the term "agriculture" may not capture all types of primary production activity and is inconsistently used throughout the pORPS. To improve certainty, they seek to replace references to "agriculture" with "primary production" throughout SRMR-I9.³⁹⁸ This relief is supported in the further submission of Horticulture NZ.³⁹⁹

626. DairyNZ requests amendments to SRMR-I9 to address their general concern with the SRMR chapter that the issues are based on a theme of resource use having a negative effect, without acknowledgment that resource use, particularly farming, also contributes in a positive sense to many aspects of the community and landscape in which they operate. No specific wording is provided.⁴⁰⁰ This relief is supported in the further submission of Oceana Gold.⁴⁰¹

627. Contact is generally supportive of SRMR-I9 insofar as SRMR-I9 recognises that the lakes are a significant source of renewable energy, and that access to such water is necessary for this purpose. However, it is concerned that the issue does not recognise the nationally significant contribution of the lakes to renewable electricity generation, and that many of the lakes were created by and play a critical role in the Te Mata-au Clutha Hydro scheme, which is

³⁹⁶ FPI045.004 Forest and Bird, FPI032.012 Te Rūnanga o Ngāi Tahu, FPI030.012 Kāi Tahu ki Otago, FPI025.012 Beef + Lamb and DINZ

³⁹⁷ FPI007.003 John Highton, FPI007.020 John Highton,

³⁹⁸ FPI043.026 OWRUG

³⁹⁹ FSFPI047.022 Horticulture NZ

⁴⁰⁰ FPI024.012 DairyNZ

⁴⁰¹ FSFPI031.049 Oceana Gold

recognised by the National Policy Statement for Freshwater Management as making an important contribution to meeting New Zealand's greenhouse gas emission targets; and maintaining the security of New Zealand's electricity supply. It seeks amendments to the Statement, Context, and Environmental and Economic impact snapshots to address these matters and recognise the nationally significant contribution of the lakes to renewable electricity generation.⁴⁰²

628. The relief sought by Contact is supported in the further submission of Meridian.⁴⁰³

629. In addition to the amendments sought by Contact, submitters seek the following amendments to the Statement, Context and Impact snapshots.

6.7.2.2. Statement

630. Fish and Game seeks the addition of references to the recreational benefits that the Central Otago lakes provide to people and how that is connected to supporting human health and well-being.⁴⁰⁴ This relief is opposed in the further submissions of Horticulture NZ.⁴⁰⁵

6.7.2.3. Context

First paragraph

631. Federated Farmers seeks the addition of livestock and irrigation as activities which require access to the lakes as a resource:⁴⁰⁶

The values assigned to *lakes* include the natural features and landscapes, the quality and quantity of water accessible to the Otago communities, the accessibility of these resources for recreation, the health of native flora and fauna associated with Otago's *rivers and lakes*, livestock, irrigation, and renewable energy production.

Third paragraph

632. Two submitters seek amendments to paragraph three:

- a. QLDC seeks a minor amendment to the first sentence, and deletion of the example given in support of the statement that the economy of the Otago lakes area is heavily dependent on tourism (which discusses tourism employment statistics, and tourism GDP).⁴⁰⁷
- b. Fish and Game seeks an additional sentence about the individual and community benefits associated with the lakes, including for recreation, which supports human

⁴⁰² FPI027.012 Contact.

⁴⁰³ FSFPI016.004 Meridian

⁴⁰⁴ FPI037.009 Fish and Game

⁴⁰⁵ FSFPI047.021 Horticulture NZ

⁴⁰⁶ FPI026.016 Federated Farmers

⁴⁰⁷ FPI046.002 QLDC

health and well-being.⁴⁰⁸ This relief is opposed in the further submission of Horticulture NZ.⁴⁰⁹

6.7.2.4. Environmental

633. NZSki and Realnz seek deletion of the reference to tourism demand as having an adverse impact on water quality in paragraph two, stating that there is no evidence for this statement. They also seek minor amendments to paragraph three.⁴¹⁰ This relief is supported in the further submission of QLDC.⁴¹¹

6.7.2.5. Economic

634. Federated Farmers supports the recognition of agriculture in the Economic impact snapshot.⁴¹² This relief is supported in the further submission of Horticulture NZ.⁴¹³

635. NZ Ski and Realnz seek a minor amendment to paragraph two as follows:⁴¹⁴

For example, the clean green image of New Zealand, of which the Otago *Lakes* area is symbolic, is at risk of being compromised ~~because of over-crowding in peak tourism seasons~~ if the quality of lakes becomes degraded or visitor numbers exceed the servicing capacity of the district.

636. This relief is supported in the further submission of QLDC.⁴¹⁵

6.7.2.6. Social

637. NZSki and Realnz seek amendments to the Social impact snapshot to clarify that it is poorly managed activities as well as over-crowding that adversely affect recreation experiences. They also seek minor amendments to improve readability of the paragraph.⁴¹⁶ This relief is supported in the further submission of QLDC.⁴¹⁷

6.7.3. Analysis

6.7.3.1. General

638. I consider the relief sought by John Highton is already provided within the issue, given that there are numerous references to tourism and, to a lesser extent hydroelectricity generation, throughout SRMR-I9.

639. The term “agriculture” appears three times in the Economic impact snapshot. I consider the relief sought by OWRUG to replace “agriculture” with “primary production” is appropriate

⁴⁰⁸ FPI 037.009 Fish and Game

⁴⁰⁹ FSFPI047.021 Horticulture NZ

⁴¹⁰ FPI038.023 NZSki, FPI039.025 Realnz

⁴¹¹ FSFPI046.043 QLDC

⁴¹² FPI 026.017 Federated Farmers

⁴¹³ FSFPI047.020 Horticulture NZ

⁴¹⁴ FPI 038.023 NZSki, FPI039.025 Realnz

⁴¹⁵ FSFPI046.043 QLDC

⁴¹⁶ FPI 038.023 NZSki, FPI039.025 Realnz

⁴¹⁷ FSFPI046.043 QLDC

because it is a more complete description of the activities which provide economic benefits to the region that can be impacted by tourism. I recommend that the references to the term "agriculture" in SRMR-I9 are replaced with "primary production".

640. Regarding the submission from Dairy NZ seeking reference to the positive effects of resource use, as discussed for the same submission on SRMR-I5, I do not agree that this is needed to define the issue. I note that there are already references in the Statement, Context and impact snapshots, particularly the Economic impact snapshot, which acknowledge this more broadly.
641. SRMR-I9 is about the pressure on Otago lakes from tourism and population demand. I agree with Contact that the lakes are a significant source of renewable energy, and that pressure on the lakes could impact on access to the lakes for renewable electricity generation. However, I consider that this is sufficiently acknowledged in the Context and Economic impact snapshot, and do not agree with the amendments suggested by Contact. In my opinion they go into more detail than is necessary to define this issue. Other than minor wording changes to improve readability and replace all references to energy production to "renewable electricity generation" I do not recommend accepting the amendments requested by Contact.

6.7.3.2. Statement

642. I agree with Fish and Game that the recreational benefits of Central Otago lakes support human health and well-being, but also contribute to the pressure on the environment. I consider that the amendments sought assist in clarifying this as part of the Statement and recommend that the submission be accepted in part.

6.7.3.3. Context

First paragraph

643. I do not consider that it is necessary to add reference to livestock and irrigation to the second sentence of paragraph one. That sentence describes the values assigned to lakes and it is not intended to provide a description of all of the uses of water, which are covered more generally by the values referred to. I do not recommend adopting the submission.

Third paragraph

644. I agree that QLDC's suggested amendment to the first sentence improves readability, but I do not agree with its request to delete the 2020 example of the contribution of tourism to the economy. In my opinion this example assists in understanding the issue by demonstrating the tension between the impacts of tourism and the importance of tourism to the region.
645. Regarding the amendments sought by Fish and Game about the benefits associated with the lakes to individuals and the community, I do not consider that it is necessary to discuss this in the Context, given the recommended amendment to acknowledge this in the Statement.

6.7.3.4. Environmental

646. I do not consider the relief sought by NZSki and Realnz to remove reference to “tourism demand” is appropriate. Tourism demand, increased population and urban development are contributors to adverse impacts on the water quality of Otago’s lakes and I consider this is adequately captured in the issues statement as notified.

6.7.3.5. Economic

647. I consider replacing “because of over-crowding in peak tourism seasons” with “if the quality of lakes become *degraded* or visitor numbers exceed the servicing capacity of the district” results in a more generalised statement which I consider to be more appropriate for an issues statement, and I recommend adopting this submission from NZSki and Realnz.

6.7.3.6. Social

648. In regard to the submission from NZSki and Realnz, no information has been provided to support the statement that poorly managed activities affect recreation experiences and I do not recommend that this amendment be adopted. I do agree that other amendments sought by NZSki and Realnz improve the grammar and readability of the Social impact snapshot and recommend that they be adopted in part.

6.7.4. Recommendation

649. I recommend the following amendments to SRMR-I9:

a. Amend the Statement as follows:⁴¹⁸

The beauty, recreational opportunities and regional climate of Lakes Wanaka, Wakatipu, Hāwea and Dunstan and their environs attract visitors and residents from around the region, the country and the world. This ~~influx~~ supports human health and well-being and brings economic opportunity, but the activities and services created to take advantage of it can degrade the *environment* and undermine the experience that underpins their attractiveness.

b. In the Context:

i. Replace “energy production” with “electricity generation” in the second sentence of the first paragraph:⁴¹⁹

The values assigned to *lakes* include the natural features and landscapes, the quality and quantity of water accessible to the Otago communities, the accessibility of these resources for recreation, the health of native flora and fauna associated with Otago’s *rivers* and *lakes*, and renewable ~~energy production~~ electricity generation.

⁴¹⁸ FPI037.009 Fish and Game

⁴¹⁹ FPI027.012 Contact

- ii. Amend the first sentence of the third paragraph as follows:⁴²⁰

This desire of ~~New Zealanders and international visitors~~ to enjoy the outstanding natural environments of the Otago *lakes* has placed significant pressures on the environment, transport, energy and other infrastructure, health services and social structures.

- iii. Replace “energy” with “electricity” in the final sentence of the third paragraph:⁴²¹

The Otago-Lakes area also supplies significant renewable ~~energy~~ electricity for use in Otago and beyond.

- c. In the Environmental impact statement:

- i. Amend the final sentence as follows:⁴²²

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

- d. In the Economic impact statement:

- i. Amend the first sentence of the first paragraph as follows:

The economic benefits of urban development, tourism, ~~agriculture primary production~~,⁴²³ ~~energy production~~ renewable electricity generation⁴²⁴ and *water* supply can be positive for the Otago-Lakes’ communities and visitors.

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

For example, the clean green image of New Zealand, of which the Otago *Lakes* area is symbolic, is at risk of being compromised ~~because of over-crowding in peak tourism seasons~~ if the quality of *lakes* becomes degraded or visitor numbers exceed the servicing capacity of the district.⁴²⁵

- iii. Amend the final sentence of the second paragraph as follows:⁴²⁶

At the same time tourism can negatively impact on how ~~agriculture primary production~~ can operate, potentially limiting its contribution to the regional economy.

- iv. Amend the first sentence of the third paragraph as follows:⁴²⁷

⁴²⁰ FPI046.002 QLDC

⁴²¹ FPI027.012 Contact

⁴²² FPI027.012 Contact

⁴²³ FPI043.026 OWRUG

⁴²⁴ FPI027.012 Contact

⁴²⁵ FPI 038.023 NZSki, FPI039.025 Realnz

⁴²⁶ FPI043.026 OWRUG

⁴²⁷ FPI043.026 OWRUG

Urban development brings economic development and improved opportunities and standards of living to the Otago *lakes* area but can adversely impact on both the environment and how ~~agriculture~~ primary production can operate.

e. In the Social impact statement:

i. Amend the first sentence as follows:⁴²⁸

Over-crowding impacts can adversely affect urban amenity and recreation experiences of both tourists and residents, particularly outdoor recreation ~~such as fishing and water sports, and urban amenity.~~

⁴²⁸ FPI 038.023 NZSki, FPI039.025 Realnz

7. RMIA – Resource management issues of significance to iwi authorities in the region

7.1. Introduction

650. A regional policy statement must state the resource management issues of significance to iwi authorities in the region.⁴²⁹ Only mana whenua can make such statements with authenticity in Otago.
651. Iwi consultancies Aukaha and Te Ao Marama Incorporated (as agents of, and in consultation with, Otago’s mana whenua) have led preparation of the corresponding section of the pORPS. The issues represent Kāi Tahu’s key concerns with resource management in Otago.
652. These are issue statements from a Kāi Tahu perspective as mana whenua. Submissions that are not from a mana whenua perspective and that seek to change an issue’s focus need to be considered in this context, because they may not accurately state resource management issues of significance to iwi authorities in the region.
653. The pORPS explores the context for each issue from a Kāi Tahu perspective. This content is not repeated here. The issues are complete statements which speak for themselves, so introductory material for each issue is not included.
654. Two issues from this section relate directly to fresh water and are part of the proposed Freshwater Planning Instrument (FPI): [RMIA-WAI-I1](#) and [RMIA-WAI-I3](#). These are two of five issues in the RMIA-WAI section describing Kāi Tahu concerns relating to fresh water. The other three issues, though part of this set, relate to issues with management and Kāi Tahu participation and values rather than the freshwater resource itself. Those issues are addressed in the non-FPI part of the pORPS.

7.2. Out of scope submission

655. Manuherikia Catchment Group has submitted on [RMIA-WAI-I5](#).⁴³⁰ This issue is not part of the freshwater planning instrument part of the pORPS, making the submission out of scope.

7.3. General submissions

7.3.1. Submissions

656. Ngāi Tahu ki Murihiku submit in support of this chapter, subject to other amendments in its submission.⁴³¹

7.3.2. Analysis

657. No changes are required in response to this submission.

⁴²⁹ Section 62(1)(b) of the RMA

⁴³⁰ FPI005.006 Manuherikia Catchment Group (Incorporated Society)

⁴³¹ FPI042.005 Ngāi Tahu ki Murihiku

7.3.3. Recommendation

658. I do not recommend any amendments.

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

7.4.1. Submissions

659. Four submitters support the issue as notified.⁴³² DOC also supports the issue as notified, while noting this is “subject to any changes sought by Ngāi Tahu papatipu rūnaka.”⁴³³

660. Moutere Station considers that RMIA-WAI-I1 is incorrect when it indicates that all actions described have a negative impact on Kāi Tahu, and that whānau have had to switch to exotic species such as trout and salmon.

661. The submitter goes on to state: “Either mahika kai values are going to be protected or they aren’t. ORC cannot carve out particular aspects to suit certain syndicates of society. The concept of Ki Uta Ki Tai should be adopted to recognise each unique ecosystem as this is a fundamental policy in the National Freshwater Policy.”

662. Moutere Station therefore requests the following amendments:⁴³⁴

The drainage of wetlands, water abstraction, degraded water quality, barriers to fish passage and changes to flow regimes as a result of damming have had significant negative impacts on Kāi Tahu in the following areas [list the areas of concern for Kāi Tahu]. These activities may degrade the mauri of the water and the habitats and species it supports, therefore also degrading mahika kai and taoka species and places.

These changes to the environment have meant that Kāi Tahu have had to adapt and change their use of the environment. As traditional mahika kai places and species have declined, mahika kai must now be carried out in artificial habitats such as reservoirs, ~~and whānau have had to switch to exotic species such as trout and salmon.~~ The mātauraka associated with traditional mahika kai species and places cannot be passed on, and the intergenerational transfer of knowledge that has occurred for over 800 years is broken. Place names that carry tribal history are no longer reflective of their places – for example no one would now claim that the Waiareka is ‘sweet water’ to drink. However, in some areas, multi-generational farmers have strengthened the traditional mahika kai species and farm in a manner that respects Ki Uta Ki Kai. Discretion is needed to ensure that work performed to protect indigenous species is not decimated by lumping all farms together and imposing blanket rules. The landowners must be in charge of the decisions that are made on their land, within a rational and clear policy framework.

⁴³² FPI037.010 Fish & Game, FPI032.013 Te Rūnanga o Ngāi Tahu, FPI027.013 Contact Energy Limited, FPI030.013 Kāi Tahu ki Otago

⁴³³ FPI044.003 Director General of Conservation

⁴³⁴ FPI023.006 Moutere Station Ltd

663. DairyNZ opposes RMIA-WAI-I1. The submitter considers that this issue overlaps with RMIA-WAI-I3. DairyNZ requests that RMIA-WAI-I1 be deleted, and part of its content incorporated into RMIA-WAI-I3. The submitter does not specify the content that should be retained.⁴³⁵

7.4.2. Analysis

664. I appreciate that there are landowners in Otago who care deeply about their land, and I acknowledge the multi-generational investments that have been made in farm development. However, I consider that Moutere Station’s criticisms are misplaced.

665. I am uncertain what the submitter means by “carv[ing] out particular aspects”. By law, the pORPS must include resource management issues of significance to iwi authorities⁴³⁶ and this is reflected in the National Planning Standards.⁴³⁷ The purpose of these issue statements is to directly express Kāi Tahu’s concerns with resource management.

666. Issue statements identify the matters that the objectives, policies, and methods of the pORPS must address. Identifying particular areas of concern or adding caveats about discretion or decision-making does not contribute to the clear expression of the issue. Rather, it superimposes the submitter’s views on Kāi Tahu’s position.

667. The ki uta ki tai principle, which the submitter suggests adopting, is present throughout the pORPS. It is, for example, discussed at several points in the MW chapter, and is present in the objectives in the Integrated Management chapter: IM-O2 – Ki Uta Ki Tai.

668. I consider that RMIA-WAI-I1 is a direct expression of Kāi Tahu’s concerns, as is appropriate. I recommend declining Moutere Station’s submission.

669. A similar argument applies to DairyNZ’s submission. I agree that the two issues appear to traverse similar ground. My understanding is that RMIA-WAI-I1 addresses the mauri of the water resource itself, whereas RMIA-WAI-I3 addresses mahika kai. There is clear overlap in content, but the focus is different. The wording expresses the issues as Kāi Tahu has identified them, and I understand that mana whenua consider there to be an important distinction between them. Therefore, I recommend declining DairyNZ’s submission.

670. I recommend accepting all submissions supporting this provision.

7.4.3. Recommendation

671. I do not recommend any amendments.

⁴³⁵ FPI024.013 DairyNZ Limited

⁴³⁶ Resource Management Act 1991, S62(1)(b)

⁴³⁷ Ministry for the Environment. November 2019. National Planning Standards. Wellington: Ministry for the Environment, p.9

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

7.5.1. Submissions

672. Three submitters support the issue as notified.⁴³⁸ DOC also supports the issue as notified, while noting this is subject to “any changes sought by Ngāi Tahu papatipu rūnaka.”⁴³⁹

673. Kāi Tahu ki Otago seeks amendments to improve clarity and provide further explanation about the combination of factors contributing to loss of mahika kai:

Mahika kai is the gathering of foods and other resources, the places where they are gathered, and the practices used in doing so [...] It represents a significant loss for mana whenua and a diminishing of rakatirataka and of mana. Mahika kai continues to be degraded through the effects of land and water use activities on freshwater habitats. Activities such as the construction of barriers to fish passage, drainage, altered flow regimes, reduced water quality and removal of riparian vegetation all impact on access to and use of resources. Inadequate regulation of commercial fishing of tuna (eels) and inaka (whitebait) has also exacerbated the impacts of degradation and loss of habitat from land and water use activities on remaining populations of these species.⁴⁴⁰

674. Ngāi Tahu ki Murihiku seeks to amend the final sentence of the second paragraph, as follows:

It represents a significant loss for mana whenua and a diminishing of rakatirataka and of mana.⁴⁴¹

675. DairyNZ makes a submission as a corollary to its submission on RMIA-WAI-I1, to include content from that issue into RMIA-WAI-I3 (see paragraph 663).⁴⁴²

676. John Highton requests that the pORPS recognise in a separate section the cultural importance of being able to gather healthy food from a healthy environment for the general community, including whitebaiting, trout and salmon fishing, and hunting. He submits that new sections should be developed to recognise and plan for the importance of maintaining the environment for valued introduced species of game fish and game birds.⁴⁴³

7.5.2. Analysis

677. Ngāi Tahu ki Murihiku’s submission is identical to part of Kāi Tahu ki Otago’s submission, so the two may be considered together. I recommend accepting these submissions as they are a direct expression of iwi concerns, providing informed additions, and hence clarity, to the existing text.

⁴³⁸ FPI037.011 Fish & Game, FPI032.013 Te Rūnanga o Ngāi Tahu, FPI027.014 Contact Energy Limited.

⁴³⁹ FPI044.004 Director General of Conservation

⁴⁴⁰ FPI030.014 Kāi Tahu ki Otago

⁴⁴¹ FPI042.006 Ngāi Tahu ki Murihiku

⁴⁴² FPI024.014 DairyNZ Limited

⁴⁴³ FPI007.004 John Highton

678. My response to Dairy NZ's submission is recorded at paragraph 669. I recommend declining this submission.
679. John Highton raises reasonable points. However, the RMIA chapter focuses on iwi issues with resource management, so it is not the right place for the general community's concerns to be expressed, or for provisions relating to management of valued introduced species. I do not recommend any changes to this section, though I note these issues are raised in SRMR-I6, and Ms Boyd has recommended amendments to LF-FW-P7 which address this concern in part.

7.5.3. Recommendation

680. I recommend amending RMIA-WAI-I3 as follows:

Mahika kai is the gathering of foods and other resources, the places where they are gathered, and the practices used in doing so [...] It represents a significant loss for mana whenua and a diminishing of rakatirataka and⁴⁴⁴ of mana. Mahika kai continues to be degraded through the effects of land and water use activities on freshwater habitats. Activities such as the construction of barriers to fish passage, drainage, altered flow regimes, reduced water quality and removal of riparian vegetation all impact on access to and use of resources. Inadequate regulation of commercial fishing of tuna (eels) and inaka (whitebait) has also exacerbated the impacts of degradation and loss of habitat from land and water use activities on remaining populations of these species.⁴⁴⁵

⁴⁴⁴ FPI030.014 Kāi Tahu ki Otago

⁴⁴⁵ FPI030.014 Kāi Tahu ki Otago

8. LF – Land and freshwater

8.1. Introduction

681. The NPSFM sets out the national direction for managing freshwater and is underpinned by the concept of Te Mana o te Wai. Clause 1.3(1) of the NPSFM states that:

Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

682. This is the conceptual framework that has guided the development of the *LF – Land and freshwater* chapter and is a significant shift in thinking from historic freshwater management in Otago. This chapter has four sections:

- LF-WAI – Te Mana o te Wai,
- LF-VM – Visions and management,
- LF-FW – Freshwater and
- LF-LS – Land and soils

683. The LF-WAI chapter sets out the requirements for giving effect to Te Mana o te Wai in Otago and was co-developed by ORC and Kāi Tahu. This section is strategic and sits ‘above’ the remaining three sections, which must be implemented in a way that give effect to the objectives and policies in the LF-WAI section. This is in accordance with Policy 1 of the NPSFM which requires freshwater management to give effect to Te Mana o te Wai.

684. The provisions of this chapter are split between the non-FPI and FPI parts of the pORPS. At the start of the evaluation of submissions on each section of the LF chapter, I have identified which provisions are being considered under which process.

8.2. General themes

685. There are a number of general submissions on the *LF – Land and freshwater* chapter as well as more general submissions on the habitat of trout and salmon. This section addresses those two topics.

8.2.1. General submissions

8.2.1.1. Submissions

686. DOC generally supports the LF chapter as notified, except where specific changes are requested elsewhere in their submission.⁴⁴⁶

⁴⁴⁶ FPI044.024 DOC

687. Ngāi Tahu ki Murihiku generally supports the LF chapter and seeks that the content of the chapter is retained, subject to the amendments set out in relation to specific provisions, and consistent with the amendments sought by Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu.⁴⁴⁷
688. Horticulture NZ supports Kāi Tahu ki Otago’s position that each waterway has its own mauri, and as such, each waterway should be approached individually when assessing freshwater outcomes and limits.⁴⁴⁸
689. Beef + Lamb and DINZ oppose the entire LF chapter and request that it be redrafted with the necessary research, analysis, and evaluation to understand Otago’s soil and water resources.⁴⁴⁹ In summary, they consider that the pORPS:
- a. Should add clarity and substance to the direction in national level regulation like the RMA, not simply repeat it.
 - b. Should address gaps in the framework around NPSFM, as the pORPS does not refer to identification of values which is required for environmental outcomes and definition of over-allocation.
 - c. Distances humans from Te Taiao nature, rather than recognising humans as an inextricable part of it, not just influence on it, through ki uta ki tai.
 - d. Should be formed around the foundation of resilience.
 - e. Should place biodiversity at the heart of environment management, including regulation and people.
 - f. Better align the LF chapter with the NPSFM and National Policy Statement for Highly Productive Land (NPSHPL).
690. OWRUG considers that the LF section of the pORPS should set out a framework for setting timeframes to achieve long-term visions over a transition period, which can be used in the development of the regional plan. They also consider that this framework should allow time for the food and fibre sector to adjust at a rate that accounts for the potentially significant impacts on their social, economic and cultural well-being.⁴⁵⁰ This is opposed by the further submission of Kāi Tahu ki Otago on the basis that transition timeframes are more appropriately considered through the LWRP process.⁴⁵¹

8.2.1.2. Analysis

691. Noting that I have recommended amendments to many provisions in the LF chapter, I recommend accepting in part the submissions by DOC and Ngāi Tahu ki Murihiku supporting the chapter.
692. While I agree that taking a water-body-specific approach to management can be appropriate, Otago has many thousands of water bodies and it would be extremely time and resource intensive to develop outcomes and limits for each one. Decisions about the

⁴⁴⁷ FPI042.007 Ngāi Tahu ki Murihiku

⁴⁴⁸ FPI047.05 Horticulture NZ

⁴⁴⁹ FPI025.013, 014, 015, 017, 023, 033, 034, 035, 036, 037, 038, 039 Beef + Lamb and DINZ

⁴⁵⁰ FPI043.003 OWRUG

⁴⁵¹ FSFPI030.083 Kāi Tahu ki Otago

appropriate spatial scale for environmental outcomes and limits are best made in the LWRP which is the primary vehicle for implementing the NOF. I do not recommend accepting the submission point by Horticulture NZ.

693. Although Beef + Lamb and DINZ seeks that the LF chapter in its entirety is redrafted, they do not provide this drafting and I am unsure what they consider to be “the necessary research, analysis, and evaluation to understand Otago’s soil and water resources.” Additionally, only parts of the LF chapters are part of the FPI and therefore within the scope of this process.
694. I acknowledge that in some cases, parts of higher order documents are repeated. That is generally a result of having so little discretion to deviate from the higher order document in the pORPS that it would not be efficient to attempt to rephrase the direction. I consider that is a pragmatic approach.
695. I disagree that the pORPS does not refer to the identification of values. LF-FW-M6(1) requires that ORC’s Land and Water Regional Plan:
- Identify the compulsory and, if relevant, other values for each Freshwater Management Unit*
696. I am unsure what particular provisions the submitter considers distance humans from te taiao. The focus of the LF chapter is on land and freshwater resources and therefore the focus in the provisions is primarily on those resources. However, there are many references to people throughout the chapter, including:
- a. The health needs of people and the ability of people and communities to provide for their social, economic, and cultural well-being in LF-WAI-P1,
 - b. Recognising and giving practical effect to Kāi Tahu rakatirataka in LF-WAI-P2 and LF-WAI-M2,
 - c. The freshwater visions, which include outcomes relating to human contact and food production, in LF-VM-O2 to LF-VM-O6,
 - d. The requirement for ORC to work with Kāi Tahu and communities to achieve the objectives and policies of the LF-VM chapter in LF-VM-M3,
 - e. Setting primary contact targets in LF-FW-P7(3), and
 - f. Providing for public access to and along lakes and rivers in LF-LS-P22.
697. Resilience is defined in the pORPS as “the capacity and ability to withstand or recover quickly from adverse conditions.” I consider that resilience is inherent in the concept of Te Mana o te Wai. The social, cultural, and economic well-being of people and communities will not be resilient without the foundation of a healthy environment, including water. The health and well-being of water bodies and freshwater ecosystems is about more than just their ecological health and will, in my view, include resilience.
698. It is not clear to me whether the submitter is referring to freshwater biodiversity specifically in its submission or the wider biodiversity of the environment, which is a matter addressed in the ECO chapter primarily. In my view, the pORPS has a strong focus on biodiversity and does place it at the heart of environmental management – a position that has been opposed by a range of submitters.

699. I agree the LF chapter must give effect to the NPSFM (to the extent it can) and the recent amendments to that document (insofar as there is scope within the process to do so). I also agree that it must give effect to the NPSHPL, which I note was gazetted some time after the preparation of the pORPS. Throughout this chapter, including both FPI and non-FPI provisions, I have recommended a range of amendments that seek to improve implementation of the NPSFM and NPSHPL. For this reason, I recommend accepting the submission point by Beef + Lamb and DINZ in part. The submitter may wish to clarify in evidence the specific relief it seeks in relation to these wider submission points.
700. I agree with OWRUG that transition timeframes are vital for the well-being of Otago's communities, especially where achieving freshwater visions will require significant change to resource use and practices. I am not convinced the pORPS is the appropriate vehicle for these timeframes. Clause 3.3 of the NPSFM requires long-term visions for freshwater to be included in regional policy statements as objectives. In this case, the visions are set out in **LF-VM-O2 to LF-VM-O6**. Those visions contain "ambitious and reasonable" timeframes, in accordance with the NPSFM. The next 'layer' in the NOF process is the identification of values and development of environmental outcomes for those values. There is no specific direction about where identified values must be set out, however clause 3.9(4) requires the environmental outcomes for the values to be included as objectives in regional plans.
701. Clause 3.9(5)(a) requires that, when achieved, environmental outcomes fulfil the relevant long-term visions in the RPS as well as the objective of the NPSFM. Attributes must be identified for each value as well as their baseline states. Clause 3.11 outlines the process for identifying target attribute states, which are the state of the attribute that needs to be achieved in order to fulfil the associated environmental outcomes (and therefore freshwater visions). Baseline states are therefore the 'start point' and target attribute states the 'end point'. In my view, it is the difference between these two states that will inform what an appropriate transition timeframe is. Clause 3.11(6) states that timeframes for achieving target attribute states may be of any length or period but, if long-term, they must include interim target attribute states set for intervals of not more than 10 years.
702. I consider these are the relevant transition timeframes OWRUG is referring to and that it is clear from the NPSFM these are to be established in regional plans. ORC is still in the process of developing environmental outcomes, identifying attributes, and setting both baseline and target attribute states. Until those steps of the NOF have been completed, I do not consider it is practical to attempt to determine what an appropriate transition timeframe is. I do not recommend accepting this submission point.

8.2.1.3. Recommendation

703. I do not recommend any amendments.

8.2.2. Habitats of trout and salmon

8.2.2.1. Introduction

704. Fish and Game considers that the pORPS fails to give effect to the directions regarding the habitats of trout and salmon set out in section 7 of the RMA and Policies 9 and 10 of the NPSFM. The submitter seeks a range of amendments to provisions on this basis.
705. Fish and Game notes that sports fish and game birds are highly valued by many New Zealanders and international tourists as sources of food and recreational opportunities. The submitter states that these species are also highly valued by some Māori, who see them as an expression of evolving culture in the wake of diminished traditional mahika kai resources.

8.2.2.2. Submissions

706. Fish and Game considers that there are cases where the protection of trout and salmon habitat is consistent with protection of habitat of indigenous species. For example, the protection of an area that is habitat to both trout and eel will improve water quality and quantity of habitat for both species. Therefore, Fish and Game seeks relief that achieves two key points:⁴⁵²
- a. protects water bodies and freshwater ecosystems (including the habitat of trout and salmon) from the impacts of land use and restores them where they are degraded, and
 - b. develops a framework for considering when protecting the habitat of trout and salmon is consistent with protecting the habitat of indigenous species and assists in managing species interactions where they are of concern.
707. Fish and Game also seeks to provide protection for the wide range of Otago ecosystems and habitats by deleting the words “indigenous” and “native” from the FPI provisions where it is not logical.⁴⁵³
708. John Highton seeks unspecified amendments to provide for valued introduced species, the protection of their habitat, and the need for migration to maintain healthy populations.⁴⁵⁴

8.2.2.3. Analysis

709. I agree with Fish and Game that there are cases where protecting the habitats of trout and salmon is consistent with protecting the habitat of indigenous species, particularly in relation to water quality. However, I understand that trout have caused widespread reductions in the distribution and abundance of galaxiid fish, most of which are threatened. While there are likely to be many instances where protecting the *habitat* of trout and salmon is consistent with protecting the *habitat* of indigenous species, this does not extend to their interactions. There will be situations where the issue between these species is due to their presence, not their habitat needs. I understand this is what Fish and Game refers to when

⁴⁵² FPI037.049 Fish and Game, FPI037.052 Fish and Game

⁴⁵³ FPI037.051 Fish and Game

⁴⁵⁴ FPI007.063 John Highton

they talk about “species interactions.” There is no definition of “habitat” in the RMA, NPSFM, or pORPS and it is not clear whether this is intended to address both biotic (living, such as organic matter and other living things) and abiotic (non-living, such as physical environment) factors.

710. I have recommended an amendment to LF-FW-P7 to include a new clause (2A): the habitats of trout and salmon are protected insofar as this is consistent with clause (2) (which requires protecting the habitats of indigenous species). In the non-FPI part of the pORPS, I have recommended including a new method (LF-FW-M8A). I consider that these amendments address the concerns raised by Fish and Game and recommend accepting this submission point in part.

711. I consider that my amendments go some way in addressing John Highton’s submission point. However, I refer to my earlier concerns regarding the migration of exotic species and their impacts on indigenous species. For that reason, I recommend accepting this submission in part.

8.2.3. Recommendation

712. I do not recommend any amendments, other than those recommended elsewhere in this report.

8.3. LF-WAI – Te Mana o te Wai

8.3.1. Introduction

713. This section of the LF – Land and freshwater chapter expresses what Te Mana o te Wai means in Otago, and what it requires of any resulting freshwater management framework. This chapter responds directly to the direction in the NPSFM, particularly the objective and Policy 1, and the fundamental concept of Te Mana o te Wai. Objective LF-WAI-O1 sets out the Kāi Tahu expression of Te Mana o te Wai in Otago, in accordance with policy 1 and clause 3.2(1) of the NPSFM, by requiring that the mauri of waterbodies is protected, reflecting on the key values associated with wai.

714. Policy LF-WAI-P1 reflects the prioritisation required in freshwater management and builds on the foundation set by the objective in the NPSFM. The remaining policies are part of the non-Freshwater Planning Instrument hearing process. Policy LF-WAI-P2 describes how Kāi Tahu rakatirataka will be exercised in freshwater management, guided by the 6 principles encompassed by Te Mana o te Wai. LF-WAI-P3 details the concept of ki uta ki tai, being a holistic approach to managing freshwater resources, recognising the wider environment they are in. It captures several matters covered by policies in the NPSFM, including Policy 3 (integrated management) and Policy 4 (integrated response to climate change). LF-WAI-P4 sets out that the preceding objective and policies are fundamental to upholding Te Mana o te Wai, and must be given effect to when making decisions affecting freshwater. LF-WAI-P4 specifically identifies that the LF-WAI provisions must be given effect to when interpreting and applying the provisions of the LF chapter.

715. LF-WAI-M1 provides guidance for the regional council on the partnership with Kāi Tahu, while LF-WAI-M2 provides similar guidance as LF-WAI-P4, although is specific to methods in the LF chapter.

716. The relevant provisions for this section are:

LF-WAI-O1 – Te Mana o te Wai
LF-WAI-P1 – Prioritisation
LF-WAI-P2 – Mana whakahaere
LF-WAI-P3 – Integrated management / ki uta ki tai
LF-WAI-P4 – Giving effect to Te Mana o te Wai
LF-WAI-M1 – Mana whenua involvement
LF-WAI-M2 – Other methods
LF-WAI-E1 – Explanation
LF-WAI-PR1 – Principal reasons
LF-WAI-AER1
LF-WAI-AER2

8.3.2. Links with non-FPI provisions

717. LF-WAI-O1 is the sole objective of the LF-WAI chapter and it will be important that the chapter's policies, which span both parts of the pORPS, continue to work together as a cohesive suite. LF-WAI-P4 states that:

All persons exercising functions and powers under this regional policy statement and all persons who use, develop or protect resources to which this regional policy statement applies must recognise that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding Te Mana o te Wai, and must be given effect to when making decisions affecting freshwater, including when interpreting and applying the provisions of the LF chapter.

718. This means that all of the subsequent LF provisions across the LF-VM, LF-FW and LF-LS sections must give effect to the LF-WAI provisions. Although subject to hearing through a separate process, LF-WAI-P2 to P4 and the LF-WAI methods will need to consider any amendments to LF-WAI-O1 to ensure the provisions work together as a suite.

8.3.3. General

8.3.3.1. Submissions

719. Fish and Game supports the LF-WAI section, subject to relief sought in relation to specific provisions.⁴⁵⁵

720. DCC seeks general amendments to align the CE chapter more closely with the LF-WAI section where appropriate.⁴⁵⁶ The submitter considers that these changes will ensure that the

⁴⁵⁵ FPI037.058 Fish and Game

⁴⁵⁶ FPI001.005 DCC

aspects of the LF-WAI sections that are relevant to the coastal environment and coastal waters are clearly articulated in the CE chapter to provide clarity.

8.3.3.2. Analysis

721. In its submission, DCC notes that the LF-WAI section includes references to coastal waters and the NZCPS, and states that stormwater and wastewater service providers often consider infrastructure and activity options that could impact either fresh or coastal water, or both. The relief sought is to align the CE chapter more closely with the LF-WAI section if and where appropriate. In particular, the submitter considers that the parts of LF-WAI that are relevant to the coastal environment should be clearly articulated in the CE chapter.
722. I agree that there should be consistency across fresh and coastal water, particularly in relation to stormwater and wastewater discharges. Inconsistencies can result in perverse outcomes – for example, if policy direction for managing freshwater resources is to avoid particular types of discharges to fresh water but there is no equivalent direction in relation to coastal water, users may be incentivised to discharge to coastal water in preference to fresh water rather than finding an alternative method of discharge that would better support the health and well-being of both fresh and coastal waters.
723. I note that Kāi Tahu ki Otago has raised this issue in its non-FPI submission and specifically highlights the inconsistency between the CE and LF chapters when it comes to the management of wastewater and stormwater discharges. In my view, it would be preferable for a consistent approach to be adopted across the two chapters. That would adopt a ki uta ki tai approach to the management of water. However, the CE chapter is not within the scope of the FPI or the freshwater planning process and I am therefore not able to make any recommendations in relation to CE provisions.

8.3.3.3. Recommendation

724. I do not recommend any amendments.

8.3.4. LF-WAI-O1 – Te Mana o te Wai

8.3.4.1. Introduction

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

LF-WAI-O1 – Te Mana o te Wai

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

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

- (3) each *water body* has a unique whakapapa and characteristics,
- (4) *water* and *land* have a connectedness that supports and perpetuates life, and
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their *kaitiakitaka* duty of care and attention over wai and all the life it supports.

8.3.4.2. Submissions

726. Seven submitters support LF-WAI-O1 and seek that it be retained as notified.⁴⁵⁷ Several submitters seek changes to the chapeau of the objective.

727. COWA, OWRUG and Federated Farmers have concerns that the focus on mauri in the objective is incorrect, does not accurately reflect the requirements of the NPSFM and is difficult to assess in practice. OWRUG considers that the chapeau of the objective is not a faithful articulation of the fundamental concept of Te Mana o te Wai as set out in the NPSFM, which recognises that protecting the health of freshwater protects the health and wellbeing of the wider environment and protects the mauri of the water – a “water-centric” concept. OWRUG considers that mauri is an inappropriate measure for the achievement of LF-WAI-O1 because of the difficulties in assessing it. OWRUG also states that the term “restore” is not used in the same way as it is used in the NPSFM, which creates uncertainties regarding the point in time restoration must ‘go back to’.

728. COWA and OWRUG seek the following amendments to the chapeau:

The mauri health and wellbeing of Otago’s water bodies and their health and wellbeing is protected, and restored improved where it is degraded, and the management of land and water recognises and reflects that:⁴⁵⁸

729. This relief is opposed in the further submissions of Fish and Game, Kāi Tahu ki Otago, and Forest and Bird.⁴⁵⁹

730. DairyNZ seeks similar changes to those put forward by OWRUG, and with the following wording put forward:⁴⁶⁰

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

731. DairyNZ considers that the objective is too vague and unspecific, and that terms such as mauri do not have a broadly understood meaning. The submitter considers that it is not appropriate to use the term ‘mauri’ as a measure of achievement, as it is not defined in the pORPS and is difficult to assess.

732. NZSki and Realnz seek to replace the term ‘protected’ with ‘maintained’ but do not provide reasons. Fonterra and Oceana Gold seek to replace the term ‘restored’ with ‘improved’.⁴⁶¹

⁴⁵⁷ FPI045.005 Fish and Game, FPI046.003 QLDC, FPI001.006 DCC, FPI022.003 Manawa Energy, FPI007.005 John Highton, FPI021.001 Ballance, FPI035.001 Wise Response

⁴⁵⁸ FPI043.051 OWRUG, FPI009.003 COWA

⁴⁵⁹ FSFPI037 Fish and Game, FSFPI030 Kāi Tahu ki Otago, FSFPI045 Forest and Bird

⁴⁶⁰ FPI024.015 DairyNZ

⁴⁶¹ FPI019.003 Fonterra, FPI031.003 Oceana Gold

The relief sought by Oceana Gold is opposed in the further submission of Forest and Bird.⁴⁶² Silver Fern Farms seeks that 'restoration is promoted', as restoration of degraded mauri may not always be practicable.⁴⁶³ Silver Fern Farms considers that this wording aligns more closely to policy LF-FW-P7(1) which requires the improvement of water bodies with degraded water quality. This relief is opposed in the further submissions of Fish and Game, Forest and Bird, and the Minister for the Environment.⁴⁶⁴

733. Federated Farmers seeks the following:

The mauri of Otago's significant and highly-valued natural resources are identified and protected, or enhanced where water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that restores the balance between water, the wider environment, and the community, by recognising that:⁴⁶⁵

734. The relief sought by Federated Farmers is opposed in the further submissions of DOC, Fish and Game, and Kāi Tahu ki Otago.⁴⁶⁶

735. Contact proposes the following wording for the chapeau of LF-WAI-O1, as part of a suite of amendments to ensure that the objective gives effect to the NPSFM and is drafted as an objective, rather than a list of policies:⁴⁶⁷

The mauri of Otago's water bodies and their health and well-being is protected, and the balance between the water, the wider environment, and the community is restored and preserved, improved where it is degraded, and the management of land and water recognises and reflects that:

736. Alongside this amendment, Contact seeks the deletion of all the clauses of LF-WAI-O1.⁴⁶⁸ The relief sought by Contact is opposed in the further submission of Forest and Bird,⁴⁶⁹ and opposed in part by Horticulture NZ which seek that the requested amendment to replace 'improved' with 'preserved' be rejected.⁴⁷⁰ Oceana Gold support Contact's requested amendments regarding balancing interests.⁴⁷¹

737. DairyNZ seeks a minor change to clause (2) as set out below, to provide greater clarity for plan users:⁴⁷²

(2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting the past, present and future,

⁴⁶² FSFPI045 Forest and Bird

⁴⁶³ FPI020.010 Silver Fern Farms

⁴⁶⁴ FSFPI037 Fish and Game, FSFPI045 Forest and Bird, FSFPI012 Minister for the Environment

⁴⁶⁵ FPI026.018 Federated Farmers

⁴⁶⁶ FSFPI037 Fish and Game, FSFPI045 Forest and Bird, FSFPI044 DOC

⁴⁶⁷ FPI027.015 Contact

⁴⁶⁸ FPI027.015 Contact

⁴⁶⁹ FSFPI045 Forest and Bird

⁴⁷⁰ FSFPI047 Horticulture NZ

⁴⁷¹ FSFPI031 Oceana Gold

⁴⁷² FPI024.015 DairyNZ

738. Several submitters consider that clause (4) should refer to the connectedness of fresh and coastal waters, as well as land, rather than only including land and fresh water.⁴⁷³ This relief is supported in the further submissions of DOC, Fish and Game, Forest and Bird, Oceana Gold, and the Minister for the Environment.⁴⁷⁴
739. Meridian seeks the addition of a new clause related to hydro-electricity generation:⁴⁷⁵
- (x) Freshwater management and hydro- electricity generation is part of New Zealand’s integrated response to climate change
740. Meridian considers that the list of matters that LF-WAI-O1 recognises and reflects should capture the value of freshwater management and hydroelectricity generation in terms of climate change response, given the direction on renewable electricity in the NPSREG and NPSFM. This relief is opposed in the further submissions of Fish and Game, Forest and Bird and Kāi Tahu ki Otago.⁴⁷⁶
741. Fonterra and OWRUG seek the addition of a new clause as follows:⁴⁷⁷
- (x) protecting the health and well-being of water protects the wider environment and the mauri of water,
742. Fish and Game also seeks the addition of a new clause.⁴⁷⁸
- (x) people are enabled to use, enjoy and connect meaningfully with water bodies to further their amenity and well being, including through recreation and harvesting food, and
743. The submitter seeks greater recognition of the way people connect with water bodies, including recreation in and around water, and harvesting food from water bodies. This new clause is opposed in the further submission of Fonterra.⁴⁷⁹
744. Several parties seek the addition of a new clause relating to stewardship, with the following wording sought:⁴⁸⁰
- (x) all people and communities have a responsibility to exercise stewardship, care, and respect in the management of fresh water.
745. This relief is supported in the further submissions of Forest and Bird, Oceana Gold and Otago Forestry Companies.⁴⁸¹

⁴⁷³ FPI019.003 Fonterra, FPI032.014 Te Rūnanga o Ngāi Tahu, FPI030.015 Kāi Tahu ki Otago, FPI044.005 DOC, FPI042.08 Ngāi Tahu ki Murihiku

⁴⁷⁴ FSFPI044 DOC, FSFPI037 Fish and Game, FSFPI045 Forest and Bird, FSFPI031 Oceana Gold, FSFPI012 Minister for the Environment

⁴⁷⁵ FPI016.010 Meridian

⁴⁷⁶ FSFPI037 Fish and Game, FSFPI045 Forest and Bird, FSFPI030 Kāi Tahu ki Otago

⁴⁷⁷ FPI019.003 Fonterra, FPI043.051 OWRUG

⁴⁷⁸ FPI037.012 Fish and Game

⁴⁷⁹ FSFPI019 Fonterra

⁴⁸⁰ FPI019.003 Fonterra, FPI037.012 Fish and Game, FPI032.014 Te Rūnanga o Ngāi Tahu, FPI030.015 Kāi Tahu ki Otago, FPI044.005 DOC

⁴⁸¹ FSFPI045 Forest and Bird, FSFPI031 Oceana Gold, FSFPI036 Otago Forestry Companies

8.3.4.3. Analysis

746. A number of submitters raise issues with the reference to mauri in LF-WAI-O1. In particular, COWA and OWRUG consider that the focus on mauri is incorrect and does not reflect the requirements of the NPSFM. Clause 1.3(1) of the NPSFM states (my emphasis added):

“Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai.”

747. In my view, protecting the mauri of the wai is described as the outcome of applying the concept of Te Mana o te Wai. I consider that the requirement in LF-WAI-O1 to protect the mauri of Otago’s water bodies is therefore consistent with the NPSFM.

748. The relationship of Kāi Tahu ki Otago to water is set out in LF-WAI-E1. I consider the full explanation is important for understanding this relationship. The paragraphs below specifically address mauri (with the amendments I have recommended shown in tracks):

...The mana of wai is sourced from the time of creation and the work of kā Atua, invoking a reciprocal relationship with mana whenua based in kawa, tikaka (customary practices or values)⁸²⁵ and respect for water’s life-giving powers and its sanctity.

The kinship connection engenders a range of rights and responsibilities for mana whenua, including rakatirataka rights and the responsibility of kaitiakitaka. Kaitiakitaka encompasses a high duty to uphold and maintain the mauri (life-force)⁸²⁶ of the wai. If the mauri is degraded it has an impact not only on the mana of the wai but also on the kinship relationship and on mana whenua. The mauri expresses mana and connection, which can only be defined by mana whenua. Recognising rakatirataka enables mana whenua to enjoy their rights over water bodies and fulfil their responsibilities to care for the wai and the communities it sustains.

The condition of water is seen as a reflection of the condition of the people - when the wai is healthy, so are the people. Kawa and tikaka have been developed over the generations, based on customs and values associated with the Māori world view that span the generations., recognising and honouring ~~Implementing te mana~~ Te Mana o te wai ~~and upholding~~ upholds the mauri of the wai and is consistent with this value base.⁸²⁷

749. The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga is a matter of national importance under section 6(e) of the RMA. All persons exercising functions and powers under the RMA must have particular regard to kaitiakitaka under section 7(a) and take into account the principles of Te Tiriti o Waitangi under section 8.

750. The Kāi Tahu ki Otago Natural Resources Management Plan 2005 states that:

The primary management principle for Māori is the protection of mauri or life-giving essence of an ecosystem from desecration. (section 3.2, p.27)

751. In relation to LF-WAI-O1, the submission by Kāi Tahu ki Otago states:

The objective appropriately recognises and reflects the relationship of Kāi Tahu ki Otago to freshwater.

752. Finally, although it has no statutory weight nor any legal standing, I note that MfE's *Guidance on the National Objectives Framework of the National Policy Statement for Freshwater Management 2020*⁴⁸² states that "[c]ause 1.3 sets out the fundamental concept of Te Mana o te Wai [and] requires that the needs and mauri of water drive freshwater-management decisions" (p.16).
753. On this basis, I do not agree with COWA and OWRUG that the use of mauri in LF-WAI-O1 is incorrect or that it does not reflect the requirements of the NPSFM. In my view, the use of mauri is deliberate and seeks to give effect to the NPSFM in a way that recognises the particular relationship between Kāi Tahu and water as well as the statutory requirements in sections 6 to 8 of the RMA. I do not recommend accepting these parts of the submission points.
754. DairyNZ also seeks to delete the reference to mauri and considers that mauri is not an appropriate measure of achievement as it is not defined and is difficult to assess. Many things are difficult to assess and this does not, alone, make them inappropriate. For example, natural character, which is a matter of national importance under section 6. I have recommended an additional clause be added to LF-WAI-M1 which would require ORC and Kāi Tahu, in partnership, to develop a Kaupapa Kāi Tahu monitoring programme and to facilitate the use of mātauraka to inform freshwater management decision-making processes, methods and outcomes, in combination with environmental science. I consider this amendment addresses, in part, the concern raised by DairyNZ. I do not recommend accepting this submission point.
755. I do not agree with the amendments sought by NZSki and RealNZ to refer to "maintaining" mauri rather than "protecting." I do not consider that mauri is something to be 'maintained' and I note that both the Kāi Tahu ki Otago Natural Resources Management Plan and NPSFM refer to protection of mauri. I do not recommend accepting these parts of the submission points.
756. The term 'restored' is used in relation to the mauri of water bodies as well as their health and well-being. I do not consider that 'improve', as sought by Fonterra and Oceana Gold, is an appropriate term to use in relation to mauri. I note that the compulsory value for mahinga kai in Appendix 1A of the NPSFM uses the following language: "the mauri of the place is intact." In my view, that is a more accurate description of mauri – it is not something that can be 'improved', it is either intact or lost. In the case of the latter situation, restoration is the required action. I consider that the amendment I have recommended to LF-WAI-M1 for the development of a Kaupapa Kāi Tahu monitoring programme will assist with improving understanding of mauri and how it is understood, including changes to its state over time. I do not recommend accepting the submission points by Fonterra and Oceana Gold.
757. In response to Silver Fern Farms, I note that LF-FW-P7 is specific to the setting of environmental outcomes, attribute states, and limits as required by the NOF. There are many other aspects of freshwater management not addressed through those provisions that

⁴⁸² <https://environment.govt.nz/assets/publications/NOF-Guidance-ME1658-Final-28.7.pdf>

contribute to the mauri, and the health and well-being, of Otago's water bodies. As described above in relation to the Fonterra and Oceana Gold submissions, given the scope of LF-WAI-O1 and that mauri is either intact or lost, I consider that it is appropriate that restoration is required, not only promoted. I do not recommend accepting the submission point by Silver Fern Farms.

758. I consider there are two main consequences of Federated Farmers' proposed amendments to the chapeau of LF-WAI-O1 that would result in the provision not giving effect to the NPSFM. Firstly, the amendments would restrict the application of Te Mana o te Wai to only "significant and highly-valued natural resources". That is not consistent with the objective of the NPSFM which is to "ensure that natural and physical resources are managed in a way that..." [my emphasis added]. There is no significance test in the objective of the NPSFM that would narrow its application to only significant or highly-valued natural resources and it is clear that the management of physical resources is also a component of giving effect to Te Mana o te Wai.
759. Secondly, while I accept that clause 1.3 of the NPSFM refers to "restoring and preserving the balance between the water, the wider environment, and the community", it uses this phrasing to describe the outcome of Te Mana o te Wai. In my view, that is more holistic than identifying and protecting or enhancing significant and highly-valued natural resources. The further submission of Kāi Tahu ki Otago opposes the relief sought by Federated Farmers on the basis that it misinterprets the reference in the NPSFM to "restoring and preserving the balance between the water, the wider environment, and the community."⁴⁸³ I agree with Kāi Tahu ki Otago. I do not recommend accepting the submission point by Federated Farmers.
760. Contact considers that clauses (1) to (5) create a list of policies and seeks to delete them. I agree that this objective is not solely focused on outcomes and in some places sets out more procedural considerations. That is an inherent difficulty in the NPSFM requirement to prepare an objective for a concept that is essentially a decision-making framework. My understanding is that Te Mana o te Wai is the 'how' rather than the 'what' – it sets the foundation for all freshwater management, and it is the long-term visions for freshwater which then set out the outcomes sought in the environment. In my view, the chapeau and the clauses must work together – i.e. it is only a framework underpinned by the principles in (1) to (6) that will achieve the physical outcomes sought for fresh water. I do not recommend accepting the submission point by Contact.
761. OWRUG seeks to include a new clause at the beginning of the list of clauses to highlight that protecting the health and well-being of water protects the wider environment and the mauri of water. I consider this is consistent with the description of Te Mana o te Wai in clause 1.3 of the NPSFM and assists with clarifying how mauri is to be protected. I recommend accepting this submission point. However, I consider the clause is best inserted between clauses (4) and (5) rather than first in the list. The order is deliberate and generally moves from past foundations through to the present day.
762. I consider the amendment sought by DairyNZ to clause (2) is minor and improves the clarity of the clause without altering its meaning. I recommend accepting this submission point.

⁴⁸³ FSFPI030 Kāi Tahu ki Otago

763. I agree with Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, Te Rūnanga o Ngāi Tahu, DOC, and Fonterra that clause (4) should include reference to coastal water along with fresh water and land. This is consistent with the requirement in clause 3.5 of the NPSFM to adopt an integrated approach that recognises the interactions between freshwater, land, water bodies, ecosystems, and receiving environments. I recommend accepting these submission points.
764. Meridian seeks to include an additional clause relating to hydro-electricity generation. I do not consider that is an appropriate addition. As described above, the matters in clauses (1) to (6) are principles to underpin a management framework and do not address the use of natural or physical resources. Contact and Manawa Energy have sought greater recognition of hydro-electricity in LF-FW-P7 and I have recommended an amendment to that policy in response. I consider this addresses the submission point by Meridian and recommend accepting it in part.
765. Fish and Game seeks to include a new clause focused on enabling people to use, enjoy and connect meaningfully with water bodies. They consider that it is important for the pORPS to recognise the ability for people to interact with water bodies in a meaningful way and highlight in their submission that when the environment is healthy, people are able to contribute to their health and well-being needs by connecting with the environment. Fish and Game also state that if the environment is unhealthy, these opportunities diminish and many water bodies in Otago now fail to provide for those opportunities that are valued by New Zealanders.
766. I am not convinced that a new clause providing for use of water bodies by people accurately reflects the tenor and intent of the objective. However, I agree with the points made by Fish and Game that the health of the environment, including fresh water, affects the health and well-being of people and communities and their ability to connect with water. I have recommended including a clause in my new recommended objective LF-FW-O1A that I consider addresses this submission point. That discussion can be found in 8.4.2 of this report.
767. Kāi Tahu ki Otago, Ngāi Tahu ki Murihiku, Te Rūnanga o Ngāi Tahu, and Fonterra seek the addition of a new clause recognising that all people and communities have responsibilities in relation to freshwater management. I agree that this is consistent with the principles set out in clause 1.3(4) of the NPSFM and recommend accepting these submission point.

8.3.4.4. Recommendation

768. I recommend the following amendments:

LF-WAI-O1 – Te Mana o te Wai

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

- (1) *water* is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,

- (2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship ~~endures through time, connecting~~ connects⁴⁸⁴ past, present and future,
- (3) each *water body* has a unique whakapapa and characteristics,
- (4) *fresh water, and land, and coastal water*⁴⁸⁵ have a connectedness that supports and perpetuates life, ~~and~~
- (4A) protecting the health and well-being of water protects the wider environment and the mauri of water,⁴⁸⁶
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their *kaitiakitaka* duty of care and attention over wai and all the life it supports, ~~and~~
- (6) all people and communities have a responsibility to exercise stewardship, care and respect in the management of *fresh water*.⁴⁸⁷

8.3.5. LF-WAI-P1 – Prioritisation

8.3.5.1. Introduction

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

LF-WAI-P1 – Prioritisation

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

- (1) first, the health and well-being of *water bodies* and *freshwater* ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of *mana whenua* to uphold these,⁴⁸⁸
- (2) second, the health and well-being needs of people, te hauora o te tangata; interacting with *water* through ingestion (such as *drinking water* and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

⁴⁸⁴ FPI024.015 DairyNZ

⁴⁸⁵ FPI019.003 Fonterra, FPI032.014 Te Rūnanga o Ngāi Tahu, FPI030.015 Kāi Tahu ki Otago, FPI044.005 DOC, FPI042.08 Ngāi Tahu ki Murihiku

⁴⁸⁶ FPI043.051 OWRUG, FPI019.003 Fonterra

⁴⁸⁷ FPI019.003 Fonterra, FPI037.012 Fish and Game, FPI032.014 Te Rūnanga o Ngāi Tahu, FPI030.015 Kāi Tahu ki Otago, FPI044.005 DOC

⁴⁸⁸ In matters of mana, the associated spiritual and cultural responsibilities connect natural resources and *mana whenua* in a kinship relationship that is reciprocal and stems from the time of creation.

8.3.5.2. Submissions

770. Five submitters support LF-WAI-P1 and seek that it be retained as notified.⁴⁸⁹ The remaining submitters seek amendments to the provisions which I have grouped by theme and addressed accordingly.

General submissions

771. COWA seeks that LF-WAI-P1 is amended to reflect the objective of the NPSFM, on the basis that the notified wording does not accurately reflect the prioritisation matrix in the NPSFM objective, nor does it reflect any policies in the NPSFM.⁴⁹⁰

772. Several submitters seek that the chapeau be amended to refer to “all decision-making affecting freshwater” rather than “all management of fresh water”.⁴⁹¹

Clause (1) – first priority

773. DairyNZ, Federated Farmers, Fonterra and OWRUG all seek to remove the references to te hauora o te wai and te hauora o te taiao from clause (1).⁴⁹² The submitters seek the amendment to align LF-WAI-P1 with the hierarchy of obligations set out in the NPSFM and remove the use of terms that the submitters consider are not widely understood.

774. Kāi Tahu ki Otago seeks a minor amendment to clause (1) to clarify the relationship between te hauora o te wai and to te hauora o te taiao. Ravensdown and Ballance seek a similar amendment for the same reasons. Ballance also seeks an additional amendment to clarify the reference to the exercise of mana whenua. The wording sought by these submitters is:

a. Kāi Tahu ki Otago:⁴⁹³

(1) first, the health and well-being of water bodies, freshwater ecosystems, te hauora o te wai, and the contribution of this to te hauora o te taiao, and the exercise of mana whenua to uphold these,

b. Ravensdown and Ballance:⁴⁹⁴

(1) first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and the connections te hauora o te taiao, and together with the exercise of mana whenua to uphold these

775. Contact seeks to include ‘connections’ in the same way as Ravensdown and Ballance, and similarly seek to replace ‘and’ with ‘as well as’.⁴⁹⁵

⁴⁸⁹ FPI020.011 Silver Fern Farms, FPI032.015 Te Rūnanga o Ngāi Tahu, FPI008.023 Greenpeace, FPI007.006 John Highton, FPI035.002 Wise Response

⁴⁹⁰ FPI009.004 COWA

⁴⁹¹ FPI024.016 DairyNZ, FPI027.016 Contact, FPI019.004 Fonterra, FPI012.003 Minister for the Environment, FPI017.004 Ravensdown, FPI021.002 Ballance

⁴⁹² FPI024.016 DairyNZ, FPI026.019 Federated Farmers, FPI019.004 Fonterra, FPI043.052 OWRUG

⁴⁹³ FPI030.016 Kāi Tahu ki Otago

⁴⁹⁴ FPI017.004 Ravensdown, FPI021.002 Ballance

⁴⁹⁵ FPI027.016 Contact

Clause (2) – second priority

776. DairyNZ, Federated Farmers and Fonterra seek to narrow the application of clause (2), such that it only provides for ‘the health needs of people (such as drinking water)’ which they consider is more consistent with the NPSFM.⁴⁹⁶ OWRUG seeks to remove reference to te hauora o te tangata from clause (2) and considers that the clause is an overly narrow articulation of the second priority as set out in the NPSFM. The submitters seek similar but slightly different amendments:

a. DairyNZ:

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

b. Federated Farmers (“and essential needs of animals” appears both underlined and struck out in the submission but is not in the notified text so I have assumed the strike-out is an error):

(2) second, the health and well-being needs of people and essential needs of animals, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and

c. Fonterra:

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

d. OWRUG:⁴⁹⁷

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

777. Meridian considers that the reference to well-being in clause (2) is inconsistent with the objective of the NPSFM, which prioritises the health needs of people. Meridian considers that the well-being needs of people are broad, and may include different uses of water, such as economic and recreation uses. Meridian considers the amendment sought is consistent with the hierarchy of obligations in Te Mana o te Wai, which places the health needs of people above their broader well-being needs.⁴⁹⁸

⁴⁹⁶ FPI024.016 DairyNZ, FPI026.019 Federated Farmers, FPI019.04 Fonterra

⁴⁹⁷ FPI043.052 OWRUG

⁴⁹⁸ FPI016.011 Meridian

778. To clarify the reference to te hauora o te takata, Ravensdown seeks to replace the commas around this phrase with brackets.⁴⁹⁹
779. Horticulture NZ seeks to expand the scope of clause (2) as follows:⁵⁰⁰
- (2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as ~~drinking water and consuming harvested resources~~), essential human health (such as food security and drinking water) and immersive activities (such as harvesting resources and bathing), and
780. Horticulture NZ acknowledges the discretion in interpretation of the second and third priorities of Te Mana o te Wai in the NPSFM. The submitter considers that the pORPS should include a definition of ‘essential human health’ with the term to mean ‘the physiological needs of humans, it includes safe drinking water and sanitation, nutritious food, adequate shelter and warmth’.
781. Horticulture NZ also notes that in relation to the third priority, the health needs of people and communities is a separate but parallel consideration to social, economic and cultural well-being matters. However, they consider that while food production, food supply and food security sit within the third priority, the relationship of food production and water to the health needs of people places the values within the second priority.
782. Kāi Tahu ki Otago, Ravensdown and Forest and Bird seek to specify that ‘harvested resources’ referred to in clause (2) are those harvested from the waterbody.⁵⁰¹ Forest and Bird consider that this change will remove any possible misinterpretation around the second priority including, for example the harvesting of irrigated crops, which may then support the use of water for irrigation as being consistent with the second priority.
783. In clause (2), Fish and Game seeks to replace ‘bathing’ with ‘recreation’. The submitter considers that immersive activities in rivers are rarely referred to as ‘bathing’ in a modern English language context. For similar reasons, Ravensdown seeks the use of the term ‘primary contact’.⁵⁰²

Renewable electricity generation

784. Contact seeks amendments to clause (1) to acknowledge the impacts of climate change and the role of emissions reduction in protecting the health and well-being of water bodies from these impacts. The submitter also seeks to expand the scope of clause (2) to include renewable electricity generation. In relation to both clauses, Contact seeks more minor amendments for clarification. No amendments are sought to clause (3). The amendments in full are:⁵⁰³

(1) first, the health and well-being of water bodies and freshwater ecosystems, including their protection from (through emission reduction), and resilience to

⁴⁹⁹ FPI017.004 Ravensdown

⁵⁰⁰ FPI047.013 Horticulture NZ

⁵⁰¹ FPI030.016 Kāi Tahu ki Otago, FPI017.004 Ravensdown, FPI045.006 Forest and Bird

⁵⁰² FPI017.004 Ravensdown

⁵⁰³ FPI027.016 Contact

climate change, and te hauora o te wai, and the connections with te hauora o te taiao, and as well as the exercise of mana whenua to uphold these and provide for te hauora o te taiao,

- (2) second, the health and well-being needs of people, (te hauora o te takata), including through tangata,; interacting and their interactions with water through ingestion (such as drinking water and consuming ~~harvested~~ harvested resources harvested from the water body), ~~and~~ immersive activities (such as harvesting resources and bathing primary contact) and providing for renewable electricity generation,

785. Contact considers that electricity is essential to human health and wellbeing, and is vital in delivering basic human needs including the life sustaining support and heating of our homes.

786. Manawa Energy seeks a similar amendment to clause (2) regarding renewable electricity generation for the same reasons as Contact.⁵⁰⁴

- (2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and through the use of water for renewable electricity generation, and

787. Meridian seeks several changes to the wording of LF-WAI-P1, rewording the chapeau and overall structure of the policy as well as the addition of a new clause relating to hydro-electricity generation:⁵⁰⁵

In all management of Manage fresh water in Otago by:

- (1) prioritise prioritising:

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

- (2) recognising and providing for freshwater management and hydro-electricity generation as part of New Zealand's integrated response to climate change.

788. Meridian considers that the new clause (2) gives effect to Policy 4 of the NPSFM, which requires that freshwater is managed as part of New Zealand's integrated response to climate change. The submitter also notes that the pORPS must give effect to the NPSREG, as well as the NPSFM. The NPSREG requires that the national significance of renewable electricity

⁵⁰⁴ FPI022.004 Manawa Energy

⁵⁰⁵ FPI016.011 Meridian

generation activities is recognised and that the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities is provided for.⁵⁰⁶

789. Forest and Bird considers that clause (3) should specifically reference hydroelectricity generation, to ensure EIT policies aren't misinterpreted.⁵⁰⁷

Resolving conflicts

790. DOC seeks that LF-WAI-P1 be retained as notified, but with the caveat that if IM-P1 does not reflect the same three level prioritisation, then a new clause be added to LF-WAI-P1, with the following wording sought:⁵⁰⁸

(4) if there is a conflict between this policy and other provisions in this RPS that cannot be resolved by the application of higher order documents, then this policy takes precedence over Policy IM-P1.

791. DCC and Oceana Gold seek clarification about how to apply the priorities where there is conflict between them.⁵⁰⁹ They cite an example of house development and water needed for drinking water, with potential effects on the health and well-being of the water body.

792. Fulton Hogan seeks the addition of a comprehensive suite of policies in the LF chapter that address how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region, including the activities that sit under each priority levels, and how the potential tensions between these activities are to be resolved. Fulton Hogan considers that Part 3 of the NPSFM places the responsibility for this take on regional councils, and it is best addressed in the pORPS, in order to provide clarity for lower order documents.⁵¹⁰ Although this submission point was made generally in relation to the LF chapter, I consider it is most relevant for the content of LF-WAI-P1 and I have therefore addressed it in this section.

8.3.5.3. Analysis

General submissions

793. COWA is correct that there are differences between LF-WAI-P1 and the objective of the NPSFM. Those are deliberate in order to better recognise the relationship between freshwater and the wider environment, and to clarify the scope of the second priority. I have discussed these differences and the reasons for them in the sections below. LF-WAI-P1 is primarily implementing the objective of the NPSFM and the requirements in clause 3.2, rather than the suite of policies. However, I do consider it gives effect to Policy 1 (freshwater is managed in a way that gives effect to Te Mana o te Wai). I do not recommend any changes based on this part of COWA's submission.

794. The amendment to the chapeau proposed by submitters would mean that LF-WAI-P1 applies to any type of decision-making affecting fresh water, rather than only to freshwater

⁵⁰⁶ FPI016.011 Meridian

⁵⁰⁷ FPI045.006 Forest and Bird

⁵⁰⁸ FPI044.006 DOC

⁵⁰⁹ FPI001.007 DCC, FPI031.004 Oceana Gold

⁵¹⁰ FPI033.001 Fulton Hogan

management. I recommend accepting these submission points as I consider that the amendment proposed is better aligned with the objective of the NPSFM, which requires “ensur[ing] that natural and physical resources are managed in a way that prioritises...”

Clause (1) – first priority

795. DairyNZ, Federated Farmers, Fonterra, and OWRUG consider this clause is not consistent with the NPSFM. Kāi Tahu ki Otago, Ravensdown, Ballance, and Contact seek to clarify the relationship between the various parts of this clause in slightly different but broadly similar ways.
796. While considering the relief sought by these submitters, I have further considered the relationship between the reference to “the health and well-being of water bodies [and] freshwater ecosystems” and “te hauora o te wai”. I consider the commas on either side of the phrase are intended to be read as brackets rather than additional items in the list. I consider using brackets rather than commas would assist with clarifying that te hauora o te wai is a description of the first part of the clause rather than something different. The same issue arises in the next part of the clause with the reference to “te hauora o te taiao”. For consistency, I recommend including an English translation of that term and brackets around the te reo Māori description.
797. I agree with the submitters that clause (1) has not accurately reflected the relationship between te hauora o te wai and te hauora o te taiao articulated in the NPSFM. However, I consider that deleting all reference to hauora as sought by DairyNZ, Federated Farmers, Fonterra, and OWRUG goes beyond addressing this issue and would remove reference to concepts that are important parts of the expression of Te Mana o te Wai in Otago. I consider the wording proposed by Kāi Tahu ki Otago, Ravensdown, Ballance, and Contact all address this issue. On balance, I prefer the wording proposed to Kāi Tahu ki Otago over the other submitters as I consider it is a more accurate description of the relationship. I consider this addresses the issue raised by OWRUG in a way that does not alter the application of the clause. I recommend accepting in part the submissions by Kāi Tahu ki Otago, Ravensdown, and Ballance, and rejecting those by DairyNZ, Federated Farmers, Fonterra, and OWRUG.
798. I also agree with Ravensdown, Ballance, and Contact that the relationship between the exercise of mana whenua and the rest of the clause is not clear. Mana whenua is defined in section 2 of the RMA as “customary authority exercised by an iwi or hapū in an identified area” and in the pORPS applies to the authority itself as well as the people who hold it. I understand in the context of [LF-WAI-P1](#) the term is used to describe the authority, rather than the people. Ravensdown, Ballance, and Contact have all proposed similar amendments to replace ‘and’ with a more helpful link. On balance, I prefer the amendments proposed by Ravensdown and Ballance as I consider they more clearly reflect the relationship between the parts of the clause. I recommend accepting in part the submission points of Ravensdown, Ballance, and Contact.

Clause (2) – second priority

799. The second priority set out in [LF-WAI-P1](#) differs from the equivalent priority set out in the NPSFM because it seeks to provide more clarity on what is considered a health need. It also

goes beyond the NPSFM priority by referring to the well-being of people in addition to health needs. Although I acknowledge it has no legal weight or standing, MfE's guidance on the NOF contains the following in relation to the second priority:

- a. "For human health, the reference to health needs is intended to include drinking water." (p.18)
- b. "Where the compulsory value mahinga kai involves people undertaking cultural harvest of food, councils should ensure the water quality supports that practice, and that the food is safe to eat." (p.19)
- c. "People's health needs may include swimming and other contact with water, for example, cultural practices that require immersion. ... The local understanding of Te Mana o te Wai will inform this decision. Many tangata whenua will consider safe contact with water an essential health need, consistent with Te Mana o te Wai and the relationship of Māori with water in that rohe." (p.19)
- d. "Municipal takes include multiple uses, among them drinking water, but Councils also routinely take water for commercial use or irrigation. Priority 2 does not apply to these takes as a whole, although parts, eg, those that relate to drinking water, will apply." (p.19)

800. I am not aware that the scope of the second priority as set out in the NPSFM has been tested in any formal setting. In my view, priority (2) as stated in the objective of the NPSFM relates to the health needs of people as they relate to physical contact with water. The example used in the NPSFM is drinking water, which is also used in this policy. LF-WAI-P1 expands on that direction to include immersive activities where people are engaging in activities in, on, or near water that may pose risks to human health, which is consistent with the parts of the guidance I have quoted above. I note that the reference to drinking water in priority (2) in the NPSFM is not exclusive: it is preceded by "such as..." indicating that drinking water is one example but that there may be others.

801. In my opinion, a desire for safe human contact with water is supported by the inclusion of "human contact" as a compulsory value in Appendix 1A of the NPSFM and the national targets for primary contact, as well as the specific direction around identifying and monitoring primary contact sites (which are now defined as including a range of water-based activities, not only swimming as was the case in the NPSFM 2014, amended in 2017).⁵¹¹

802. I acknowledge that "drinking water" is an optional value listed in Appendix 1A. I have tracked its inclusion back to the initial introduction of the NOF in 2014. The rationale for the decision to make it optional rather than compulsory is:

⁵¹¹ The National Policy Statement for Freshwater Management 2014 made a distinction between primary and secondary contact sites. The term secondary contact related to Objective A1 which required the health of people and communities, at least as affected by secondary contact (eg, wading and boating), to be safeguarded. If a higher level of human health protection was desired (eg, for people swimming), then a more stringent freshwater objective could be assigned.

There are currently no attributes proposed for the water supply value and the costs of a compulsory value have not been quantified. (Ministry for the Environment, 2014, p. 70).

803. The Cabinet paper seeking final decisions on the NPSFM 2020 states that the NPSFM is intended to work alongside the Three Waters Review led by the Minister of Local Government in order to ensure the safety of drinking water and did not recommend making the drinking water value compulsory.⁵¹²
804. I am also aware of the importance of harvesting resources to mahika kai. I understand that for Kāi Tahu, it is not only the resources that are harvested that are important, but also the customary practices and tikaka involved in harvesting. For these reasons, I do not recommend accepting the parts of the submission points by DairyNZ, Federated Farmers, Fonterra, and OWRUG that seek to narrow clause (2) so that it replicates the NPSFM.
805. In addition to the amendment discussed above, Federated Farmers seeks to include the essential needs of animals in clause (2). There are no specific reasons provided in the submission, other than that the submitter seeks “deletion of any matters that extend beyond the NPSFM 2020 hierarchy” which contradicts its amendment sought to expand clause (2) to the essential needs of animals. I am unsure what the submitter considers to be an “essential need” and note that this wording differs from the wording used in relation to people (i.e. the “health and well-being needs”). I do not recommend accepting this submission point.
806. Meridian raises concerns with the reference to “well-being” of people in clause (2) and considers this is inconsistent with the NPSFM which places the health needs of people above their broader well-being needs. Meridian seeks the deletion of this phrase from clause (2). Federated Farmers and Fonterra seek the same amendment. I agree with the submitters that referring to well-being in clause (2) introduces uncertainty about whether the well-being of people is to be prioritised second or third in decision-making and I agree with Meridian that wider well-being matters outside health needs are intended to be part of clause (3). I recommend accepting in part these submission points and deleting the reference to well-being. I also agree with Ravensdown that brackets around the phrase ‘te hauora o te takata’ would assist with clarity and recommend accepting this part of the submission point, noting that it is consistent with amendments I have recommended in clause (1).
807. Horticulture NZ seeks to expand the scope of clause (2) to include essential human health, which the submitter defines as:
- the physiological needs of humans, it includes safe drinking water and sanitation, nutritious food, adequate shelter and warmth*
808. In my view, the consequence of these amendments would be to elevate the irrigation of food crops, use of water in processing industries and possibly even the construction industry to the second priority rather than the third. I note that the submitter’s reasoning for the relief sought is that while food production, food supply, and food security sit within the third priority, the relationship of food production and water to the health needs of people places

⁵¹² CAB-20-MIN-

the values within the second priority. I consider this argument is difficult to follow – from my reading, the submitter appears to acknowledge that food production, supply, and security are ‘third tier’ priorities but that their relationship with the health needs of people makes them second priority. This is arguably the case for any number of commercial uses of water that are important for human health, such as for renewable electricity generation.

809. In my view, this is a misinterpretation of the second priority as set out in the NPSFM. While I agree that nutritious food, and food security, are clearly vital for human health, not all food production in Otago, or New Zealand, is solely for the purpose of providing nutritious food to New Zealanders. In 2022, ORC’s Industry Advisory Group published its first report from the Economic Work Programme, titled *Farmers and Growers in Otago*.⁵¹³ The report was heavily informed, and partly written, by industry representatives, including those in the horticulture sector. The purpose of the report is to characterise farming and growing businesses in Otago. Regarding horticulture, that report contains the following statements:
- a. “Around half of New Zealand’s summer fruit production is based in Central Otago, with cherries and apricots being the dominant crops. In addition, cherries make up about half of New Zealand’s summerfruit production, and 70 per cent of cherries are exported.” (p.144)
 - b. “Fruit and vegetables grown in Otago are packed and distributed to domestic and export markets through packhouses, processors and wholesale distributors.” (p.146)
 - c. “Cherries and apples are currently Otago’s two most valuable horticultural exports, cherries being New Zealand’s fourth highest horticultural earner (behind kiwifruit, apples, and avocados).” (p.146)
 - d. “The growing of vegetables for domestic supply is integrated with vegetables grown for export in crop rotations.” (p.151)

810. It is evident that food production in Otago serves both domestic and international markets, and that the same crops can be grown for both purposes. I do not consider that prioritising food production for international markets over the social, cultural, and economic well-being of New Zealanders is an appropriate interpretation of Te Mana o te Wai. Appendix 1A of the NPSFM contains the four compulsory values to be identified in every FMU: ecological health, human health, threatened species, and mahinga kai. The human contact value is described as:

...the extent to which an FMU or part of an FMU supports people being able to connect with the water through a range of activities such as swimming, waka, boating, fishing, mahinga kai, and water skiing, in a range of different flows or levels.

811. Separately, Appendix 1B contains values that must be considered when implementing the NOF but do not have to be identified. One of those values is irrigation, cultivation, and production of food and beverages. In my view, the second priority in the hierarchy of obligations is linked to the “human contact” compulsory value and is therefore limited to people’s physical health as a result of direct contact with fresh water (i.e. through ingestion

⁵¹³ <https://emconsulting.co.nz/wp-content/uploads/2022/12/Phase-1-Farmers-Grower-Report-ORC-Digital-30Nov.pdf>

or immersion) and does not extend to indirect contact with fresh water (i.e. through the irrigation of food crops). I do not recommend accepting this submission point.

812. Kāi Tahu ki Otago, Ravensdown, and Forest and Bird seek amendments to clarify that the reference to “consuming harvested resources” is in relation to resources harvested from the water body, not resources benefitting from the body water (such as irrigated crops). I agree that this is the intended interpretation of priority (2) and recommend accepting these parts of the submission points.
813. Fish and Game seeks that priority (2) refer to ‘recreation’ instead of ‘bathing.’ The submitter considers that while this term is wider, it is limited by the term ‘immersive activities’ earlier in the clause. As discussed above, I consider it is appropriate for recreational activities where there is a direct risk to people’s health arising from contact with water to be considered within priority (2) but do not agree that ‘recreation’ is the appropriate substitution for ‘bathing.’ While I agree it would be interpreted within the confines of ‘immersive activities’, this requires ‘reading between the lines’ and is not helpful for plan users. Given the importance of this policy in decision-making I consider any wording should be as clear as possible and reduce the opportunity for different interpretations.
814. To my mind, any activity that brings people into direct contact with water has an element of human health need and is therefore within the ambit of priority (2). For example, scientists who must be partly immersed in water in order to undertake environmental monitoring. I am satisfied that it is clear that these examples are not exclusive and that other ‘like’ activities, such as the example I have given, would also be captured by priority (2).
815. Ravensdown seeks to amend ‘bathing’ to ‘primary contact’. Clause 3.8(3)(b) of the NPSFM requires primary contact sites to be identified within each FMU which are defined as:
- ... a site identified by a regional council that it considers is regularly used, or would be regularly used but for existing freshwater quality, for recreational activities such as swimming, paddling, boating, or watersports, and particularly for activities where there is a high likelihood of water or water vapour being ingested or inhaled*
816. I consider ‘primary contact’ would capture the same types of activities envisaged by Fish and Game but provide greater certainty and clarity for interpretation given that there is additional guidance provided in the NPSFM. I recommend accepting in part the submission point by Fish and Game and accepting in full the submission point by Ravensdown.

Renewable electricity generation

817. Contact seeks to specifically reference resilience to climate change and emission reduction in clause (1). The amendments sought introduce new tests – “protection from” and “resilience to” climate change. By my reading, the inclusion of “emission reduction” would mean that reducing emissions is the only avenue available for protecting the health and well-being of water bodies and freshwater ecosystems from climate change. I do not consider that is appropriate.
818. In my view, the amendments sought by Contact are not consistent with the description of Te Mana o te Wai in clause 1.3 of the NPSFM or the explanation in [LF-WAI-E1](#). Both documents describe Te Mana o te Wai as a ‘water-centric’ concept and that is the way [LF-](#)

WAI-P1 has been formulated. The amendments sought by Contact would introduce a specific activity (reducing emissions) into the first priority, which takes the focus away from the health and well-being of water bodies and freshwater ecosystems, which is a more holistic and broader focus.

819. It is evident from the relief sought by Contact to the remainder of LF-WAI-P1 that the reason for including emissions reduction is to provide a pathway for greater recognition of renewable electricity generation. I am concerned, however, that “emissions reduction” is much broader than this one activity and would arguably elevate any activity undertaken to reduce emissions into the first priority in a way that would not give effect to LF-WAI-O1. In my view, the purpose of the first priority is to ensure that the water bodies themselves are provided for first, before their use is enabled for other activities. I do not recommend accepting this part of the submission point by Contact. I note that Contact seeks other changes to clause (1) which are also sought by other submitters and which I have addressed in my discussion of that clause above.
820. Both Contact and Manawa Energy seek to include the use of water for renewable electricity generation in clause (2). This is opposed in the further submissions of Kāi Tahu ki Otago, Fish and Game, and Forest and Bird.⁵¹⁴ Additionally, and in opposition to the relief sought by Contact and Manawa, Forest and Bird seeks to include hydroelectricity generation in clause (3). As I have set out above, in my view LF-WAI-P1(2) encompasses the health needs of people as they arise from direct contact with water. I accept that renewable electricity generation supports the well-being of people and communities, but this does not arise as a result of direct contact with water. Additionally, as with food production, there are many other uses of electricity that are not specifically for human health purposes that would not be appropriate to include in the second priority.
821. I consider there is a risk in expanding the second priority beyond its current scope that many other activities would also make the same argument regarding their importance. There are many indirect uses of water that are important to the health and well-being of people and communities. Food production, for example, is argued by Horticulture NZ to fulfil a similar role to renewable electricity generation in terms of its indirect (but important) contribution to health and well-being, but in my view, it would not be appropriate to include this within priority (2). I do not recommend accepting the submission points of Contact or Manawa.
822. Similarly, I do not consider the amendment by Forest and Bird is necessary. Although I agree that renewable electricity generation is a third priority matter, there are many activities included in the third priority and I do not consider there is a need to specifically list them. In my view, the amendments I recommend to clause (2) make it clear what the scope of that clause is (i.e. human health needs that arise from direct contact with fresh water) and therefore anything that does not fit in that category falls to clause (3). I do not recommend accepting this submission point.
823. I do not consider the amendments sought by Meridian to the chapeau and numbering of the policy are helpful. The outcome is that clause (2) as proposed to be amended would read:

⁵¹⁴ FSFPI030.007, FSFPI037.051 Fish and Game, FSFPI045.050 Forest and Bird,

Manage fresh water in Otago by ... recognising and providing for freshwater management ...

824. That direction does not provide clarity to users on what is intended to result from application of the policy. I acknowledge that Policy 4 of the NPSFM requires freshwater to be managed as part of New Zealand's integrated response to climate change, and I accept that the LF chapter as a whole has not specifically addressed that policy. However, I do not consider this is the right place to introduce this consideration. The focus of this sub-section of the chapter is on Te Mana o te Wai and this policy sets out the way decision-making on matters affecting freshwater is to occur, rather than attempting to manage the uses of freshwater directly.
825. In my opinion, the recognition sought by Meridian is more appropriately provided through the LF-FW section. Policy LF-FW-P7 outlines a number of requirements for the setting of environmental outcomes, attribute states, environmental flows and levels, and limits. In my view, this is the type of 'management' envisaged by Policy 4 of the NPSFM rather than the much more general, strategic nature of LF-WAI-P3. I recommend accepting this submission point in part and including a new clause (7) in LF-FW-P7 recognising the contribution of freshwater management to New Zealand's integrated response to climate change.

Resolving conflicts

826. As notified, IM-P1 set out how provisions in the pORPS were to be considered by readers and IM-P2 set out priorities to guide decision-making should there be irreconcilable differences between provisions in the pORPS. In section 6.12 and 6.13 of my s42A report on that chapter I recommended a range of amendments to these provisions, including combining them into one policy and altering the hierarchy of decision-making priorities originally contained in IM-P2. I recommend that policy now reads:

IM-P1 – Integrated approach to decision-making

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:

- (1) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then*
- (2) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

827. DOC considers that LF-WAI-P1 is inconsistent with the version of IM-P1 above which combines the LF-WAI-P1 priorities one and two. In my view, the additional clause sought by DOC to LF-WAI-P1 is unnecessary. If IM-P1 and LF-WAI-P1 are both relevant, and there is a conflict (because of the differing priorities), then IM-P1 directs that these are first attempted to be resolved by applying higher order documents. In my opinion, the direction in the NPSFM with regard to Te Mana o te Wai and the hierarchy of obligations would mean that the hierarchy in LF-WAI-P1 would take priority over the hierarchy in IM-P1 because it specifically applies to freshwater. I do not recommend accepting this submission point.

828. DCC and Oceana Gold seek guidance on how to apply the priorities where there is conflict between them. Both submitters provide the example of a housing development where there is water needed for drinking water supply and potential effects on the health and well-being of a water body. It is not clear to me how a conflict would arise in the application of LF-WAI-P1, which clearly sets out which matters are to be prioritised over other matters: first, the health and well-being of water bodies and freshwater ecosystems, then the health needs of people, then other uses. I appreciate this is not a simple exercise, but it is not uncommon to need to weigh and reconcile various provisions when coming to decisions on resource use. In my view, LF-WAI-P1 assists with this by identifying the priority afforded to the different considerations. I do not recommend accepting these submission points.

829. Fulton Hogan seeks a comprehensive suite of policies that addresses “...how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region” including the activities that sit under each priority level and how the potential tensions between these activities are to be resolved. The quoted wording is from clause 3.2(1) of the NPSFM, which reads:

(1) Every regional council must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.

830. That clause is not limited only to regional policy statements. This is clear from the subsequent clauses (my emphasis added)

(2) Every regional council must give effect to Te Mana o te Wai, and in doing so must:

(a) actively involve tangata whenua in freshwater management (including decision-making processes), as required by clause 3.4; and

(b) engage with communities and tangata whenua to identify long-term visions, environmental outcomes, and other elements of the NOF; and

(c) apply the hierarchy of obligations, as set out in clause 1.3(5):

(i) when developing long-term visions under clause 3.3; and

(ii) when implementing the NOF under subpart 2; and

(iii) when developing objectives, policies, methods, and criteria for any purpose under subpart 3 relating to natural inland wetlands, rivers, fish passage, primary contact sites, and water allocation; and

...

(4) In addition to subclauses (1) to (3), Te Mana o te Wai must inform the interpretation of:

(a) this National Policy Statement; and

(b) the provisions required by this National Policy Statement to be included in regional policy statements and regional and district plans.

831. Te Mana o te Wai must be implemented *throughout* freshwater management processes, not only in the regional policy statement. In my view, the way Te Mana o te Wai is applied at

each step of the NOF, and in the development of subsequent regional plan provisions, will differ depending on the context in which it is being applied. I consider that is appropriate and consistent with the direction in clause 3.2. It is not the role of the pORPS to manage specific activities in the way sought by Fulton Hogan – that is the responsibility of the regional plan which, in accordance with clause 3.2, must consider how to give effect to Te Mana o te Wai at every stage of its development and in all types of provisions. For these reasons, I do not recommend accepting the submission point by Fulton Hogan.

832. That said, and although I do not agree with the submitters seeking to incorporate additional activities in clause (2), I recognise that the third priority set out in clause (3) covers a wide range of activities and that there may be good reasons for prioritising some uses over others within that third priority. Although there are submissions seeking clarification of the priorities, and on resolving conflicts between them, no submitters have sought this specific relief as a way to address these concerns. Those submitters with an interest in the scope of the priorities, and the resolution of conflicts, may wish to address this in their evidence.

8.3.5.4. Recommendation

833. I recommend the following amendments:

LF-WAI-P1 – Prioritisation

In all decision-making affecting management of⁵¹⁵ *fresh water* in Otago, prioritise:

- (1) first, the health and well-being of *water bodies* and *freshwater* ecosystems, (te hauora o te wai) and the contribution of this to⁵¹⁶ the health and well-being of the environment (te hauora o te taiao), ~~and~~ together with⁵¹⁷ the exercise of *mana whenua* to uphold these,⁵¹⁸
- (2) second, the health ~~and well-being~~⁵¹⁹ needs of people, (te hauora o te tangata),⁵²⁰ interacting with *water* through ingestion (such as *drinking water* and consuming ~~harvested~~ resources harvested from the water body)⁵²¹ and immersive activities (such as harvesting resources and ~~bathing~~ primary contact),⁵²² and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

⁵¹⁵ FPI024.016 DairyNZ, FPI027.016 Contact, FPI019.004 Fonterra, FPI012.003 Minister for the Environment, FPI017.004 Ravensdown, FPI021.002 Ballance

⁵¹⁶ FPI030.016 Kāi Tahu ki Otago

⁵¹⁷ FPI017.004 Ravensdown, FPI021.002 Ballance

⁵¹⁸ In matters of mana, the associated spiritual and cultural responsibilities connect natural resources and *mana whenua* in a kinship relationship that is reciprocal and stems from the time of creation.

⁵¹⁹ FPI016.011 Meridian

⁵²⁰ FPI017.004 Ravensdown

⁵²¹ FPI030.016 Kāi Tahu ki Otago, FPI017.004 Ravensdown, FPI045.006 Forest and Bird

⁵²² FPI017.004 Ravensdown

8.3.6. LF-WAI-PR1 – Principal reasons (first paragraph only)

8.3.6.1. Introduction

834. Part of this provision is in the FPI and part is not. As notified, LF-WAI-PR1 reads:

LF-WAI-PR1 – Principal reasons

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

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

8.3.6.2. Submissions

835. Kāi Tahu ki Otago and Contact seek to include a missing “that” in the second sentence.⁵²³

836. OWRUG, DairyNZ and COWA seek several additional amendments to the first two sentences. OWRUG seeks a range of amendments to reflect that *Te Mana o te Wai* is to be considered as a whole, not as a strict prioritisation. DairyNZ and COWA consider that LF-WAI-PR1 does not properly reflect the concept of *Te Mana o te Wai* as set out in the NPSFM. DairyNZ considers the provision could create confusion, while COWA considers references to decision making frameworks should be excluded, as it is not a function of *Te Mana o te Wai*. The submitters seek similar amendments:

a. OWRUG:⁵²⁴

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

⁵²³ FPI030.017 Kāi Tahu ki Otago, FPI027.017 Contact

⁵²⁴ FPI043.057 OWRUG

b. DairyNZ:⁵²⁵

In accordance with the NPSFM, councils are required to implement a framework for managing *freshwater* that gives effect to *Te Mana o te Wai*. This places the ~~mauri (life force) of the water at the forefront of decision making, recognising te hauora o te wai (the health of the water) is the first priority,~~ at the forefront of decision-making so that it may ~~and supports te hauora o te taiao (support the health of the environment) and te hauora o te takata (the health of the people)-...~~

c. COWA:⁵²⁶

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

837. Similarly to COWA, a number of submitters seek to either delete or amend the third sentence, as follows:

a. Contact (submission point was incorrectly coded against LF-WAI-P1):⁵²⁷

It is only after the health of the water and the health of the people is sustained that water can be used for economic purposes.

b. Horticulture NZ:⁵²⁸

It is only after the health of the water is sustained, and the essential human health of people is provided for, that water can be used for wider social, cultural and economic purposes.

c. Wendy Gunn:⁵²⁹

It is only after the health of the water and the health of the people is sustained that water can be used for economic purposes. Sustain the health of the water before considering it's use for economic purposes. Once used for economic purposes, the health of the water must be monitored and sustained.

838. Beef + Lamb and DINZ and Federated Farmers seek that the wording is amended to more accurately reflect the NPSFM.⁵³⁰ Beef + Lamb and DINZ seek that a discussion of the

⁵²⁵ FPI024.017 DairyNZ

⁵²⁶ FPI009.005 COWA

⁵²⁷ FPI027.017 Contact

⁵²⁸ FPI047.014 Horticulture New Zealand

⁵²⁹ FPI006.001 Wendy Gunn

⁵³⁰ FPI025.016 Beef + Lamb and DINZ, FPI026.020 Federated Farmers

integrated management of freshwater resources is included. Neither submitter has included proposed wording.⁵³¹

839. Meridian seeks that an additional paragraph is added as follows:⁵³²

At the same time as implementing a Te Mana of te Wai framework, councils are required to manage freshwater as part of New Zealand’s integrated response to climate change and to recognise and provide for the national significance of renewable electricity generation activities.

8.3.6.3. Analysis

840. I agree with Kāi Tahu ki Otago and Contact that the typographical error in the second sentence should be corrected and recommend accepting this part of their submission points.

841. I do not agree with the interpretation of Te Mana o te Wai promoted by OWRUG, COWA, and DairyNZ and do not recommend adopting the amendments they seek. In my view, it is clear that the NPSFM does expect a hierarchy of obligations to be followed in decision-making and LF-WAI-PR1 simply sets this out. I do not recommend accepting these submission points.

842. The amendment sought by Contact to include reference to the health of people in the third sentence reflects the hierarchy of obligations. I recommend accepting this submission point.

843. As noted above, in its submissions on the FPI and non-FPI provisions, Horticulture NZ seeks to introduce a definition of the term “essential human health” which would apply to the amendments sought to LF-WAI-PR1. For the reasons I have set out in relation to similar relief sought in LF-WAI-P1, I do not recommend accepting this submission point.

844. I consider that LF-WAI-PR1 reflects the wording of the NPSFM and therefore do not recommend accepting the submission points by Beef + Lamb and DINZ and Federated Farmers. Without proposed wording, I am unsure what Beef + Lamb and DINZ seeks in relation to the integrated management of freshwater resources.

845. I have not recommended accepting the relief sought by Meridian in LF-WAI-O1 or LF-WAI-P1. For the same reasons, I do not recommend accepting the relief sought in relation to LF-WAI-PR1.

8.3.6.4. Recommendation

846. I recommend the following amendments:

LF-WAI-PR1 – Principal reasons

In accordance with the NPSFM, councils are required to implement a framework for managing *freshwater* that gives effect to *Te Mana o te Wai*. This places the mauri (life-force) of the *water* at the forefront of decision making, recognising that⁵³³ *te hauora o te wai* (the health of the *water*) is the first priority, and supports *te hauora o te taiao*

⁵³¹ FPI025.016 Beef + Lamb and DINZ

⁵³² FPI016.012 Meridian

⁵³³ FPI030.017 Kāi Tahu ki Otago, FPI027.017 Contact

(the health of the environment) and te hauora o te takata (the health of the people). It is only after the health of the *water* and the health of the people⁵³⁴ is sustained that *water* can be used for economic purposes. Giving effect to *Te Mana o te Wai* requires actively involving *takata mana*⁵³⁵ *whenua* in *freshwater* planning and management.

8.3.7. LF-WAI-AER2

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

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

8.3.7.1. Submissions

848. Two submitters seek that LF-WAI-AER2 is retained as notified.⁵³⁶

849. Federated Farmers seek that LF-WAI-AER2 is amended to provide clarity, specifically in relation to the use of 'mauri' which it considers has been "used to mean different things throughout the pORPS."⁵³⁷

850. Contact seeks consequential amendments to reflect those it seeks in relation to LF-WAI-P1.⁵³⁸

851. OWRUG seeks to remove the reference to mauri as a consequential amendment resulting from other changes sought to remove the term mauri elsewhere in the LF-WAI chapter.⁵³⁹ DairyNZ also seeks that the reference to mauri is removed along with other consequential changes relating to its relief sought on LF-WAI-O1.⁵⁴⁰

852. Fonterra seeks that LF-WAI-AER2 is deleted in its entirety and replaced with the following:⁵⁴¹

The health and well-being of the environment and people is protected because the health and wellbeing of Otago's water bodies and their ecosystems are protected and, where degraded, improved"

853. Ngāi Tahu ki Murihiku seeks that consideration is given to changing the order of LF-WAI-AER1 and LF-WAI-AER2 to reflect prioritisation of the mauri of waterbodies. They also seek changes to LF-FW-AER2 to include reference to degraded water bodies:⁵⁴²

The mauri of Otago's water bodies and their health and well-being is protected, and restored where degraded, benefitting people, kā takata katoa.

⁵³⁴ FPI027.017 Contact

⁵³⁵ FPI030.017 Kāi Tahu ki Otago, FPI032.016 Te Rūnanga o Ngāi Tahu

⁵³⁶ FPI030.018 Kāi Tahu ki Otago, FPI032.017 Te Rūnanga o Ngāi Tahu

⁵³⁷ FPI026.021 Federated Farmers

⁵³⁸ FPI027.018 Contact Energy

⁵³⁹ FPI043.058 OWRUG

⁵⁴⁰ FPI024.018 DairyNZ

⁵⁴¹ FPI019.005 Fonterra

⁵⁴² FPI042.009 Ngāi Tahu ki Murihiku

854. In the same way as Ngāi Tahu ki Murihiku, Forest and Bird also seek to include “and restored where degraded.”⁵⁴³

8.3.7.2. Analysis

855. I have addressed the relief sought by Federated Farmers, OWRUG, and DairyNZ in relation to mauri in my analysis on LF-WAI-O1. For the same reasons, I do not recommend deleting the reference to mauri in LF-WAI-AER2. Similarly, I have not recommended accepting the parts of Contact’s relief sought on LF-WAI-P1 that would require consequential amendments to be made to LF-WAI-AER2, therefore I do not recommend accepting this submission point.

856. Fonterra seeks to replace LF-WAI-AER2. The wording sought does not refer to mauri but describes the relationship between the health of water and the wider environment. Having considered LF-WAI-AER2 further, I consider that the provision simply repeats part of LF-WAI-O1 and could be improved. In my view, the anticipated environmental result is that the health and well-being of water bodies and freshwater ecosystems is such that it, in turn, protects the wider environment and the mauri of the water. It is this relationship I have recommended including reference to in LF-WAI-O1. On that basis, I recommend accepting in part the submission points of Federated Farmers, OWRUG, DairyNZ, and Fonterra and revising the wording of LF-WAI-AER2.

857. I agree with Ngāi Tahu ki Murihiku that reversing the order of LF-WAI-AER1 and LF-WAI-AER2 better reflects the focus of the LF-WAI chapter. In order to avoid confusion by renumbering provisions, in the amendments to the provisions attached to this report I have moved LF-WAI-AER2 above LF-WAI-AER1 but retained their current numbering. The numbering can be corrected at the end of the hearing process.

858. Both Ngāi Tahu ki Murihiku and Forest and Bird seek to include reference to restoring degraded water bodies. Although I agree in principle that this is an appropriate change, the amendments I have recommended in response to the submission points by Federated Farmers, OWRUG, and DairyNZ remove the need for specific reference to restoration. I do not consider specific reference to people, as sought by Ngāi Tahu ki Murihiku, is necessary as the definition of “environment” in section 2 of the RMA includes people and communities. I recommend rejecting these submission points.

8.3.7.3. Recommendation

859. I recommend moving LF-WAI-AER2 so that it sits above LF-WAI-AER1. I also recommend the following amendments to LF-WAI-AER2:

LF-WAI-AER2 ~~The mauri of Otago’s water bodies and their health and well-being is protected. The health and well-being of water bodies and freshwater ecosystems protects the wider environment and the mauri of water.~~⁵⁴⁴

⁵⁴³ FPI045.007 Forest and Bird

⁵⁴⁴ FPI026.021 Federated Farmers, FPI043.058 OWRUG, FPI024.018 DairyNZ, FPI019.005 Fonterra

8.3.8. New AER

8.3.8.1. Submissions

860. OWRUG requests the addition of a new AER, on the basis that the current AERs do not reflect the whole concept of Te Mana o te Wai. OWRUG seeks the following wording:

There is balance achieved between water, the wider environment and the community that allows the community to be healthy and provide for its social economic and cultural wellbeing.

8.3.8.2. Analysis

861. I have not recommended accepting earlier submission points on this matter and therefore do not consider that including this AER would be appropriate. I do not recommend accepting this submission point.

8.3.8.3. Recommendation

862. I do not recommend any amendments.

8.4. LF-VM – Visions and management

8.4.1. Introduction

863. This section of the LF chapter identifies Otago’s freshwater management units (FMUs) and sub-units (known as rohe) and sets out their long-term freshwater visions as required by the NPSFM. The freshwater visions were developed following region-wide consultation with communities and mana whenua and set out the long-term aspirations for the catchment, including the water bodies and freshwater ecosystems. They are strategic objectives that look beyond the lifetime of current planning documents and guide the development of plan provisions. Objectives LF-FW-O2 to LF-VM-O6 set freshwater visions at the FMU level. Objective LF-VM-O7 is focussed on integrated management.

864. Policy LF-VM-P5 sets out the FMU and rohe to be used for freshwater management in Otago and defines their boundaries. The policy refers to MAP1 which shows the spatial extent of these areas. Policy LF-VM-P6 defines the relationship between FMU and rohe to clarify how their provisions will relate to one another in practice. Broadly, rohe provisions will need to be no less stringent than FMU provisions insofar as they relate to the same matters. LF-VM-M3 sets out how communities will be involved in implementing the processes required by the NPSFM.

865. As well as the provisions in this section, the objectives will be implemented by all of the provisions of the LF – Land and freshwater chapter. The relevant provisions for this section are:

LF-VM-O2 – Clutha Mata-au FMU vision
LF-VM-O3 – North Otago FMU vision
LF-VM-O4 – Taieri FMU vision
LF-VM-O5 – Dunedin & Coast FMU vision

LF-VM-O6 – Catlins FMU vision
LF-VM-O7 – Integrated management
LF-VM-P5 – Freshwater management units and rohe
LF-VM-P6 – Relationship between FMUs and rohe
LF-VM-M3 – Community involvement
LF-VM-M4 – Other methods
LF-VM-E2 – Explanation
LF-VM-PR2 – Principal reasons
LF-VM-AER3
MAP1 – Freshwater management units

866. There are some key themes in the submissions that apply to the suite of objectives more generally. I have addressed these first in this section as they inform my consideration of the more specific submission points on provisions. This section is therefore structured as follows:
- a. Structure and consistency of the freshwater visions.
 - b. Timeframes.
 - c. Other general submissions.

867. The remainder of the section then addresses the provisions in the order they appear in the FPI.

8.4.2. Structure and consistency of freshwater visions

868. The *LF-VM – Visions and management* section contains five long-term freshwater visions. The visions are set at the FMU level, with the Clutha Mata-au vision containing a combination of clauses that apply across the whole FMU and clauses that apply in one or more specific rohe. This reflects the decision of Council to retain the Clutha Mata-au as one FMU to ensure an integrated approach to managing the catchment, while providing for delineation of various sub-catchments (rohe), recognising the considerably different environments and pressures in these areas.

869. A number of submitters have commented on and sought amendments to the way the visions are structured and the consistency (or lack thereof) between them.

8.4.2.1. Submissions

870. DOC seeks that all freshwater visions are amended to:⁵⁴⁵
- Provide a consistent and clear structure across and between each FMU/rohe, which could include an over-arching vision.
 - Appropriately recognise the relevant values and issues in every FMU/rohe.
871. The submission from DOC does not include any specific relief in relation to this particular point. However, specific relief is sought for the LF-VM objectives in subsequent submission points, which includes the addition of new clauses to all objectives.

⁵⁴⁵ FPI044.007 DOC

872. Fish and Game, Forest and Bird and Kāi Tahu ki Otago seek the addition of a new all of Otago catchment vision.⁵⁴⁶ Fish and Game and Forest and Bird propose the following wording for the vision:

LF-VM-OA1 – All of Otago catchment vision

By no later than 2040, in all Otago catchments:

- (1) water bodies are protected at, or returned to a state of good health, well-being and resilience,
- (2) activities relating to water support the health, well-being and resilience of affected water bodies,
- (3) the natural form and function of water bodies, including with respect to water quality, sedimentation and flows, mimics that of their natural behaviour,
- (4) ecosystem connections between freshwater, wetlands and the coastal environment are protected and restored,
- (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,
- (6) the habitat of indigenous species is protected and restored, and indigenous species are able to migrate easily within and between catchments,
- (7) the habitat of trout and salmon is protected and restored, and trout and salmon are able to migrate easily within and between catchments, insofar as each goal is consistent with that of indigenous species,⁵⁴⁷
- (8) food is available to be harvested from water bodies in abundance and is safe to consume,
- (9) people have abundant, quality opportunities to connect with and recreate within or close to a wide range of water bodies,
- (10) there are no direct discharges of wastewater to water bodies, and
- (11) fresh water is managed in accordance with the LF-WAI objectives and policies.

873. Kāi Tahu ki Otago considers that an overarching vision incorporate the following outcomes, or that the existing FMU visions should address the following outcomes.⁵⁴⁸

- *Kāi Tahu relationship with wāhi tūpuna*
- *Kāi Tahu ability to access and use water bodies to maintain their connection with the wai*
- *The health and abundance of mahika kai*
- *The health of ecosystems and indigenous species*
- *The health of wetlands, estuaries and lagoons, and downstream coastal waters*
- *The ability for indigenous species to migrate easily*

⁵⁴⁶ FPI037.014 Fish and Game, FPI030.019 Kāi Tahu ki Otago, FPI045.008 Forest and Bird

⁵⁴⁷ Clause 7 is only sought by Fish and Game

⁵⁴⁸ FPI030.019 Kāi Tahu ki Otago

- *Sustaining the natural form and function of the water bodies*
- *Sustainable land and water management practices*
- *Ceasing direct discharges of wastewater to water bodies.*

874. Kāi Tahu ki Otago considers that if a completely separate vision is to be retained for each FMU, that these visions should be consistent, and the visions should address all of the components that contribute to supporting Te Mana o te Wai, and the relationship of Kāi Tahu with wai māori. Kāi Tahu ki Otago considers that FMU or rohe specific provisions should only be included where a matter is clearly specific to that FMU or rohe.⁵⁴⁹
875. Te Rūnanga o Ngāi Tahu supports the inclusion of a region-wide vision, prepared in partnership with mana whenua.⁵⁵⁰
876. Subsequent to the addition of this new region wide vision, Te Rūnanga o Ngāi Tahu, Fish and Game and Forest and Bird seek consequential amendments to the FMU-specific objectives (LF-VM-O2 to O6) to remove any duplication of LF-VM-OA2, and ensure that the overarching vision applies to all of them while retaining the FMU-specific provisions and timeframes where stronger than their proposed new objective.⁵⁵¹ No specific amendments are sought.

8.4.2.2. Analysis

877. The submissions and my analysis raise a number of issues which have required considerable thought. In summary, I agree that there is inconsistency in the structure and content of the visions and that a region-wide objective for freshwater would assist with solving these issues while still retaining the FMU and/or rohe-specific parts of the notified freshwater visions.
878. To explain my reasoning for this, I have broken down this section into the following parts:
- a. Background to the freshwater visions,
 - b. Response to the concerns raised by submitters,
 - c. Structure of the LF-VM and LF-FW sections,
 - d. Content of a region-wide objective for freshwater, and
 - e. Implications for LF-FW-O8.

Background to the freshwater visions

879. Public consultation on the development of Otago's freshwater visions occurred through October and November 2020. There is further information on the detail of this consultation in section 2.4 and Appendices 5, 6 and 7 of the Section 32 Evaluation Report. Through that consultation, several key themes were identified that were consistently raised by participants across all FMU and rohe in Otago:⁵⁵²

⁵⁴⁹ FPI030.045 Kāi Tahu ki Otago

⁵⁵⁰ FPI032.018 Te Rūnanga o Ngāi Tahu

⁵⁵¹ FPI032.018 Te Rūnanga o Ngāi Tahu, FPI037.014 Fish and Game, FPI045.006, FPI045.010, FPI045.011, FPI045.012, FPI045.013 Forest and Bird,

⁵⁵² Noting that the Manuherekiā rohe was not included in the freshwater visions consultation due to having had its own, similar consultation process already undertaken.

- a. Fish passage in the Clutha Mata-au FMU.
 - b. Reducing or eliminating stormwater and wastewater discharges to freshwater, and eliminating direct discharges.
 - c. Fit for purpose monitoring.
 - d. Protecting native species and habitat.
 - e. A need to rethink activities in both urban and rural areas to ensure Otago’s freshwater environments remain healthy.
 - f. Finding ways for communities to retain their integrity and prosper within the envelope of environmental health.⁵⁵³
880. The consultation summary report also includes the more specific FMU and rohe aspirations expressed by communities.⁵⁵⁴
881. As part of this consultation, Kāi Tahu ki Otago identified a vision for all catchments in Otago, as follows:
- a. The wai is health-giving:
 - i. The quality where the waterway enters another receiving environment should be as good as at the source.
 - ii. We can drink the water and eat the kai.
 - b. The waterways are restored to the way they were when tūpuna knew them:
 - i. Water flow is continuous throughout the whole system.
 - ii. There is no further modification of river shape or braided stretches.
 - iii. Existing wetlands are restored and the area of wetlands is increased.
 - c. Mahika kai is flourishing, native fish can migrate easily and as naturally as possible, and taoka species and their habitats are protected from negative water quality and quantity impacts.
 - d. Over-allocation is reversed, and water is available and allocated to meet mana whenua aspirations.
 - e. The interconnection of freshwater and coastal waters is recognised:
 - i. Sea level rise is accommodated in planning for infrastructure and other activities near river mouths, estuaries, and hāpua systems.
 - ii. Inaka habitats at the salt-water wedge are protected.
 - f. The quality and quantity of groundwater is protected, and the interconnections with waterways are recognised.
 - g. Mana whenua are integrally involved in freshwater planning, implementation and monitoring, and mātauraka is alive and being passed on.

⁵⁵³ Appendix 5, Section 32 Evaluation Report for the pORPS 2021, p.11.

⁵⁵⁴ Appendix 5, Section 32 Evaluation Report for the pORPS 2021, pp.13-32.

- h. Land users work together to restore catchments.⁵⁵⁵
882. Like the wider consultation summary report, Kāi Tahu ki Otago also provided FMU and rohe specific aspirations in their feedback.⁵⁵⁶
883. Ngāi Tahu ki Murihiku adopted a different approach, instead drafting freshwater visions for the FMU and rohe that Ngāi Tahu ki Murihiku have an interest in (the Clutha Mata-tau and all rohe within that FMU and the Catlins FMU).⁵⁵⁷
884. As a result, an early draft of the visions for the pORPS included a region-wide vision, a vision for each FMU, and a vision for each rohe. Section 5.7.4.2 of the Section 32 Evaluation Report describes in more detail the pre-notification structure of the LF chapter as well as the freshwater visions. In particular, that section explains the following:⁵⁵⁸

Feedback on the LF chapter received during clause 3 consultation raised concerns with the freshwater visions, namely that having three 'levels' added considerable complexity to the planning framework. In terms of the content of the visions, some respondents queried whether some of the visions conflicted with others (for example, the rohe and relevant FMU vision both providing direction on a similar matter but differently). Others were concerned about the flow-on effects for the new LWRP, particularly about the ability of that plan to clearly articulate how all of the visions would be met....

885. That feedback was taken on board and resulted in redrafting the freshwater visions into their notified form. Some of the matters raised by the public and by mana whenua were also incorporated into LF-FW-O8, which is an objective applying to freshwater on a region-wide basis.

Response to concerns of submitters

886. In its submission, Kāi Tahu ki Otago raises similar concerns to DOC and notes that rūnaka have always had a preference for a region-wide vision that underpins FMU and rohe visions. Kāi Tahu ki Otago do not provide specific drafting but instead identify a list of matters (set out in paragraph **Error! Reference source not found.** above) that appear in one or more of the notified visions and that should, in the submitter's view, apply across the region. I note these have been collated from existing provisions in some or all of the freshwater visions in the LF-VM section, rather than drafted 'as new'.
887. In a similar but more specific way, Ngāi Tahu ki Murihiku seeks that LF-VM-O2 is amended to avoid unnecessary duplication between the overarching vision for the FMU and the visions for the five rohe within it. I agree that, in principle, any duplication and inconsistency should be avoided as far as possible.

⁵⁵⁵ Appendix 6, Section 32 Evaluation Report for the pORPS 2021, p.2.

⁵⁵⁶ Appendix 6, Section 32 Evaluation Report for the pORPS 2021, pp. 2-4.

⁵⁵⁷ Appendix 7, Section 32 Evaluation Report for the pORPS 2021.

⁵⁵⁸ Section 32 Evaluation Report for the pORPS 2021 at [373].

888. For the same reasons as DOC and Kāi Tahu ki Otago, Forest and Bird and Fish and Game seek the introduction of a specific region-wide vision and consequential (but unspecified) amendments to the notified visions in [LF-VM-O2](#) to [LF-VM-O6](#).
889. Clause 3.3(2)(a) of the NPSFM states that long-term visions “may be set at FMU, part of FMU, or catchment level” and clause (1) requires them to be included as objectives in regional policy statements. I do not consider the NPSFM provides for visions to be set at a region-wide level. However, as set out in section 62(1)(c), regional policy statements must include objectives sought to be achieved by the statement. In my view, although a region-wide objective for freshwater could not technically be considered a long-term vision under clause 3.3 of the NPSFM, there is no impediment to the pORPS including an objective that sets out a long-term, region-wide outcome for the region’s freshwater. Indeed, it already does this in the LF-FW objectives. For this reason, although I recommend including such an objective, I have not specifically called this a ‘region-wide vision’.
890. I acknowledge that there are many commonalities between the visions as notified and, in some cases, subtle differences (with a lack of clarity about whether that was intentional or not). I agree with DOC that the visions are inconsistent in their structure, content, and drafting and that this should be addressed so that the visions are clear and consistent.

Structure of the LF-VM and LF-FW sections

891. Although not specifically raised by submitters, I consider there is also a lack of clarity about the relationship between the LF-VM and LF-FW sections. While LF-VM contains the visions, and is therefore ‘heavy’ on objectives, it contains only two policies which are procedural in nature and do not, on their own, set out the courses of action to be taken to achieve the visions. In comparison, LF-FW contains relatively brief objectives for freshwater which apply at a region-wide level (but somewhat unhelpfully sit after the FMU-specific objectives in LF-VM) and is very ‘heavy’ on policies, which are intended to achieve both the LF-FW and LF-VM objectives. This is made clear in the explanation of the LF-FW policies (LF-FW-E3) which states:

This section of the LF chapter outlines how the Council will manage fresh water within the region. To give effect to Te Mana o te Wai, the freshwater visions, [sic] and the policies set out the actions required in the development of regional plan provisions to implement the NPSFM.

892. In my view, there is an unhelpful division between the LF-VM and LF-FW sections which are, it appears, intended to be read together as one policy framework. I consider it is preferable to have a ‘suite’ of provisions (i.e. all relevant objectives, policies, and methods) sitting together rather than separately.
893. For these reasons, I recommend the following changes to the LF-VM and LF-FW sections:
- Moving all of the LF-VM content into the LF-FW section so that there is a cohesive suite of objectives, policies, and methods relating to freshwater (and therefore condensing the LF chapter to three sections: LF-WAI, LF-FW, and LF-LS),
 - Incorporating a region-wide objective for freshwater as the first objective in the merged LF-FW section, followed by the FMU and rohe visions and then [LF-FW-O9](#), and

- c. Making consequential amendments to the FMU and rohe visions, and LF-FW objectives, to remove duplication with and include cross-references to, the region-wide objective.

894. Attached to this report is a copy of the FPI with reporting officer recommendations shown in tracked changes. In that document, I have reordered the chapters and their provisions as I have recommended above but, at this stage, retained their original numbering. In my experience, it is simpler for all parties to retain original numbering as that is what parties have referenced in their submissions. Numbering can be amended in the final version of the FPI once the hearing has finished. For clarity, I have also incorporated a table showing the original order of provisions compared to the new order.

Content of a region-wide objective for fresh water

895. In comparison to the relief sought by Kāi Tahu ki Otago, the objective proposed by Fish and Game and Forest and Bird does not adopt the common clauses of the notified visions and instead introduces new language and terminology. In my opinion, this reintroduces the issue described above, and noted in the Section 32 Evaluation Report regarding the complexity that is introduced when there are multiple 'levels' of objectives, particularly when the terminology between them differs. For example:

- a. Clause (6) of the submitters' proposal requires that "indigenous species are able to migrate easily within and between catchments", whereas
- b. LF-VM-O3(4) requires that "indigenous species can migrate easily and as naturally as possible to and from the coastal environment."

896. In addition, I am concerned that the proposed region-wide objective sought by Forest and Bird and Fish and Game contains no reference to Kāi Tahu values or relationships with water, which are a prominent component of the FMU visions as notified, in particular Kāi Tahu relationships with wāhi tūpuna and the ability of Kāi Tahu to access and use water bodies to maintain their connection with the wai. For these reasons, I prefer the approach sought by Kāi Tahu ki Otago which I consider seeks to retain notified wording as far as possible but to bring these together into a region-wide objective. In addition, for the reasons I have set out previously, I consider that the objectives of the LF-FW section should be considered alongside the freshwater visions and any potential region-wide objective.

897. My primary concern, as set out by the submitters, is the issue of duplication and inconsistency. For the reasons I have set out above, my 'starting point' for considering a region-wide objective for freshwater has therefore been the notified content of the visions set out in LF-VM-O2 to LF-VM-O6 as well as the three objectives of the LF-FW section (LF-FW-O8, LF-FW-O9, and LF-FW-O10).

898. I have considered each of the matters set out by Kāi Tahu ki Otago and identified where they occur in the suite of objectives across the LF-VM and LF-FW sections. This is set out Table 5 below. In some cases, the principle described by Kāi Tahu ki Otago in its submission differs in some way to the notified wording in a particular objective but largely describes the same (or a very similar) concept. The shading in the table reflects this – green is either identical or there are only minor differences, yellow is partly reflected, and red is not reflected at all.

Table 5: Kai Tahu principles vs notified visions and objectives

Kāi Tahu ki Otago principles	VM-O2	VM-O3	VM-O4	VM-O5	VM-O6	FW-O8	FW-O9	FW-O10
Ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained	✓(3)	✓(2)	✓(2)	✓(2)	✓(2)	x	✓(1)	x
Kāi Tahu ability to access and use water bodies to maintain their connection with the wai	✓(4)	✓(2)	x	x	✓(3)	x	x	x
The health and abundance of mahika kai	✓(4)	✓(3)	x	✓(3)	✓(3)	✓(1)	✓(1)	x
The health of ecosystems and indigenous species	✓(4)	✓(3)	✓(6)	✓(3)	✓(5)	✓(1)	✓(2)	x
The health of wetlands, estuaries and lagoons, and downstream coastal waters	✓(7)	✓(3)	✓(3)	✓(3)	✓(5)	✓(3)	✓(3)	x
The ability for indigenous species to migrate easily	✓(5)	✓(4)	x	✓(3)	x	✓(4)	x	x
Sustaining the natural form and function of the water bodies	✓(7)	x	x	✓(4)	x	✓(2)	x	✓
Sustainable land and water management practices	✓(7)	✓(5) & (6)	✓(8)	x	x	x	x	x
Ceasing direct discharges of wastewater to water bodies	✓(7)	x	✓(7)	x	x	x	x	x

899. In my view, the Kāi Tahu ki Otago principles are already included in most of the freshwater visions as well as in most of the clauses in [LF-FW-O8](#).

900. I have also compared the Kāi Tahu ki Otago principles with the general themes recorded from community consultation.

Table 6: Kai Tahu ki Otago principles vs themes from community consultation

Kāi Tahu ki Otago proposal	General themes from community consultation
Ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained	-
Kāi Tahu ability to access and use water bodies to maintain their connection with the wai	-
The health and abundance of mahika kai	Protecting native species and habitat
The health of ecosystems and indigenous species	
The health of wetlands, estuaries and lagoons, and downstream coastal waters	

The ability for indigenous species to migrate easily	Fish passage in the Clutha Mata-au FMU
Sustaining the natural form and function of the water bodies	-
Sustainable land and water management practices	A need to rethink activities in both urban and rural areas to ensure Otago’s freshwater environments remain healthy. Finding ways for communities to retain their integrity and prosper within the envelope of environmental health
Ceasing direct discharges of wastewater to water bodies	Reducing or eliminating stormwater and wastewater discharges to freshwater and eliminating direct discharges.
-	Fit for purpose monitoring

901. Based on this analysis, I am satisfied that broadly speaking (a) the Kāi Tahu ki Otago principles ‘cover the field’ (i.e. they address matters already in the LF-VM or LF-FW objectives) and (b) they are generally consistent with the general themes from community consultation. In relation to the latter, I acknowledge that there was a greater focus on activities and resource use in the community consultation than in the Kāi Tahu ki Otago principles and the notified visions and objectives. In my view, the management of specific activities or the methods for achieving the visions are matters to be addressed in policies and methods, not in the visions themselves.
902. In its submission, Te Rūnanga o Ngāi Tahu sought that a new overarching region-wide vision be prepared in partnership with mana whenua.⁵⁵⁹ Section 2.5.2 of the Section 32 Evaluation Report describes the involvement of iwi in the development of the pORPS, including the following:
- In relation to the freshwater visions contained in the LF – Land and Freshwater chapter, ORC and Aukaha staff met on 7 May 2021 to co-draft revisions to those provisions which were then provided to Te Ao Marama staff for feedback. Following that, Aukaha staff reviewed the visions alongside rūnaka views that had been developed during the original visions consultation in late 2020. That was then provided to ORC on 12 May 2021.*
903. This co-drafting exercise was an important part of the partnership between ORC and iwi and I agree with Te Rūnanga o Ngāi Tahu that any significant revisions to the visions should also be undertaken in partnership with iwi.
904. After completing my initial analysis of the issue of consistency and structure, and forming my initial high-level recommendations, I prepared a revised structure of the LF-VM and LF-FW sections and notes on the matters I considered should be included in a region-wide objective. I shared this with Ms Sandra McIntyre from Aukaha, on behalf of Kāi Tahu ki Otago, and Ms Maria Bartlett from Te Ao Marama, on behalf of Ngāi Tahu ki Murihiku. We met on

⁵⁵⁹ FPI032.018 Te Rūnanga o Ngāi Tahu

22 March 2023 to discuss this and to further refine the content of a new region-wide objective.

905. As a result, I recommend including a new region-wide objective for freshwater as follows:

LF-FW-O1A – Region-wide objective for freshwater

In all FMUs and rohe in Otago and within the timeframes specified in the *freshwater* visions in LF-VM-O2 to LF-VM-O6:

- (1) *freshwater* ecosystems support healthy populations of indigenous species and *mahika kai* that are safe for consumption,
- (2) the interconnection of *land, fresh water* (including *groundwater*) and *coastal water* is recognised,
- (3) indigenous species can migrate easily and as naturally as possible,
- (4) the natural character, including form and function, of *water bodies* reflects their natural behaviours to the greatest extent practicable,
- (5) the ongoing relationship of Kāi Tahu with *wāhi tūpuna*, including access to and use of *water bodies*, is sustained,
- (6) the health of the *water* supports the health of people and their connections with *water bodies*,
- (7) innovative and sustainable *land* and *water* management practices provide for the health and well-being of *water bodies* and *freshwater* ecosystems and improve resilience to the *effects* of *climate change*, and
- (8) direct *discharges* of *wastewater* to *water bodies* are phased out to the greatest extent practicable.

906. Consequentially, I also recommend deleting clauses from the visions set out in LF-VM-O2 to LF-VM-O6 that are now included in LF-FW-O1A. These are set out in full in the attached copy of the pORPS and also identified in relation to the discussion of each provision in the subsequent parts of this section of the report.

907. As notified, each freshwater vision includes an identical clause requiring that fresh water is managed in accordance with the LF-WAI objectives and policies. At the time the provisions were drafted, the NPSFM 2020 had been newly gazetted and there was uncertainty in how it should be understood and applied. The references in the visions were included as a ‘belts and braces’ approach, to ensure that Te Mana o te Wai was understood to be part of every vision. I have addressed Fulton Hogan’s submission point regarding the LF-WAI policies in paragraphs 829 to 831 of this report and, in summary, do not recommend including any additional policies in the LF-WAI section. Although I have not recommended accepting that part of the submission point, I have considered further the benefit of the Te Mana o te Wai clauses and discussed them with Ms McIntyre and Ms Bartlett during our discussion on a region-wide freshwater objective. It is already made clear in LF-WAI-P4 that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2, and LF-WAI-P3 must be given effect to when making decisions affecting freshwater, including when interpreting and applying the provisions of the LF chapter (including the LF-VM and LF-FW sections). Further, I consider that the suite of freshwater

visions and objectives have been drafted to give effect to Te Mana o te Wai and that the 'belts and braces' approach originally adopted is, therefore, not necessary.

908. For this reason, I recommend accepting in part the relief sought by Fulton Hogan and deleting these clauses.
909. LF-FW-O1A(1) is similar to the following notified provisions:
- a. LF-FW-O8(1): the health of the wai supports the health of the people and thriving mahika kai,
 - b. LF-VM-O2(4): water bodies support thriving mahika kai
 - c. LF-VM-O3(3): healthy riparian margins, wetlands, estuaries and lagoons support thriving mahika kai, indigenous habitats and downstream coastal ecosystems,
 - d. LF-VM-O4(6): water bodies support healthy populations of *galaxiid* species,
 - e. LF-VM-O6(3): water bodies support thriving mahika kai [and access of Kāi Tahu whānui to mahika kai].
910. It is also aligned with one of the general themes from community consultation: protecting native species and habitat. The only freshwater vision that does not contain a similar type of outcome is the Taiari FMU, however I note this is sought by Kāi Tahu ki Otago.⁵⁶⁰ In my view, these provisions are all seeking largely similar outcomes – that Otago's freshwater bodies and their populations of indigenous species are healthy, and mahika kai is thriving. In a number of the provisions above, Kāi Tahu ki Otago, Contact, and Ravensdown seek to clarify that mahika kai are safe for consumption.⁵⁶¹
911. I consider this is consistent with the second priority in decision-making set out in LF-WAI-P1(2), which includes interactions with water such as ingestion (including consumption of harvested resources) and immersive activities (such as harvesting resources). I also consider the amendment assists with implementing LF-WAI-P2(4) which requires recognising and giving practical effect to Kāi Tahu rakatirataka by providing for a range of customary uses, including mahika kai. As a consequential amendment to including LF-FW-O1A(1), I recommend deleting the clauses listed above, except for LF-VM-O3(3) which I recommend amending to delete the references to thriving mahika kai and indigenous habitats but retain the rest.
912. LF-FW-O1A(2) largely adopts the wording currently contained in LF-FW-O8(3): the interconnection of fresh water (including groundwater) and coastal water is recognised. This concept is similarly described in LF-VM-O2(7)(c)(ii): the ecosystem connections between freshwater, wetlands, and the coastal environment are preserved and, wherever possible, restored (noting this applying only to the Lower Clutha rohe). In addition to the LF-VM and LF-FW sections, LF-WAI-P3(1) and (2) also refer to the connections between freshwater bodies, fresh and coastal water, and land and water.

⁵⁶⁰ FPI030.022 Kāi Tahu ki Otago

⁵⁶¹ FPI0030.020 to FPI030.024 Kāi Tahu ki Otago, FPI027.019 Contact, FPI017.006 Ravensdown

913. The only amendments sought by submitters to LF-FW-O8(3) are to include reference to “land”,⁵⁶² which is consistent with the content of LF-WAI-P3 and therefore I recommend incorporating that into LF-FW-O1A(2). I have some reservations about the wording of this clause – most of the other clauses in this objective describe outcomes that can be observed in the environment, whereas the wording of this clause is focused more on describing a procedural outcome (i.e. recognition). Additionally, the wording differs from LF-WAI-P3 which generally requires sustaining and restoring these connections – a higher bar than recognition. I note that DOC has sought the inclusion of “land” in LF-FW-O8(3) or “words to like effect”. Submitters may wish to consider this clause, and the relationship with LF-WAI-P3, in their evidence. As a consequential amendment to including LF-FW-O1A(2), I recommend deleting LF-FW-O8(3) and LF-VM-O2(7)(c)(ii).
914. LF-FW-O1A(3) is similar to the following notified provisions:
- a. LF-FW-O8(4): native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected,
 - b. LF-VM-O2(5): indigenous species migrate easily and as naturally as possible along and within the river system,
 - c. LF-VM-O3(4): indigenous species can migrate easily and as naturally as possible to and from the coastal environment,
 - d. LF-VM-O5(3): healthy estuaries, lagoons and coastal waters support thriving mahika kai and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas.
915. I prefer “indigenous species” to “native fish” and note this phrasing is more common in the provisions above. There is some differentiation about where migration occurs – while LF-FW-O8(4) is silent about where migration is to/from, LF-VM-O2(5) is focused on migration within the Clutha Mata-au river system and LF-VM-O3(4) and LF-VM-O5(3) are focused on migration between fresh and coastal waters.
916. As I understand it, migration at a high level is generally between fresh and coastal waters. However, the barriers to that migration are often in the freshwater bodies. In my view, the ability to migrate is the key outcome sought and therefore it is not necessary to specify the different types of migration that might occur (and unintentionally limit the application of the clause to, for example, migration occurring at the fresh/coastal water interface). That said, I am not strongly wedded to this position – submitters may wish to address this in their evidence.
917. There have been many submissions on this direction where it occurs in the notified provisions above, including:
- a. Moutere Station seeks to amend the phrase so it only applies to migration of indigenous species where required to complete their life cycle and notes concerns

⁵⁶² FPI032.022 Te Rūnanga o Ngāi Tahu, FPI030.028 Kāi Tahu ki Otago, FPI044.015 DOC,

about the potential migration of exotic species and the resulting impacts on indigenous species.⁵⁶³

- b. Contact considers the clause fails to reflect that the dams have altered the natural form and function of the Clutha awa, and that the restoration of natural processes may not be feasible in all cases. Contact seeks to replace 'where possible' with 'practicable'.⁵⁶⁴
- c. Meridian proposes that the migration of these species is maintained, and enhanced where practicable, while removing reference to the migration being easy and as natural as possible.⁵⁶⁵
- d. Oceana Gold seeks the removal of the phrase 'as naturally as possible' and amendments so that provision is made for indigenous species to migrate.⁵⁶⁶
- e. John Highton seeks amendments to provide for the migration of valued introduced species such as salmon, as well as native species.⁵⁶⁷

918. I agree with submitters that there are practical constraints on the ability for indigenous species to travel up and down rivers – most notably, the hydroelectric dams on the Clutha Mata-au. The clause requires migration be “as natural as possible” which recognises that there will be situations where natural solutions are not possible. The NPSFM sets out specific requirements for the management of fish passage and I consider the wording I propose in LF-FW-O1A(3) is consistent with that direction. The interaction of exotic and indigenous species is highlighted in Policies 9 and 10 of the NPSFM as well as in detail in the fish passage requirements in clause 3.26. I do not consider the amendment sought by John Highton appropriately recognises the nuance required when managing this interaction. As a consequential amendment to including LF-FW-O1A(3), I recommend deleting the clauses listed above except LF-VM-O5(3) where I recommend only deleting the part about migration of indigenous species.

919. LF-FW-O1A(4) is similar to the following notified provisions:

- a. LF-FW-O8(2): water flow is continuous throughout the whole system,
- b. LF-FW-O10: the natural character of wetlands, lakes, and rivers and their margins is preserved and protected from inappropriate subdivision, use and development.
- c. LF-VM-O2(7)(b)(i): flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices (noting this applies only to the Dunstan, Manuherekia, and Roxburgh rohe),
- d. LF-VM-O2(7)(c)(i): there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water

⁵⁶³ FPI023.008 Moutere Station

⁵⁶⁴ FPI027.019 Contact

⁵⁶⁵ FPI016.013 Meridian.

⁵⁶⁶ FPI031.006 Oceana Gold

⁵⁶⁷ FPI007.007 John Highton

bodies are promoted wherever possible (noting this applies only to the Lower Clutha rohe),

- e. **LF-VM-O5(4)**: there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible.
920. As outlined in section 8.5.4 of this report, there are many submissions in opposition to **LF-FW-O8(2)**, with most seeking either deletion or significant amendment to improve clarity. It is evident from the submissions on that clause that there are a range of interpretations, suggesting that it is unclear what the clause is describing. I understand clause (2) is describing an outcome where flows and levels reflect the natural behaviour of water bodies, with minimal artificial interruption. However, I agree with submitters that the wording is unclear and open to interpretation.
921. I consider that **LF-VM-O2(7)(b)(i)** makes this connection between water flow and form and function more clearly: states “flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices.” Similar but different references to form and function are included in the visions for the Lower Clutha rohe (**LF-VM-O2(7)(c)(i)**) and Dunedin & Coast FMU (**LF-VM-O5(4)**). In relation to the latter, DCC considers that the clause as notified suggests that modification of rivers can only result in a reduction of natural form and function, even though some works on modified water bodies may provide an opportunity to partially restore natural form and function.
922. I note that one of the principles suggested by Kāi Tahu ki Otago is “sustaining the natural form and function of the water bodies.”⁵⁶⁸ Given the high level of modification of some water bodies, I am not convinced this is a practical outcome. The wording sought by Fish and Game and Forest and Bird in their region-wide vision is similar (but, again, different) to the wording of the notified provisions above: “the natural form and function of water bodies, including with respect to water quality, sedimentation and flows, mimics that of their natural behaviour”.⁵⁶⁹ In my view, any outcome regarding form and function needs to be aspirational but also practical.
923. In relation to **LF-VM-O5(4)**, Beef + Lamb and DINZ seek to focus the clause on maintaining the natural character of waterbodies (including form and function), rather than requiring the avoidance of all further modification. I consider this captures the matter of national importance set out in section 6(a), currently included in **LF-FW-O10**, while at the same time specifically highlighting the form and function matter which is consistent through the freshwater visions listed above. I consider combining the clauses and provisions addressing this in varying ways would assist with clarity and recommend accepting this submission point.
924. In section 4.6 of this report, I have addressed a number of specific submission points made by NZSki and Realnz seeking amendments to wording throughout the FPI, including the terms highlighted in these submission points (such as “where possible”). Many of the same

⁵⁶⁸ FPI030.019 Kāi Tahu ki Otago

⁵⁶⁹ FPI037.014 Fish and Game, FPI045.008 Forest and Bird

issues have been raised by these submitters and others in relation to the non-FPI parts of the pORPS. My analysis in that section is relevant to this clause and is the reason I have used the phrase “to the greatest extent practicable.” For the same reasons, and for consistency, I have adopted the same phrasing in the FPI provisions where appropriate.

925. As a consequential amendment to including LF-FW-O1A(4), I recommend deleting the clauses I have listed above except for LF-VM-O2(7)(c)(i) and LF-VM-O5(4) where I recommend deleting the reference to modification but retain the part about restoration opportunities. I also recommend deleting LF-FW-O10 and I have made that recommendation in my non-FPI *Reply report 9: LF – Land and freshwater*.
926. LF-FW-O1A(5) picks up on a theme that is common across the freshwater visions but inconsistently expressed:
- a. LF-VM-O2(3), LF-VM-O4(2), LF-VM-O5(2), and LF-VM-O6(2): the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,
 - b. LF-VM-O3(2): the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained and Kāi Tahu maintain their connection with and use of the water bodies
 - c. LF-VM-O6(3): water bodies support thriving mahika kai and access of Kāi Tahu whānui to mahika kai.
927. In contrast to some other matters, despite this being addressed in all of the visions (and therefore ‘region-wide’ for all intents and purposes) it is repeated inconsistently throughout the visions rather than being included in LF-FW-O8. It is not clear why. In relation to LF-VM-O6(3), Beef + Lamb and DINZ considers that public access needs to be considerate of and consistent with landowner needs, in order to foster good relationships and safeguard the landowner’s business against disruption or loss and to allow for health and safety and animal welfare matters.⁵⁷⁰
928. RMIA-MKB-I2 describes the barriers that have impeded the ability of Kāi Tahu to access mahika kai and undertake customary harvest, including lack of physical access and sites no longer being safe to access due to pollution or changes in flows/depths. I agree with Beef + Lamb and DINZ that access to private property is not guaranteed and there will be good reasons to restrict public access in some areas or at some times of year. However, LF-WAI-O1, the expression of Te Mana o te Wai in Otago, requires the management of land and water to recognise and reflect that Kāi Tahu exercise rakatirataka, manaakitaka, and their kaitiakitaka duty of care and attention over wai and the life it supports.
929. In addition to this, LF-WAI-P2(3) requires recognising and giving practical effect to Kāi Tahu rakatirataka in respect of freshwater by providing for a range of customary uses, including mahika kai, specific to each water body. Access to mahika kai is a fundamental part of implementing this direction. I do not consider that the wording of clause (3) as notified establishes an expectation that access will be guaranteed, or that access could not be negotiated in a way that is considerate of and respects landowner needs. For these reasons, I do not recommend accepting this submission point.

⁵⁷⁰ FPI025.022 Beef + Lamb and DINZ

930. I consider that both access to and use of water bodies is important to implementing section 6(e) and have therefore incorporated both into LF-FW-O1A(5). As a consequential amendment, I recommend deleting the clauses I have listed above.
931. LF-FW-O1A(6) picks up on the aspect of LF-FW-O8(1) that is not covered by LF-FW-O1A(1): the health of the water supporting the health of people. In relation to LF-FW-O8(1), Contact and Ballance seek amendments to recognise the connections of people with water bodies.⁵⁷¹ Fish and Game has also sought more generally that the pORPS recognises and provides for people's connection with the environment, including recreation in and around water and harvesting food from water bodies.⁵⁷² I consider the wording proposed by Contact and Ballance captures this philosophy and I have largely adopted it in LF-FW-O1A(6). I recommend accepting these submission points in part.
932. LF-FW-O1A(7) is similar to the following notified provisions:
- a. LF-VM-O2(7)(b)(ii): innovative and sustainable land and water management practices support food production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact (noting this applies only to the Dunstan, Manuhereikia and Roxburgh rohe),
 - b. LF-VM-O2(7)(c)(iii) and LF-VM-O3(5): land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact,
 - c. LF-VM-O4(8): innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.
933. There have been many submissions made on these provisions. In relation to LF-VM-O2(7)(b)(ii):
- a. Manuhereikia Group seeks to delete the term 'innovative'.⁵⁷³
 - b. Several submitters seek alternative terms to 'food production', including: 'agricultural, pastoral, horticultural and viticultural production';⁵⁷⁴ 'food and fibre sector';⁵⁷⁵ 'innovative land use';⁵⁷⁶ 'food and fibre production';⁵⁷⁷ and 'primary production'.⁵⁷⁸ COWA seeks that viticulture is referenced alongside food production.⁵⁷⁹
 - c. COWA seeks that 'land and water management practices are enabled'.⁵⁸⁰

⁵⁷¹ FPI027.024 Contact, FPI021.005 Ballance

⁵⁷² FPI037.068 Fish and Game

⁵⁷³ FPI005.003 Manuhereikia Group

⁵⁷⁴ FPI041.002 McArthur Ridge

⁵⁷⁵ FPI043.001 OWRUG

⁵⁷⁶ FPI005.003 Manuhereikia Group

⁵⁷⁷ FPI023.008 Moutere Station

⁵⁷⁸ FPI026.022 Federated Farmers

⁵⁷⁹ FPI009.006 COWA

⁵⁸⁰ FPI009.006 COWA

- d. Waterfall Park seeks that the management practices described in clause (7)(b)(ii) 'improve water quality where degraded', in addition to supporting food production and reducing discharges.⁵⁸¹
 - e. Beef + Lamb and DINZ seeks amendments to only require the reduction of discharges of nutrient and other contaminants to water bodies 'where necessary to ensure they are safe for human contact'.⁵⁸²
 - f. Horticulture NZ seeks that clause (7)(b)(ii) include reference to management practices that 'reduce emissions and improve resilience to the effects of climate change'.⁵⁸³
934. I consider 'innovative' is consistent with the desire expressed by the community to see new approaches developed to manage activities in the future. In my view, although food production was a matter specifically raised by communities, the key part of these references is the focus on practices, rather than the particular use they are supporting. In my view, the purpose of employing innovative and sustainable practices is to ensure that activities, regardless of what they are, reduce their impacts on the health and well-being of freshwater. I have therefore drafted LF-FW-O1A(7) to remove the reference to specific activities and instead focus on the outcome sought in the water bodies. I consider this also addresses the concerns by submitters about the need for a reduction in discharges. I recommend accepting in part the submission points listed above.
935. I have also incorporated reference to improving resilience to the effects of climate change. This is already part of LF-VM-O4 and a similar amendment is sought by a number of submitters on the freshwater visions:
- a. HortNZ: LF-VM-O2, LF-VM-O5 and LF-VM-O6,⁵⁸⁴
 - b. DOC: LF-VM-O2 and LF-VM-O4,⁵⁸⁵
 - c. Federated Farmers: LF-VM-O5 and LF-VM-O6.⁵⁸⁶
 - d. Ravensdown: LF-VM-O5 and LF-VM-O6.⁵⁸⁷
936. The hearing panel for the non-FPI part of the pORPS raised the inconsistent way that climate change has been addressed throughout the pORPS. I have discussed that issue with the non-FPI reporting officers and we consider that large parts of the pORPS have been drafted with the effects of climate change in mind (i.e. climate change is 'implicit' in the document) but we have agreed that references to managing the effects of climate change should be included in the pORPS where there is a particular reason to highlight them (i.e. 'explicit' recognition).
937. In my view, the effects of climate change will have significant implications for some land and water users and, given the timeframes the visions contain, it will be important for practices

⁵⁸¹ FPI028.001 Waterfall Park

⁵⁸² FPI025.018 Beef + Lamb and DINZ

⁵⁸³ FPI047.015 Horticulture NZ

⁵⁸⁴ FPI047.015 HortNZ, FPI047.019 HortNZ, FPI0347.020 HortNZ

⁵⁸⁵ FPI044.009 DOC, FPI044.011 DOC

⁵⁸⁶ FPI026.025 Federated Farmers, FPI026.026 Federated Farmers

⁵⁸⁷ FPI017.008 Ravensdown, FPI017.009 Ravensdown

to improve resilience as those effects are felt. As a result of including LF-FW-01A, I recommend deleting LF-VM-O2(7)(b)(ii), LF-VM-O2(7)(c)(iii), LF-VM-O3(5), and LF-VM-O4(8).

938. LF-FW-01A(8) is similar to LF-VM-O2(7)(c)(iv) and LF-VM-O4(7) which require that there are no direct discharges of wastewater to water bodies.

939. As discussed earlier in this report, one of the general themes from community consultation across the FMUs was reducing or eliminating stormwater and wastewater discharges to freshwater and eliminating direct discharges. In terms of submissions on this point:

- a. Kāi Tahu ki Otago seeks that all visions are amended to include the requirement for direct discharges of wastewater to water bodies to be phased out, or that this is included in a region-wide vision.⁵⁸⁸
- b. In relation to LF-VM-O2, Fonterra seeks that clause (7)(c)(iv) apply specifically to 'wastewater containing sewage'⁵⁸⁹ and Silver Fern Farms seeks to refer to discharges of sewage rather than wastewater.⁵⁹⁰ Both submitters consider this objective should not inadvertently prohibit discharges of appropriately treated and authorised discharges that do not contain sewage.
- c. In relation to LF-VM-O4, DCC submits that in some situations (such as extreme weather events or when a system fault has occurred), discharges of treated and/or untreated wastewater to water bodies can occur and that in some cases, a wastewater overflow may be the best practicable option with minimal environmental effect as total elimination of overflows is unlikely to be possible in most wastewater systems. The submitter does not seek specific amendments, rather it seeks general amendments to address the concerns raised.⁵⁹¹

940. There are two parts to this clause: the discharge and the content of that discharge (i.e. the direct discharge of wastewater to water bodies) and the ultimate outcome sought for the management of these discharges.

941. Turning to the first matter, wastewater is a term that is defined in the National Planning Standards and therefore the definition is mandatory where the term is used. The definition is:

...any combination of two or more the [sic] following wastes: sewage, greywater or industrial and trade waste.

942. I agree with Fonterra and Silver Fern Farms that discharges containing sewage are generally considered differently from those without sewage – particularly due to their offensiveness to Kāi Tahu. I have considered the provisions of the relevant iwi management plans in order to better understand Kāi Tahu views on wastewater discharges more generally – both with and without sewage.⁵⁹² It is evident that there is a strong desire to avoid the discharge of

⁵⁸⁸ FPI030.019 Kāi Tahu ki Otago

⁵⁸⁹ FPI019.006 Fonterra

⁵⁹⁰ FPI020.012 Silver Fern Farms

⁵⁹¹ FPI001.010 DCC

⁵⁹² Kāi Tahu ki Otago Natural Resources Management Plan 2005, Te Tangi a Tauira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008, Waitaki Iwi Management Plan 2019, and the Ngāi Tahu Freshwater Policy Statement 1999.

human effluent, or sewage, directly to water. In a broader sense, section 3.5.2 of Te Tangi a Tauria states the following:

“Our bottom line is to avoid discharge of wastewater (e.g. sewage and stormwater) to water, as such activities have adverse effects on cultural values such as mauri, wairua, mahinga kai and wāhi tapu. Our preference is for wastewater to be treated to remove contaminants, and then discharged to land via wetlands and riparian areas, to allow Papatūānuku to provide a natural filter for waste. Where this is not practical or feasible, and discharge to water is proposed, then adverse effects must be mitigated through treatment to a very high standard and robust monitoring programs. Ngāi Tahu ki Murihiku will always look for the most culturally, environmentally, socially and economically appropriate option for a particular site.”

943. Based on my reading, I understand the Kāi Tahu preference to be that all discharges are first treated to remove contaminants and then discharged to land for additional filtering, with direct discharges to water a ‘last resort’. I acknowledge that LF-VM-O5(5) refers to discharges of contaminants more generally, and that this is more closely aligned with Kāi Tahu aspirations. However, I am conscious that the community feedback was particularly focused on wastewater discharges and of the issues raised by Fonterra and Silver Fern Farms. With this context, I have chosen to incorporate the wording of LF-VM-O2(7)(c)(iv) and LF-VM-O4(7) into LF-FW-O1A(8), being “direct discharges of wastewater to water bodies”.. Submitters may wish to comment on the scope of this provision in their evidence.
944. The second part of the clause sets the outcome sought from management of these discharges. LF-VM-O2 and LF-VM-O4 as notified require no direct discharges of wastewater to water bodies, which submitters have highlighted as problematic. I agree, for two reasons: firstly, although land treatment systems are relatively common now for a range of types of discharges, they are not always technically feasible⁵⁹³ and, secondly, if a discharge is treated to an appropriate standard then it may have fewer adverse effects than a discharge to land. I understand this is a main component of the concerns raised by Fonterra and Silver Fern Farms.
945. In my view, in light of Te Mana o te Wai and the hierarchy of obligations, it is appropriate for a long-term objective to aim to phase out direct discharges as much as possible. However, there will be cases where this is not practicable. To recognise this, I have drafted LF-FW-O1A(8) to require phasing out direct discharges “to the greatest extent practicable”. I have recommended significant changes to LF-FW-P15 including splitting the policy into two provisions addressing these types of discharges. My analysis and recommendations are set out in section 8.5.9. I consider that LF-FW-O1A(8) is consistent with the direction in the LF-FW policies as I recommend them to be amended, noting that the policy on wastewater does

⁵⁹³ In relation to wastewater discharges specifically, a report prepared for the Ministry for the Environment assessed the ability to transition towards 100% land-based wastewater discharges in New Zealand and stated that “[t]he wide range of factors affecting the viability of land-based discharges makes the transition towards 100 per cent land-based wastewater discharges a case by case situation [and a] detailed study would be required for each site considering the particular characteristics of it.” Without that site-specific assessment occurring, I am reluctant to impose a land-based discharge requirement.

not require ceasing all discharges. As a consequential amendment, I recommend deleting LF-VM-O2(7)(c)(iv) and LF-VM-O4(7).

946.

Implications for LF-FW objectives

947. There are three objectives in the LF-FW section:

- a. LF-FW-O8 applies to all fresh water,
- b. LF-FW-O9 applies to natural wetlands, and
- c. LF-FW-O10 applies to natural character.

948. There are varying implications for these objectives arising from the introduction of a region-wide objective for freshwater. In the previous section, I have discussed the parts of LF-FW-O8 that I consider are now incorporated in my recommended LF-FW-O1A. In summary, I recommend deleting clauses (1), (2), (3), and (4).

949. That leaves only LF-FW-O8(5) which requires identifying and protecting the significant and outstanding values of Otago's outstanding water bodies. In the non-FPI process, I have recommended amendments to LF-FW-P12 that essentially repeat the content of LF-FW-O8(5). As outstanding water bodies are a subset of freshwater bodies, new LF-FW-O1A would apply to outstanding water bodies as well, therefore I do not consider a specific objective is necessary, particularly given it mostly repeats the content of the subsequent policy. In my view, LF-FW-O8(5) can also be deleted, meaning that the entirety of the objective could be deleted if LF-FW-O1A is included instead.

950. In comparison to LF-FW-O8, some parts of LF-FW-O9 are arguably also addressed by new LF-FW-O1A but others are not. Clauses (1) to (3) are arguably addressed at a more general level in the new objective. Clause (4) is not explicitly addressed in LF-FW-O1A at all. In my view, there is less crossover between the new objective and LF-FW-O9.

951. The NPSFM contains direction on managing wetlands:

- a. Policy 6 requires that there is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.
- b. Clause 3.22(1) sets out a lengthy and specific policy that must be included in regional plans.
- c. Clause 3.22(3) requires regional plans to ensure that applications for certain activities addressed in the mandatory policy are not granted unless two specific matters are addressed to the decision-maker's satisfaction.
- d. Clause 3.22(4) requires regional plans to include objectives, policies, and methods that provide for and promote the restoration of natural inland wetlands in its region, with a particular focus on restoring the values of ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values.

952. This creates a situation where the direction in Policy 6 is very broad, but the accompanying (and mandatory) content for regional plans is very specific. It is the role of an RPS to 'bridge

the gap' between the two. In light of this context, I consider that retaining LF-FW-09 is important. I do not consider there is conflict between the objectives – rather, LF-FW-09 addresses more specific parts of new LF-FW-01A that are particularly relevant for natural wetlands. On this basis, I recommend retaining the objective but moving it so that it follows the freshwater visions.

953. The final objective in the LF-FW section is LF-FW-O10. This objective is a non-FPI provision which means any amendments I recommend in that process as a result of recommendations I have made in this report must be within the scope of the submissions made in the non-FPI process. Setting aside the matter of scope, I consider LF-FW-O10 could be incorporated into LF-FW-01A as it applies on a region-wide basis and to all wetlands, and lakes and rivers and their margins. Clause (4) in new LF-FW-01A relates to the form and function of water bodies, which is an aspect of natural character. However, I am not convinced that this clause alone is comparable to the direction in LF-FW-O10 as natural character encompasses other matters, such as experiential attributes, that are not solely about form and function.
954. I have considered the non-FPI submissions on LF-FW-O10 and no submitter sought its deletion – in fact, most sought its retention. Beef + Lamb and DINZ opposed the objective and sought to amend it in favour of a hierarchy for addressing effects on natural character similar to that in the NZCPS. I am not convinced this provides scope for deletion.
955. However, if the content of LF-FW-O10 is incorporated into new LF-FW-01A, and therefore is not truly being 'deleted', I consider it is possible to delete LF-FW-O10 using clause 16(2) of Schedule 1 on the basis that its deletion is simply removing duplication and is therefore of minor effect. I have made this recommendation in my non-FPI *Reply report 9: LF – Land and freshwater*.

Other consequential amendments

956. As notified, LF-FW-P13(4) requires preserving the natural character of lakes and rivers and their beds and margins by, wherever possible, sustaining the form and function of a water body that reflects its natural behaviours. That sits uncomfortably with LF-FW-01A(4) which requires that the form and function of water bodies reflects their natural behaviours to the greatest extent practicable.
957. In the non-FPI part, Contact seeks the deletion of clause (4) because the submitter considers that "wherever possible" is a self-defeating phrase and that "anything is possible" if you avoid activities altogether. I had previously recommended rejecting that submission point, however in light of my recommendations in this report I have revisited that position.
958. To address the issue raised by Contact, and implement the direction in LF-FW-01A, in my non-FPI *Reply report 9: LF – Land and freshwater* I have recommended amending LF-FW-P13(4) as follows:
- (4) ~~wherever possible~~ to the greatest extent practicable, sustaining the form and function of a water body that reflects its natural behaviours,
959. Although I note it here for clarity, that recommendation cannot be made in this report because the provision is not an FPI provision. Instead, I will make that recommendation to the non-FPI hearing panel through my reply report on this chapter.

8.4.2.3. Recommendation

960. I recommend the following amendments:

a. Introducing new LF-FW-O1A as follows:

LF-FW-O1A – Region-wide objective for freshwater

In all FMUs and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VM-O2 to LF-VM-O6:

- (1) freshwater ecosystems support healthy populations of indigenous species and mahika kai that are safe for consumption,
- (2) the interconnection of land, fresh water (including groundwater) and coastal water is recognised,
- (3) indigenous species can migrate easily and as naturally as possible,
- (4) the natural character, including form and function, of water bodies reflects their natural behaviours to the greatest extent practicable,
- (5) the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, is sustained,
- (6) the health of the water supports the health of people and their connections with water bodies,
- (7) innovative and sustainable land and water management practices provide for the health and well-being of water bodies and freshwater ecosystems and improve resilience to the effects of climate change, and
- (8) direct discharges of wastewater to water bodies are phased out to the greatest extent practicable.

b. Deleting the following clauses from the freshwater visions as a consequential amendment to introducing LF-FW-O1A:

- i. LF-VM-O2(3), (4), (5), (7)(b)(i) and (ii), (7)(c)(i), (iii) and (iv),
- ii. LF-VM-O3(2), (4), and (5),
- iii. LF-VM-O4(2), (6), (7), and (8),
- iv. LF-VM-O5(2) and (4), and
- v. LF-VM-O6(2) and (3).

c. Deleting the part of LF-VM-O3(3) that relates to mahika kai and indigenous species,

d. Deleting the part of LF-VM-O5(3) that relates to migration of indigenous species,

e. Deleting LF-FW-O8 and LF-FW-O10,

f. Retaining LF-FW-O9 but locating it after the suite of freshwater visions, and

g. Merging the LF-VM and LF-FW sections into one LF-FW section.

961. These amendments are set out in full in the attached tracked version of the FPI.

8.4.3. Timeframes

962. There are many submissions seeking amendments to the timeframes set out in the freshwater visions. Some of these were made generally across the suite of visions and some were made specifically in relation to one or more visions. All of those submission points are addressed in this section for consistency.

8.4.3.1. Submissions

963. Some submitters seek amendments to the suite of visions or make general submissions on the timeframes:

- a. Federated Farmers seeks to delete the specific timeframes identified in the visions and replace them with the following (or similar) wording:

In consultation with the community and stakeholders a long-term vision is identified that means for the [relevant FMU]: ...

- b. DairyNZ seeks that all timeframes in the FMU visions are amended so that they are based on a more thorough understanding of the implications, economic and social costs associated with meeting the visions. As a starting point, DairyNZ propose a 50-year timeframe in FMUs where the visions will be more challenging to achieve.⁵⁹⁴
- c. OWRUG considers that the timeframes should be deleted, and amended to timeframes that have been shown to be achievable.⁵⁹⁵ OWRUG does not identify such a timeframe.
- d. Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago seek that all visions are amended to require practice changes within 10 years, and achievement of the visions within 20 years.⁵⁹⁶
- e. Fish and Game seeks that all vision objectives be achieved by 2040 at the latest.⁵⁹⁷
- f. DOC seeks that all freshwater visions are amended to provide appropriate timeframes and staged targets and considers that the 2050 timeframes in particular are too long, so will be inadequate to achieve the purpose of the RMA.⁵⁹⁸

964. In relation to the Clutha Mata-au FMU vision (LF-VM-O2), several submitters seek amendments to the dates for achievement of outcomes set out in clause (8), including:

- a. John Highton seeks a timeframe of 2030 for all rohe,⁵⁹⁹
- b. Wise Response and McArthur Ridge a timeframe of 2035 for the Dunstan, Roxburgh, Lower Clutha and Manuherehia rohe,⁶⁰⁰

⁵⁹⁴ FPI024.019 DairyNZ

⁵⁹⁵ FPI043.002 OWRUG

⁵⁹⁶ FPI032.018 Te Rūnanga o Ngāi Tahu, FPI030.051 Kāi Tahu ki Otago

⁵⁹⁷ FPI037.060 Fish and Game, FPI037.061 Fish and Game

⁵⁹⁸ FPI044.007 DOC

⁵⁹⁹ FPI007.010 John Highton

⁶⁰⁰ FPI035.005 Wise Response, FPI041.003 McArthur Ridge

- c. Contact and Kāi Tahu ki Otago seek a timeframe of 2045 for the Manuherekia rohe,⁶⁰¹ and
 - d. Beef + Lamb and DINZ seek a timeframe of 2050 for all rohe.⁶⁰²
965. Other submitters have made more general submissions on the Clutha Mata-au timeframes:
- a. Federated Farmers and OWRUG both consider that the timeframes should be deleted and amended to timeframes that have been shown to be achievable.⁶⁰³ Neither submitter identifies specific timeframes.
 - b. ORC submits that the vision for the Upper Lakes rohe is unlikely to be met by the 2030 timeframe, based on current modelling for periphyton. The submitter does not propose an alternative timeframe but does suggest the further modelling results may show the vision is still appropriate.⁶⁰⁴
 - c. Wise Response and the Minister for the Environment seek that interim steps should be included, with reporting requirements.⁶⁰⁵ In addition to this, the Minister for the Environment notes that a 2040 timeframe for quality and flows may be longer than reasonable, but does not suggest alternative timeframes.
 - d. Manuherekia Group seeks that the timeframes are linked to clear outcomes for each rohe.⁶⁰⁶
966. In relation to the North Otago FMU vision (LF-VM-O3), several submitters seek changes to the timeframe set in the chapeau of the objective:
- a. DCC seeks that the vision, including the means and timeframes for achieving the vision, are amended to address the issues raised in its submission but does not propose a specific timeframe.⁶⁰⁷
 - b. Wise Response seeks that the timeframe be reduced to 2035 on the basis that the timeframe is too long with the uncertainty of the climate emergency and fossil energy supply.⁶⁰⁸
 - c. Kāi Tahu ki Otago seeks that the timeframe be amended to 2045, on the basis that all visions should be achieved within 20 years, rather than leaving improvement of degraded environments to the next generation.⁶⁰⁹
967. In relation to the Taiari FMU vision (LF-VM-O4), Wise Response seeks that the timeframe be reduced to 2035, on the basis that the timeframe is too long with the uncertainty of the climate emergency and fossil energy supply.⁶¹⁰

⁶⁰¹ FPI029.017 Contact, FPI030.020 Kāi Tahu ki Otago

⁶⁰² FPI025.018 Beef + Lamb and DINZ

⁶⁰³ FPI026.022 Federated Farmers, FPI043.001 OWRUG

⁶⁰⁴ FPI029.001 Otago Regional Council

⁶⁰⁵ FPI035.005 Wise Response, FPI012.005 Minister for the Environment

⁶⁰⁶ FPI005.005 Manuherekia Group

⁶⁰⁷ FPI001.011 DCC

⁶⁰⁸ FPI035.006 Wise Response

⁶⁰⁹ FPI030.021 Kāi Tahu ki Otago

⁶¹⁰ FPI035.007 Wise Response

968. In relation to the Catlins FMU visions (LF-VM-O6), Otago Regional Council submits that the vision for the Catlins FMU is unlikely to be met by the 2030 timeframe, based on current modelling for periphyton. The Council does not propose an alternative timeframe but does suggest the further modelling results may show the vision is still appropriate.⁶¹¹

8.4.3.2. Analysis

969. I do not consider that the amendments sought by Federated Farmers to each of the visions would meet the requirements of the NPSFM. By my reading, the wording sought would mean that the provisions in LF-VM-O2 to LF-VM-O6 are not visions themselves, and instead some other visions would be developed to achieve the same outcomes as those set out in LF-VM-O2 to LF-VM-O6. Clause 3.3(1) of the NPSFM requires that long-term visions for freshwater are included in regional policy statements as objectives. Adopting the relief sought by Federated Farmers would mean the pORPS would need to be changed at a later date to include the actual visions. I do not consider this is efficient given the pORPS is currently progressing through the necessary planning process already. Additionally, uncertainty about the visions and their timeframes has implications for the development of the LWRP which is currently underway and due to be notified by June 2024. I do not recommend accepting this submission point.

970. I agree with DairyNZ that determining whether timeframes are “ambitious and reasonable” as required by clause 3.3(2)(a) of the NPSFM requires understanding the level of change in water quantity and quality needed to achieve the visions. In this regard, the delay caused by renotifying the FPI provisions is helpful as the development of the LWRP has carried on separately and, as demonstrated by the ORC submission on vision timeframes, there is more information available about the ‘gap’ between current and future states. I consider it would assist the panel, and the parties, for more information on this to be provided. I understand that ORC intends to file evidence in support of its submission which will assist with addressing this point.

971. That said, I do not consider that 50 years is an acceptable timeframe even in FMUs or rohe where the vision will be challenging to achieve. Compared to the notified versions, this proposal would more than double the current timeframes. One of the submitter’s criticisms of the notified visions is that the Section 32 Evaluation Report does not adequately assess the timeframes in terms of whether they are ambitious and reasonable. Despite this, the submitter has not provided any supporting evidence or assessment for their proposal to use 50 years as a starting point.

972. One of the considerations for the notified timeframes was the relationship of Kāi Tahu with wai māori and the need for intergenerational knowledge transfer. This is explained in the submission of Kāi Tahu ki Otago as follows:

An important component of the relationship of mana whenua with wai māori is the ability to pass on mātauraka (the knowledge of the resource, its use and the way it should be managed) to the next generation. Degradation of water bodies and the mahika kai they support has significantly affected the ability for mana whenua to pass

⁶¹¹ FPI029.001 Otago Regional Council

on mātauraka. Kā Rūnaka have a strong desire for degradation to be reversed and visions to be achieved within a generation, so that the relationship can be kept alive for the next generation. To achieve this, Kā Rūnaka consider that timeframes for action should require practices to change within 10 years and visions to be achieved within 20 years. (para 3.6)

973. This is also reflected in RMIA-WAI-I3, which states:

...as described in evidence provided to the Waitangi Tribunal in the Ngāi Tahu claim, there has been a dramatic loss of mahika kai resources and places of procurement since the Treaty was signed. This loss is greater than the loss of kai. It is a loss of Kāi Tahu culture, as it affects the intergenerational transfer of mātauraka handed down from tūpuna over hundreds of years. It represents a loss of rakatirataka and of mana.

974. Section 6(e) of the RMA requires recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, wāhi tapu, and other taonga as a matter of national importance. I appreciate that there will be potentially significant economic impacts from achieving the visions set out in the pORPS. However, I consider that “ambitious and reasonable” is not only an economic consideration. It must also consider the impacts of delaying improvements – including, particularly, the ongoing impacts on the relationship of Kāi Tahu with wai māori and their ability to exercise rakatirataka and kaitiakitaka.

975. In contrast to Federated Farmers and DairyNZ, Fish and Game and DOC seek to bring forward the timeframes for achieving the visions. Neither submitter has provided any evidence to support the relief sought. There are many other specific submission points throughout the freshwater visions seeking amendments to the timeframes, and in most cases there is no supporting evidence for the amendments. I note, in particular, that ORC has submitted identifying that two of the timeframes may not be achievable based on preliminary periphyton modelling.

976. In relation to the Taiari FMU (LF-VM-O4), Kāi Tahu ki Otago seeks to amend the timeframe 2050 to 2045. Using the data available through ORC’s online GIS, I understand there are at least 1086 current water take permits in the Taiari catchment. Of those, 218 are due to expire between 2045 and 2050. This equates to 20% of the current water take permits in the catchment. An additional 19% of current water take permits expire between 2040 and 2045.

977. On this basis, although I understand the reasons for the request by Kāi Tahu ki Otago, I do not consider that bringing forward the date for achieving the vision from 2050 to 2045 is practical. Clause 3.3(2)(c) of the NPSFM requires timeframes to be both ambitious and reasonable. In the Taiari FMU, I do not consider a 2045 timeframe is reasonable because at that point in time 20% of the water take permits will not have been re-examined under the new LWRP framework (which will give effect to the NPSFM). Clause 3.17(1)(c) requires regional plans to state which (and if so, when and which) existing water permits will be reviewed to comply with environmental flows and levels. Although it is possible those permits with expiry dates beyond 2045 could be reviewed before their expiry, it is clear this is expected to happen through the regional plan. For these reasons, I do not recommend accepting this submission point.

978. Given the range of submission points made, the potential uncertainty about the achievability of the notified timeframes, and the potential impacts on the LWRP and resource users, I consider that more evidence on the timeframes is needed before making recommendations. For these reasons, I currently do not recommend any amendments to the freshwater vision timeframes but note that my position may change in response to evidence from the parties.
979. A number of submitters seek interim timeframes for achieving freshwater visions.⁶¹² I agree that interim timeframes are likely to be necessary in some cases in order to track progress towards achievement of the visions. However, I do not agree that the pORPS is the appropriate place for them. In my view, the long-term visions set out the 'final state' of implementing the NPSFM, and in particular the NOF. It is appropriate for these to be included at the RPS level because they are strategic and will require actions by all councils and communities. The NOF sets out a series of subsequent steps that 'break down' the pathway for achieving the visions. These requirements relate to regional plans, rather than regional policy statements.
980. The NPSFM requires councils to identify values for each FMU and environmental outcomes for each value.⁶¹³ For each value, councils must identify attributes, as well as baseline and target states for those attributes.⁶¹⁴ Councils must ensure that target attribute states are set in such a way that they will achieve the environmental outcomes for the relevant values, and the relevant long-term vision.⁶¹⁵ Every target attribute state must specify a timeframe for achievement and those timeframes may be any length of period but if they are long term they must include interim target attribute states (set for intervals of no more than 10 years).⁶¹⁶
981. In my view, the steps above and the information they require will provide far greater specificity in relation to current states, future states, the gap between those states, and the impacts of closing that gap. I consider that this level of detail establishes a more robust foundation for determining interim timeframes than incorporating them now, in the pORPS, without the steps above being completed.
982. That said, I consider that the pORPS could more explicitly signal that approach. I therefore recommend accepting these submission points in part and amending LF-FW-M6 to include a new clause (2C) as follows:

(2C) identify any interim milestones (including any relevant interim target attribute states) for achieving the long-term visions for freshwater set out in LF-VM-O2 to LF-VM-O6.

⁶¹² FPI032.018 Te Rūnanga o Ngāi Tahu, FPI044.007 DOC, FPI035.005 Wise Response, FPI012.005 Minister for the Environment

⁶¹³ Clause 3.9, NPSFM

⁶¹⁴ Clause 3.10, NPSFM

⁶¹⁵ Clause 3.11(7), NPSFM

⁶¹⁶ Clause 3.11, NPSFM

8.4.3.3. Recommendation

983. I recommend retaining the timeframes in the objectives of the LF-VM, subject to specific amendments recommended elsewhere in this report.

8.4.4. Other general submissions

8.4.4.1. Submissions

984. Moutere Station seeks that the visions are amended to align with the NPSFM, which identifies that irrigation, cultivation and food and fibre production is a mandatory value for consideration.⁶¹⁷

985. Wise Response seeks that a statement is included between the 'Objectives' heading in the LF-VM chapter, with the following wording proposed:⁶¹⁸

These FMU and Rohe visions are in addition to meeting all other provisions in this statement and cannot be weaker than a national standard or provision.

986. Wise Response considers that this wording will avoid doubt and improve consistency.

8.4.4.2. Analysis

987. Moutere Station seek general amendments to the visions, in relation to the NPSFM value of irrigation, cultivation and food and fibre production. I note that the value 'irrigation, cultivation, and production of food and beverage' is contained in Appendix 1B of the NPSFM, meaning that the council must consider whether the value applies to the FMU, for the purpose of setting environmental outcomes in the regional plan.

988. Freshwater visions are not required to consider the values set out in Appendices 1A and 1B of the NPSFM. Four of the five objectives that contain FMU visions include a reference to 'supporting sustainable food production', which often include irrigation and/or cultivation. Given several visions already include food production, and consideration of the Appendix 1A and 1B values is not explicitly required in the drafting of visions, I recommend rejecting this submission point.

989. I acknowledge the concerns raised by Wise Response in relation to avoiding doubt. However, I consider that the pORPS is clear in its intent that it is to be read together, and that the visions do not have priority over any other provisions. As described in the Statutory Context section in Part 1 of the pORPS, the statement must be prepared in accordance with and/or give effect to higher order national direction instruments. The pORPS does not contain rules, so is not weaker than national environmental standards. I recommend rejecting the submission point.

8.4.4.3. Recommendation

990. I do not recommend any amendments.

⁶¹⁷ FPI023.007 Moutere Station

⁶¹⁸ FPI035.003

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

8.4.5.1. Introduction

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

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

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

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU:

- (1) management of the FMU recognises that:
 - (a) the Clutha Mata-au is a single connected system ki uta ki tai, and
 - (b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,
- (2) *fresh water* is managed in accordance with the LF-WAI objectives and policies,
- (3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,
- (4) *water bodies* support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,
- (5) indigenous species migrate easily and as naturally as possible along and within the *river* system,
- (6) the national significance of the Clutha hydro-electricity generation scheme is recognised,
- (7) in addition to (1) to (6) above:
 - (a) in the Upper Lakes rohe, the high quality *waters* of the *lakes* and their tributaries are protected, recognising the significance of the purity of these *waters* to Kāi Tahu and to the wider community,
 - (b) in the Dunstan, Manuherekia and Roxburgh rohe:
 - (i) flows in *water bodies* sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and
 - (ii) innovative and sustainable *land* and *water* management practices support food production in the area and reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and

(iii) sustainable abstraction occurs from main stems or *groundwater* in preference to tributaries,

(c) in the Lower Clutha rohe:

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

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

(iii) *land* management practices reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and

(iv) there are no direct *discharges* of *wastewater* to *water bodies*, and

(8) the outcomes sought in (7) are to be achieved within the following timeframes:

(a) by 2030 in the Upper Lakes rohe,

(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and

(c) by 2050 in the Manuherehia rohe.

993. In section 8.4.2 of this report, I have recommended including a region-wide objective for freshwater and consequentially deleting some of the content of the freshwater visions that I consider is addressed by this objective. As a result of that recommendation, LF-VM-O2 reads as follows:

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

In the Clutha Mata-au FMU:

(1) management of the FMU recognises that:

(a) the Clutha Mata-au is a single connected system ki uta ki tai, and

(b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,

~~(2) *fresh water* is managed in accordance with the LF-WAI objectives and policies,~~

~~(3) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,~~

~~(4) *water bodies* support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,~~

~~(5) indigenous species migrate easily and as naturally as possible along and within the *river system*,~~

(6) the national significance of the Clutha hydro-electricity generation scheme is recognised,

(7) ~~in addition to (1) to (6) above:~~

~~(a) — in the Upper Lakes rohe, the high quality *waters* of the *lakes* and their tributaries are protected, recognising the significance of the purity of these *waters* to Kāi Tahu and to the wider community,~~

~~(b) — in the Dunstan, Manuherekiā and Roxburgh rohe:⁶¹⁹~~

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

~~(ii) — innovative and sustainable *land* and *water* management practices support food production in the area and reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and~~

~~(iii) — sustainable abstraction occurs from main stems or *groundwater* in preference to tributaries,~~

~~(e7A) in the Lower Clutha rohe:~~

~~(i) — there is no further modification of the shape and behaviour of the *water bodies* and opportunities to restore the natural form and function of *water bodies* are promoted wherever possible, and⁶²⁰~~

~~(ii) — the ecosystem connections between *freshwater*, *wetlands* and the coastal environment are preserved and, wherever possible, restored,⁶²¹~~

~~(iii) — *land* management practices reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and⁶²²~~

~~(iv) — there are no direct *discharges* of *wastewater* to *water bodies*, and⁶²³~~

~~(8) the outcomes sought in (7) are to be achieved within the following timeframes:~~

~~(a) by 2030 in the Upper Lakes rohe,~~

~~(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and~~

~~(c) by 2050 in the Manuherekiā rohe.~~

994. This section of the report responds to the submissions made on LF-VM-O2 specifically. Some of those submission points have been addressed by my recommendations above, and where that is the case I have cross-referenced my previous analysis. Some of those submission points have not been addressed previously and therefore I address them in full here.

⁶¹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶²⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶²¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶²² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶²³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

8.4.5.2. Submissions

995. Given the number of submissions received on [LF-VM-O2](#), my discussion of submissions, and accompanying analysis has been split by clauses.

General

996. QLDC supports [LF-VM-O2](#) and seeks that it be retained as notified.⁶²⁴ Manuhereikia Catchment Group supports clauses (1)-(6).⁶²⁵

997. Te Rūnanga o Ngāi Tahu seeks that an overarching vision for Clutha Mata-au is included, with consequential amendments to only highlight differences between rohe.⁶²⁶ Similarly, Ngāi Tahu ki Murihiku and Kāi Tahu ki Otago seek that the objective is amended to remove unnecessary duplication between the overarching visions for the FMU, and the visions for the five rohe, to make it clear where distinct outcomes are sought in the rohe.⁶²⁷ Te Rūnanga o Ngāi Tahu also considers that the division of the FMU into 5 rohe may undermine the proposed objectives and policies in the LF-WAI chapter.

998. To give effect to the general relief sought, Kāi Tahu ki Otago seeks substantial changes to the objective, bringing many rohe specific requirements up to the whole of FMU level: clauses (7)(b)(i), (7)(c)(ii) and (iv) as notified and (7)(b)(ii) and (iii) and (7)(c)(iii) with additional amendments, and deleting the equivalent provisions in clause (7). This leaves two rohe-specific requirements, being (7)(a) and (7)(c)(i), with the latter to also apply to the Upper Lakes rohe.⁶²⁸

999. DCC submits that the vision does not recognise sediment processes currently being obstructed by large dams and seeks that the vision be amended to include material about mitigation of those processes. Specific wording is not provided.⁶²⁹

1000. The Minister for the Environment seeks amendments to include a clear vision of a future state where over-allocation is addressed through the phasing out of existing over-allocation and the avoidance of future over-allocation.⁶³⁰

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

1001. Ngāi Tahu ki Murihiku seeks to correct the spelling of Tāwhirimātea in clause (1)(b).⁶³¹

1002. DOC seeks that clause (2) include reference to freshwater management being consistent with the Kawarau River Water Conservation Order, alongside the LF-WAI objectives and policies.⁶³²

⁶²⁴ FPI046.004 QLDC

⁶²⁵ FPI005.001 Manuhereikia Group

⁶²⁶ FPI032.019 Te Rūnanga o Ngāi Tahu

⁶²⁷ FPI042.010 Ngāi Tahu ki Murihiku, FPI030.020 Kāi Tahu ki Otago

⁶²⁸ FPI030.020 Kāi Tahu ki Otago

⁶²⁹ FPI001.008 DCC

⁶³⁰ FPI012.004 Minister for the Environment

⁶³¹ FPI027.019 Contact

⁶³² FPI044.008 DOC

1003. Contact seeks to include some additional text to clause (3), such that ‘the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained and connections with wāhi tupuna are re-established where these have been degraded or lost’. Contact also requests the inclusion of some new text to clause (4), to specify that ‘mahika kai that are safe for consumption’.⁶³³
1004. Several submissions were received on clause (5). Moutere Station seeks amendments to only require the management of indigenous species migration pathways where this is required to complete their lifecycle, on the basis that not all indigenous species need to migrate and the movement of other non-indigenous species could have a detrimental effect on the indigenous species sought to be protected, such as the Central Otago roundhead galaxias.⁶³⁴ Contact seeks that the word ‘possible’ be replaced by ‘practicable’, such that improvement of effective migration is improved where practicable.⁶³⁵ Contact considers the clause fails to reflect that the dams have altered the natural form and function of the Clutha awa, and that the restoration of natural processes may not be feasible in all cases. Conversely, John Highton seeks amendments to clause (5) to provide for the migration of valued introduced species such as salmon, as well as native species.⁶³⁶
1005. In relation to clause (6), John Highton seeks to amend the wording to recognise that hydro-electricity generation causes significant environmental degradation, and include a provision with tighter regulations to manage those environmental effects.⁶³⁷ Contact seeks to amend the wording of clause (6), such that it specifically refers to the operation, maintenance and upgrading of the Clutha Hydro Scheme, and the key components of the scheme, being generation capacity, storage, operational flexibility and contribution to climate change mitigation. In addition, Contact seeks that the national significance of the scheme is provided for and protected, rather than only being recognised.⁶³⁸

[New clauses: Whole of Clutha Mata-au FMU vision](#)

1006. As described previously, Kāi Tahu ki Otago seeks that several of the rohe specific requirements from clause (7) be brought up and included as FMU wide provisions.⁶³⁹ Several of these shifts are also sought by Contact and Ravensdown.⁶⁴⁰ These provisions are:
- the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,
 - flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and
 - food production in the area is supported by innovative and sustainable land and water management practices that reduce discharges of nutrients and other contaminants to

⁶³³ FPI027.019 Contact

⁶³⁴ FPI023.008 Moutere Station

⁶³⁵ FPI027.019 Contact

⁶³⁶ FPI007.007 John Highton

⁶³⁷ FPI007.008 John Highton

⁶³⁸ FPI027.019 Contact

⁶³⁹ FPI030.020 Kāi Tahu ki Otago

⁶⁴⁰ FPI027.019 Contact, FPI017.005 Ravensdown

water bodies [where required]⁶⁴¹ so that they are safe for human contact and mahika kai species are safe for consumption, and

- sustainable abstraction occurs from lakes, river main stems or groundwater in preference to tributaries,
- land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and mahika kai species are safe for consumption, and
- there are no direct discharges of wastewater to water bodies, and

1007. Kāi Tahu ki Otago considers that the reason for moving these clauses is to reflect the intent of managing the Mata-au as a single system by ensuring that visions that are appropriate for the whole FMU are applied at that level and only necessary distinctions are made between rohe.

1008. Ravensdown seeks that clauses (7)(b)(ii) and (7)(c)(iii) are deleted and replaced by a similar clause in the part of the vision that applies to the whole FMU.⁶⁴²

1009. OWRUG and COWA seek the addition of a new FMU-wide clause to reflect the importance of the food and fibre sector and viticulture respectively:

Water is allocated to (the food and fibre sector⁶⁴³/viticulture⁶⁴⁴) to support sustainable production and the sectors contribution to social and economic wellbeing of the community,

1010. Federated Farmers also seeks the addition of two new clauses:⁶⁴⁵

Management that enables adaptation of communities alongside waterways in a changing climate,

Activities associated with the primary sector are recognised as having an important role in the FMU,

1011. Federated Farmers considers that changes provide greater recognition of food production and primary production and enables community adaptation to climate change.

1012. NZSki and Realnz seek one additional clause which recognises that outdoor recreation contributes to human wellbeing.⁶⁴⁶

Water bodies support human wellbeing through thriving outdoor recreation opportunities, including access to waterbodies and use of water for outdoor recreation activities

1013. DOC seeks two additional clauses:⁶⁴⁷

⁶⁴¹ FPI027.019 Contact, FPI017.005 Ravensdown

⁶⁴² FPI017.005 Ravensdown

⁶⁴³ FPI043.001 OWRUG

⁶⁴⁴ FPI009.006 COWA

⁶⁴⁵ FPI026.022 Federated Farmers

⁶⁴⁶ FPI038.008 NZSki, FPI039.010 Realnz

⁶⁴⁷ FPI044.008 DOC

Healthy wetlands are restored in the upper and lower catchment wetland complexes, including Lake Tuakitoto,

Land and water management practices improve resilience to the effects of flooding and climate change.

1014. The first clause sought by DOC seeks to recognise the significant values of the Lake Tuakitoto wetland, in the same way as the Waipoūri/Waihola wetlands in LF-VM-O4. The second clause is intended to recognise the significant issues associated with flooding and climate change in the Mata-au catchment.

Clause (7): General

1015. John Highton seeks that clause 7 be amended to emphasise the need for reducing contaminants and discharges from land management practices, as specified in clause 7(c)(iii).⁶⁴⁸ It is not clear which part of clause (7) the submitter is referring to.

Clause (7)(a): Upper Lakes rohe

1016. Contact seeks that clause (7)(a) include a requirement to improve water quality where it is degraded.⁶⁴⁹ Wise Response seeks that clause (7)(a) be amended to require, in addition to protection, that water quality is restored.⁶⁵⁰

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

1017. In relation to clause (7)(b)(i), Wise Response seeks a number of amendments to improve clarity and remove what are considered to be loopholes:⁶⁵¹

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

1018. The Manuherekia Catchment Group also seeks a change to clause (7)(b)(i), such that the Kai Tahu values and practices referenced in clause (i) need to be stated in the vision statement.⁶⁵²

1019. Several submissions were received on clause (7)(b)(ii), with a range of amendments sought:

- Manuherekia Group seeks to delete the term ‘innovative’.⁶⁵³

⁶⁴⁸ FPI007.009 John Highton

⁶⁴⁹ FPI027.019 Contact

⁶⁵⁰ FPI035.005 Wise Response

⁶⁵¹ FPI035.005 Wise Response

⁶⁵² FPI005.002 Manuherekia Group

⁶⁵³ FPI005.003 Manuherekia Group

- Several submitters seek alternative terms to ‘food production’, including: ‘agricultural, pastoral, horticultural and viticultural production’;⁶⁵⁴ ‘food and fibre sector’;⁶⁵⁵ ‘innovative land use’;⁶⁵⁶ ‘food and fibre production’;⁶⁵⁷ and ‘primary production’.⁶⁵⁸
 - COWA seeks that viticulture is referenced alongside food production.⁶⁵⁹
 - COWA seeks that ‘land and water management practices are enabled’.⁶⁶⁰
 - Waterfall Park seeks that the management practices described in clause (7)(b)(ii) ‘improve water quality where degraded’, in addition to supporting food production and reducing discharges.⁶⁶¹
 - Beef + Lamb and DINZ seeks amendments to only require the reduction of discharges of nutrient and other contaminants to water bodies ‘where necessary to ensure they are safe for human contact’.⁶⁶²
 - Horticulture NZ seeks that clause (7)(b)(ii) include reference to management practices that ‘reduce emissions and improve resilience to the effects of climate change’.⁶⁶³
1020. OWRUG seeks that clause (7)(b)(iii) be amended to require that sustainable abstraction is consistent with NOF values, and that takes occur from main stems in preference to tributaries where practicable. Federated Farmers seeks the same relief in terms of consistency with the NOF.⁶⁶⁴ Moutere Station seeks the same relief in terms of the where practicable wording.⁶⁶⁵ OWRUG also seeks the addition of a new clause to (7)(b), with the following wording proposed:⁶⁶⁶
- the role of water storage is recognised as being fundamental to the food and fibre sector, and an essential part of meeting the vision as set out in (1) to (7) above.
1021. DOC seeks the addition of three new clauses to (7)(b), with the following wording proposed:⁶⁶⁷
- (Water and land management recognise the dryland nature of much of this rohe and the resulting low water availability,
- Populations of threatened indigenous fish are stable or increasing,
- Urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs and riparian margins,

⁶⁵⁴ FPI041.002 McArthur Ridge

⁶⁵⁵ FPI043.001 OWRUG

⁶⁵⁶ FPI005.003 Manuherikia Group

⁶⁵⁷ FPI023.008 Moutere Station

⁶⁵⁸ FPI026.022 Federated Farmers

⁶⁵⁹ FPI009.006 COWA

⁶⁶⁰ FPI009.006 COWA

⁶⁶¹ FPI028.001 Waterfall Park

⁶⁶² FPI025.018 Beef + Lamb and DINZ

⁶⁶³ FPI047.015 Horticulture NZ

⁶⁶⁴ FPI026.022 Federated Farmers

⁶⁶⁵ FPI023.008 Moutere Station

⁶⁶⁶ FPI043.001 OWRUG

⁶⁶⁷ FPI044.009 DOC

Clause (7)(c): Lower Clutha rohe

1022. Contact and Kāi Tahu ki Otago seek that clause (7)(c) apply to the ‘Upper Lakes and Lower Clutha rohe’, and that clauses (ii)-(iv) are deleted.⁶⁶⁸ Ravensdown seeks that clause (7)(c)(iii) is deleted.⁶⁶⁹
1023. Contact and Waka Kotahi seek that modification of water bodies in clause (7)(c)(i) is minimised rather than there being no further modification, and that the word ‘promoted’ is deleted.⁶⁷⁰
1024. Wise Response seeks that the term ‘wherever possible’ be deleted from clauses (7)(c)(i) and (ii), to remove loopholes.⁶⁷¹
1025. In relation to clause (7)(c)(ii), OWRUG and Federated Farmers seek that ecosystem connections be protected, rather than preserved.⁶⁷²
1026. Several submitters seek amendments to clause (7)(c)(iii), as set out below:
- Horticulture NZ seeks that the clause be amended to align with the amended wording sought for clause (7)(b)(ii).⁶⁷³
 - Wise Response seeks that the clause refer to the reduction of ‘inputs and discharges’.⁶⁷⁴
 - Beef + Lamb and DINZ seeks that the reductions are only required where necessary to meet the stated outcomes.⁶⁷⁵
 - Silver Fern Farms seeks changes as follows:⁶⁷⁶

innovative and sustainable land and water management practices support food production and land management practices reduce discharges of nutrients and other contaminants to water bodies are managed so that water bodies are safe for human contact, and
1027. Fonterra seeks that clause (7)(c)(iv) apply specifically to ‘wastewater containing sewage’.⁶⁷⁷ Similarly, Silver Fern Farms seeks that clause (7)(c)(iv) refer to discharges of sewage, rather than wastewater.⁶⁷⁸
1028. Fonterra and Silver Fern Farms both also seek the addition of a new clause to LF-VM-O2(7)(c) with the wording set out below. Fonterra consider that there may be scenarios where the discharge of treated industrial wastewater to water offers the best overall outcome for freshwater, and that this option should not be ruled out entirely. In a similar vein, Silver Fern

⁶⁶⁸ FPI027.019 Contact, FPI030.020 Kāi Tahu ki Otago

⁶⁶⁹ FPI017.005 Ravensdown

⁶⁷⁰ FPO027.019 Contact, FPI018.001 Waka Kotahi

⁶⁷¹ FPI035.005 Wise Response

⁶⁷² FPI043.001 OWRUG, FPI026.022 Federated Farmers

⁶⁷³ FPI047.015 Horticulture NZ

⁶⁷⁴ FPI035.005 Wise Response

⁶⁷⁵ FPI025.018 Beef + Lamb and DINZ

⁶⁷⁶ FPI020.012 Silver Fern Farms

⁶⁷⁷ FPI019.006 Fonterra

⁶⁷⁸ FPI020.012 Silver Fern Farms

Farms consider that the objective should not inadvertently prohibit discharges of appropriately treated and authorised discharges of non-sewage containing wastewater.

there are no direct discharges of industrial and trade waste or grey water to water bodies unless no feasible alternative discharge option exists to better manage ecological and cultural effects on water quality.⁶⁷⁹

there are no direct discharges of untreated greywater, industrial waste or trade waste to water.⁶⁸⁰

Clause (8)

1029. There are many submissions on LF-VM-O2(8) which sets out the timeframes for achieving the vision. These are summarised and analysed in section 8.4.3 of this report. Separately from those seeking particular amendments to the timeframes, Beef + Lamb and DINZ seeks that the timeframes should be clarified for clauses (1) to (6).⁶⁸¹

8.4.5.3. Analysis

General

1030. Noting that I have made recommendations to amend and/or move parts of LF-VM-O2, I recommend rejecting the submission points by QLDC seeking to retain the vision as notified and Manuherekia Catchment Group's support for clauses (1) to (6).

1031. Te Rūnanga o Ngāi Tahu, Ngāi Tahu ki Murihiku and Kāi Tahu ki Otago seek amendments to ensure that the over-arching vision for the Clutha Mata-au FMU is clear and that there are only rohe-specific clauses where distinct outcomes are sought. Ngāi Tahu ki Murihiku highlights the need to take a ki uta ki kai approach to this FMU.

1032. I consider that focusing the vision predominantly on the FMU will assist with developing the planning framework to follow. It is my understanding that rohe were established within the wider FMU to ensure that the Clutha Mata-au FMU was managed in an integrated way while providing each rohe the ability to determine what will be needed to achieve the outcomes sought for the FMU in a way that is more applicable to the rohe. In my opinion, an overarching vision for the FMU supports this approach by ensuring that all rohe are aiming at the same long-term outcome. This is consistent with my previous recommendation for a region-wide objective. I consider the outcome sought by these submitters is partly achieved by my recommended region-wide objective and therefore recommend accepting these submission points in part.

1033. The six 'new' clauses Kāi Tahu ki Otago seeks to include in LF-VM-O2 are in fact existing clauses in the objectives that the submitter seeks to move from the rohe-specific parts of the objective to the 'whole of FMU' part. I consider the clauses sought by Kāi Tahu ki Otago have been addressed by my recommendation for a new region-wide objective:

⁶⁷⁹ FPI019.006 Fonterra

⁶⁸⁰ FPI020.012 Silver Fern Farms

⁶⁸¹ FPI025.018 Beef + Lamb and DINZ

- a. Clause (6) in LF-FW-O1A(2),
- b. Clause (7) in LF-FW-O1A(4),
- c. Clauses (8), (9) and (10) in LF-FW-O1A(7), and
- d. Clause (11) in LF-FW-O1A(8).

1034. I therefore recommend accepting this part of the submission point.
1035. I agree with DCC that the dams on the Clutha Mata-au have impacted the natural sediment processes in the awa. I am unsure what type of direction DCC is seeking in relation to this issue or the extent to which the content of my recommended region-wide objective addresses this – the submitter may wish to clarify in evidence. At this stage, I do not recommend accepting this submission point.
1036. I agree with the Minister for the Environment that existing over-allocation should be phased out, and future over-allocation should be avoided, in accordance with Policy 11 of the NPSFM. This is already included in LF-FW-P7(6) therefore I do recommend accepting this submission point.

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

1037. I have addressed the use of te reo Māori in section 4.5 of this report. For the same reasons, I recommend accepting the submission by Ngāi Tahu ki Murihiku to correct the spelling of Tāwhirimātea.
1038. I do not consider reference to the Kawarau WCO is necessary, as sought by DOC. The WCO must be implemented as directed by the RMA and is specifically referenced in LW-FW-P11. LF-FW-P12 then sets out how water bodies identified in LF-FW-P11 are to be managed. I do not recommend accepting this submission point.
1039. I have recommended incorporating notified clause (3) into LF-FW-O1A(5). I am not opposed to the wording sought by Contact to re-establish connections with wāhi tūpuna where they have been degraded or lost, but have deferred to the wording sought by Kāi Tahu ki Otago in their general submission on developing a region-wide objective. The submitters may wish to comment on this in their evidence. At this stage, I do not recommend accepting this submission point.
1040. I have addressed Contact’s submission on clause (4) and all of the submissions on clause (5) in section 8.4.2.
1041. John Highton seeks to amend clause (6) to include a provision with tighter regulations to manage the effects on the environment caused by hydro-electricity schemes. No specific wording is provided. Contact seeks that the clause includes more detail on the nature of hydro schemes, and that they are provided for and protected. This objective sets out a long-term vision for the Clutha Mata-au FMU and does not attempt to determine how those visions will be achieved (i.e. the particular management regimes). I consider clause (6) is an appropriate recognition of the national significance of the Clutha Mata-au hydro-electricity generation scheme and assists with giving effect to the NPSREG. Regional plans will be the primary way that management regimes, including the management of the effects of particular activities, are established. I do not recommend accepting these submission points.

New clauses: Whole of Clutha Mata-au FMU vision

1042. I have addressed the amendments sought by Kāi Tahu ki Otago previously in this section. Contact and Ravensdown also seek several of the same additions, and I recommend accepting these submission points to the extent that they align with my recommendations in relation to the relief sought by Kāi Tahu ki Otago and my recommendation for a new region-wide objective for freshwater.
1043. OWRUG seeks to include a new clause that would see water allocated to the food and fibre sector to support sustainable production and the sector’s contribution to social and economic well-being of the community, while COWA seeks the same acknowledgement for viticulture. I do not consider that this is consistent with Te Mana o te Wai, particularly because it does not recognise the hierarchy of obligations set out in the objective of the NPSFM. Additionally, I do not consider that a long-term vision for water should ‘lock in’ allocation for specific purposes for long durations. As such, I do not recommend accepting these submission points.
1044. Federated Farmers seeks the inclusion of a similar clause to recognise the important role of food production and associated activities within the FMU. I do not consider recognising a particular industry to be a long-term vision “for freshwater” as per clause 3.3 of the NPSFM. I do not recommend accepting this submission point.
1045. Federated Farmers also seeks to include a new clause about enabling adaptation of communities alongside waterways in a changing climate. I consider this wording is relatively unclear and note that I have recommended a clause in new [LF-FW-O1A](#) addressing the use of land and water management practices that improve resilience to the effects of climate change. I do not recommend accepting this submission point.
1046. NZSki and Realnz seek to include a new clause providing for human well-being through outdoor recreation opportunities. I have reviewed the feedback gathered through public consultation on the freshwater visions for the Clutha Mata-au rohe and note that recreational pursuits and opportunities were a common theme in each. There is also a Water Conservation Order on the Kawarau River, which begins at Whakatipu Waimāori / Lake Wakatipu and ends upstream of Lake Dunstan, which protects scheduled waters, in part, for their natural and physical qualities and characteristics that contribute to (among other things) cultural and recreational attributes.⁶⁸² The amendment is consistent with [LF-WAI-P1\(2\)](#), whereby activities involving immersion are afforded second priority in decision-making.
1047. I recommend accepting this submission in part. The dictionary definition of “thriving” is “characterised by success or prosperity”.⁶⁸³ Although I understand the general intent of what the submitters are seeking, I am not convinced this is the correct use of the term thriving. I recommend minor amendments to the wording proposed so that the clause reads:

water bodies support a range of outdoor recreation opportunities

⁶⁸² Clause 3 of the Water Conservation (Kawarau) Order 1997

⁶⁸³ Merriam-Webster Dictionary, retrieved 12 December 2021 from <https://www.merriam-webster.com/dictionary/thriving>

1048. DOC seeks to include two new clauses. The first relates to restoring healthy wetlands in the upper and lower catchment wetland complexes, including Lake Tuakitoto. In their feedback on freshwater visions during the consultation period, Kāi Tahu ki Otago outlined the management changes needed to achieve their visions for freshwater, including reversing the loss of wetlands by restoration and increases in area.⁶⁸⁴ The wording DOC has proposed aligns with a comparable clause in the vision for the Taieri FMU (LF-VM-O4(3)), including, in particular, the reference to upper and lower catchment wetland complexes. I understand the upper (Upper Taieri) and lower (Waipōuri/Waihola) wetland complexes are relatively distinct areas and their spatial extent generally understood. I consider that this is not the same in the Clutha Mata-au catchment, where there are individual wetlands in the upper and lower catchments but not complexes in the same way as the Taieri, and certainly not in terms of extent. I do not recommend accepting this submission point.
1049. In relation to the other new clause sought by DOC, I consider this has been incorporated into LF-FW-O1A(7) and therefore recommend accepting this submission point in part.

Clause (7): General

1050. I am unsure which part of clause (7) John Highton is referring to and as no specific amendments are sought I do not recommend accepting this submission point.

Clause (7)(a): Upper Lakes rohe

1051. Contact seeks to include reference to improving water quality where it is degraded in clause (7)(a). I consider that this wording is consistent with Policy 5 of the NPSFM which requires that the health and well-being of degraded water bodies and freshwater ecosystems is improved. I recommend accepting this submission point.
1052. I consider that the relief sought by Wise Response is satisfied by the amendment recommended in response to the Contact submission and recommend that this submission is accepted in part.

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

1053. Wise Response and Manuherehia Catchment Group seek amendments to LF-VM-O2(7)(b)(i). However, I have recommended deleting this clause as a result of my recommendation to include new LF-FW-O1A(4). As a result, I do not recommend accepting the submission points of Wise Response or the Manuherehia Catchment Group. For clarification, I note that the *MW – Mana whenua* chapter provides considerable contextual information about Kāi Tahu values and practices that will inform the application of LF-FW-O1A(4). In addition, there are three iwi management plans relevant to the Otago region that also outline Kāi Tahu values and practices.⁶⁸⁵

⁶⁸⁴ Appendix 6 (p.4) of the Section 32 Evaluation Report for PORPS 2021.

⁶⁸⁵ Kāi Tahu ki Otago Natural Resources Management Plan 2005, Te Tangi a Tauira – The cry of the people: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008, Waitaki Iwi Management Plan 2019.

1054. There are many submission points on [LF-VM-O2\(7\)\(b\)\(ii\)](#), which I have addressed in section 8.4.2 in relation to my recommended new region-wide objective for freshwater. In summary, I have recommended including [LF-FW-O1A\(7\)](#) focused on innovative and sustainable land and water management practices and therefore consider [LF-VM-O2\(7\)\(b\)\(ii\)](#) can be deleted.
1055. OWRUG and Federated Farmers seek that clause (7)(b)(iii) specify that sustainable abstractions must be in accordance with NOF values. OWRUG and Moutere Station seek that takes from main stems only be preferred to tributary takes where practicable. The Manuherikia Catchment Group seeks that clause (7)(b)(iii) be deleted, as the important factor in managing abstractions is ensuring that the waterbody is looked after, so that whether the take is from a main stem or tributary is irrelevant.⁶⁸⁶
1056. Earlier in this section, I have explained that I consider this clause is now addressed through [LF-FW-O1A\(7\)](#) (“innovative and sustainable land and water management practices provide for the health and well-being of water bodies and freshwater ecosystems and improve resilience to the effects of climate change”). Additionally, I consider that the environmental flow and level regimes established in the regional plan in accordance with clause 3.16 of the NPSFM will be required to meet the NOF requirements regarding values so explicit reference is not necessary. I therefore recommend rejecting these submission points.
1057. OWRUG also seeks a new clause relating to water storage. In my view, that is a method to achieve an outcome rather than an outcome in itself. I note also that storage of surface water is provided for in [LF-FW-M8\(6\)](#). I do not recommend accepting this submission point.
1058. DOC seeks the addition of three new clauses to (7)(b), recognising dryland areas in the rohe, that populations of threatened indigenous fish are stable or increasing, and that urban development protects various land and freshwater features. In my view, these matters are all addressed in [LF-FW-O1A\(1\)](#) and (6), therefore I do not recommend accepting this submission point.

Clause (7)(c): Lower Clutha rohe

1059. I have addressed [LF-VM-O2\(7\)\(c\)\(i\) to \(iv\)](#) in section 8.4.2 of this report. I consider that most of these sub-clauses have been incorporated into clauses (4), (6), and (7) of [LF-FW-O1A](#) and have therefore recommended deleting [LF-VM-O2\(7\)\(c\)\(ii\)](#), (iii), and (iv) as a consequential amendment. I have recommended deleting the part of clause (7)(c)(i) that directs there be no further modification to the shape and behaviour of water bodies but to retain the part requiring promotion of opportunities to restore the natural form and function of water bodies.
1060. I recommend accepting in part the submission points by Contact, Kāi Tahu ki Otago, Waka Kotahi, Wise Response, OWRUG, Federated Farmers, Horticulture NZ, and Fonterra, and rejecting the submission points by Beef + Lamb and DINZ and Silver Fern Farms.

⁶⁸⁶ FPI005.004 Manuherikia Group

Clause (8)

1061. Beef + Lamb and DINZ requests that the timeframes be clarified for clauses (1) to (6).⁶⁸⁷ These clauses contain the FMU-wide parts of the vision and as worded, they are not referenced in clause (8) which includes the timeframes for achievement. I agree with the submitter that this should be clarified. I recommend deleting the reference to clause (7) and replace it with “this vision” so that it is clear the entire vision is to be achieved by the timeframes set out in clause (8). I recommend accepting this submission point.

8.4.5.4. Recommendation

1062. I recommend the following amendments:

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

In the Clutha Mata-au FMU:

- (1) management of the FMU recognises that:
 - (a) the Clutha Mata-au is a single connected system ki uta ki tai, and
 - (b) the source of the wai is pure, coming directly from ~~Tawhirimatea~~ Tāwhirimātea⁶⁸⁸ to the top of the mauka and into the awa,
- ~~(2) fresh water is managed in accordance with the LF WAI objectives and policies,⁶⁸⁹~~
- ~~(3) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,⁶⁹⁰~~
- ~~(4) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,⁶⁹¹~~
- ~~(5) indigenous species migrate easily and as naturally as possible along and within the river system,⁶⁹²~~
- (6) the national significance of the Clutha hydro-electricity generation scheme is recognised,
- ~~(6A) water bodies support a range of outdoor recreation opportunities,⁶⁹³~~
- (7) ~~in addition to (1) to (6) above.⁶⁹⁴~~
 - ~~(a) in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, and if degraded are improved,⁶⁹⁵ recognising the significance of the purity of these waters to Kāi Tahu and to the wider community,~~

⁶⁸⁷ FPI025.018 Beef + Lamb and DINZ

⁶⁸⁸ FPI027.019 Contact

⁶⁸⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹³ FPI038.008 NZSki, FPI039.010 Realnz

⁶⁹⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹⁵ FPI027.019 Contact

~~(b) in the Dunstan, Manuherehia and Roxburgh rohe.⁶⁹⁶~~

- ~~(i) flows in *water bodies* sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and~~
- ~~(ii) innovative and sustainable *land* and *water* management practices support food production in the area and reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and~~
- ~~(iii) sustainable abstraction occurs from main stems or *groundwater* in preference to tributaries,~~

~~(e7A) in the Lower Clutha rohe.⁶⁹⁷~~

- ~~(i) there is no further modification of the shape and behaviour of the *water bodies* and opportunities to restore the natural form and function of *water bodies* are promoted wherever possible, and⁶⁹⁷~~
- ~~(ii) the ecosystem connections between *freshwater*, *wetlands* and the coastal environment are preserved and, wherever possible, restored,⁶⁹⁸~~
- ~~(iii) *land* management practices reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and⁶⁹⁹~~
- ~~(iv) there are no direct *discharges* of *wastewater* to *water bodies*, and⁷⁰⁰~~

~~(8) the outcomes sought in ~~(7)~~ this vision⁷⁰¹ are to be achieved within the following timeframes:~~

- ~~(a) by 2030 in the Upper Lakes rohe,~~
- ~~(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and~~
- ~~(c) by 2050 in the Manuherehia rohe.~~

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

1063. This objective is a long-term vision for freshwater as required by clause 3.3 of the NPSFM. As notified, LF-VM-O3 reads:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

⁶⁹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁶⁹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁰⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁰¹ Clause 16(2), Schedule 1, RMA

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

1064. In section 8.4.2 of this report, I have recommended including a region-wide objective for freshwater and consequentially deleting some of the content of the freshwater visions that I consider is addressed by this objective. As a result of that recommendation, LF-VM-O3 reads as follows:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

- (1) ~~*fresh water* is managed in accordance with the LF–WAI objectives and policies, while recognising~~ management recognises that the Waitaki River is influenced in part by catchment areas within the Canterbury region.⁷⁰²
- (2) ~~the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained and Kāi Tahu maintain their connection with and use of the *water bodies*,~~⁷⁰²
- (3) healthy riparian margins, *wetlands*, estuaries and lagoons support thriving mahika kai, ~~indigenous habitats and~~⁷⁰³ the health of⁷⁰⁴ downstream coastal ecosystems,
- (4) ~~indigenous species can migrate easily and as naturally as possible to and from the coastal environment,~~⁷⁰⁵
- (5) ~~*land* management practices reduce *discharges* of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and~~⁷⁰⁶
- (6) ~~innovative and sustainable *land* and *water* management practices support food production in the area and improve resilience to the *effects of climate change*.~~⁷⁰⁷

⁷⁰² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁰³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁰⁴ Clause 16(2), Schedule 1, RMA

⁷⁰⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁰⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁰⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

8.4.6.1. Submissions

1065. DCC and ECan support LF-VM-O3 and seek that it be retained as notified.⁷⁰⁸
1066. There are many submissions on LF-VM-O3 which sets out the timeframes for achieving the vision. These are summarised and analysed in section 8.4.3 of this report.
1067. Meridian seeks that clause (1) is amended to recognise the national significance of the Waitaki hydroelectricity generation scheme alongside the already referenced influence of the Canterbury region catchments on the Waitaki River.⁷⁰⁹
1068. Two submitters seek changes to clause (4) in relation to the migration of indigenous species to and from the coastal environment. Meridian proposes that the migration of these species is maintained, and enhanced where practicable, while removing reference to the migration being easy and as natural as possible.⁷¹⁰ Meridian considers that this change reflects the functional needs of renewable electricity generation activities, and policies C1 and C2 of the NPSREG. Oceana Gold also seeks the removal of the phrase ‘as naturally as possible’, and amend the start of clause (4) so that provision is made for indigenous species to migrate.⁷¹¹ Oceana Gold considers that the focus on natural migration does not provide for trap and transfer, which can be an effective option for providing for migration.
1069. Oceana Gold considers that in clause (5), water bodies should only be safe for human contact where they are intended for human contact.⁷¹² This amendment is intended to exclude waterbodies that are not intended for contact recreation, such as pit lakes or water bodies which form on top of tailings dams.
1070. Kāi Tahu ki Otago and Ravensdown seek an amendment to clause (5) to specify that in addition to water bodies being safe for human contact, ‘mahika kai are safe for consumption’.⁷¹³ Ravensdown also seeks that the reductions in discharges required in clause (5) are only required where necessary to meet the stated outcomes.⁷¹⁴
1071. Beef + Lamb and DINZ submit that ORC has not undertaken the work to establish what contaminant reductions are required, by whom, or where, in order to draft policy which relies on that information. The submitters consider it is unusual for a long-term vision to focus on a specific management practice and that the vision should set a goal for freshwater, not land management practices. Beef + Lamb and DINZ seek a number of amendments to clause (5):⁷¹⁵
- Focus on a freshwater goal rather than land management practices (for example, “more water bodies are safe for human contact more often”),

⁷⁰⁸ FPI001.009 DCC, FPI002.001 ECan

⁷⁰⁹ FPI016.013 Meridian

⁷¹⁰ FPI016.013 Meridian.

⁷¹¹ FPI031.006 Oceana Gold

⁷¹² FPI031.006 Oceana Gold

⁷¹³ FPI030.021 Kāi Tahu ki Otago, FPI017.006 Ravensdown

⁷¹⁴ FPI017.006 Ravensdown

⁷¹⁵ FPI025.019 Beef + Lamb and DINZ

- Focus on the main contaminant of concern rather than nutrients (for example, “faecal contamination of water bodies is reduced so that more water bodies are suitable for human contact more often”), and
 - Focus on overall reduction in sources of contamination rather than all land management practices.
1072. Federated Farmers seeks an alternative term to ‘food production’ in clause (6) being, ‘primary production’.⁷¹⁶
1073. Kāi Tahu ki Otago suggests some rewording for clause (6), so that the concept of supporting food production is at the start of the clause, in a similar manner to their proposed wording of LF-VM-O2(5C).⁷¹⁷ Ravensdown seeks a similar amendment, and also suggests some additional wording at the end of clause (6) to recognise the dryland nature of much of the FMU.⁷¹⁸
1074. Horticulture NZ seeks that clause (6) specifies that supported land management practices are those that reduce discharges of nutrient and other contaminants so that waterbodies are safe for human contact and reduce emissions.⁷¹⁹
1075. Several submitters seek the addition of new clauses. Wise Response seeks the addition of a new clause, with the following wording sought:⁷²⁰
- there are no direct discharges of wastewater to water bodies
1076. DOC seeks the addition of three new clauses to recognise additional values in the FMU, with the following wording proposed:⁷²¹
- water and land management recognise the dryland nature of much of this FMU and the resulting low water availability,
- populations of threatened indigenous fish are stable or increasing,
- indigenous species can migrate easily and as naturally as possible along the coast using a network of wetlands and estuaries,
1077. Kāi Tahu ki Otago seeks the addition of the following clauses:⁷²²
- there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible, and
- there are no direct discharges of wastewater to water bodies, and
1078. Kāi Tahu ki Otago considers that each FMU vision should incorporate important components of other visions and to improve the general clarity of meaning and consistency of wording across the visions.

⁷¹⁶ FPI026.023 Federated Farmers

⁷¹⁷ FPI030.021 Kāi Tahu ki Otago

⁷¹⁸ FPI017.006 Ravensdown

⁷¹⁹ FPI047.017 Horticulture NZ

⁷²⁰ FPI035.006 Wise Response

⁷²¹ FPI044.009 DOC

⁷²² FPI030.021 Kāi Tahu ki Otago

1079. Related to their submission on MAP1, Kāi Tahu ki Otago seeks that if the Waikouaiti catchment is retained in the North Otago FMU, that the vision recognises management outcomes for the Waikouaiti freshwater Mātaimai and the East Otago Taiāpure in the objective.⁷²³ The latter point is discussed further in relation to LF-VM-P5 and MAP1 which list and map those boundaries.

8.4.6.2. Analysis

1080. Given the consequential amendments I have recommended as a result of recommending a new region-wide objective for fresh water, I recommend rejecting the submissions of DCC and ECan seeking to retain LF-VM-O3 as notified.

1081. Similarly, in paragraphs 907 and 907, I have recommended deleting the reference to the LF-WAI section in clause (1) from all freshwater visions on the basis that LF-WAI-P4 already describes this relationship. However, LF-VM-O3 contains additional content in clause (1) about the influence of catchment areas in Canterbury on the Waitaki River. Removing the LF-WAI reference means clause (1) does not make sense as it would read “...in the North Otago FMU ... recognising that the Waitaki River...” In addition, this is an action rather than an outcome statement. I understand the intent of this wording is to highlight the relationship between the Otago and Canterbury regions in managing the Waitaki River. I therefore recommend amending clause (1) as follows:

~~fresh water is managed in accordance with the LF-WAI objective and policies, while recognising that the Waitaki River is influenced in part by catchment areas within the Canterbury region~~ the Waitaki River is managed holistically, ki uta ki tai, despite its catchments spanning the Canterbury and Otago regions,

1082. I agree with Meridian that the Waitaki hydro-electricity generation scheme is nationally significant and note it is included in clause 3.31 of the NPSFM alongside the Clutha hydro-electricity generation scheme which is recognised in LF-VM-O2. I recommend accepting this submission point.

1083. Most of the submission points on this provision have been addressed in section 8.4.2 of this report. In accordance with my recommendations in that section, I recommend:

- a. rejecting the submission points by Meridian and OceanaGold on clause (2) as this is now addressed in LF-FW-O1A(5),
- b. rejecting the submission points by OceanaGold and Ravensdown on clause (5) as this is addressed in LF-FW-O1A(7),
- c. accepting in part the submission points of Kāi Tahu ki Otago, Beef + Lamb and DINZ, and Ravensdown on (5), noting this has been incorporated into LF-FW-O1A(1), and
- d. rejecting the submission points of Federated Farmers, Kāi Tahu ki Otago, Ravensdown, and Horticulture NZ on clause (6) as this is addressed in LF-FW-O1A(7),

⁷²³ FPI030.021 Kāi Tahu ki Otago

- e. accepting in part the submission points of Wise Response and Kāi Tahu ki Otago seeking to include a new clause in the vision relating to wastewater as this is incorporated into LF-FW-O1A(8),
- f. accepting in part the submission points of DOC seeking to include three new clauses in the vision as they are incorporated in LF-FW-O1A(1), (3), and (6),
- g. accepting in part the submission by Kāi Tahu ki Otago seeking to include a new clause in the vision relating to the form and function of water bodies as this is incorporated into LF-FW-O1A(4), and
- h. accepting the submission point by Kāi Tahu ki Otago regarding consistency across the visions.

8.4.6.3. Recommendation

1084. I recommend the following amendments:

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU:

(1) ~~fresh water is managed in accordance with the LF-WAI objectives and policies, while recognising that the Waitaki River is influenced in part by catchment areas within the Canterbury region~~ the Waitaki River is managed holistically, ki uta ki tai, despite its catchments spanning the Canterbury and Otago regions,⁷²⁴

(1B) the national significance of the Waitaki hydroelectricity generation scheme is recognised,⁷²⁵

(2) ~~the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained and Kāi Tahu maintain their connection with and use of the water bodies,~~⁷²⁶

(3) healthy riparian margins, *wetlands*, estuaries and lagoons support thriving mahika kai, indigenous habitats and⁷²⁷ the health of⁷²⁸ downstream coastal ecosystems,

(4) ~~indigenous species can migrate easily and as naturally as possible to and from the coastal environment,~~⁷²⁹

(5) ~~land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and~~⁷³⁰

(6) ~~innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.~~⁷³¹

⁷²⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI033.001 Fulton Hogan

⁷²⁵ FPI016.013 Meridian

⁷²⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷²⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷²⁸ Clause 16(2), Schedule 1, RMA

⁷²⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷³⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷³¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

8.4.7. LF-VM-O4 – Taieri FMU vision

8.4.7.1. Introduction

1085. This objective is a long-term vision for freshwater as required by clause 3.3 of the NPSFM. As notified, LF-VM-O4 reads:

LF-VM-O4 – Taieri FMU vision

By 2050 in the Taieri FMU:

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

1086. In section 8.4.2 of this report, I have recommended including a region-wide objective for freshwater and consequentially deleting some of the content of the freshwater visions that I consider is addressed by this objective. As a result of that recommendation, LF-VM-O4 reads as follows:

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

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

- ~~(1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,⁷³²~~
- ~~(2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,⁷³³~~
- (3) healthy *wetlands* are restored in the upper and lower catchment *wetland* complexes, including the ~~Waipori~~ Waipōuri/Waihola Wetlands, Tunaheketaka/Lake ~~Taieri-Taiari~~, scroll plain, and tussock areas,
- (4) the gravel *bed* of the lower ~~Taieri~~ Taiari is restored and sedimentation of the ~~Waipori~~ Waipōuri/Waihola complex is reduced,

⁷³² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷³³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

- (5) creative ecological approaches contribute to reduced occurrence of didymo, and
- (6) *water bodies* support healthy populations of *galaxiid* species;~~7~~
- ~~(7) there are no direct discharges of wastewater to water bodies, and⁷³⁴~~
- ~~(8) innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.⁷³⁵~~

8.4.7.2. Submissions

1087. Several submitters seek changes to the timeframe set in the chapeau of the objective. These have been summarised and analysed in section 8.4.3 and are not repeated here.
1088. DOC considers that the status of the Taieri River as a Ngāi Awa river should be recognised in clause (1).⁷³⁶
1089. Kai Tahu ki Otago seeks that the Waihola/Waipōuri wetland is referred to as a wetland complex.⁷³⁷ DOC also seeks a change to a location reference, such that the Tunaheketa/Lake Taieri scroll plain is instead referred to as the ‘Upper Taieri Wetland Complex’, in order to fully recognise the wetland complex.⁷³⁸
1090. John Highton seeks that specific mention of the Upper Taieri Scroll Plain, and its significance, is included in clause (3).⁷³⁹ Federated Farmers seeks the deletion of the scroll plains from clause (3), alongside the addition a new clause to accompany clause (3), which sets out the need for a specific management plan for the Upper Taieri scroll plain, with the following wording sought:⁷⁴⁰
- (3A) the Upper Taieri Scroll Plain and wetland complex is managed by an active, co-ordinated and specific management plan that enhances and protects its unique hydrological, ecological and recreational values.
1091. Beef + Lamb and DINZ seeks that the restoration of healthy wetlands requirement in clause (3) is quantified, to clarify whether the drafting is intended to capture healthy wetlands rather than degraded wetlands. If this was intended, the submitter requests that ORC provide an explanation as to why healthy wetlands need restoration, rather than sustainment.⁷⁴¹
1092. Manawa Energy seeks a minor change to clause (3), such that it refers to ‘connected tussock areas’, on the basis that in the context of this objective it is tussock areas that are connected to wetlands.⁷⁴²

⁷³⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷³⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷³⁶ FPI044.011 DOC

⁷³⁷ FPI030.022 Kāi Tahu ki Otago

⁷³⁸ FPI044.011 DOC

⁷³⁹ FPI007.011 John Highton

⁷⁴⁰ FPI026.024 Federated Farmers

⁷⁴¹ FPI025.020 Beef + Lamb and DINZ

⁷⁴² FPI022.005 Manawa Energy

1093. DCC supports the restoration of healthy wetlands in clause (3) but considers that the modification of some waterbodies might be necessary for drainage purposes, and the well-being of communities. The submitter notes that wetlands have been engineered and enhanced to treat stormwater and wastewater, and that works can be required in these wetlands for the purpose of flood control, drainage, erosion protection, the installation of culverts or general maintenance works. DCC considers that such works should be provided for but has not proposed any specific amendments or new wording.⁷⁴³
1094. John Highton supports LF-VM-O4(4) and seeks that it be retained as notified.⁷⁴⁴ The submitter also seeks that clause (5) is amended, as Didymo is not currently a significant problem in the Taiari. Mr Highton considers that the RPS should make a strong statement about looking seriously at how Didymo can be controlled, as emphasis in present management is on the control of Lagarosiphon.⁷⁴⁵
1095. Kāi Tahu ki Otago seeks to extend clause (6) to apply to other indigenous species including tuna, alongside the *galaxiid* species already referenced.⁷⁴⁶ DOC also seeks that clause (6) is extended, to capture kanakana/lamprey and tuna/longfin eel.⁷⁴⁷
1096. Federated Farmers seeks an alternative term to ‘food production’ in clause (8), being ‘primary production’.⁷⁴⁸
1097. Kāi Tahu ki Otago seeks that the wording of clause (8) be amended, such that the concept of supporting food production is at the start of the clause, in a similar manner to their proposed wording of LF-VM-O2(5C).⁷⁴⁹ Ravensdown seeks a similar amendment, and also seeks to include reference to flooding, as one of the impacts of climate change.⁷⁵⁰
1098. Horticulture NZ seeks an amendment to clause (8) with the following wording sought:⁷⁵¹
- (8) innovative and sustainable land and water management practices support food production in the area that reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and that reduce emissions and improve resilience to the effects of climate change.
1099. Kāi Tahu ki Otago seeks the addition of three new clauses as they are an important component of other visions, and should be included as an outcome for all FMUs, with the following wording sought:⁷⁵²
- (X) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,

⁷⁴³ FPI001.010 DCC

⁷⁴⁴ FPI007.012 John Highton

⁷⁴⁵ FPI007.013 John Highton

⁷⁴⁶ FPI030.022 Kāi Tahu ki Otago

⁷⁴⁷ FPI044.011 DOC

⁷⁴⁸ FPI026.024 Federated Farmers

⁷⁴⁹ FPI030.021 Kāi Tahu ki Otago

⁷⁵⁰ FPI017.007 Ravensdown

⁷⁵¹ FPI047.018 Horticulture NZ

⁷⁵² FPI030.022 Kāi Tahu ki Otago

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

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

1100. OWRUG seeks the addition of two new clauses to more accurately reflect the importance of the food and fibre sector in the Taiari FMU, and that irrigation and water storage enable food production while also supporting sustainable land and water management practices, with the following wording sought:⁷⁵³

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

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

1101. Manawa Energy seeks the addition of a new clause to recognise their hydro-electric power schemes in the FMU, with the following wording sought:⁷⁵⁴

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

1102. DOC seeks the addition of three new clauses to recognise additional values in the FMU, with the following wording proposed:⁷⁵⁵

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

(X) indigenous species can migrate easily and as naturally as possible along the coast using a network of wetlands and estuaries,

(X) discharges from Lake Mahinerangi and Loganburn are managed to avoid adverse effects on downstream ecosystem function,

8.4.7.3. Analysis

1103. I have addressed the use of te reo Māori in section 4.5 of this report. For the same reasons, and as a consequential amendment to my recommendations in that section, I recommend replacing “Taiari” with “Taiari” which is the correct spelling of the name.

1104. DOC seeks to incorporate reference to the Taiari River being a Ngā Awa river in clause (3). I understand that Ngā Awa is a river restoration programme established by the Department of Conservation to: (Department of Conservation, n.d.)

⁷⁵³ FPI043.002 OWRUG

⁷⁵⁴ FPI022.005 Manawa Energy

⁷⁵⁵ FPI044.011 DOC

- improve the condition, biodiversity and the ecological processes of the rivers,
 - protect the threatened species (like native fish) that are present, and
 - increase the ability of each river to cope with climate change.
1105. While the Ngā Awa programme will support the achievement of the vision, I do not consider that the vision needs to specifically refer to this programme which is one of a number of programmes focused on improving the health of various rivers in Otago. Further, this is a programme of work that sits outside the RMA and the sphere of local authorities. I do not recommend accepting this submission point.
1106. The amendments sought by Kāi Tahu ki Otago to refer to the Waipōuri/Waiholā wetland complex is consistent with the way the area is currently described in Schedule 9 of the Water Plan and on ORC's website containing information on regionally significant wetlands (Otago Regional Council, 2020). I recommend accepting this submission point. For the same reason, I also recommend accepting the submission point by DOC seeking to replace "Tunaheketaka/Lake Taieri scroll plain" with "Upper Taieri wetland complex." I consider this also addresses John Highton's issue and therefore recommend accepting that submission point in part.
1107. The new clause sought by Federated Farmers refers to a management plan, but the submitter does not seek any further amendments to other provisions that clarify how a management plan will be prepared or by whom. Putting aside that lack of clarity, I do not consider that a long-term vision needs to identify the specific vehicle through which outcomes will be delivered. I do not recommend accepting this submission point.
1108. By my reading, the intent of clause (3) is to restore wetlands so that they are healthy. However, I acknowledge that the wording is somewhat unclear and could be interpreted, as highlighted by Beef + Lamb and DINZ, as requiring healthy wetlands to be restored. In response to the submitter's request to clarify what level of restoration is required, I consider that is a matter for the regional plan to determine when environmental outcomes are developed for the FMU. However, for consistency with an amendment I have recommended to LF-VM-O2 for similar reasons, I consider that changes could be made so that restoration or enhancement is required when wetlands have been degraded or lost. I recommend accepting this submission in part and amending the clause to clarify its meaning.
1109. I agree that the amendment sought by Manawa Energy to clarify it is connected tussock areas that are intended to be referenced in clause (3). I recommend accepting this submission point.
1110. DCC raises a number of concerns and seeks unspecified amendments to address them. The submitter supports restoring wetlands but considers that modification of some water bodies might be necessary for drainage purposes and the well-being of communities. In my opinion, there are no clauses in LF-VM-O4 that would prevent the modification of water bodies, including works in wetlands, so I do not consider any amendments are necessary.
1111. In considering these submissions, I have noted that clause (3) does not require protecting these wetland complexes. In my opinion, given their significance, that is an oversight. However, there are no submissions seeking additional protection to clause (3) and therefore I do not consider that there is sufficient scope in submissions to address this. I note that

clause (49)(2) of Schedule 1 of the RMA enables the hearings panel to make decisions outside the scope of submissions and the panel may wish to consider this.

1112. In response to the submission point by John Highton regarding didymo, I understand that didymo is present in the Taiari FMU but not currently at nuisance levels. However, the feedback from communities during consultation on this vision specifically identified didymo as a “significant problem for both biodiversity and water quality.” I have not been able to verify the extent of didymo in this FMU and, in the absence of that information, consider it is appropriate to reflect the feedback from the community. At this stage, without further evidence, I do not recommend accepting the submission point by John Highton.
1113. I consider the amendments sought by Kāi Tahu ki Otago and DOC regarding indigenous species to clause (6) have been addressed by my recommended new objective LF-FW-O1A(1). I consider the points raised by Federated Farmers, Kāi Tahu ki Otago, Ravensdown, and Horticulture NZ have been addressed by my recommended new objective LF-FW-O1A(7). The three new clauses sought by Kāi Tahu ki Otago are also addressed in clauses (1), (4), and (7) of LF-FW-O1A. I recommend accepting these submission points in part.
1114. OWRUG states that the vision does not accurately reflect the outcome of community consultation because it does not express the community’s desire for water to be allocated to support food and fibre production. I agree that irrigation and food production were a clear theme during consultation, and that water storage was suggested a number of times as a potential management tool. Noting that I have recommended incorporating new policy LF-FW-P7A which addresses water use more specifically, I recommend including the following new clause in LF-VM-O4:
- (5A) within limits, the allocation of water provides for land-based primary production that supports the social, economic, and cultural well-being of communities in this FMU.
1115. As discussed earlier in this section, Mr de Pelsemaeker stated in his evidence prepared for PC7 that, as at 7 December 2020, the Schedule 2A Primary Allocation Limit for the Taiari Catchment was 4,860 litres per second while the Consented Primary Allocation was 24,748.78 litres per second. In my opinion, this indicates that there is a significant risk of over-allocation in this FMU and that ORC will need to carefully consider the limits on resource use developed as part of the LWRP. In that context, I consider my proposed wording is more appropriate than the new clause sought by OWRUG because it clearly refers to allocation occurring within limits. I understand there are pressures on the availability of water in parts of this catchment and therefore it is important that allocation prioritises, first, the health and well-being of the water bodies and freshwater ecosystems in accordance with Te Mana o te Wai.
1116. While I agree with OWRUG’s submission point regarding the importance of water storage, this is a ‘solution’ rather than an ‘outcome’. I note that I have recommended including new policy LF-FW-P7A which addresses water storage more specifically. I consider this addresses OWRUG’s submission point in part. I recommend accepting this submission point in part.

1117. Manawa Energy seeks an additional clause recognising the national and regional significance of the Waipori, Deep Stream, and Paerau/Patearoa hydro-electric power schemes. In its submission, Manawa Energy gives the following reason for this request:

Manawa Energy's primary assets in the Otago region are the Waipori and Paerau/Patearoa hydroelectric power schemes – both of which are located within the Taieri FMU. It is considered appropriate that the significance of these assets is specifically referred in the vision for the Taieri FMU.

1118. It is not clear to me which of these power schemes Manawa Energy considers to be nationally significant and which regionally significant. These terms are defined in the pORPS but I am unable to determine from Manawa Energy's submission whether these schemes meet those definitions. I note that in its reasons, Manawa Energy does not mention Deep Stream but seeks to include reference to that scheme in the relief sought to LF-VM-O4. Without further evidence, I do not recommend accepting this submission point.
1119. I do not recommend including the first two of the new clauses sought by DOC because they are addressed in my recommended LF-FW-O1A(7) and (3) respectively. I do not recommend including the third clause sought because in my opinion a long-term vision for freshwater should not be seeking to manage one particular discharge in a specific way – this is a matter for the regional plan to address. I recommend accepting this submission point in part.

8.4.7.4. Recommendation

1120. I recommend amending LF-VM-O4 to:

LF-VM-O4 – ~~Taieri Taieri~~ FMU vision

By 2050 in the ~~Taieri Taieri~~ FMU:

- ~~(1) fresh water is managed in accordance with the LF-WAI objectives and policies,⁷⁵⁶~~
- ~~(2) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,⁷⁵⁷~~
- ~~(3) healthy wetlands are restored in⁷⁵⁸ the upper and lower catchment wetland complexes, including the ~~Waipori/Waihola Wetlands~~ Waipōuri/Waihola wetland complex,⁷⁵⁹ ~~Tunaheketaka/Lake Taieri scroll plain, Upper Taieri wetland complex,~~⁷⁶⁰ and connected⁷⁶¹ tussock areas are restored or enhanced where they have been degraded or lost,⁷⁶²~~
- ~~(4) the gravel bed of the lower ~~Taieri Taieri~~ is restored and sedimentation of the ~~Waipori~~ Waipōuri/Waihola wetland⁷⁶³ complex is reduced,~~

⁷⁵⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁵⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁵⁸ FPI025.020 Beef + Lamb and DINZ

⁷⁵⁹ FPI030.022 Kāi Tahu ki Otago

⁷⁶⁰ FPI044.011 DOC

⁷⁶¹ FPI022.005 Manawa Energy

⁷⁶² FPI025.020 Beef + Lamb and DINZ

⁷⁶³ FPI030.022 Kāi Tahu ki Otago

- (5) creative ecological approaches contribute to reduced occurrence of didymo, and
- (5A) within limits, the allocation of fresh water provides for land-based primary production that supports the social, economic, and cultural well-being of communities in this FMU.⁷⁶⁴
- ~~(6) water bodies support healthy populations of galaxiid species,~~
- ~~(7) there are no direct discharges of wastewater to water bodies, and~~⁷⁶⁵
- ~~(8) innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.~~⁷⁶⁶

8.4.8. LF-VM-O5 – Dunedin & Coast FMU vision

8.4.8.1. Introduction

1121. This objective is a long-term vision for freshwater as required by clause 3.3 of the NPSFM. As notified, LF-VM-O5 reads:

LF-VM-O5 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

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

1122. In section 8.4.2 of this report, I have recommended including a region-wide objective for freshwater and consequentially deleting some of the content of the freshwater visions that I consider is addressed by this objective. As a result of that recommendation, LF-VM-O5 reads as follows:

LF-VM-O5 - Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU:

⁷⁶⁴ FPI043.002 OWRUG

⁷⁶⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁶⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

- (1) ~~fresh water is managed in accordance with the LF-WAI objectives and policies,~~⁷⁶⁷
- (2) ~~the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,~~⁷⁶⁸
- (3) healthy estuaries, lagoons and *coastal waters* support thriving mahika kai and downstream coastal ecosystems, ~~and indigenous species can migrate easily and as naturally as possible to and from these areas,~~⁷⁶⁹
- (4) ~~there is no further modification of the shape and behaviour of the water bodies~~ and opportunities to restore the natural form and function of *water bodies* are promoted wherever possible, ~~and~~⁷⁷⁰
- (5) ~~discharges of contaminants from urban environments are reduced so that water bodies are safe for human contact.~~⁷⁷¹

8.4.8.2. Submissions

1123. DCC seeks that the vision, including the means and timeframes for achieving the vision, are amended to address the issues raised.⁷⁷² The submitter emphasises that there needs to be a clear vision for Dunedin's urban waterways in terms of water quality, access, the community values. DCC specifically references the Kaikarae/Kaikorai, Leith/Ōwheo, Tomohaka/Tomahawk Lagoon and Whakaehu/Silverstream.
1124. Kāi Tahu ki Otago seeks that clause (2) is amended to also require that the connection of Kāi Tahu with water bodies, and the use of those water bodies, is maintained.⁷⁷³
1125. In relation to clause (3), DCC seeks that that the clause is amended to refer to coastal waters, alongside healthy estuaries and lagoons.⁷⁷⁴ The submitter questions whether the land and freshwater chapter is the most appropriate place for the coastal focussed objective, and considers that this objective, and the objectives in the CE chapter should be amended to address the link between the two.
1126. In relation to clause (4), DCC seeks the following amendments:⁷⁷⁵
- ~~there is no further~~ minimise modification of the shape and behaviour of the water bodies and promote opportunities to restore the natural form and function of water bodies ~~are promoted~~ wherever possible,
1127. DCC considers that the clause as notified suggests that modification of rivers can only result in a reduction of natural form and function, even though some works on modified water bodies may provide an opportunity to partially restore natural form and function. As an alternative to the wording sought, they seek that the first part of clause (4) is amended to be consistent with clause 3.24(1) of the NPSFM. DCC also considers that the modification of

⁷⁶⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁶⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁶⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁷⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁷¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁷² FPI001.011 DCC

⁷⁷³ FPI030.023 Kāi Tahu ki Otago

⁷⁷⁴ FPI001.012 DCC

⁷⁷⁵ FPI001.013 DCC

some waterbodies might be necessary in some circumstances for the purpose of providing a stormwater drainage system that supports the well-being of the community. These works could include erosion protection and the installation of culverts.

1128. Waka Kotahi seeks the same amendments as DCC, with similar reasoning, being the provision of some flexibility in regard to the modification of waterbodies, in order to protect existing State Highway infrastructure from damage.⁷⁷⁶

1129. Beef + Lamb and DINZ also seeks changes to LF-VM-O5(4) to focus the clause on maintaining the natural character of waterbodies, rather than requiring the avoidance of all further modification. The submitter requests the following wording amendments:⁷⁷⁷

~~there is no further modification of the shape and behaviour~~ the natural character (including natural form and function) of the water bodies is maintained, and opportunities to restore the natural form and function of waterbodies are promoted wherever possible, and...

1130. DCC seeks that the reference to urban environments in clause (5) be deleted, as a whole of catchment approach is required, and discharges of contaminants from both rural and urban environments need to be managed.⁷⁷⁸ Similarly, Kāi Tahu ki Otago seeks that the reference to urban environments be amended to include urban and rural environments.⁷⁷⁹

1131. Kāi Tahu ki Otago seeks further changes to clause (5), such that discharges are also reduced in order to ensure that mahika kai species are safe for consumption.⁷⁸⁰ DOC also seeks changes to clause (5), such that water bodies are also able to support healthy indigenous biodiversity and ecosystems.⁷⁸¹

1132. John Highton seeks the following general amendments:⁷⁸²

- Include the restoration of the Water of Leith, its amenity values and habitat for migratory fish, and
- Identify Tomahawk Lagoon, Silverstream, Kaikorai Stream and estuary as water bodies to be restored and maintained.

1133. Federated Farmers seeks the addition of a new clause, with the following wording sought:⁷⁸³

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

1134. Ravensdown seeks the addition of a new clause, with the following wording sought:⁷⁸⁴

⁷⁷⁶ FPI018.002 Waka Kotahi

⁷⁷⁷ FPI025.021 Beef + Lamb and DINZ

⁷⁷⁸ FPI001.014 DCC

⁷⁷⁹ FPI030.023 Kāi Tahu ki Otago

⁷⁸⁰ FPI030.023 Kāi Tahu ki Otago

⁷⁸¹ FPI044.012 DOC

⁷⁸² FPI007.014 John Highton

⁷⁸³ FPI026.026 Federated Farmers

⁷⁸⁴ FPI017.008 Ravensdown

(X) food production in the area is supported by innovative and sustainable land and water management practices that improve resilience to the effects of climate change

1135. Horticulture NZ seeks the addition of a new clause, with the following wording sought:⁷⁸⁵

(X) innovative and sustainable land and water management practices support food production in the area that reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and that reduce emissions and improve resilience to the effects of climate change.

1136. Kāi Tahu ki Otago seeks the addition of a new clause, with the following wording sought:⁷⁸⁶

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

1137. DOC seeks the addition of two new clauses, with the following wording sought:⁷⁸⁷

(X) urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins, estuaries and the coastal environment,

(X) indigenous species can migrate easily and as naturally as possible along the coast using a network of wetlands and estuaries,

1138. Related to its submission on MAP1, Kāi Tahu ki Otago seeks that if the Waikouaiti catchment is included in the Dunedin & Coast FMU, that the vision recognises management outcomes for the Waikouaiti freshwater Mātaitai and the East Otago Taiāpure in the objective.⁷⁸⁸

8.4.8.3. Analysis

1139. DCC considers that there needs to be a clear vision for Dunedin's urban waterways (in particular the Kaikarae/Kaikorai, Ōwheo/Leith, Tomohaka/Tomahawk Lagoon, and Whakaehu/Silverstream) in terms of water quality, access, and their value to the community. The submitter seeks that the vision is amended, along with the means and timeframes for attaining the vision, to address the issues raised but does not provide any specific wording. I agree that urban waterways are a key feature of this FMU and that the provision as notified does not specifically address this. I am not opposed to further amendments. However, I would appreciate hearing from the submitter in evidence with regard to what specific amendments they consider should be made. I do not recommend accepting this submission point at this stage.

1140. The amendment sought by Kāi Tahu ki Otago to clause (2) has been incorporated into my recommended region-wide objective LF-FW-O1A(5). I recommend accepting this part of the submission point.

1141. I agree with DCC that clause (3) lacks clarity. I recommend aligning the wording of clause (3) with a comparable clause in the North Otago FMU visions (LF-VM-O3(3)). This retains the

⁷⁸⁵ FPI047.019 Horticulture NZ

⁷⁸⁶ FPI030.023 Kāi Tahu ki Otago

⁷⁸⁷ FPI044.012 DOC

⁷⁸⁸ FPI030.023 Kāi Tahu ki Otago

lack of reference to coastal waters but includes riparian margins and wetlands in addition to estuaries and lagoons and clarifies that these water bodies support the health of downstream coastal ecosystems. I recommend accepting this submission point in part.

1142. Contact, Waka Kotahi, and DCC have all raised concerns with the direction for “no further modification” in clause (4). I have addressed **LF-VM-O5(4)** generally in section 8.4.2 of this report. I have recommended including that “the form and function of waterbodies reflects their natural behaviours to the greatest extent practicable” in my recommended region-wide objective. I consider that recommended wording is more flexible and recognises the practicability constraints raised by these submitters. I recommend accepting these submission points in part.
1143. I have addressed the submission point by Beef + Lamb and DINZ on clause (4) in section 8.4.2 of this report in relation to my new recommended objective **LF-FW-O1A**. I recommend accepting this submission point in part.
1144. I have also previously addressed the points raised in relation to clause (5) and consider that my recommended new objective **LF-FW-O1A(1)** and (8) incorporates this matter. I recommend accepting in part the submission points by DCC, Kāi Tahu ki Otago, and DOC.
1145. I consider the relief sought by John Highton in relation to the Water of Leith is provided through clause (4) and in relation to Tomahawk Lagoon and Kaikarae/Kaikorai estuary in clause (3). I note that DCC also seeks greater recognition of these water bodies in its submission and that, should the submitter address this in evidence, I will consider the submission point further. I consider this applies also to the relief sought by John Highton. While I do not recommend accepting this submission point at this stage, I expect to reconsider this point following evidence provision.
1146. I consider that the additional clauses sought to be included by Federated Farmers, Ravensdown, Horticulture NZ, Kāi Tahu ki Otago and DOC are already incorporated into clauses (3), (7) and (8) of my recommended new objective **LF-FW-O1A**. I do not recommend accepting these submission points.
1147. Elsewhere in this chapter, Kāi Tahu ki Otago seeks to amend the boundary between the Dunedin & Coast and North Otago FMUs. In relation to this provision, Kāi Tahu ki Otago seeks that if that boundary change is recommended to be accepted, then this provision should include recognition of management outcomes for the Waikouaiti freshwater mātaimai and the East Otago Taiāpure. As outlined in section 8.4.10 of this report, I have recommended accepting the request to adjust the boundary and consider that there may need to be consequential amendments to **LF-VM-O5** as a result. While I do not oppose the additional relief sought by Kāi Tahu ki Otago, I am unsure what types of outcomes are envisaged by the submitter. Without further clarification, I do not recommend accepting this part of the submission point at this stage. The submitter may wish to clarify the relief sought in their evidence.

8.4.8.4. Recommendation

1148. I recommend the following amendments:

LF-VM-O5 - Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast *FMU*:

- ~~(1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,⁷⁸⁹~~
- ~~(2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,⁷⁹⁰~~
- (3) healthy riparian margins, *wetlands*, estuaries, and lagoons and ~~coastal waters⁷⁹¹~~ support the health of thriving *mahika kai* and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas,⁷⁹²
- ~~(4) there is no further modification of the shape and behaviour of the *water bodies* and opportunities to restore the natural form and function of *water bodies* are promoted wherever possible,⁷⁹³ and~~
- ~~(5) discharges of contaminants from urban environments are reduced so that *water bodies* are safe for human contact.⁷⁹⁴~~

8.4.9. LF-VM-O6 – Catlins FMU vision

8.4.9.1. Introduction

1149. This objective is a long-term vision for freshwater as required by clause 3.3 of the NPSFM. As notified, LF-VM-O6 reads:

LF-VM-O6 – Catlins *FMU* vision

By 2030 in the Catlins *FMU*:

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

1150. In section 8.4.2 of this report, I have recommended including a region-wide objective for freshwater and consequentially deleting some of the content of the freshwater visions that

⁷⁸⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹¹ FPI001.012 DCC

⁷⁹² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

I consider is addressed by this objective. As a result of that recommendation, LF-VM-O3 reads as follows:

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

- ~~(1) fresh water is managed in accordance with the LF-WAI objectives and policies,⁷⁹⁵~~
- ~~(2) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,⁷⁹⁶~~
- ~~(3) water bodies support thriving mahika kai and access of Kāi Tahu whānui to mahika kai,⁷⁹⁷~~
- (4) the high degree of naturalness of the water bodies⁷⁹⁸ and ecosystem connections between the forests, freshwater and coastal environment are preserved, and
- ~~(5) water bodies and their catchment areas support the health and well being of coastal water, ecosystems and indigenous species, including downstream kaimoana, and⁷⁹⁹~~
- (6) healthy, clear and clean water supports opportunities for recreation and sustainable food production for future generations.

8.4.9.2. Submissions

1151. Wise Response supports LF-VM-O6 and seeks that it be retained as notified.⁸⁰⁰
1152. Ngāi Tahu ki Murihiku seeks that the objective is amended to use phrasing consistent with the overarching vision for Te Mata-au (LF-VM-O2) where the same outcome is intended for the provision, to help make it clear where distinct outcomes are sought for the Catlins / Te Ākau Tai Toka due to the characteristics of this FMU.⁸⁰¹
1153. Kāi Tahu ki Otago seeks that clause (3) is amended to reference mahika kai that are safe for consumption.⁸⁰²
1154. Beef + Lamb and DINZ seek that clause (3) is redrafted, with the following wording sought:⁸⁰³
(3) access of Kāi Tahu whānui to mahika kai is maintained and its improvement is promoted where appropriate
1155. Beef + Lamb and DINZ consider that public access needs to be considerate of and consistent with landowner needs, in order to foster good relationships and safeguard the landowner's

⁷⁹⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁷⁹⁸ FPI030.024Kāi Tahu ki Otago

⁷⁹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁸⁰⁰ FPI035.009 Wise Response

⁸⁰¹ FPI042.011 Ngāi Tahu ki Murihiku

⁸⁰² FPI030.024Kāi Tahu ki Otago

⁸⁰³ FPI025.022 Beef + Lamb and DINZ

business against disruption or loss and to allow for health and safety and animal welfare matters.

1156. Kāi Tahu ki Otago seeks an amendment to clause (4) so that it relates to the high naturalness of water bodies, rather than high naturalness more generally.⁸⁰⁴
1157. Federated Farmers seeks amendments to clause (5), such that the term ‘sustainable food production’ is replaced with the term primary production.⁸⁰⁵ Ravensdown also seeks amendment to the term food production, so that it refers to sustainable agriculture, including food production.⁸⁰⁶
1158. Federated Farmers, Ravensdown and Horticulture NZ all seek the addition of a new clause relating to food production and innovative and sustainable practices. They all seek similar, but slightly different wording, as set out below:

innovative and sustainable land and water management practices support primary production in the area and improve resilience to the effects of climate change⁸⁰⁷

food production in the area is supported by innovative and sustainable land and water management practices that improve resilience to the effects of climate change⁸⁰⁸

innovative and sustainable land and water management practices support food production in the area that reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact and that reduce emissions and improve resilience to the effects of climate change⁸⁰⁹

1159. DOC seeks the addition of two new clauses, with the following wording sought:⁸¹⁰

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

indigenous species can migrate easily and as naturally as possible along the coast using a network of wetlands and estuaries

1160. Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku seek the addition of a new clause, such that there are no direct discharges of wastewater to water bodies.⁸¹¹

8.4.9.3. Analysis

1161. In section 8.4.2 of this report I have considered submissions seeking a region-wide objective for freshwater and recommended incorporating this provision. I consider this assists with achieving the consistency sought by Ngāi Tahu ki Murihiku on [LF-VM-O6](#) and therefore recommend accepting this submission point.

⁸⁰⁴ FPI030.024 Kāi Tahu ki Otago

⁸⁰⁵ FPI026.026 Federated Farmers

⁸⁰⁶ FPI017.009 Ravensdown

⁸⁰⁷ FPI026.026 Federated Farmers

⁸⁰⁸ FPI017.009 Ravensdown

⁸⁰⁹ FPI047.020 Horticulture NZ

⁸¹⁰ FPI044.013 DOC

⁸¹¹ FPI030.024 Kāi Tahu ki Otago, FPI042.011 Ngāi Tahu ki Murihiku

1162. As discussed in section 8.4.2 of this report, the amendment sought by Kāi Tahu ki Otago to clause (3) has been incorporated into clause (1) of my recommended new objective LF-FW-O1A. I recommend accepting this submission point in part. I have also addressed the concerns raised by Beef + Lamb and DINZ in that section of the report and, for the reasons I have outlined in that section, I do not recommend accepting the submission point.
1163. I agree that as this is a “vision for freshwater” in accordance with clause 3.3 of the NPSFM, it is more accurate to refer to the naturalness of the water bodies in clause (4) rather than more generally, as sought by Kāi Tahu ki Otago. I recommend accepting this part of the submission point.
1164. I consider that the amendments sought by Federated Farmers and Ravensdown to clause (5) and the new clauses sought by those submitters as well as Horticulture NZ, DOC, Ngāi Tahu ki Murihiku, and Kāi Tahu ki Otago have been incorporated into clauses (3), (7) and (8) of my recommended new objective LF-FW-O1A as set out in section 8.4.2 of this report.

8.4.9.4. Recommendation

1165. I recommend amending LF-VM-O6 to:

LF-VM-O6 – Catlins FMU vision

By 2030 in the Catlins FMU:

- ~~(1) fresh water is managed in accordance with the LF-WAI objectives and policies,⁸¹²~~
- ~~(2) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,⁸¹³~~
- ~~(3) water bodies support thriving mahika kai and access of Kāi Tahu whānui to mahika kai,⁸¹⁴~~
- (4) the high degree of naturalness of the water bodies⁸¹⁵ and ecosystem connections between the forests, *freshwater* and coastal environment are preserved, and
- ~~(5) water bodies and their catchment areas support the health and well being of coastal water, ecosystems and indigenous species, including downstream kaimoana, and⁸¹⁶~~
- (6) healthy, clear and clean *water* supports opportunities for recreation and sustainable food production for future generations.

⁸¹² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁸¹³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁸¹⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁸¹⁵ FPI030.024 Kāi Tahu ki Otago

⁸¹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

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

8.4.10.1. Introduction

1166. LF-VM-P5 sets out the FMUs and rohe in Otago and refers to MAP1 which shows the boundaries of each area. For this reason, I have evaluated the submissions on these provisions together.

1167. As notified, LF-VM-P5 reads:

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

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

Table 7 – Freshwater Management Units and rohe

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

8.4.10.2. Submissions

1168. Four submitters support LF-VM-P5 and seek that it be retained as notified.⁸¹⁷ Contact supports the maps and proposed FMU and rohe as shown on the maps.⁸¹⁸

1169. Kāi Tahu ki Otago supports LF-VM-P5 but seeks changes to MAP1, as described below.⁸¹⁹ DOC supports the policy as notified, subject to consideration of any changes sought in other submissions.⁸²⁰

1170. The remaining submissions address particular matters and are therefore grouped as follows:

- a. **Text descriptions:** Fish and Game seeks that MAP1 include some text defining the spatial extent of the FMUs and rohe.⁸²¹
- b. **Clarification of coastal boundaries:** Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago and DOC seek that the coastal boundaries be amended to include all estuarine areas and

⁸¹⁷ FPI046.005 QLDC, FPI021.003 Ballance, FPI024.024 DairyNZ, FPI027.020 Contact

⁸¹⁸ FPI027.021 Contact

⁸¹⁹ FPI030.025 Kāi Tahu ki Otago

⁸²⁰ FPI044.014 DOC

⁸²¹ FPI037.023 Fish and Game

enclosed shallow inlets, such as the Tautuku and Kaikarae (Kaikorai) estuaries, Hoopers Inlet, Papanui Inlet, Pūrākaunui Inlet, Blueskin Bay and Mataīnaka (Hawksbury Lagoon).⁸²²

- c. **Further division of the Taieri FMU:** Federated Farmers seeks that the Taieri FMU be split into rohe, given the Taieri river covers a range of landscapes, land use, climate and ecosystems, and targeted management would be beneficial. Specific rohe boundaries have not been proposed.⁸²³
- d. **North Otago and Dunedin & Coast boundary:** DCC and Kāi Tahu ki Otago seek that the boundaries of the North Otago and Dunedin & Coast FMUs are amended so the Waikōuaiti River catchment is included in the Dunedin & Coast FMU.⁸²⁴

1171. When considering these submission points and discussing them with ORC staff, I became aware of an additional issue with the FMU and rohe boundaries. The issue relates to whether the Puerua River catchment should remain in the Catlins FMU (as notified in MAP1) or be included in the Clutha Mata-au FMU because of its hydrological connection with the Clutha Mata-au River.

8.4.10.3. Analysis

1172. Given the relatively discrete matters raised by submitters, I have addressed the submission points above in separate sections.

Text descriptions

1173. Fish and Game seeks to include text defining the spatial extent of the FMUs and rohe alongside MAP1. ORC's website has webpages for each FMU and rohe that contain comprehensive descriptions of their spatial extent. The webpages also contain an economic profile along with information on the natural and physical resources in the area and a map. Given this information is contextual and does not affect the delineation of boundaries, I consider that it is more appropriate for the information to sit outside the pORPS and therefore do not recommend accepting this submission point.

Clarification of coastal boundaries

1174. Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago, and DOC consider that the coastal boundaries should be amended to include all estuarine areas and enclosed shallow inlets. The submitters consider the coastal boundaries of the FMUs and rohe have been drawn inconsistently – in some cases, there are coastal water bodies within FMU boundaries and in other cases the boundaries have been drawn to exclude coastal water bodies. An example of this difference is shown below in Figure 2 and Figure 3.

⁸²² FPI032.027 Te Rūnanga o Ngāi Tahu, FPI030.045 Kāi Tahu ki Otago, FPI044.024 DOC

⁸²³ FPI026.027 Federated Farmers, FPI026.038 Federated Farmers

⁸²⁴ FPI001.015 DCC, FPI030.045 Kāi Tahu ki Otago



Figure 2: Catlins Lake/Estuary

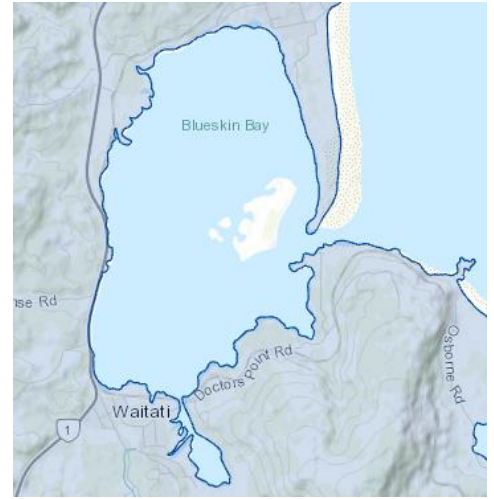


Figure 3: Blueskin Bay (estuary)

1175. Coastal water bodies and coastal water are important receiving environments for fresh water. I agree with submitters that it is important that there is clarity on where the FMU and rohe boundaries lie, particularly as these will underpin the application of provisions in the LWRP and the Coastal Plan. The submitters seek to include all estuarine areas and enclosed shallow inlets in FMU and rohe boundaries (i.e. the approach adopted with respect to Catlins Lake/Estuary above).
1176. I consider this approach is consistent with the NPSFM. Clause 1.5 states that (my emphasis added):
- [The NPSFM] applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area).*
1177. Similarly, the opening line of the objective of the NPSFM refers to ensuring that “natural and physical resources are managed in a way...” Additionally, clause 3.5(1) requires local authorities to:
- (a) *recognise the interconnectedness of the whole environment, from the mountains and lakes, down to the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea,*
 - (b) *recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments,*
 - (c) *manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments ...*
1178. There is no specific direction in the NPSFM about including or excluding coastal water bodies from FMUs, however there is an emphasis on integrated management, ki uta ki tai, and a holistic approach to managing freshwater.

1179. The pORPS also identifies the importance of managing resources using an integrated approach that recognises and sustains the connections and interactions between different types of water bodies (including fresh and coastal water bodies).⁸²⁵
1180. The FMU and rohe maps have been in use for some years now, particularly in relation to work being undertaken to support the development of the LWRP. I have discussed these submission points and my analysis above with ORC staff, including from the Science and Environmental Implementation teams as well as Policy, in order to understand any practical implications that may arise from alterations to the boundaries. I am satisfied that there are no significant issues with redrawing the coastal boundaries and that there is general support within ORC for greater clarity of all FMU and rohe boundaries. I understand the inconsistency has arisen from the choice of base map for drawing the FMU and rohe boundaries, rather than as a deliberate choice by ORC to include or exclude particular water bodies.
1181. For these reasons, I recommend accepting the submissions by Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago, and DOC. I consider that the coastal boundaries of the FMUs and rohe should be redrawn to follow either mean high water springs or, where this crosses a water body, where the water in that water body meets the territorial sea.

Further division of the Taiari FMU

1182. The Taiari River is the fourth longest in New Zealand and the Taiari FMU covers about 570,000 hectares of land. ORC's website describes the Taiari FMU as follows:⁸²⁶

The Taiari Freshwater Management Unit (FMU) covers the entire Taiari River catchment, reaching from Taiari Mouth across the Taiari Plain into the Strath Taiari and Maniototo Basins.

The catchment area includes all or parts of several mountain ranges. These are the Rock and Pillar Range (1450m), Lammermoor (1160m) and Lammerlaw (1210m) Ranges, the eastern slopes of Rough Ridge (950m), the southern slopes of the Kakanui Mountains (1600m), the lower crests of Taiari Ridge (660m), and Maukaatua (Maungatua) (895m).

The Taiari River is the fourth-longest in Aotearoa New Zealand, draining the eastern Otago uplands and following an almost circular path from its source to the sea. Notable freshwater bodies include the Taiari River and its tributaries (e.g., the Kye Burn, Sow Burn, Deep Stream), Lakes Mahinerangi, Waipori, and Waiholā, and the Scroll Plain wetlands.

The largest urban area is Mosgiel in the southeast, followed by Ranfurly and Naseby in the north.

Kāi Tahu used all areas of the Taiari catchment, with many mahika kai (the gathering of foods and other resources, the places where they are gathered, and the practices used to gather them) sites and settlements associated with the many waterways,

⁸²⁵ LF-WAI-P3, LF-VM-O2(7)(c), LF-VM-O3(3), LF-VM-O5(3) and LF-FW-O8(3) and LF-VM-O6(4) and (5)

⁸²⁶ <https://www.orc.govt.nz/plans-policies-reports/land-and-water-regional-plan/find-your-area/taiari-fmu>

lakes, and wetlands in the FMU. Due to resource use and development, many water bodies, such as Taieri Lake, are changed or lost.

Historically, European settlers used the Maniototo land for livestock as early as the 1850s. The gold rush created significant economic growth for the area around Waipiata and Kye Burn in the 1860s. A large wetland once covered the lower Taieri, which has since been drained. The surviving wetlands of Lakes Waihola and Waipori are the remains of this extensive system.

1183. The description is accompanied by a map of the FMU boundary:



1184. There is additional information on ORC’s website about the land use and soils, water quantity, surface water quality, groundwater, biodiversity, wetlands, and estuaries.

1185. Federated Farmers seeks that the Taieri FMU is split into rohe, but no specific boundaries are proposed. This amendment is opposed in the further submission of Kāi Tahu ki Otago

which states that Kāi Tahu “support[s] consideration of the Taiari as a whole catchment, recognising its interconnectedness ki uta ki tai.”⁸²⁷

1186. The Council made decisions on the identification of FMUs and rohe in Otago in April 2019. The item setting out the reasoning behind recommending the current division of FMUs and rohe is available online.⁸²⁸ The advice to Council and its decision pre-dated my involvement with ORC. I have sought advice from Mr Tom de Pelsemaeker from ORC’s Policy team about the approach adopted to identifying FMUs and, in particular, the consideration given to splitting the Taiari FMU into rohe. That advice is contained in Appendix 6 to this report.
1187. In summary, based on the original identification criteria, Mr de Pelsemaeker recommends against further division because there are not enough, or significant enough, differences between the upper and lower parts of the catchment to warrant different spatial units being identified. This is in contrast to the Clutha Mata-au FMU where there are significant differences between, for example, the Upper Lakes rohe and the Lower Clutha rohe, as well as different ‘sections’ of the river demarcated by hydroelectricity generation infrastructure. For these reasons, as well as the lack of any information about how Federated Farmers considers the FMU could be further divided, I do not recommend accepting this submission point.

North Otago and Dunedin & Coast FMU boundary

1188. DCC and Kāi Tahu ki Otago consider that the Waikōuaiti catchment is more appropriately located within the Dunedin & Coast FMU as this would better align management across all catchments that flow into the coastal receiving environment that is included in the East Otago Taiāpure (which encompasses marine and estuarine waters enclosed by Cornish Head, Brinns Point, Warrington Spit and Potato Point). The taiāpure boundary in comparison to the current FMU boundary is shown in Figure 4 below.

⁸²⁷ <https://www.orc.govt.nz/media/13951/kai-tahu-ki-otago-fsfpi030-sandra-mcintyre.pdf>, p.7

⁸²⁸ <https://www.orc.govt.nz/media/6677/council-mtg-agenda-20190403.pdf>, pp.12-25.



Figure 4: Boundary of East Otago Taiāpure compared to current FMU boundary

1189. For the same reasons as I have set out in relation to the Taiari FMU, I have sought advice from Mr de Pelsemaeker on the process adopted to develop the FMUs and rohe boundaries and the implications of amending the boundary as sought by Kāi Tahu ki Otago and DCC. That advice is attached to this report as Appendix 6. In summary, Mr de Pelsemaeker considers that the risk of amending the boundaries is negligible and there are potential benefits in ensuring that the planning framework for managing both estuaries that discharge into the East Otago Taiāpure are guided by the same vision in the pORPS.
1190. I recommend accepting the submission points by Kāi Tahu ki Otago and DCC. Neither submitter provided a redrawn boundary and I have not sought to commission one from ORC at this stage as there may be further discussion about this boundary in evidence and at the hearing.

Puerua River

1191. The Puerua River rises east of Brown Dome in inland South Otago, and flows eastward toward the Clutha River/Mata-au near Port Molyneux. Approximately 10.5km of the Puerua River has been modified (i.e., straightened), and is referred to as the Puerua River Deviation.
1192. Further work on the development of the FMU framework for the LWRP has identified that the Puerua River (included in the Catlins FMU) currently discharges into the Clutha River/Mata-au (included in the Clutha Mata-au FMU). This has raised concerns from ORC staff as to the appropriateness of including the Puerua River catchment in the Catlins FMU in MAP1. The mouth of the Puerua River in relation to the FMU boundaries is shown in Figure 4 below. This figure also demonstrates another known issue with the existing GIS layer – areas not covered by any FMU or rohe.



Figure 5: Location of the confluence of the Puerua River and Clutha River/Mata-au (Koau Branch) and the FMU boundaries.

1193. In terms of evidence supporting a connection between the Puerua River and the Clutha River/Mata-au, I note that:

- The Puerua River is included in the Taieri/Clutha Plains sub-region in Schedule 1A of the Regional Plan: Water for Otago (and not in the Catlins sub-region).
- The Puerua River is identified as a tributary of the Clutha River/Mata-au in NIWA's catchment directory of New Zealand.
- The Puerua River has been mapped as a tributary of the Clutha River/Mata-au since at least 1852.⁸²⁹

⁸²⁹ Jacobs. (2021). *Molyneux Bay and Clutha Delta Morphology Investigation*. pp.7.

- The area where the Puerua River joins the Clutha River/Mata-au has been extensively modified, but was the mouth of the entire Mata-au catchment prior to the 1878 flood.⁸³⁰
- Historic satellite imagery demonstrates a clear hydrological connection between the Puerua River and the mouth of the Clutha River / Mata-au (Koau Branch) (Figure 5).



Figure 6: Satellite image of the confluence of the Puerua River and Clutha River/Mata-au (Koau Branch) (1982). Sourced from <http://retrolens.nz> and licensed by LINZ.

1194. Mr de Pelsemaeker has provided advice on the Puerua River, including by considering this amendment against the criteria originally used to identify Otago’s FMUs and rohe. That advice is attached to this report as Appendix 6. In summary, Mr de Pelsemaeker considers the inclusion of the Puerua River catchment in the Clutha Mata-au FMU rather than the Catlins FMU would achieve greater consistency in applying the criteria and rationale for setting FMU and rohe boundaries outlined above, particularly in relation to ‘natural catchment hydrology’, and would ensure that all catchments discharging into the Clutha River/Mata-au are included in the same FMU.
1195. Mr de Pelsemaeker considers that the risk of amending the boundaries is negligible and there are potential benefits in ensuring that the planning framework for managing the Puerua River catchment is guided by the same vision in the pORPS as the vision that applies to other similar catchments in the lower reaches of the Clutha Mata-au.

⁸³⁰ Jacobs. (2021). *Molyneux Bay and Clutha Delta Morphology Investigation*. pp.7.

1196. While I agree in principle with amending the boundaries to include the Puerua River catchment in the Clutha Mata-au FMU, I consider it would be appropriate for the hearing panel to hear from submitters as to the extent of this catchment and their views before the boundaries are determined.
1197. As no submitter has requested this change, if the hearing panel is of the view to recommend this amendment, I recommend it be made in accordance with clause 49(2)(b) of Schedule 1 of the RMA. I consider it is appropriate for the hearing panel to exercise that power for the following reasons:
- a. The amendment will achieve greater consistency in the pORPS in terms of how FMU and rohe boundaries have been developed, including a ki uta ki tai approach.
 - b. As the FMU boundaries are established at the pORPS level they will not be able to be revisited during the development of the LWRP without a formal change to the RPS. Therefore, ensuring the FMU boundaries are correct in the pORPS will alleviate the risk of errors being embedded in future processes, such as the implementation of the NOF in the LWRP.

8.4.10.4. Recommendation

1198. While I recommend amending the boundaries of the maps as set out above, I do not recommend replacing MAP1 at this stage subject to hearing from submitters.

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

8.4.11.1. Introduction

1199. As notified, LF-VM-P6 reads:

LF-VM-P6 – Relationship between FMUs and rohe

Where rohe have been defined within FMUs:

- (1) *environmental outcomes* must be developed for the FMU within which the rohe is located,
- (2) if additional *environmental outcomes* are included for rohe, those *environmental outcomes*:
 - (a) set target *attribute* states that are no less stringent than the parent FMU *environmental outcomes* if the same *attributes* are adopted in both the rohe and the FMU, and
 - (b) may include additional *attributes* and target *attribute* states provided that any additional *environmental outcomes* give effect to the *environmental outcomes* for the FMU,
- (3) *limits* and action plans to achieve *environmental outcomes* may be developed for the FMU or the rohe or a combination of both,
- (4) any *limit* or action plan developed to apply within a rohe:

- (a) prevails over any *limit* or action plan developed for the *FMU* for the same *attribute*, unless explicitly stated to the contrary, and
- (b) must be no less stringent than any *limit* set for the parent *FMU* for the same *attribute*, and
- (c) must not conflict with any *limit* set for the underlying *FMU* for *attributes* that are not the same, and

(5) the term “no less stringent” in this policy applies to *attribute states* (numeric and narrative) and any other metrics and timeframes (if applicable).

8.4.11.2. Submissions

1200. QLDC, Te Rūnanga o Ngāi Tahu and DairyNZ seek to retain LF-VM-P6 as notified.⁸³¹
1201. Wise Response seeks an amendment to clause (1), such that environmental outcomes for the FMU must be based on a thorough review of local, national and international risks, limits and trends with the potential to significantly affect the environment and resources.⁸³²
1202. Kāi Tahu ki Otago generally supports LF-VM-P6 but seeks to include “must” at the beginning of clause (2)(a) to provide clarity around the relationship between rohe-specific provisions and the wider FMU provisions and ensure that any rohe-specific provisions are consistent with integrated management and support the outcomes of the wider FMU.⁸³³
1203. Oceana Gold and Beef + Lamb and DINZ consider that amendments are required to ensure the policy reflects the requirements of the NPSFM.⁸³⁴ Beef + Lamb and DINZ refer to their 2021 submission on the pORPS which states that it considers the policy wording confuses a number of terms and the relationships between these:
- Action plans must achieve (not give effect to) target attribute states (not environmental outcomes) in clause (3),
 - The reference to “attribute” in clause (4)(a) should read “target attribute state”,
 - The test of “no less stringent” in clause (4)(b) is inappropriate because the NPSFM does not require limits to be the same between FMUs or within FMUs, and may apply at any scale so long as the limit achieves the target attribute state,
 - Clause (4)(b) should refer to action plans as well as limits to more correctly reflect that methods may differ between rohe or FMUs, and
 - The test of “must not conflict” is inappropriate and should also refer to action plans as well as limits.
1204. Ballance seeks several changes to LF-VM-P6, to ensure that target attribute states, limits and action plans are set in consultation with both Kāi Tahu and the community, as well as several minor changes to provide clarity.⁸³⁵

⁸³¹ FPI046.006 QLDC, FPI032.020 Te Rūnanga o Ngāi Tahu, FPI024.025 DairyNZ

⁸³² FPI035.010 Wise Response

⁸³³ FPI030.026 Kāi Tahu ki Otago

⁸³⁴ FPI031.005 Oceana Gold, FPI025.024 Beef + Lamb and DINZ

⁸³⁵ FPI021.004 Ballance

1205. Contact seeks an amendment to LF-VM-P6 to recognise clause 3.31 of the NPSFM, which relates to large hydro-electric generation schemes and allows specific attribute states to be set in respect of the Clutha hydro scheme. Specific wording is not sought.⁸³⁶

8.4.11.3. Analysis

1206. I consider the amendment sought by Wise Response would introduce uncertainty into the policy. It is unclear what the submitter means by “risks, limits and trends” or what would be considered a “significant” effect. Environmental outcomes have a specific definition in the NPSFM and there is a defined process that their development must follow including, in particular, clauses 3.9 (identifying values and setting environmental outcomes as objectives) and 3.10 (identifying attributes and their baseline states, or other criteria for assessing achievement of environmental outcomes).

1207. The amendment proposed by Kāi Tahu ki Otago clarifies the direction in clause 2(a) and I recommend accepting this part of the submission point. Ballance seeks minor amendments to clause (2) to improve readability which I recommend accepting.

1208. Oceana Gold and Beef + Lamb and DINZ consider the policy does not accurately reflect the requirements of the NPSFM. Oceana Gold does not provide specific amendments. However, Beef + Lamb and DINZ refer back to their 2021 submission on the pORPS which contains specific amendments. In clause (3), they consider that action plans must achieve (not give effect to) target attribute states (not environmental outcomes). I agree that “achieve” is the appropriate term rather than “give effect to” but note that clause 3 already uses the former. I do not agree that achieving target attribute states is the only purpose of action plans. Clause 3.15 of the NPSFM sets out the requirements for preparing actions plans and states:

- in clause 1(b), that action plans prepared for the purpose of the NPSFM may set out a phased approach to achieving environmental outcomes, and
- in clause 3, if an action plan is prepared for the purpose of achieving a specific target attribute state or otherwise supporting the achievement of environmental outcomes then sub-clauses (a) and (b) apply.

1209. In my view, the broad purpose of action plans is to achieve environmental outcomes, which may include achieving a specific target attribute state. To assist readers, I recommend including an amendment to clarify that achieving environmental outcomes may include achieving specific target attribute states.

1210. In clause (4)(a) of the policy, Beef + Lamb and DINZ consider the reference to “attribute” should be changed to “target attribute state”. I understand the effect of that amendment would be to narrow the application of clause (4) to only situations where limits or action plans at both the rohe and FMU level were developed for the same target attribute state. I consider that there may be instances where different target attributes states are set for the same attribute at the rohe and FMU levels. For example, the target attribute state for phytoplankton across the entire Clutha Mata-au FMU could be set at B band whereas within the Upper Lakes rohe, where there are lakes in their natural state, the target attribute state

⁸³⁶ FPI027.022 Contact

may be A band. In those situations, it is appropriate that the rohe limit or action plan prevails, so long as sub-clauses (b) and (c) are also met.

1211. In clause (4)(b), Beef + Lamb and DINZ consider that the requirement for limits or action plans at the rohe level to be no less stringent than those at the FMU level is inappropriate because this is not a requirement of the NPSFM. In my opinion, the NPSFM does not explicitly provide for (or prevent) the establishment of 'sub-FMU' areas at a spatial scale. For partly that reason, this policy seeks to clarify the relationship between those two spatial scales. I agree that the NPSFM does not require limits to be the same between FMUs and do not consider this is what LF-VM-P6 requires. For the same reasons as I have set out above, I consider "attribute" is the correct term rather than "target attribute state". I have not seen sufficient evidence to show that it would be appropriate, through a framework of Te Mana o te Wai, to allow for less stringent limits to be set at the rohe level for the same attribute being managed at the FMU level. The submitter may wish to address this further in their evidence.
1212. Beef + Lamb and DINZ also consider that clauses (4)(b) and (c) should refer to action plans as well as limits. I agree this is appropriate and recommend accepting this amendment. Lastly, in relation to clause (4)(c), the submitter considers that "must not conflict with" is an inappropriate test to use but has not suggested a specific alternative. In my view, this clause is attempting to prevent a rohe-level provision undermining the achievement of an FMU outcome. I appreciate that the language is not typical planning nomenclature but in the absence of a proposed alternative, at this stage I do not recommend any amendments.
1213. The changes I recommend above in response to Beef + Lamb and DINZ's submission are the same changes I recommended in my original s42A report on this chapter. For completeness, I note that Ballance seeks these specific amendments be made and I recommend accepting those parts of the submission point.
1214. Ballance also seeks to include "in consultation with Kāi Tahu and the community" in clauses (2)(a) and (3). The submitter considers that these changes are in keeping with the direction provided by the RMA and assist in adding clarity that consultation must occur. LF-VM-M3 requires ORC to work with Kāi Tahu and communities to achieve the objectives and policies in the LF-VM chapter, including by engaging with Kāi Tahu, communities, and stakeholders to identify values and environmental outcomes and the methods to achieve those outcomes. A large part of the regulatory methods for achieving those outcomes are the actions set out in LF-VM-P6. I consider this provides the outcome sought by Ballance and do not recommend accepting the submission point.
1215. The amendments sought by Ballance highlight that while clause 4(c) refers to the "underlying FMU", clauses (2)(a) and (4)(c) refer to the "parent FMU". All of these clauses have the same intent and I consider it would assist readers if they all used "parent", to avoid any suggestion that there is an intentional difference. I recommend accepting this part of the submission point.
1216. Contact seeks unspecified amendments to recognise clause 3.31 of the NPSFM relating to large hydro-electric generation schemes. I do not consider that specific reference is necessary. LF-VM-P6(2)(a) and (b) relate to the setting of target attribute states, which must

occur in accordance with clause 3.11 of the NPSFM. Clause 3.11(4) highlights that some exceptions apply, and specifically cross-references to clauses 3.31, 3.32, and 3.33 for those exceptions. In my view, anyone implementing LF-VM-P6 will need to comply with the relevant parts of the NPSFM at the same time, including clause 3.31. I do not recommend accepting this submission point.

8.4.11.4. Recommendation

1217. I recommend the following amendments:

LF-VM-P6 – Relationship between FMUs and rohe

Where rohe have been defined within FMUs:

- (1) *environmental outcomes* must be developed for the FMU within which the rohe is located,
- (2) if any additional rohe-specific environmental outcomes are included for rohe, ~~those environmental outcomes.~~⁸³⁷
 - (a) must⁸³⁸ set target *attribute* states that are no less stringent than the parent FMU *environmental outcomes* if the same *attributes* are adopted in both the rohe and the FMU, and
 - (b) may include additional *attributes* and target *attribute* states provided that any additional *environmental outcomes* give effect to the *environmental outcomes* for the FMU,
- (3) limits and action plans to achieve *environmental outcomes*, including by achieving target attribute states,⁸³⁹ may be developed for the FMU or the rohe or a combination of both,
- (4) any *limit* or action plan developed to apply within a rohe:
 - (a) prevails over any *limit* or action plan developed for the FMU for the same *attribute*, unless explicitly stated to the contrary, and
 - (b) must be no less stringent than any limit or action plan⁸⁴⁰ set for the parent FMU for the same *attribute*, and
 - (c) must not conflict with any limit set or action plan developed⁸⁴¹ for the underlying parent⁸⁴² FMU for *attributes* that are not the same, and
- (5) the term “no less stringent” in this policy applies to *attribute states* (numeric and narrative) and any other metrics and timeframes (if applicable).

⁸³⁷ FPI021.004 Ballance

⁸³⁸ FPI030.026 Kāi Tahu ki Otago

⁸³⁹ FPI021.004 Ballance

⁸⁴⁰ FPI021.004 Ballance

⁸⁴¹ FPI021.004 Ballance

⁸⁴² Clause 16(2), Schedule 1, RMA

8.4.12. LF-VM-E2 – Explanation

8.4.12.1. Introduction

1218. As notified, LF-VM-E2 reads:

LF-VM-E2 – Explanation

Implementing the NPSFM requires Council to identify *Freshwater Management Units (FMUs)* that include all *freshwater bodies* within the region. Policy LF-VM-P5 identifies Otago’s five *FMUs*: Clutha Mata-au *FMU*, Taieri *FMU*, North Otago *FMU*, Dunedin & Coast *FMU* and Catlins *FMU*. The Clutha Mata-au *FMU* is divided into five sub-*FMUs* known as ‘rohe’. Policy LF-VM-P6 sets out the relationship between *FMUs* and rohe which, broadly, requires rohe provisions to be no less stringent than the parent *FMU* provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the *FMU* to achieve its stated outcomes.

1219. In section 8.4.2 of this report, I have recommended combining the content of LF-VM and LF-FW into one LF-FW section. As a consequential amendment, I have recommended combining the content of LF-VM-E2 and LF-FW-E3 as follows:

LF-VM-E2 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM. [Source: LF-FW-E3 para 1]

Implementing the NPSFM requires Council to identify *Freshwater Management Units (FMUs)* that include all *freshwater bodies* within the region. Policy LF-VM-P5 identifies Otago’s five *FMUs*: Clutha Mata-au *FMU*, ~~Taieri~~ Taiari *FMU*, North Otago *FMU*, Dunedin & Coast *FMU* and Catlins *FMU*. The Clutha Mata-au *FMU* is divided into five sub-*FMUs* known as ‘rohe’. Policy LF-VM-P6 sets out the relationship between *FMUs* and rohe which, broadly, requires rohe provisions to be no less stringent than the parent *FMU* provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the *FMU* to achieve its stated outcomes. [Source: LF-VM-E3 para 1]

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse *effects*. [Source: LF-FW-E3 para 3]

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the

NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character. [Source: LF-FW-E3 para 4]

The impact of *discharges* of *stormwater* and *wastewater* on *freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water* quality issues in some *water bodies*. The policies set out a range of actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse *effects* on receiving environments. [Source: LF-FW-E3 para 5]

1220. In this section I have only summarised and analysed the submissions received on LF-VM-E2 as notified.

8.4.12.2. Submissions

1221. DairyNZ and Kāi Tahu ki Otago support LF-VM-E2 and seek that it is retained as notified.⁸⁴³
1222. OWRUG seeks consequential amendments to give effect to their relief sought elsewhere in the LF-VM chapter but does not specify these amendments.⁸⁴⁴
1223. Wise Response seeks that the wording of the different FMU and rohe are as consistent as possible in terms of scope and target attribute states. The submitter considers that they must all be consistent with achieving emission reduction, life-supporting, integration and resilience objectives elsewhere in the pORPS.⁸⁴⁵
1224. Contact seeks an amendment to LF-VM-E2 to recognise clause 3.31 of the NPSFM, which relates to large hydro-electric generation schemes and allows specific attribute states to be set in respect of the Clutha hydro scheme. Contact does not include specific changes in their submission.⁸⁴⁶

8.4.12.3. Analysis

1225. I have addressed the use of te reo Māori in section 4.5 of this report. For the same reasons, I recommend correcting “Taieri FMU” to “Taiari FMU” in the second sentence.
1226. I do not consider that any of the submission points by OWRUG that I have recommended accepting, or accepting in part, require any consequential amendments to this provision. I do not recommend accepting this submission point.
1227. Explanations are related to the content of the policies in a given section of a plan. I do not consider the matters raised by Wise Response are specifically included in the policies, therefore I do not recommend accepting this submission point.
1228. While I acknowledge that clause 3.31 is important for the Clutha hydro-electricity generation scheme, there are many steps in the NOF process that are also important and these are not

⁸⁴³ FPI024.026 DairyNZ, FPI030.027 Kāi Tahu ki Otago

⁸⁴⁴ FPI043.070 OWRUG

⁸⁴⁵ FPI035.004 Wise Response

⁸⁴⁶ FPI027.023 Contact

spelled out in detail in this explanation. I do not recommend accepting the submission point by Contact.

8.4.12.4. Recommendation

1229. I recommend the following amendment:

LF-VM-E2 – Explanation

...

Implementing the NPSFM requires Council to identify *Freshwater Management Units (FMUs)* that include all *freshwater bodies* within the region. Policy LF-VM-P5 identifies Otago’s five *FMUs*: Clutha Mata-au *FMU*, ~~Taiari~~ Taiari *FMU*, North Otago *FMU*, Dunedin & Coast *FMU* and Catlins *FMU*. The Clutha Mata-au *FMU* is divided into five sub-*FMUs* known as ‘rohe’. Policy LF-VM-P6 sets out the relationship between *FMUs* and rohe which, broadly, requires rohe provisions to be no less stringent than the parent *FMU* provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the *FMU* to achieve its stated outcomes. [Source: LF-VM-E3 para 1]

...

8.5. LF-FW – Freshwater

8.5.1. Introduction

1230. This section of the LF – Land and freshwater chapter sets out the more specific outcomes sought for all fresh water in Otago in order to implement Te Mana o te Wai and assist with achieving the long-term freshwater visions. The objectives respond to specific direction in the NPSFM, relevant matters from section 6 of the RMA and the significant resource management issues for the region and to iwi authorities (outlined in Part 2 of this report). In addition to region-wide provisions for managing all fresh water, this section contains specific policy direction for managing outstanding water bodies, natural wetlands, natural character, and stormwater and wastewater discharges.

1231. The policies are intended to be implemented by regional and district plans primarily, as well as through the use of action plans as provided for by the NPSFM and freshwater farm plans prepared under Part 9A of the RMA. They will, in part, also be implemented by a range of non-regulatory methods such as the ongoing work of catchments groups across Otago and ORC’s ECO fund. Implementation is to be supported by the development of a long-term monitoring programme and the implementation of all other methods in the LF chapter.

1232. The relevant provisions for this section are:

LF-FW-O8 – Fresh water

LF-FW-O9 – Natural wetlands

LF-FW-O10 – Natural character

LF-FW-P7 – Fresh water

LF-FW-P8 – Identifying natural wetlands

LF-FW-P9 – Protecting natural wetlands
 LF-FW-P10 – Restoring natural wetlands
 LF-FW-P11 – Identifying outstanding water bodies
 LF-FW-P12 – Protecting outstanding water bodies
 LF-FW-P13 – Preserving natural character
 LF-FW-P14 – Restoring natural character
 LF-FW-P15 – Stormwater and wastewater discharges
 LF-FW-M5 – Outstanding water bodies
 LF-FW-M6 – Regional plans
 LF-FW-M7 – District plans
 LF-FW-M8 – Action plans
 LF-FW-M9 – Monitoring
 LF-FW-M10 – Other methods
 LF-FW-E3 – Explanation (paragraphs 1, 3 and 4)
 LF-FW-E3 – Explanation (paragraphs 2 and 5)
 LF-FW-PR3 – Principal reasons
 LF-FW-AER4
 LF-FW-AER5
 LF-FW-AER6
 LF-FW-AER7
 LF-FW-AER8
 LF-FW-AER9
 LF-FW-AER10
 LF-FW-AER11

APP1 – Criteria for identifying outstanding water bodies

8.5.2. General submissions

8.5.2.1. Submissions

1233. Fish and Game generally support the LF-FW chapter, subject to relief sought in relation to specific provisions.⁸⁴⁷

8.5.2.2. Analysis

1234. I have recommended amendments in response to some of Fish and Game’s other submission points on the LF-FW chapter and therefore recommend accepting this submission point in part.

8.5.2.3. Recommendation

1235. I do not recommend any amendments.

⁸⁴⁷ FPI037.062 Fish and Game

8.5.3. New viticulture provisions

8.5.3.1. Submissions

1236. McArthur Ridge considers that the pORPS needs to address the specific water needs for, and characteristics of viticulture, given it is a major land use and economic activity in Otago. The submitter considers that the present policy frameworks is set at a generalised level of primary production, and it is unclear how well the policies speak to, or align with the specific needs of viticulture. McArthur Ridge cites the Hawkes Bay and Marlborough regional policy statements, which provide specific provisions supporting the viticulture industry, and consider that these provisions give greater certainty over investment and management.
1237. In its submission, McArthur Ridge highlights the potential adverse effects associated with water supply for viticulture if their water needs are not provided for, including seasonal effects, such as the ability to fight frost, as well as longer term viability and expansion prospects. The submitter includes proposed wording that utilises the Hawkes Bay and Marlborough examples, and considers that this approach sits within the concept of Te Mana o te Wai as it prioritises viticulture water uses above other primary production. The following wording for a new objective and suite of policies is sought:⁸⁴⁸

LF-FW-OX

To achieve efficient water use for any given activity

LF-FW-PX

When resource consent is to be granted to use water, every proposed use will be authorised by a separate water permit. Categories include municipal, irrigation, industrial, residential, commercial and frost fighting.

LF-FW-PX

To allocate water on the basis of reasonable demand given the intended use.

LF-FW-PX

Have regard to the efficiency of the proposed method of distribution and/or irrigation in determining resource consent applications to use water for irrigation purposes.

LF-FW-PX

Approve applications to take and use water for frost fighting purposes only where there are no effective alternative methods for frost control on the property

LF-FW-PX

A limitation will be imposed on the maximum rate of use of water for frost fighting purposes of 44 cubic metres per hour per hectare.

LF-FW-PX

⁸⁴⁸ FPI041.007 McArthur Ridge

Avoid taking water for frost fighting purposes during periods of peak irrigation demand (1 January to 30 April in any calendar year).

LF-FW-PX

Where water is to be stored for the purpose of frost fighting, require a minimum storage volume equivalent to three days of frost fighting demand. In addition, where water is proposed to be taken to replenish stored water used during a frost event, have regard to effect of the rate of refill on other water permit holders and the natural and human use values supported by the source waterbody.

1238. The last four policies are a copy of policies 5.7.8 – 5.7.11 from the Appeals version of the Proposed Marlborough Environment Plan.

8.5.3.2. Analysis

1239. The proposed provisions sought by McArthur Ridge are designed to guide the development of environmental flow and allocation regimes and the consenting of water permits to take and use water. I consider the issues of consenting water takes and prioritising particular uses of water are better addressed in the regional plan as opposed to the pORPS because that is the planning document that directly manages those particular activities. This is consistent with the approach adopted by Hawkes Bay Regional Council and Marlborough District Council. While both of those councils have similar provisions to those proposed by McArthur Ridge, they are regional plan provisions not RPS provisions.

1240. In response to submissions on LF-FW-P7 regarding water use and efficiency, I have recommended including a new policy LF-FW-P7A addressing this matter more comprehensively. I consider that the direction in that policy also addresses the issues raised by the submitter and therefore recommend accepting this submission point in part.

8.5.3.3. Recommendation

1241. I do not recommend any amendments.

8.5.4. LF-FW-O8 – Fresh water

8.5.4.1. Introduction

1242. As notified, LF-FW-O8 reads:

LF-FW-O8 – Fresh water

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

- (1) the health of the wai supports the health of the people and thriving mahika kai,
- (2) water flow is continuous throughout the whole system,
- (3) the interconnection of *fresh water* (including *groundwater*) and *coastal waters* is recognised,

- (4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and
- (5) the significant and outstanding values of Otago’s *outstanding water bodies* are identified and protected.

1243. In section 8.4.2 of this report, I have recommended including an objective for freshwater that addresses all of the matters contained in LF-FW-08 as notified. As a consequential amendment, I have recommended deleting LF-FW-08.

8.5.4.2. Submissions

1244. QLDC and DCC support LF-FW-08 and seek that it be retained as notified.⁸⁴⁹
1245. Beef + Lamb and DINZ consider that LF-FW-08 restates matters that are captured more specifically in LF-VM. They seek to delete the objective in its entirety or if retained, deleted in part.⁸⁵⁰ The submitter considers that clauses (3) and (5) could be retained but seek amendments to clause (5) replacing “protected” with “sustained” to recognise the living character of waterbodies and allow for adaptation and change.
1246. Meridian seeks an amendment to the chapeau, so that the objectives only apply to freshwater water bodies, rather than all water bodies.⁸⁵¹
1247. Wise Response seeks to amend clause (1) to include reference to improving water quality in degraded water bodies, so that they are, at a minimum, at the standard for amenity and contact recreation by 2035.⁸⁵²
1248. Contact and Ballance seek to amend clause (1) so that it also recognises the connections of people with water bodies.⁸⁵³ Contact also seeks a minor amendment to italicise the term ‘mahika kai’.
1249. Horticulture NZ seeks the inclusion of wellbeing, alongside health of the people and thriving mahika kai in clause (1).⁸⁵⁴
1250. DairyNZ, Federated Farmers, Fonterra and OWRUG seek to amend clause (1) to include reference to the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.⁸⁵⁵ The submitters consider this better reflects the purpose of the RMA and better aligns with the NPSFM.
1251. COWA seeks the addition of a new clause to highlight the function of freshwater in supporting the health and well-being of people and communities. The following wording is sought:⁸⁵⁶

⁸⁴⁹ FPI046.007 QLDC, FPI001.016 DCC

⁸⁵⁰ FPI025.026 Beef + Lamb and DINZ

⁸⁵¹ FPI016.014 Meridian

⁸⁵² FPI035.011 Wise Response

⁸⁵³ FPI027.024 Contact, FPI021.005 Ballance

⁸⁵⁴ FPI047.021 Horticulture NZ

⁸⁵⁵ FPI024.027 DairyNZ, FPI026.028 Federated Farmers, FPI019.007 Fonterra, FPI043.064 OWRUG, FPI047.021 Horticulture NZ

⁸⁵⁶ FPI009.007 COWA

(X) enable people and communities to provide for their social, economic, and cultural wellbeing through environmental outcomes, attribute states and limits,

1252. Greenpeace suggests some additional wording for clause (1) to include reference to well-being and timeframes, with suggested wording below.⁸⁵⁷

(1) the health and wellbeing of the wai must be restored within specified (legislated) timeframes for its intrinsic and ecosystem values, and to support ~~supports~~ the health of people and thriving mahinga kai,

1253. Fish and Game seeks the addition of a new clause (1a), to prioritise resilience, with the following wording being proposed.⁸⁵⁸

(1a) the health, well-being and resilience of water bodies is prioritised,

1254. There are many submission points on clause (2), with many submitters unhappy with the requirement for water bodies to have continuous flow throughout the whole system.

1255. DairyNZ, Federated Farmers, Fonterra, Horticulture NZ, Silver Fern Farms and Meridian seek the deletion of clause (2).⁸⁵⁹ Among the reasons for deletion, the submitters consider that continuous water flow is not hydrologically possible or representative of a natural hydrological system that comprises a range of ephemeral, intermittent and permanent features, while Meridian specifically considers the clause is unclear and better addressed in clauses (1), (3), (4) and (5). DairyNZ considers that an alternative to deleting clause (2) may be the recognition that continuous flows are not always part of a natural system.

1256. Oceana Gold considers that continuous flows should only be required where practicable, as it considers it is unclear whether the clause provides for diversions and dams which are commonly employed across the region.⁸⁶⁰

1257. OWRUG seeks to include at the end of the clause 'where this is consistent with the natural system'.⁸⁶¹

1258. Ballance and Contact seek to reframe clause (2), such the artificial interruption of flow is minimised. Ballance seeks the following amendment:⁸⁶²

(2) ~~water flow is continuous throughout the whole system,~~ within catchments (ki uta ki tai), artificial interruption of water flow is minimised to the greatest extent practicable,

1259. Contact seeks the same wording as Ballance except with 'to the extent reasonably practicable' rather than 'to the greatest extent practicable'.⁸⁶³

⁸⁵⁷ FPI008.025 Greenpeace

⁸⁵⁸ FPI037.015 Fish and Game

⁸⁵⁹ FPI024.027 DairyNZ, FPI026.028 Federated Farmers, FPI019.007 Fonterra, FPI047.022 Horticulture NZ, FPI020.013 Silver Fern Farms, FPI016.014 Meridian

⁸⁶⁰ FPI031.007 Oceana Gold

⁸⁶¹ FPI043.064 OWRUG

⁸⁶² FPI021.005 Ballance

⁸⁶³ FPI027.024 Contact

1260. Similarly, Wise Response proposes some additional wording for clause (2), such that it requires that fundamental hydrological processes are functioning normally.⁸⁶⁴
1261. Greenpeace suggests some additional wording for clause (2), on the basis that the current wording is inadequate, as low flows do not fulfil the priorities of Te Mana o te Wai.⁸⁶⁵ Greenpeace proposes the following wording:
- (2) water flow is continuous and at volumes and levels that support ecosystem health, habitat, and resilience as measured by biological thresholds and ecological and biological community health throughout the whole system,
1262. Moutere Station considers that the continuous flows required by clause (2) potentially encourages the movement of non-native fish at the detriment of non-migratory indigenous species and seeks to include “where appropriate” for clarification.⁸⁶⁶
1263. DOC, Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago seek that clause (3) also references land. Their reasons are to ensure that the objective recognises the interconnectedness of land, freshwater and coastal water and how these elements interact and affect each other.⁸⁶⁷
1264. Ballance seeks an amendment to clause (4), such that the clause relates to indigenous freshwater species, rather than native fish.⁸⁶⁸
1265. Moutere Station seeks to insert ‘where appropriate’ at the beginning of clause (4).⁸⁶⁹ The submitter considers that not all native fish need to migrate, and this clause could provide for the movement of non-native fish to the detriment of non-migratory indigenous species.
1266. Fish and Game seeks to include a restoration requirement in clause (4), alongside the existing protection of habitats.⁸⁷⁰
1267. Contact seeks several amendments to clause (4), with particular concerns regarding the need for fish migration to be as natural as possible. It considers that this outcome cannot practicably be achieved within the Clutha Mata-au FMU, as the current requirement is a very high threshold, and arguably achieving natural migration is possible in all circumstances by avoiding or removing barriers to fish passage. Instead, Contact considers that ensuring passage is natural where practicable is more reasonable, and still provides for fish passage. Contact also notes that the natural fish passage requirement goes further than the NPSFM. The submitter also seeks the deletion of the term native, and that as well as being protected, the habitats of taoka species are sustained to the extent reasonably practicable.⁸⁷¹ Kāi Tahu ki Otago also seek that habitats are sustained as well as protected.⁸⁷²
1268. Oceana seeks similar amendments to Contact but with less detail, such that ‘native fish migration is provided for and the values of native fish habitat are maintained and

⁸⁶⁴ FPI035.011 Wise Response

⁸⁶⁵ FPI008.025 Greenpeace

⁸⁶⁶ FPI023.009 Moutere Station

⁸⁶⁷ FPI044.015 DOC, FPI032.022 Te Rūnanga o Ngāi Tahu, FPI030.028 Kāi Tahu ki Otago

⁸⁶⁸ FPI021.005 Ballance

⁸⁶⁹ FPI023.009 Moutere Station

⁸⁷⁰ FPI037.015 Fish and Game

⁸⁷¹ FPI027.024 Contact

⁸⁷² FPI030.028 Kāi Tahu ki Otago

enhanced'.⁸⁷³ Oceana considers that the amendments provide for trap and transfer methods of fish migration.

1269. Fish and Game seeks consistency with Policies 9 and 10 of the NPSFM by inserting an additional clause (4a) which provides specifically for the protection and restoration of habitats for trout and salmon while considering those habitats of indigenous species.⁸⁷⁴ John Highton also proposes the addition of a separate section providing for valued introduced species, including protection of their habitat and recognition of their need for migration to maintain healthy populations.⁸⁷⁵
1270. Wise Response seeks an amendment to clause (5), such that outstanding waterbodies are restored where degraded, alongside the existing protection requirement.⁸⁷⁶
1271. NZSki and Realnz seek to qualify the protection requirement in clause (5), such that outstanding waterbodies are protected from inappropriate subdivision, use and development.⁸⁷⁷ The submitters consider that it is not appropriate to have blanket, unqualified protection.
1272. Waka Kotahi considers that regionally and nationally significant infrastructure managed in accordance with EIT-INF-P13 and EIT-INF-P13A should be exempt from the requirement to protect outstanding water bodies.⁸⁷⁸ Waka Kotahi requests that this exemption be made explicit in clause (5).
1273. Meridian seeks to delete the reference to outstanding values in clause (5), to ensure consistency with Policy 8 of the NPSFM which only refers to significant values of outstanding water bodies.⁸⁷⁹
1274. OWRUG and Federated Farmers submit that the pORPS as currently drafted does not adequately address the issue of water allocation and seek to include an additional clause:⁸⁸⁰
- (x) Sustainable and integrated water allocation and abstraction supports food and fibre production.
1275. Fonterra requests the addition of a similar new clause:⁸⁸¹
- (x) within environmental limits, water allocation and abstraction support primary production and industry.
1276. McArthur Ridge seeks the addition of a new clause, with the following wording being sought:⁸⁸²

⁸⁷³ FPI031.007 Oceana Gold

⁸⁷⁴ FPI037.015 Fish and Game

⁸⁷⁵ FPI007.015 John Highton

⁸⁷⁶ FPI035.011 Wise Response

⁸⁷⁷ FPI038.009 NZSki, FPI039.011 Realnz

⁸⁷⁸ FPI018.003 Waka Kotahi

⁸⁷⁹ FPI016.014 Meridian

⁸⁸⁰ FPI026.028 Federated Farmers, FPI043.064 OWRUG

⁸⁸¹ FPI017.007 Fonterra

⁸⁸² FPI041.004 McArthur Ridge

(x) Innovative, efficient and effective uses of water are enabled in a manner consistent with the hierarchy of obligations in Te Mana o te Wai.

1277. The submitter considers that there is a need for an objective to acknowledge the economic value of freshwater for the regional economy, and that the recognition of where water is used innovatively, efficiently and effectively is consistent with principles 4(d), (e) and (f) of Te Mana o te Wai, and with the third priority in the hierarchy of obligations as set out in the NPSFM objective. McArthur Ridge considers that the notified objectives do not reflect the fundamental principles or the hierarchy of obligations of Te Mana o te Wai.

1278. Forest and Bird seeks the insertion of a new clause (6) to ensure the visions for catchments in Otago referenced in LF-VM-O1 to LF-VM-O6 are achieved:⁸⁸³

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

1279. DOC seeks the addition of several new clauses to recognise several significant issues that are not captured by the objective. The following new clauses are sought:⁸⁸⁴

(x) fresh water sustains indigenous vegetation, fauna and ecosystems,

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

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

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

1280. Wise Response seeks the addition of two new clauses to capture other important processes, with the following wording sought:⁸⁸⁵

(x) the soils and cover are being managed to maximise the natural capture, retention and infiltration of rainfall within the land and minimising the need for artificial fertilizer.

(x) management is as “whole systems” that maximise resilience, biophysical capacity and community wellbeing

1281. Greenpeace seeks the addition of a new clause, with the following wording sought:⁸⁸⁶

Restore and enhance degraded freshwater ecosystems through management of adverse activities and inputs

⁸⁸³ FPI045.014 Forest and Bird

⁸⁸⁴ FPI044.015 DOC

⁸⁸⁵ FPI035.011 Wise Response

⁸⁸⁶ FPI008.025 Greenpeace

1282. Contact seeks the addition of a new clause to specifically recognise the essential contribution fresh water makes to hydroelectricity generation, including the Clutha Hydro Scheme. It seeks to include the following wording:⁸⁸⁷

(x) the contribution of fresh water to hydroelectric generation, and the nationally significant Clutha Hydro Scheme is recognised, provided for and protected, including consideration of generation capacity, storage and operational flexibility

1283. Similarly to Contact, Meridian also seeks a new clause providing for renewable electricity generation, but frames the new clause in the context of the integrated response to climate change. It seeks to include the following wording:⁸⁸⁸

(x) freshwater is managed as part of New Zealand's integrated response to climate change and renewable electricity generation activities are provided for.

8.5.4.3. Analysis

1284. As I have recommended deleting LF-FW-O8 and moving most of its content to LF-FW-O1A, I do not recommend accepting the submission points by QLDC and DCC seeking that it be retained as notified.

1285. I agree with Beef + Lamb and DINZ that the objective restates matters that are captured more specifically in the freshwater visions. I have addressed this previously and recommended a region-wide objective for freshwater to reduce duplication. I have recommended incorporating clause (3) of this objective into LF-FW-O1A(2) and therefore disagree with Beef + Lamb and DINZ that it should be retained. Although I have recommended deleting clause (5), I note that the direction in Policy 8 of the NPSFM is to protect the significant values of outstanding water bodies, therefore I do not consider it would be appropriate to replace “protect” with “sustain”. I recommend accepting this submission point in part.

1286. The definition of “water body” in the RMA reads (my emphasis added):

means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area

1287. I do not consider the amendment sought by Meridian is necessary and do not recommend accepting this submission point.

1288. The direction sought by Wise Response in relation to improving degraded water bodies is included in LF-FW-P7. I consider the remaining amendments (i.e. all water bodies being suitable for amenity and contact recreation by 2025) would inappropriately pre-empt the NOF process which is being followed in the development of the LWRP. I have previously addressed the long-term freshwater vision timeframes in section 8.4.3 of this report. For the same reasons as I have set out there, I do not consider imposing a 2035 deadline for all water bodies is practical or achievable. I do not recommend accepting this submission point.

⁸⁸⁷ FPI027.024 Contact

⁸⁸⁸ FPI016.014 Meridian

1289. I have addressed the submission points by Contact and Ballance on clause (1) in section 8.4.2 of this report in relation to my recommended new objective LF-FW-O1A.
1290. I do not consider that people providing for their social, economic, and cultural wellbeing is an outcome for freshwater – it is an outcome from using freshwater. This is consistent with the long-term vision for the region, which is set out in IM-O1 – a healthy environment supports the wellbeing of present and future generations. In my view, this objective (and its replacement, LF-FW-O1A) are focused on achieving healthy fresh water as the way to support for wellbeing. I do not recommend accepting the submission points of DairyNZ, Federated Farmers, Fonterra, Horticulture NZ, OWRUG, and COWA.
1291. I consider the amendments sought by Greenpeace to clause (1) are provided for in the freshwater visions which contain outcomes for Otago’s FMUs and rohe and timeframes for achieving them. I do not recommend accepting this submission point.
1292. In my view, the new clause (1a) sought by Fish and Game is already provided by LF-WAI-P1 which sets out the hierarchy of obligations and requires, first, prioritising the health and well-being of water bodies and freshwater ecosystems. In my view, well-being incorporates the concept of resilience. I do not recommend accepting this submission point.
1293. I have addressed the submission points on clauses (2), (3) and (4) in section 8.4.2 of this report in relation to my recommended new objective LF-FW-O1A.
1294. I do not consider the new clause (4a) sought by Fish and Game is necessary as I have recommended largely the same amendment to LF-FW-P7 in relation to a similar point from this submitter. I consider this also addressed the relief sought by John Highton in a way that recognises the differentiation between Policies 9 and 10 in the NPSFM and the potential for adverse effects on indigenous species to arise as a result of their interactions with exotic species. I recommend accepting these submission points in part.
1295. In the non-FPI part of the pORPS, I have recommended amendments to LF-FW-P12 which I consider address the points raised in the submissions by NZSki, Realnz, and Waka Kotahi in regard to clause (5), particularly those seeking more flexibility in the policy approach. I recommend accepting these submission points in part but do not consider any amendments are required.
1296. I acknowledge that the NPSFM does not require protecting the outstanding values of outstanding water bodies. However, in my opinion, it clarifies the policy framework to set out how outstanding values are to be managed given that they are required to be identified and they are the values that determine whether or not a water body is an outstanding water body. Additionally, if significant values must be protected then I consider it is consistent to apply the same requirement to outstanding values. I consider the amendment sought by Meridian to delete the reference to outstanding values reduces clarity about how those values are to be managed. I do not recommend accepting this submission point.
1297. In my view, LF-FW-O8 (and its replacement LF-FW-O1A) sets out outcomes for freshwater, rather than its use. In accordance with the hierarchy of obligations, it is only after the health and wellbeing of water bodies and freshwater ecosystems are prioritised that water is available for economic uses. I do not consider that the new clauses sought by OWRUG, Federated Farmers, or Fonterra are appropriate given the context and scope of the objective,

however I consider that the points raised are addressed in part through my recommendation to include a new LF-FW-P7A in response to submissions regarding use of water on LF-FW-P7. I therefore recommend accepting these submission points in part.

1298. I disagree with McArthur Ridge that the notified objectives do not reflect the fundamental principles or the hierarchy of obligations in Te Mana o te Wai. As I have explained previously, the LF chapter is focused on the health and wellbeing of water bodies and freshwater ecosystems, consistent with the hierarchy of obligations. In the pORPS, the hierarchy of obligations is set out in LF-WAI-P1 and requires prioritising first, the health and well-being of water bodies and freshwater ecosystems, second the health needs of people as they relate to ingestion or immersion, and third the social, cultural, and economic well-being of people and communities.
1299. In my experience, “enable” is a very permissive term that is commonly used to describe activities that are provided for as permitted activities in plans. I am not convinced that water use should always be enabled. For example, if a catchment is over-allocated there will be no ‘new’ water available for use. I do not recommend accepting the submission point by McArthur Ridge.
1300. In response to the relief sought by Forest and Bird, I have recommended in section 8.4.2 including a region-wide objective for freshwater and cross-referencing this objective in all of the freshwater visions. I consider this achieves the same outcome as that sought by the submitter and therefore recommend accepting in part the submission point.
1301. I consider that the first three new clauses sought by DOC are addressed in my new recommended objective LF-FW-O1A(1) as well as in LF-FW-P7(2). The provisions of the ECO chapter are also relevant as they manage all indigenous biodiversity in Otago, including aquatic biodiversity. Many of the habitats described by DOC are likely to be identified as significant natural areas in accordance with APP2 and managed in accordance with the provisions in the ECO chapter. I do not recommend accepting these submission points.
1302. The fourth clause sought by DOC relates to species interaction which I have addressed through my recommended amendments to LF-FW-P7 and, In the non-FPI process, my recommendation to include a new method LF-FW-M8A addressing species interaction more specifically. I note also the specific implementation requirements relating to fish passage set out in clause 3.26 of the NPSFM. I therefore do not recommend accepting this submission point.
1303. I do not disagree with the reasoning behind the relief sought by Wise Response. However, I consider that the management of soils in relation to freshwater is addressed in the LF-LS section, and particularly through LF-LS-P16, LF-LS-P17, LF-LS-P18, and LF-LS-P21. In my view, the concept of “whole systems” management is akin to integrated management and therefore addressed in LF-WAI-P3. I do not recommend accepting this submission point.
1304. I consider the outcome sought by Greenpeace is already provided for in LF-FW-P7(1). I do not recommend accepting this submission point.
1305. The amendments sought by Contact and Meridian have been sought in various places in this chapter. Most relevantly, I have addressed similar submission points on LF-FW-P7 in section 0 of this report and recommended an amendment that I consider addresses these

submission points. Additionally, I note that the national significance of the Clutha hydro-electricity generation scheme is already recognised in [LF-VM-O2](#). I recommend accepting these submission points in part.

8.5.4.4. Recommendation

1306. I recommend deleting [LF-FW-O8](#).

8.5.5. LF-FW-O9 – Natural wetlands

8.5.5.1. Introduction

1307. As notified, [LF-FW-O9](#) reads:

LF-FW-O9 – Natural wetlands

Otago's natural wetlands are protected or restored so that:

- (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,
- (2) there is no decrease in the range and diversity of indigenous ecosystem types and habitats in natural wetlands,
- (3) there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and
- (4) their flood attenuation capacity is maintained.

8.5.5.2. Submissions

1308. Four submitters support [LF-FW-O9](#) and seek that it be retained as notified.⁸⁸⁹ Federated Farmers considers this objective is different to the direction in the NPSFM and a duplication of provisions located in *ECO – Ecosystems and indigenous biodiversity* and seeks its deletion.⁸⁹⁰

1309. DOC seeks that the chapeau specifically includes reference to ephemeral wetlands, to avoid doubt regarding their inclusion. DOC also considers that the 'protect or restore' requirement be amended to 'protect and restore'.⁸⁹¹ DairyNZ seeks that the chapeau be amended to only require restoration of wetlands where degraded, to better align the objective with the NPSFM.⁸⁹² Oceana Gold also seeks changes to the chapeau to require that wetlands are protected, improved or restored.⁸⁹³ Oceana Gold considers that this change will promote restoration, rather than requiring restoration as an absolute objective, ensuring consistency with the NPSFM.

⁸⁸⁹ FPI045.015 Forest and Bird, FPI046.008 QLDC, FPI032.023 Te Rūnanga o Ngāi Tahu, FPI001.017 DCC

⁸⁹⁰ FPI026.029 Federated Farmers

⁸⁹¹ FPI044.016 DOC

⁸⁹² FPI024.028 DairyNZ

⁸⁹³ FPI031.008 Oceana Gold

1310. Beef + Lamb and DINZ seek unspecified amendments to clause (1) to clarify what needs to be enhanced, to what level, and what the end point of enhancement is.⁸⁹⁴ Beef + Lamb and DINZ, Kāi Tahu ki Otago, and Ballance seek that clause (2) refer to the extent, rather than range, of indigenous ecosystem types and habitats in natural wetlands.⁸⁹⁵
1311. Fish and Game considers that the order of clause (2) may be misinterpreted as meaning that “habitats” refers only to “indigenous habitats” and therefore seeks to move “habitats” to before “indigenous ecosystem types.”⁸⁹⁶ Oceana Gold also considers that it is unclear what the reference to the range of values means, what needs to be enhanced, and what the endpoint of enhancement is.⁸⁹⁷ Unspecified amendments are sought in relation to this concern.
1312. Ballance, NZSki, Realnz, Silver Fern Farms, and Fulton Hogan all raise concerns with the stringency of clauses (2) and (3) and seek varying but similar amendments:
- a. Ballance seeks to replace “no” decrease or reduction in clauses (2) and (3) with “minimal”,⁸⁹⁸
 - b. NZSki and Realnz seek to replace “no” decrease or reduction with “no discernible” decrease or reduction,⁸⁹⁹
 - c. Silver Fern Farms seeks that clauses (2) and (3) are deleted or otherwise amended to ensure that the objective contemplates the grant of resource consents as provided by the NPSFM and NESF,⁹⁰⁰ and
 - d. Fulton Hogan seeks to clarify the spatial scale of the requirements by amending clauses (2) and (3) to refer to “no net” decrease or reduction “across the region”.⁹⁰¹
1313. Fulton Hogan, Kāi Tahu ki Otago and Ballance also seek minor amendments to clause (3) so that improvement is required where the values or extent of a wetland have been degraded.⁹⁰²
1314. Wise Response seeks that clause (2) is amended, such that the term ‘no decrease’ is replaced with ‘a steady recovery’, ensuring that wetland ecosystem types and habitats recover.⁹⁰³ This is opposed by the further submission of Oceana Gold on the basis that the amendments are too onerous.⁹⁰⁴
1315. Oceana Gold considers that the desire to see no decrease in the range and diversity of indigenous ecosystem types and habitats as sought in clause (2) is unachievable, as climatic

⁸⁹⁴ FPI025.027 Beef + Lamb and DINZ

⁸⁹⁵ FPI030.029 Kāi Tahu ki Otago, FPI021.004 Ballance

⁸⁹⁶ FPI037.016 Fish and Game

⁸⁹⁷ FPI031.008 Oceana Gold

⁸⁹⁸ FPI021.004 Ballance

⁸⁹⁹ FPI038.010 NZSki, FPI039.012 Realnz

⁹⁰⁰ FPI020.014 Silver Fern Farms

⁹⁰¹ FPI033.003 Fulton Hogan

⁹⁰² FPI030.029 Kāi Tahu ki Otago, FPI021.004 Ballance, FPI033.003 Fulton Hogan

⁹⁰³ FPI035.012 Wise Response

⁹⁰⁴ FSFPI031 Oceana Gold

conditions and pest problems will cause effects, and these are not acknowledged in the objective. The submitter does not seek specific amendments.⁹⁰⁵

1316. Beef + Lamb and DINZ seek that clause (3) identifies an end state for improvement, but do not specify any amendments. The submitters also consider that wetlands do not need to be aesthetically pleasing and that reference to amenity values, which are purely anthropocentric, should be deleted.⁹⁰⁶ Similarly, Oceana Gold considers that in clause (3) it is unclear what the endpoint is for improvement or why amenity values have been included.⁹⁰⁷
1317. Wise Response seeks that in place of wetland flood attenuation capacity being maintained, it is steadily improved.⁹⁰⁸ Kāi Tahu ki Otago seeks that clause (4) reference water storage capacity alongside flood attenuation capacity, as this value of wetlands is not currently recognised.⁹⁰⁹
1318. Contact seeks that the objective appropriately reflects the exception for specified infrastructure in clause 3.22 of the NPSFM and suggests including a specific subclause (5) reflecting the NPSFM process for specified infrastructure.⁹¹⁰
1319. DOC seeks the addition of a new clause recognise the importance of wetlands to mobile species, with the following wording sought:⁹¹¹

(5) their provision of habitat for mobile species such as waterfowl and rails is maintained.

8.5.5.3. Analysis

1320. I agree with Federated Farmers that LF-FW-09 differs from Policy 6 of the NPSFM, but I do not consider this is problematic. The pORPS is required to give effect to the NPSFM which does not necessarily require reproducing the text of the NPSFM. In my opinion, the outcomes sought by this objective are consistent with the NPSFM. It is not clear which provisions in the *ECO – Ecosystems and indigenous biodiversity* chapter the submitter considers duplicate the content of this objective, however as a general point I note that the ECO chapter does not deal with the hydrological functioning or amenity values of indigenous biodiversity in the way this objective does. I do not recommend accepting this submission point.
1321. The term “natural wetland” is defined in the pORPS as any wetland that does not meet the exclusions listed in the definition. The exclusions determine what is considered a natural wetland and what is not. The definition of “natural wetland” relies on the definition of “wetland” in the RMA which reads:

⁹⁰⁵ FPI031.008 Oceana Gold

⁹⁰⁶ FPI025.027 Beef + Lamb and DINZ

⁹⁰⁷ FPI031.008 Oceana Gold

⁹⁰⁸ FPI035.012 Wise Response

⁹⁰⁹ FPI030.029 Kāi Tahu ki Otago

⁹¹⁰ FPI027.025 Contact

⁹¹¹ FPI044.016 DOC

wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions

1322. I consider the reference to “intermittently wet areas” includes wetlands that are not permanently wet, including ephemeral wetlands, and therefore additional reference in this objective is unnecessary. I do not recommend accepting this part of the submission by DOC.
1323. I disagree with DOC that the NPSFM requires protecting and restoring wetlands. As stated in the submission by DOC, Policy 6 requires (my emphasis added):

There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

1324. In my opinion, promoting restoration is less stringent than requiring restoration and the latter is not required by the NPSFM. Policies LF-FW-P9 and LF-FW-P10 provide additional direction on what “protection” and “restoration” mean and, in line with the NPSFM, in the latter case uses the qualifier “where possible”. I note that restoration will not always be required – some wetlands will already meet the outcomes sought by this objective. There is additional direction in clause 3.22(4) for regional plans to include objectives, policies, and methods that provide for and promote the restoration, indicating that there must be additional detail on management wetlands in regional plans. I do not recommend accepting this part of the submission point by DOC. For the same reasons, I do not recommend accepting the submission point by DairyNZ.

1325. LF-FW-O9 is implemented by three policies which address identification (LF-FW-P8), protection (LF-FW-P9), and restoration (LF-FW-P10). None of those policies refer to improvement and no submissions seek amendments in that vein. I do not consider it would assist readers for the objective to refer to an action that is not addressed by the applicable policies, therefore I do not recommend accepting the submission point by Oceana Gold.

1326. I do not consider that the level of specificity sought by Beef + Lamb and DINZ regarding the “end point” of enhancement or the “level” of enhancement in clause (1) is necessary, as that is the role of regional plans. This is made clear in clause 3.22(4) of the NPSFM which requires regional councils to include in their regional plans:

...objectives, policies, and methods that provide for and promote the restoration or natural inland wetlands in its region, with a particular focus on restoring the values of ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values.

1327. I do not recommend accepting this submission point.

1328. I have considered the use of the term ‘range’ in clause (2). The dictionary definition of ‘range’ includes:⁹¹²

1 a (1) a series of things in a line

...

⁹¹² Merriam Webster, retrieved from <https://www.merriam-webster.com/dictionary/range>

1 b an aggregate of individuals in one order

...

6 a the space or extent included, covered, or used

1329. On this basis, I agree with Beef + Lamb and DINZ and Oceana Gold that it is not clear what the term 'range' in clause (2) is referring to. Given the clause already refers to diversity, which would cover the variation in ecosystem types and habitats, in my opinion the term 'range' was intending to refer to the spatial element, or (6 a) in the definition above. I recommend accepting in part the submission points by Beef + Lamb and DINZ and Oceana Gold, as well as those by Kāi Tahu ki Otago and Ballance seeking the same amendment.
1330. I understand the concerns raised in the submission by Fish and Game that there is a potential narrowing of scope by clause (2) referring only to indigenous habitats, which may host an array of indigenous and exotic species within them. While I agree that exotic species can support indigenous species (for example, by providing habitat), I am also aware that lowland wetlands in Otago, which are most vulnerable to degradation, face pressure from the invasion of exotic grasses and herbs (Wildlands, 2021, p. 12). Over 90% of drained freshwater wetlands in New Zealand are now in grasslands (Wildlands, 2021). I am not convinced that the amendment sought by Fish and Game would result in the same outcome currently described by the objective. I do not recommend accepting this submission point.
1331. I agree with Ballance, NZSki, Realnz, Silver Fern Farms, Fulton Hogan, and Oceana Gold that at first read the wording in clauses (2) and (3) seems problematic when read alongside the NPSFM and LF-FW-P9. Although Policy 6 of the NPSFM requires that there is "no further loss of extent of natural inland wetlands", the mandatory policy to be included in regional plans, and associated provisions, set out in clause 3.22 contain exceptions to Policy 6 (including many new exceptions introduced through the amendments to the NPSFM in December 2022). These exceptions require the effects management hierarchy to be applied to managing specific activities. The effects management hierarchy requires:
- a. Avoiding adverse effects where practicable, then
 - b. Minimising adverse effects where practicable, then
 - c. Remediating adverse effects where practicable, then
 - d. Aquatic offsetting (in accordance with Appendix 6 of the NPSFM) is provided, then
 - e. Aquatic compensation (in accordance with Appendix 7 of the NPSFM).
1332. In my view, these actions must be undertaken in accordance with the relevant policy direction – i.e., in the NPSFM, avoiding the loss of extent and values of natural inland wetlands. The same situation arises in the pORPS where LF-FW-O9(1) and (2) require no decrease in the extent and diversity of indigenous ecosystem types and habitats and no reduction in ecosystem health, hydrological functioning, amenity values, extent, or water quality. This is implemented, in part, by LF-FW-P9 which adopts the NPSFM approach of implementing an effects management hierarchy, the ultimate outcome of which must also implement the objective and policy direction. I do not consider the amendments sought by Ballance, NZSki, Realnz, Silver Fern Farms, or Fulton Hogan would give effect to the NPSFM and therefore do not recommend accepting those submission points.

1333. I agree with Fulton Hogan, Kāi Tahu ki Otago, and Ballance that improvement is important in addition to preventing reductions in ecosystems health, hydrological functioning, amenity values, extent, and water quality. To align with the drafting style in clause (2), I have incorporated the amendment sought near the beginning of clause (3) rather than at the end. I do not consider this alters the affect. I recommend accepting in part the submission points by Fulton Hogan, Kāi Tahu ki Otago and Ballance.
1334. I am unsure what is meant by the term “recovery” in the amendments sought by Wise Response to clause (2) and whether the submitter intends it to be applied on a wetland-by-wetland basis or at a broader scale. LF-FW-P10 requires improving the ecosystem health, hydrological functioning, water quality, and extent of natural wetlands where they have been lost by requiring four specific actions to be undertaken where possible. However, I acknowledge that the objective (LF-FW-O9) focuses primarily on preventing any further loss, rather than anticipating improvement. In light of my recommended amendments to clauses (2) and (3) in the previous paragraphs, and taking into account the direction in LF-FW-P10, I recommend accepting this submission point in part and amending clause (2) to include a preference for an increase in the extent and diversity of indigenous ecosystem types . In my view this is consistent with the approach adopted in clause (3).
1335. I note Oceana Gold’s points on clause (2) and agree that pest species and climatic conditions will cause adverse effects on the range and diversity of indigenous ecosystem types and habitats. However, the pORPS is primarily concerned with regulating human activities and, in this context, cannot regulate the behaviour of pests or the climate. I do not recommend accepting this submission point.
1336. I consider the amendment sought by Kāi Tahu ki Otago and Ballance to clause (3) improves the grammar and clarity of the provisions and recommend accepting these submission points.
1337. As LF-FW-O9 is an objective in a regional policy statement, I do not consider it is necessary for the exact ‘end point’ to be determined in the manner suggested by OWRUG and Beef + Lamb and DINZ in clause (3). LF-FW-P10 provides additional direction on achieving this part of the objective by setting out the purpose of restoration and the actions to be taken. In terms of specific ‘end points’, I consider that is a matter for the regional plan or resource consent decisions to determine. I do not recommend accepting this submission point.
1338. “Amenity values” are defined in section 2 of the RMA as follows:
- Amenity values** means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*
1339. On this basis, I do not agree with Beef + Lamb and DINZ that a reference to “amenity values” in clause (3) is a reference only to how “aesthetically pleasing” a wetland is. Further, Policy LF-FW-P9 requires protecting natural wetlands by avoiding a reduction in their values or extent. The term “loss of values” is defined in the pORPS as follows (my emphasis added):
- has the same meaning as in clause 3.21(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below) and in this RPS also refers*

to natural wetlands in relation to a natural inland wetland or river, means the wetland or river is less able to provide for the following existing or potential values:

- a. *any value identified for it under the NOF process; or*
- b. *any of the following*, *whether or not they are identified under the NOF process:*
 - i. *ecosystem health*
 - ii. *indigenous biodiversity*
 - iii. *hydrological functioning*
 - iv. *Māori freshwater values*
 - v. *amenity*

1340. I consider that the amenity values of wetlands are therefore a relevant consideration and should not be deleted as sought by Beef + Lamb and DINZ.
1341. I agree with Kāi Tahu ki Otago that water storage capacity is an important value of wetlands and that this is not entirely captured by the reference to flood attenuation. I recommend accepting this submission point.
1342. I agree with Wise Response that wetlands play an important role in attenuating floods. This role will become even more important in parts of the region where climate change results in increased rainfall and flooding events. Rather than the amendments sought by the submitter, I recommend including reference to improvement in clause (4). I note that this outcome is supported by the direction in [LF-FW-P10\(2\)](#) regarding restoring hydrological processes. I recommend accepting this submission point in part.
1343. Contact seeks to include a new clause (5) to provide for specified infrastructure in the same way as the NPSFM. I note that the NPSFM provides pathways for a number of activities, not only specified infrastructure, and that [LF-FW-P9](#) addresses these pathways. I do not recommend accepting this submission point.
1344. I do not agree with DOC that the objective fails to recognise the importance of wetlands to mobile species. In particular, clauses (2) and (3) set out a range of matters and values that support the health of wetlands generally, including the habitat they provide to species (mobile or not). Wetlands are important habitat for a number of species which are not identified specifically in this objective and I do not consider it is necessary to single out mobile species in the way sought by this submitter. I do not recommend accepting this submission point.

8.5.5.4. Recommendation

1345. I recommend the following amendments:

LF-FW-O9 – Natural wetlands

Otago's *natural wetlands* are protected or restored so that:

- (1) *mahika kai* and other *mana whenua* values are sustained and enhanced now and for future generations,

- (2) there is no net⁹¹³ decrease, and preferably an increase,⁹¹⁴ in the range extent⁹¹⁵ and diversity of indigenous ecosystem types and habitats in *natural wetlands*,
- (3) there is no reduction and, where degraded, there is an improvement⁹¹⁶ in their wetland⁹¹⁷ ecosystem health, hydrological functioning, *amenity values*, extent or *water quality*, and if degraded they are improved, and⁹¹⁸
- (4) their flood attenuation and water storage⁹¹⁹ capacity is maintained or improved.⁹²⁰

8.5.6. LF-FW-P7 – Fresh water

8.5.6.1. Introduction

1346. As notified, LF-FW-P7 reads:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target attribute states) and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous species associated with *water bodies* are protected, including by providing for fish passage,
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
 - (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) *mahika kai* and *drinking water* are safe for human consumption,
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, and
- (6) *fresh water* is allocated within environmental limits and used efficiently.

⁹¹³ FPI033.003 Fulton Hogan

⁹¹⁴ FPI035.012 Wise Response

⁹¹⁵ FPI030.029 Kāi Tahu ki Otago, FPI021.004 Ballance, FPI025.027 Beef + Lamb and DINZ

⁹¹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI033.003 Fulton Hogan

⁹¹⁷ FPI033.003 Fulton Hogan

⁹¹⁸ FPI033.003 Fulton Hogan

⁹¹⁹ FPI030.029 Kāi Tahu ki Otago

⁹²⁰ FPI035.012 Wise Response

8.5.6.2. Submissions

1347. Four submitters support LF-FW-P7 and seek that it be retained as notified.⁹²¹ McArthur Ridge supports clauses (5) and (6).⁹²²
1348. Horticulture NZ seeks that LF-FW-P7 be deleted, or otherwise amended in accordance with its submission. The specific amendments sought are described below in relation to each clause.⁹²³
1349. Beef + Lamb and DINZ seek that ORC undertakes the relevant and necessary analysis to inform this sort of regulatory instrument and, once completed, replace LF-FW-P7 with one based on an analysis of current state and costs of achievement.⁹²⁴
1350. The Fuel Companies seek that LF-FW-P7 is amended, or a new policy included to ensure that a strict interpretation of the direction to “avoid” over-allocation does not lead to prohibited pathways for essential temporary construction dewatering takes necessary to facilitate the operation, maintenance, upgrade and development of infrastructure in over-allocated catchments.⁹²⁵ The submitters consider that there is a risk that these types of activities may be prohibited in over-allocated catchments despite not affecting the stated outcomes and limits.
1351. The Minister for the Environment highlights that the chapeau of LF-FW-P7 could be interpreted as excluding the use of environmental flows and levels as a mechanism to achieve the objectives, which is inconsistent with the NPSFM. They, along with Contact, Kāi Tahu ki Otago, Ballance and Ravensdown seek that environmental flows and levels are included in the chapeau.⁹²⁶ In addition to this change, Ballance also seeks that the chapeau clarify that environmental outcomes, attribute states, flows, levels and limits are set in consultation with Kāi Tahu and the community.
1352. Horticulture NZ oppose the provision on the basis that it requires all freshwater bodies to achieve environmental outcomes, attributes states and limits that achieve drinking water that is safe for human consumption. The submitter considers that this threshold is unachievable and unnecessary for the health and well-being of water bodies and freshwater ecosystems, and includes the following amended wording for the chapeau:⁹²⁷
- Environmental outcomes, attribute states (including target attribute states) and limits reflect freshwater values, and where appropriate ensure that:*
1353. Horticulture NZ also seeks deletion of drinking water from clause (4) for the same reasons.⁹²⁸

⁹²¹ FPI046.010 QLDC, FPI019.008 Fonterra, FPI032.021 Te Rūnanga o Ngāi Tahu, FPI001.018 DCC

⁹²² FPI041.005, FPI041.006 McArthur Ridge

⁹²³ FPI047.023 Horticulture NZ

⁹²⁴ FPI025.028 Beef + Lamb and DINZ

⁹²⁵ FPI034.002 The Fuel Companies

⁹²⁶ FPI012.006 Minister for the Environment, FPI027.026 Contact, FPI030.030 Kāi Tahu ki Otago, FPI021.005 Balance, FPI017.010 Ravensdown

⁹²⁷ FPI047.023 Horticulture NZ

⁹²⁸ FPI047.023 Horticulture NZ

1354. Forest and Bird and Fish and Game seek to include reference to resilience in clause (1).⁹²⁹ Fish and Game also seeks the following amendments to clause (1) as well as a related new clause (1a):⁹³⁰
- (1) the health, ~~and well-being~~ and resilience of water bodies is ~~maintained or, if degraded, improved~~ protected and restored,
- (1a) all activities related to freshwater support the health, well-being and resilience of water bodies,
1355. Ballance seeks to amend clause (2) so that it refers to indigenous freshwater species, and deleting the reference to species associated with water bodies. This terminology is considered by the submitter to be more consistent with Policy 9 and Clause 3.26 of the NPSFM.⁹³¹
1356. Meridian raises concerns regarding the alignment of clause (2) with national direction. Meridian considers the provision is significantly more limiting than section 6(c) of the RMA and seeks that it is amended to refer to the habitats of “significant” indigenous species.⁹³² Oceana Gold seeks the same change, and also submits that the protection requirement should be replaced with ‘maintain and enhance’.⁹³³ Horticulture NZ suggests ‘maintain and improve’.⁹³⁴ Oceana Gold considers that the current drafting is too absolute, and could mean that environmental outcomes, attribute states and limits must protect any habitat of a single indigenous plant or animal that is associated with a water body, whether in or near that waterbody.
1357. Fish and Game considers that clause (2) should require the restoration, as well as protection of habitats of indigenous species.⁹³⁵ Contact and Kāi Tahu ki Otago seek that clause (2) should require habitats to be sustained as well as protected, with Kāi Tahu ki Otago submitting that it is not enough to protect the habitats of indigenous species, with the sustain wording ensuring greater resilience.⁹³⁶ Contact also seeks that fish passage only be provided to the extent reasonable practicable, acknowledging that the provision of fish passage may be limited in respect of the Clutha Hydro Scheme. In a similar vein, Manawa Energy considers that fish passage should only be provided where appropriate, as there may be some circumstances where fish passage may not be required, including where enabling fish passage may impact native species.⁹³⁷
1358. Moutere Station seeks that the specific reference to providing fish passage is deleted, as it considers that providing for fish passage could cause non-native fish movement, which could be to the detriment of some indigenous species.⁹³⁸

⁹²⁹ FPI045.016 Forest and Bird, FPI037.019 Fish and Game

⁹³⁰ FPI037.019 Fish and Game

⁹³¹ FPI021.005 Ballance

⁹³² FPI016.015 Meridian

⁹³³ FPI031.009 Oceana Gold

⁹³⁴ FPI047.023 Horticulture NZ

⁹³⁵ FPI037.019 Fish and Game

⁹³⁶ FPI027.026 Contact, FPI030.030 Kāi Tahu ki Otago

⁹³⁷ FPI022.006 Manawa Energy

⁹³⁸ FPI023.010 Moutere Station

1359. Fish and Game and Contact both seek an additional clause which provides specifically for trout and salmon and propose the following wording:
- a. Fish and Game:

(2A) the habitats of trout and salmon associated with water bodies are protected and restored, including by providing for fish passage, insofar as it is consistent with (2),⁹³⁹
 - b. Contact:

(2A) the habitats of trout and salmon are protected to the extent reasonably practicable, including by providing for fish passage, insofar as protection is consistent with (2),⁹⁴⁰
1360. John Highton seeks unspecified amendments to provide for valued introduced species, the protection of their habitat, and the need for migration to maintain healthy populations.⁹⁴¹
1361. Wise Response seeks to amend clause (3) to require that the entire length of specified rivers and lakes and all water bodies in the Upper Lakes rohe are suitable for primary contact and free of eutrophication.⁹⁴²
1362. OWRUG seeks that clause (3) is amended to align with national targets, being 80% by 2030 and 95% by 2040, with both percentages applying to rivers and lakes. It considers that the timeframes and targets as notified, particularly for rivers, are not scientifically robust or achievable, and that communities may face considerable costs to achieve these goals.⁹⁴³ DairyNZ, Silver Fern Farms and Ravensdown propose similar changes to targets and timeframes, although suggest 90% by 2040, rather than the 95% proposed by OWRUG.⁹⁴⁴ Federated Farmers requests that ORC reconsider the appropriateness of the timeframes and targets in clause (3), in line with evidence and the s32 analysis.⁹⁴⁵
1363. Horticulture NZ requests the deletion of drinking water from clause (4).⁹⁴⁶ As described previously, the submitter opposes the requirement for all freshwater bodies to achieve environmental outcomes, attributes states and limits that achieve drinking water safe for human consumption.
1364. Fish and Game seeks that clause (4) includes reference to ‘wild harvested food’ alongside mahika kai and drinking water, as it considers it is important that people do not get sick when eating any food from water bodies.⁹⁴⁷
1365. Beef + Lamb and DINZ seeks that clause (5) should also refer to freshwater being allocated efficiently, to reflect Policy 11 of the NPSFM, and provide a timeframe for phasing out over-

⁹³⁹ FPI037.019 Fish and Game

⁹⁴⁰ FPI027.026 Contact

⁹⁴¹ FPI007.064 John Highton

⁹⁴² FPI035.013 Wise Response

⁹⁴³ FPI043.065 OWRUG

⁹⁴⁴ FPI024.029 DairyNZ, FPI020.015 Silver Fern Farms, FPI017.010 Ravensdown

⁹⁴⁵ FPI026.030 Federated Farmers

⁹⁴⁶ FPI047.023 Horticulture NZ

⁹⁴⁷ FPI037.019 Fish and Game

allocation.⁹⁴⁸ Similarly, Forest and Bird considers that clause (5) should also refer to water being allocated within environmental limits and used efficiently.⁹⁴⁹

1366. Wise Response seeks that the reach of clause (5) be clarified to refer to allocation of both nutrients and water, and propose a timeframe of 2035 for phasing out over-allocation, with milestones of 10% per annum.⁹⁵⁰ It considers that the timeframe will ensure behaviour change is started, rather than being delayed due to a distant timeframe which becomes irrelevant.

1367. Moutere Station considers that clause (5) should contain greater clarity because of the potential for phasing out over-allocation to have a direct impact on social, economic and cultural values. The following wording is sought, although requires further research prior to implementing:⁹⁵¹

(5) existing over-allocation [identify particular location] is ~~phased out and future over-allocation is avoided, and reduced based on the [following principles]~~ insofar as it does not have a negative impact on production in the food and fibre sector.

1368. Kāi Tahu ki Otago suggests some minor amendments to clause (6) to remove emphasis on allocation up to limits which may encourage maximum use, and instead encouraging allocation be limited to only as much as needed, within the limits.⁹⁵²

1369. Beef + Lamb and DINZ seeks that clause (6) should refer to ‘limits’ rather than ‘environmental limits’, in line with NPSFM wording, to capture limits for water quality and quantity.⁹⁵³ Contact seeks a similar amendment, so that clause (6) refers to limits on resource use.⁹⁵⁴ DOC also requests an amendment to the terminology, but seeks that ‘environmental limits’ is replaced with ‘environmental flows and levels’.⁹⁵⁵

1370. OWRUG requests the deletion of efficient use from clause (6), with use to be captured by its new clause (7). COWA also seeks the same additional clause.⁹⁵⁶

(7) freshwater is used efficiently taking into account the nature of the waterbody that water is to be taken from and the land-use activity the water will be used for.

1371. OWRUG considers that the drive towards efficient spray irrigation can have other consequences, such as the need to intensify the farming activity to support the increased capital and operating costs, with this intensification having undesirable adverse effects.

1372. Wise Response seeks that clause (6) is extended to also require the optimisation of hydrological efficiency in all catchments by 2040. The submitter describes “effective

⁹⁴⁸ FPI025.028 Beef + Lamb and DINZ

⁹⁴⁹ FPI045.016 Forest and Bird

⁹⁵⁰ FPI035.013 Wise Response

⁹⁵¹ FPI023.010 Moutere Station

⁹⁵² FPI030.030 Kāi Tahu ki Otago

⁹⁵³ FPI025.028 Beef + Lamb and DINZ

⁹⁵⁴ FPI027.026 Contact

⁹⁵⁵ FPI044.017 DOC

⁹⁵⁶ FPI043.065 OWRUG, FPI009.008 COWA

efficiency” as taking into account groundwater augmentation opportunities and other factors at a catchment level.⁹⁵⁷

1373. Horticulture NZ seeks to extend clause (6) to provide for drinking water and other well-beings, with the following wording sought:⁹⁵⁸

(6) *fresh water* is allocated within environmental limits and used efficiently to provide for human health (including drinking water and food security) and wider social, cultural and economic well-being.

1374. Fish and Game seeks the addition of a new clause relating to discharges to freshwater, on the basis that clause (6) does not include discharges. The following wording is sought:⁹⁵⁹

(7) discharges to freshwater are allocated within environmental limits.

1375. Contact seeks the addition of a new clause to recognise the critical importance of hydroelectric generation schemes to maintaining and increasing renewable electricity generation and meeting emission reduction targets, and the particular importance of the Clutha Hydro Scheme as nationally significant infrastructure. Contact includes the following wording:⁹⁶⁰

(9) the role of freshwater management as part of New Zealand’s integrated response to climate change is recognised, provided for and protected, including by protecting the generation capacity, storage and operational flexibility of the nationally significant Clutha Hydro Scheme.

1376. Manawa Energy seeks a similar addition to Contact but as clause (5), with consequential renumbering of the remaining clauses in the policy:⁹⁶¹

(5) the existing and future generation output of hydroelectric power schemes is recognised, maintained and protected, and

8.5.6.3. Analysis

1377. It is unclear what relief Beef + Lamb and DINZ seek through their request to replace LF-FW-P7. Without further evidence or clarification, I do not recommend accepting this submission point.

1378. I do not consider the amendments sought by The Fuel Companies are necessary in the pORPS. Management of specific activities is a matter for the regional plan to address. I note that the use of “avoid” in this policy is consistent with the way it is used in the NPSFM and so, if the issue does arise, it arises in the NPSFM rather than solely in the pORPS. I do not recommend accepting this submission point.

1379. I agree with the Minister for the Environment and other submitters that the lack of reference to environmental flows and levels may unintentionally limit the scope of the policy. I recommend accepting these submissions in part – on balance, I prefer the amendment

⁹⁵⁷ FPI035.013 Wise Response

⁹⁵⁸ FPI047.023 Horticulture NZ

⁹⁵⁹ FPI037.019 Fish and Game

⁹⁶⁰ FPI027.026 Contact

⁹⁶¹ FPI022.006 Manawa Energy

sought by Kāi Tahu ki Otago, Ballance, Contact, and Ravensdown to that sought by the Minister because it incorporates flows and levels prior to the reference to limits, which is a term that can apply to either water quality or quantity.

1380. I disagree with Horticulture NZ's view that LF-FW-P7(4) means the policy requires all freshwater bodies to be managed to achieve 'drinking water standard'. In my view, the chapeau means that when implementing the NOF, the various provisions applying to mahika kai and drinking water (which is a defined term) must ensure that they are safe for human consumption. In relation to mahika kai, the relevant compulsory value in Appendix 1A of the NPSFM states that "[f]or this value, kai would be safe to harvest and eat." Drinking water supply is an optional value in Appendix 1B which I understand is because drinking water supplies are not located everywhere. However, where there are drinking water supplies, the relevant value states that "[w]ater quality and quantity is sufficient for water to be taken and used for drinking water supply." Although drinking water supplies are generally treated prior to distribution, particularly poor water quality cannot be improved enough by treatment to be considered safe for drinking. Additionally, some contaminants in water cannot be treated at source. For example, nitrate.
1381. Further, I consider that the amendments sought to the chapeau are inconsistent with the NPSFM. For example, Policy 5 of the NPSFM requires that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and otherwise is maintained or improved. This is the same requirement as in LF-FW-P7(1). There is no "where appropriate" test in Policy 5, therefore including it in LF-FW-P7 would mean the pORPS was 'weaker' than the NPSFM. In my view, that is clearly not giving effect to the NPSFM. The same situation arises in relation to clauses (2), (5), and (6) which all have their roots in NPSFM policies and none are subject to a "where appropriate" test in the NPSFM. I do not recommend accepting this submission point.
1382. I do not consider that specific reference to resilience in clause (1) is necessary as sought by Fish and Game and Forest and Bird. The clause already refers to "health and well-being" which I consider incorporates resilience. I note that the wording of this clause reflects the objective of the NSPFM, which expresses Te Mana o te Wai. The Environment Court has previously found that:⁹⁶²

"When we speak about Te Mana o te Wai we are referring to the integrated and holistic wellbeing of a freshwater body. Upholding Te Mana o te Wai acknowledges and protects the mauri of water. While mauri is not defined under the NPS-FM, ... the mauri of water sustains hauora (health): the health of the environment, the health of the waterbody and the health of the people."

1383. In my view, the health and well-being of water bodies is holistic and incorporates resilience.
1384. Fish and Game also seeks to replace 'maintain or improve' in clause (1) with 'protect and restore'. The submission does not clearly state the reasons for this amendment. I consider the wording as notified reflects the requirements of Policy 5 of the NPSFM, which states:

⁹⁶² NZEnvC 208 [2019] *Aratiatia Livestock Limited and others vs Southland Regional Council*, Interim Decision of the Environment Court, 20 December 2019, paragraph 17.

“Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.”

1385. In my opinion, the additional clause sought by Fish and Game is already set out in LF-WAI-P1 which requires, in all management of freshwater in Otago, prioritising first the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao. For these reasons, I do not recommend accepting this submission.
1386. I consider the amendments sought by Ballance and Contact to refer to “the habitats of indigenous freshwater species” rather than “indigenous species associated with water bodies” more accurately reflects the wording used in Policy 9 of the NPSFM and reduces uncertainty about what “associated with” means. I recommend accepting these parts of the submission points.
1387. I understand the concern raised by Meridian but do not agree that the amendment sought is an appropriate solution. It is not clear what Meridian means by “significant indigenous species” and this is not terminology used in the RMA. I note that Policy 9 of the NPSFM requires:
- “Policy 9: The habitats of indigenous freshwater species are protected.”*
1388. In my view, there is no impediment to a national policy statement giving effect to Part 2 by protecting natural resources more stringently in particular circumstances. Indeed, that has occurred for some time under the NZCPS 2010. I consider aligning the terminology in clause (2) with Policy 9 as sought by Ballance assists with addressing the concern raised by Meridian in a way that is consistent with the NPSFM. For the same reason, I do not consider the amendment sought by Oceana Gold to refer to “significant” indigenous species is appropriate.
1389. I understand from ORC’s closing legal submissions on the non-FPI part of the pORPS that “protect” is considered to be a subset of “maintain”.⁹⁶³ For example, something is maintained in its current state if it is protected (i.e. kept from harm). In this case, Policy 9 specifically requires protecting and therefore I do not recommend accepting the part of the submission points by OceanaGold or Horticulture NZ seeking to replace “protect” with “maintain”.
1390. I disagree with Oceana Gold that the policy is so absolute that it would require any habitat of a single indigenous species to be protected in every instance. This is primarily because the policy describes actions that underpin decision-making on various parts of the NOF, such as environmental outcomes. In my view, the wording of LF-FW-P7(2) as I recommend it be amended mirrors the requirement in Policy 9 of the NPSFM. I do not recommend accepting this part of the submission point by Oceana Gold.
1391. I note that LF-WAI-P3(3) requires that an integrated management approach sustains and, wherever possible, restores the habitats of mahika kai and indigenous species, including taoka species associated with the water body. On this basis, I recommend accepting the

⁹⁶³ ORC closing legal submissions on non-FPI part of the pORPS, at [394]-[401]

submission points by Kāi Tahu ki Otago and Contact seeking to include reference to sustaining these habitats as well as protecting them. I consider this amendment addresses the submission point by Fish and Game and therefore recommend accepting it in part.

1392. While I understand the concerns raised by Contact and Manawa in relation to providing for fish passage, I do not consider that the wording of clause (2) is absolute – “providing for fish passage” does not, in my opinion, require enabling fish passage in every circumstance. The nuance of how provision is to occur will happen when ORC follows the process set out in clause 3.26 which includes detailed direction on managing fish passage. I do not recommend accepting these parts of the submission points.
1393. I agree with Moutere Station that fish passage can allow the movement of non-indigenous species, to the detriment of indigenous species. However, for the same reasons as I have outlined above, I do not consider amendments are required given that clause 3.26 of the NPSFM specifically addresses this and therefore do not recommend accepting this submission point.
1394. I agree with Fish and Game that the pORPS has not explicitly addressed the protection of the habitat of trout and salmon, which ORC must have particular regard to under section 7. Given the importance of these species to recreational values in some parts of Otago, and the requirements of section 7, I agree in principle that the new clause (2A) sought by the submitter is appropriate. It reflects the same relationship between the habitats of indigenous and non-indigenous species as is expressed in Policies 9 and 10 of the NPSFM – that is, protection of the former takes precedence over protection of the latter. I do not consider that reference to restoration is appropriate as this would promote restoration of habitat for trout and salmon habitat over habitat for indigenous species.
1395. However, I understand that trout have caused widespread reductions in the distribution and abundance of galaxiid fish, most of which are threatened. While there are likely to be many instances where protecting the *habitat* of trout and salmon is consistent with protecting the *habitat* of indigenous species, this does not necessarily extend to their interactions. There will be situations where the issue between these species is due to their presence, not their habitat needs. There is no definition of “habitat” in the RMA, NPSFM, or pORPS and it is not clear whether this is intended to address both biotic (living, such as organic matter and other living things) and abiotic (non-living, such as physical environment) factors.
1396. I prefer to drafting proposed by Fish and Game over Contact as I consider Contact’s drafting introduces a ‘practicability’ test that is not in the NPSFM. If that wording was adopted, I consider the provision would be inconsistent with the NPSFM. Further to my comments above about the interaction between exotic and indigenous species, I am cautious about tying fish passage requirements to habitat protection – from my understanding, fish passage is usually more relevant for managing the interaction between the species, rather than managing their habitats. I therefore recommend the following wording:

(2A) the habitats of trout and salmon are protected insofar as this is consistent with (2),⁹⁶⁴

⁹⁶⁴ FPI037.019 Fish and Game

1397. On this basis, I recommend accepting the submission points by Fish and Game and Contact in part. I consider this also addresses the submission point by John Highton, therefore I recommend accepting that submission point in part.
1398. Many submitters seek to amend the primary contact targets in clause (3) and/or seek a more in-depth analysis of the Section 32 Evaluation Report to inform the dates and targets. Policy 12 of the NPSFM requires that the national target (set out in Appendix 3) for water quality improvement is achieved. Appendix 3 of the NPSFM contains the national target for primary contact which is described as increasing the proportions of specified rivers and lakes that are suitable for primary contact over time. This is illustrated by a bar graph where the proportion of specified rivers and lakes that are *not* suitable decreases over time and the proportion that *are* suitable increases, as shown in Figure 7 below.

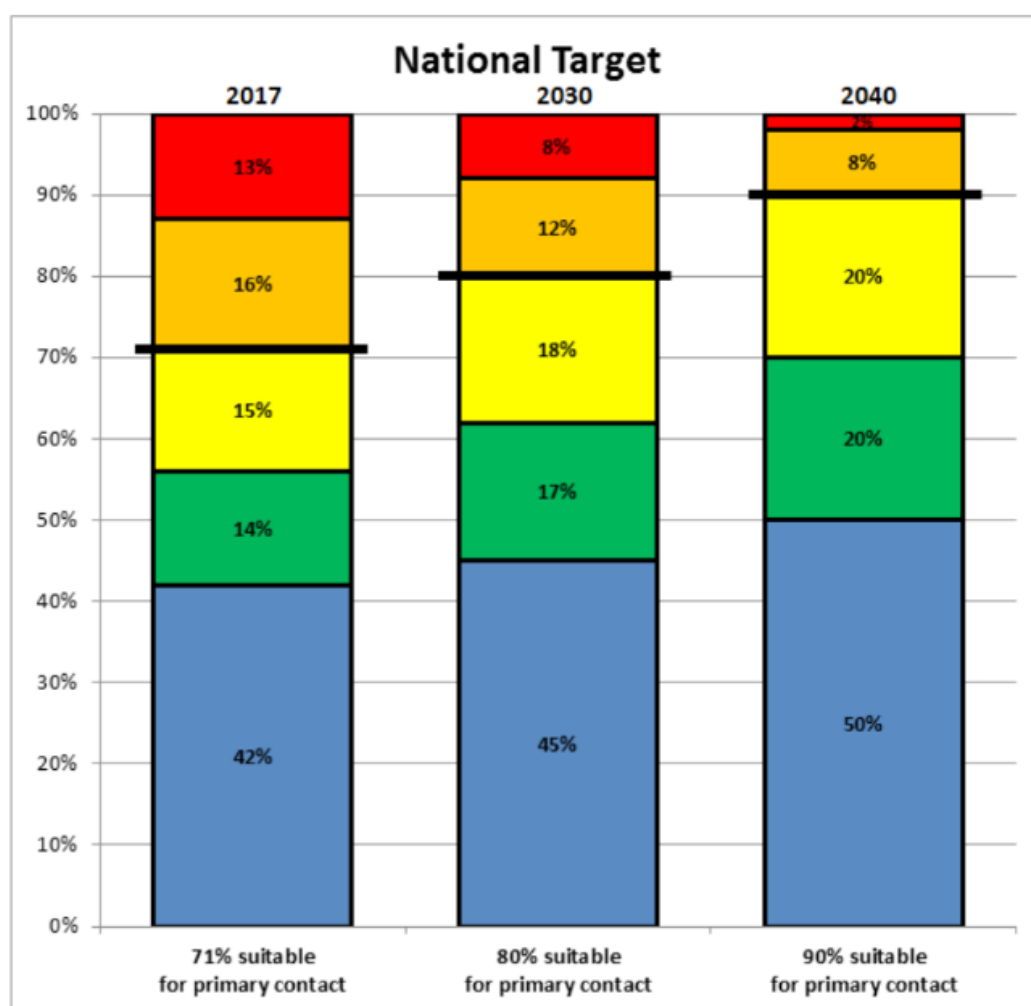


Figure 7: National target for primary contact ⁹⁶⁵

1399. The coloured blocks are based on the bands for the two human contact attributes in Appendix 2A of the NPSFM: *E.coli* (Table 9) for both rivers and lakes and cyanobacteria (Table 10) only for lakes (except that for the purposes of the national target, the D band has been split into two categories which are described in Appendix 3).

⁹⁶⁵ Appendix 3 of the NPSFM

1400. The national targets for the “swimmability” of specified rivers and lakes were introduced to the NPSFM in the 2017 amendments. By 2018, regional councils were required to set both interim and final regional targets so that it was clear how each region would contribute to achieving the national target. The process followed by ORC, including information about the consultation which occurred on the targets and the modelling that underpinned the analysis, is publicly available from the Council’s website.⁹⁶⁶
1401. In summary, in 2018 NIWA modelled the predicted improvement in water quality based on work already underway or planned in Otago by territorial authorities and landowners and considered that an additional 3.5% of specified rivers (i.e. 82.5% in total) should be swimmable by 2030. It did not take into account ORC’s work programme, the detail of which was unconfirmed at the time. ORC consulted via an online survey on draft swimmability targets of 95% of specified rivers and 100% of lakes by 2030 and 100% of both specified rivers and lakes by 2040. The results showed that 53% of respondents agreed with the targets, 42% did not (including 31% who wanted stricter targets) and 3% were undecided. When ORC decided on the final targets, it noted that improved effluent management practices and stormwater and wastewater infrastructure would be required. Effluent management was a focus of PC8 which introduced ‘best practice’ management to Otago. Stormwater and wastewater will be addressed through the LWRP. The final targets were recommended based on what analysis showed was achievable and practicable.
1402. LF-FW-P7(3) implements Policy 12 in a way that is consistent with the previous direction in the NPSFM and incorporates the regional targets decided by ORC, following consultation with communities. It is not intended to be a ‘general’ water quality target – it is specific to suitability for primary contact and to achieving the national target in Appendix 3. Additionally, I consider the amendments sought relating to the Upper Lakes rohe are already provided for in the relevant freshwater visions (LF-VM-O2(7)(a)). I do not recommend accepting the amendments sought by Wise Response.
1403. Table 8 below shows the national targets, ORC targets, and the amendments sought by OWRUG, DairyNZ, Silver Fern Farms, and Ravensdown.⁹⁶⁷

Date	National		ORC		OWRUG, DairyNZ, Silver Fern Farms, Ravensdown	
	Rivers	Lakes	Rivers	Lakes	Rivers	Lakes
2017	71%		82%		-	
			79%	98%		
2030	80%	90%	98%	80%		
2040	90%	95%	100%	90%		

Table 8: Comparison of primary contact targets

⁹⁶⁶ <https://www.orc.govt.nz/managing-our-environment/water/water-quality/regional-swimming-targets-for-otago>

⁹⁶⁷ Based on the submissions by the relevant submitters, the content of LF-FW-P7(3), and the background analysis undertaken to support the identification of Otago’s regional targets (<https://www.orc.govt.nz/media/6315/policy-agenda-29-november-2018.pdf>)

1404. Both the national targets and the amendments sought by submitters are less stringent than those prepared by ORC. Averaging across rivers and lakes potentially allows for an ‘unders and overs’ approach to meeting the targets – in Otago’s case, this could mean less improvement in rivers due to the higher water quality found in lakes. I am also concerned that averaging in this way could result in a decrease in suitability for primary contact in lakes. I do not consider any of the submitters have provided sufficient evidence to support amending the targets. I do not recommend accepting the submission points by OWRUG, DairyNZ, Silver Fern Farms, Ravensdown, or Federated Farmers.
1405. The relief sought by Fish and Game in clause (4) is consistent with the amendments I have recommended to LF-WAI-P1(2) to clarify that the health needs of people include the consumption of resources harvested from the water body. Rather than the wording proposed by Fish and Game, I recommend amending clause (4) to adopt similar terminology as LF-WAI-P1(2) while retaining the reference to mahika kai. I recommend accepting this submission point in part.
1406. Beef + Lamb and DINZ, Forest and Bird, and Moutere Station all seek amendments to clause (5) to require efficiency in the allocation of water (allocative efficiency) as part of addressing over-allocation. OWRUG and COWA seek to include a new clause regarding efficiency in the use of water (technical efficiency). Horticulture NZ seeks amendments to include reference to use providing for human health and wider social, cultural, and economic well-being. Most of these submitters have also made general submissions seeking greater recognition of the benefits of using water, particularly for food and fibre production. This is consistent with their submissions on non-FPI provisions seeking greater recognition of the importance of land and soil to rural sectors.
1407. Having reflected on these submissions, as well as many of the more general submission points on the importance of water to rural sectors in particular,⁹⁶⁸ I consider that LF-FW-P7(6) is the main direction regarding the use of water and that it only does so at a very basic and high level. Given there are pressing issues with the availability of water in parts of Otago, and the impacts of climate change are likely to result in some parts becoming even drier, I agree with submitters that the FPI should include more direction on allocative and technical efficiency, as well as the benefits to be derived from using water (where there is water available for use). I am also conscious of the submission points throughout the FPI seeking improved recognition of, and provision for, water storage infrastructure. I agree that is likely to be a key method for assisting to resolve any over-allocation while mitigating impacts on reliability of supply for irrigators. As a result, I recommend including a new policy on water use:

LF-FW-P7A – Water use

Within *limits* and in accordance with any relevant environmental flows and levels, the benefits of using *fresh water* are recognised and *over-allocation* is either phased out or avoided by:

⁹⁶⁸ For example, FPI041.014 and FPI041.015 McArthur Ridge, FPI026.042 Federated Farmers, FPI011.002 Edgar Parcell, FPI047.003, FPI047.006 and FPI047.007 Horticulture NZ

- (1) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within *limits*, including for:
 - (a) community drinking water supplies,
 - (b) renewable electricity generation, and
 - (c) land-based primary production,
- (2) ensuring that no more *fresh water* is abstracted than is necessary for its intended use,
- (3) ensuring that the efficiency of *freshwater* abstraction, storage, and conveyancing *infrastructure* is improved, including by providing for off-stream storage capacity, and
- (4) providing for spatial and temporal sharing of allocated *fresh water* between uses and users where feasible.

1408. In my opinion, this policy provides much clearer direction on how the benefits of using water can be maximised (i.e. through efficient allocation and use) and over-allocation is phased out or avoided, as well as recognising the importance of drinking water supplies (including future needs), renewable electricity generation, and land-based primary production. The latter two activities have national policy statements that acknowledge the significant benefits of these activities. Both rely on access to fresh water, at least in some places and to some extent, and it is important that is recognised in allocation regimes.

1409. I consider this addresses the submission points by Beef + Lamb and DINZ, Forest and Bird, Moutere Station, Contact, DOC, OWRUG, COWA, Horticulture NZ, Contact, and Manawa Energy and recommend accepting them in part. As a consequential amendment, I recommend deleting LF-FW-P7(6). I do not recommend deleting clause (5) regarding over-allocation, despite it also being addressed in my new recommended LF-FW-P7A above. This is because ‘over-allocation’ as defined applied to both water quality and quantity, whereas LF-FW-P7A is focused only on quantity.

1410. I do not consider it is appropriate to include a region-wide timeframe for phasing out over-allocation as sought by Beef + Lamb and DINZ. The ‘ultimate’ timeframe is set out in the long-term visions. In relation to water quantity, clause 3.16(2) of the NPSFM provides for a phased approach to achieving environmental flows and levels, which includes a temporal consideration and provides for different transition timeframes to be established for different water bodies (if necessary). In relation to water quality, clause 3.11(6) requires establishing timeframes for achieving target attribute states, including by setting interim target attribute states with interim timeframes if the timeframe for achieving the target attribute state is long-term. Given the direction in the NPSFM for these types of decisions to occur in regional plans, I do not recommend accepting the submission point by Beef + Lamb and DINZ.

1411. The amendment sought by Wise Response to refer to allocation of water and nutrients is not necessary as the definition of over-allocation specifically refers to both quality and quantity. As discussed previously, I do not consider a blanket timeframe for phasing out over-allocation is practical – these need to be considered in the circumstances they arise and in consultation with communities. For the same reasons, I am not convinced a 10% reduction

per annum would be appropriate or achievable in all circumstances. I do not recommend accepting the submission point by Wise Response.

1412. Although Wise Response seeks to include reference to “hydrological efficiency” in this policy, for the reasons stated in the submission refer to “effective efficiency”. I am not familiar with either term and do not consider I can assess the impacts of these amendments without further clarification. The submitter may wish to address this in evidence. At this stage, I do not recommend accepting this submission point.

1413. I understand the issue Fish and Game raises in relation to the allocation of discharges but I am concerned that the wording suggests some kind of allocation regime for nutrients, which I do not understand to be under development in Otago currently. As outlined previously, I recommend retaining clause (5) in this policy which is applicable to both quality and quantity and therefore, in my view, addresses in part the concern of Fish and Game. I do not recommend accepting this submission point.

1414. I agree with Contact that the role of freshwater management as part of New Zealand’s integrated response to climate change should be recognised when implementing the NOF and consider that my recommended new policy LF-FW-P7A assists with doing so. Providing for renewable electricity generation when allocating water, within limits, will assist with implementing Policy 4 of the NPSFM. I note that the EIT-EN section of the pORPS addresses renewable electricity generation in detail, in addition to the FPI. In particular, EIT-EN-P2(2) as recommended to be amended by the reporting officer Mr Langman requires decisions on the allocation and use of resources (including fresh water) to:

- a. Recognise the national significance of renewable electricity generation activities, including the national, regional, and local benefits of renewable electricity generation activities,
- b. have particular regard to maintaining current generation capacity, and
- c. recognise that the attainment of increases in renewable electricity generation capacity will require significant development of renewable electricity generation activities.

1415. I consider my recommended LF-FW-P7A aligns with this direction and therefore recommend accepting in part the submission point of Contact.

8.5.6.4. Recommendation

1416. I recommend the following amendments:

LF-FW-P7 – Fresh water

*Environmental outcomes, attribute states (including target attribute states), environmental flows and levels,*⁹⁶⁹ and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,

⁹⁶⁹ FPI030.030 Kāi Tahu ki Otago, FPI017.010 Ravensdown, FPI021.005 Ballance, FPI027.026 Contact

- (2) the habitats of indigenous freshwater species associated with water bodies⁹⁷⁰ are protected and sustained,⁹⁷¹ including by providing for fish passage,
- (2A) the habitats of trout and salmon are protected insofar as this is consistent with (2),⁹⁷²
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
- (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
- (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) resources harvested from water bodies including⁹⁷³ *mahika kai* and *drinking water* are safe for human consumption, and
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, and
- ~~(6) *fresh water* is allocated within environmental limits and used efficiently.~~⁹⁷⁴

1417. I also recommend including a new policy LF-FW-P7A as follows:

LF-FW-P7A – Water allocation and use

Within limits and in accordance with any relevant environmental flows and levels, the benefits of using fresh water are recognised and over-allocation is either phased out or avoided by:

- (1) allocating fresh water efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within limits, including for:
- (a) community drinking water supplies,
- (b) renewable electricity generation, and
- (c) land-based primary production,
- (2) ensuring that no more fresh water is abstracted than is necessary for its intended use,
- (3) ensuring that the efficiency of freshwater abstraction, storage, and conveyancing infrastructure is improved, including by providing for off-stream storage capacity, and
- (4) providing for spatial and temporal sharing of allocated fresh water between uses and users where feasible.⁹⁷⁵

1418. As a consequential amendment, I recommend amending LF-FW-M6 to include the following additional clause:

⁹⁷⁰ FPI027.026 Contact, FPI021.005 Ballance

⁹⁷¹ FPI030.030 Kāi Tahu ki Otago, FPI027.026 Contact

⁹⁷² FPI037.019 Fish and Game

⁹⁷³ FPI037.018 Fish and Game

⁹⁷⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including LF-FW-P7A

⁹⁷⁵ FPI043.065 OWRUG, FPI009.008 COWA, FPI047.023 Horticulture NZ, FPI027.026 Contact, FPI022.006 Manawa Energy

(5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A.⁹⁷⁶

1419. Existing LF-FW-M6(6) relates to providing for off-stream water storage, however that direction is duplicated by my recommended clause (5A) above because LF-FW-P7A addresses storage. I therefore also recommend deleting clause (6) as a consequential amendment arising from include clause (5A).

8.5.7. LF-FW-P9 – Protecting natural wetlands

8.5.7.1. Introduction

1420. As notified, LF-FW-P9 reads:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

(1) avoiding a reduction in their values or extent unless:

(a) the *loss of values* or extent arises from:

- (i) the customary harvest of food or resources undertaken in accordance with tikaka Māori,
- (ii) restoration activities,
- (iii) scientific research,
- (iv) the sustainable harvest of sphagnum moss,
- (v) the construction or maintenance of *wetland utility structures*,
- (vi) the maintenance of operation of *specific infrastructure*, or *other infrastructure*,
- (vii) natural hazard works, or

(b) the Regional Council is satisfied that:

- (i) the activity is necessary for the construction or upgrade of *specified infrastructure*,
- (ii) the *specified infrastructure* will provide significant national or regional benefits,
- (iii) there is a *functional need* for the *specified infrastructure* in that location,
- (iv) the *effects* of the activity on indigenous *biodiversity* are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and

⁹⁷⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including LF-FW-P7A

(v) the other *effects* of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the *effects management hierarchy*, and

(2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:

(a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v) will be applied to the *loss of values* or extent of the *natural wetland*, and

(b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v).

8.5.7.2. Submissions

1421. NZDF, Transpower and Waka Kotahi support LF-FW-P9 and seek that it be retained as notified.⁹⁷⁷
1422. John Highton strongly supports the protection and restoration of wetlands but considers that total exclusion of stock in some cases may be counter-productive to the outcomes sought for wetlands.⁹⁷⁸
1423. DCC opposes LF-FW-P9 and requests that it be removed from the pORPS and included in the future regional plan.⁹⁷⁹ DCC interprets clause 3.22 of the NPSFM to only be applicable to regional plan(s) and considers the inclusion of this policy creates the likelihood of duplication in future. Similarly, Federated Farmers considers that LF-FW-P9 makes changes from clause 3.22 of the NPSFM that may have the effect of a different interpretation from what was intended by the NPSFM. Federated Farmers requests that the current text be replaced by clause 3.22 of the NPSFM (August 2020 version).⁹⁸⁰
1424. Contact also opposes the policy, considering that it does not accurately reflect the requirements of the NPSFM, and fails to provide a consenting pathway for specified infrastructure as anticipated by the NPSFM, and in order to give effect to the NPSREG.⁹⁸¹ Contact seeks unspecified changes to ensure these issues are resolved based on the linkages with other policies that are involved in the non-FPI pORPS process (including ECO-P3 and ECO-P6).
1425. Fish and Game seeks relief that will protect and restore, or provide for promoting restoration, of wetlands that are not considered 'natural'.⁹⁸² In the same vein, Beef + Lamb and DINZ seek to clarify whether LF-FW-P9 is intended to apply to coastal wetlands and amend the wording to reflect clause 3.22 of the NPSFM.⁹⁸³

⁹⁷⁷ FPI003.002 NZDF, FPI013.002 Transpower, FPI018.004 Waka Kotahi

⁹⁷⁸ FPI007.016 John Highton

⁹⁷⁹ FPI001.019 DCC

⁹⁸⁰ FPI026.031 Federated Farmers

⁹⁸¹ FPI027.027 Contact

⁹⁸² FPI037.017 Fish and Game

⁹⁸³ FPI025.029 Beef + Lamb and DINZ

1426. Forest and Bird seeks that the chapeau refer to ‘natural inland wetlands’, and that the NPSFM definition of natural inland wetlands be included in the pORPS.⁹⁸⁴ It considers that applying the effects management hierarchy is inconsistent with the more absolute bottom lines in the NZCPS, including Policy 11.
1427. Oceana Gold seeks unspecified amendments to recognise that changes to the NESF are imminent and will provide a broader scope of opportunity for activities such as mining to access the effects management hierarchy.⁹⁸⁵

Clause (1)(a)

1428. Wise Response seeks to change the format of clause (1)(a), such that it refers to the listed activities as being permitted.⁹⁸⁶
1429. In relation to clause (ii), QLDC seeks that the term restoration be defined, or otherwise that restoration activities be removed from clause (1)(a), as it considers that it is unclear how restoration activities would result in a loss of values. It includes the following wording for a definition of restoration:⁹⁸⁷

restoration means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities.

1430. Kāi Tahu ki Otago and Manawa Energy highlight a typographical error in clause 1(a)(vi) and seek to correct “specific” to “specified”. Kāi Tahu ki Otago and Manawa also seek to correct ‘of’ to ‘or’ or ‘and’ in clause (1)(a)(vi) respectively.⁹⁸⁸ Meridian seeks the same changes as Kāi Tahu ki Otago.⁹⁸⁹
1431. NZSki and RealNZ request that clause (vi) refers to the construction of specified and other infrastructure, alongside it’s maintenance and operation.⁹⁹⁰

Clause (1)(b)

1432. Meridian supports clause (1)(b), and seeks that it be retained as notified, given the matters recognise the regional and national importance of specified infrastructure.⁹⁹¹
1433. Wise Response proposes two additions, as set out below:⁹⁹²
- (ii) the specified infrastructure will provide significant national or regional benefits that are consistent with national emission reduction goals,

⁹⁸⁴ FPI045.017 Forest and Bird

⁹⁸⁵ FPI031.010 Oceana Gold

⁹⁸⁶ FPI035.014 Wise Response

⁹⁸⁷ FPI046.011 QLDC

⁹⁸⁸ FPI030.031 Kāi Tahu ki Otago, FPI022.007 Manawa Energy

⁹⁸⁹ FPI016.016 Meridian

⁹⁹⁰ FPI038.011 NZSki, FPI039.013 Realnz

⁹⁹¹ FPI016.016 Meridian

⁹⁹² FPI035.014 Wise Response

- (iii) there is a functional need for the specified infrastructure in that location rather than primarily economic,

1434. Fulton Hogan seeks to include ECO-P4 and ECO-P5 alongside ECO-P3 and ECO-P6 in clause (iv).⁹⁹³ Conversely, Silver Fern Farms seeks the deletion of clause (iv). It considers that the requirement to manage indigenous biodiversity does not accord with the NPSFM, as it substitutes ECO-P3 and ECO-P6 for the NPSFM effects management hierarchy.⁹⁹⁴ This is consistent with its submission and evidence on the non-FPI pORPS provisions ECO-P3, ECO-P5, APP2 and APP3.
1435. NZSki and Realnz seek that the other effects referred to in clause (v) are limited to ‘effects of the activity on the loss of values or extent of the natural wetland’, rather than any possible adverse effects associated with the proposal.⁹⁹⁵ DOC seeks an amendment in response to the s42A recommended changes to the definition of effects management hierarchy through the non-FPI pORPS process, so that LF-FW-P9 references the newly defined term ‘effects management hierarchy (in relation to natural wetlands and rivers)’.⁹⁹⁶

Clause (1) new clauses

1436. Fulton Hogan seeks the addition of a new clause (c) which provides for the expansion of existing aggregate quarries, and the development of new aggregate quarries. The proposed wording adopts and adds to the wording of clause 3.22(1)(c) in the NPSFM (December 2022). The following wording is sought:⁹⁹⁷

- (c) the Regional Council is satisfied that:
 - (i) the activity is for the purpose of expanding an existing, or developing a new, quarry for the extraction of aggregate; and
 - (ii) the extraction of the aggregate will provide significant national or regional benefits; and
 - (iii) there is a functional need for the extraction to be done in that location;
 - (iv) the effects of the activity on indigenous biodiversity are managed by applying either ECO-P3, ECO-P4, ECO-P5 or ECO-P6 (whichever is applicable), and
 - (v) the other effects of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the effects management hierarchy, and or

1437. Based on the proposed new clause, Fulton Hogan also seeks a minor amendment to clause (2) to reference clause (1)(c).

⁹⁹³ FPI033.004 Fulton Hogan

⁹⁹⁴ FPI020.016 Silver Fern Farms

⁹⁹⁵ FPI038.011 NZSki, FPI039.013 Realnz

⁹⁹⁶ FPI044.018 DOC

⁹⁹⁷ FPI033.004 Fulton Hogan

Clause (2)

1438. Contact considers that clause (2) is inappropriate, as it appears to be more restrictive than the effects management hierarchy set out in the NPSFM.⁹⁹⁸ Contact does not specify any amendments to resolve its concerns.
1439. NZSki and Realnz seek that the conditions referred to in clause (2)(b) are limited to be ‘in respect of any loss of values or extent of the natural wetland’, rather than any possible adverse effects associated with the proposal.⁹⁹⁹

8.5.7.3. Links with FPI provisions

1440. As notified, LF-FW-P9 requires applying the effects management hierarchy set out in the ECO chapter of the pORPS for managing adverse effects on indigenous biodiversity and the hierarchy set out in the NPSFM for all other adverse effects. That was a deliberate choice because, at the time, I considered the 2020 version of the NPSFM effects management hierarchy to be less stringent than the ECO hierarchy primarily because it contained few restraints on the use of offsetting and compensation. I did not consider it was appropriate to manage freshwater indigenous biodiversity less stringently than other types of biodiversity. The 2022 amendments to the NPSFM amended this hierarchy and introduced two appendices containing principles for aquatic offsetting and compensation, which I have addressed in section 3.1.3.6 of this report.
1441. To clarify the differences between these effects managements hierarchies, it has been recommended in response to submissions on the ECO chapter to amend the relevant references to either “effects management hierarchy (in relation to natural wetlands and rivers)” or “effects management hierarchy (in relation to indigenous biodiversity)”. Although the amendments to the NPSFM in December 2022 have increased the stringency of the effects management hierarchy in that document, I understand from Ms Hardiman’s *Reply report 10: ECO – Ecosystems and indigenous biodiversity* that the “effects management hierarchy (in relation to indigenous biodiversity)” is still more stringent. I do not consider it would be appropriate to manage aquatic biodiversity less stringently, particularly given the threat status of many of Otago’s freshwater species and that some are found only in Otago. I therefore consider this differentiation should still apply.

8.5.7.4. Analysis

Scope and content of the policy

1442. Policy 6 of the NPSFM requires that there is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted. This is supported by additional, more specific direction on managing natural inland wetlands in clause 3.22. DCC is correct that clause 3.22 of the NPSFM contains a policy which must be included (or words to the same effect) in regional plans, not regional policy statements. This creates a somewhat difficult position for regional policy statements, as they are required to give effect

⁹⁹⁸ FPI027.027 Contact

⁹⁹⁹ FPI038.011 NZSki, FPI039.013 Realnz

to the objective and policies of the NPSFM, but the specific management framework for doing so is directed to be included in regional plans. LF-FW-P9 attempted to address this by incorporating the mandatory policy from clause 3.22 with minor amendments to clarify how the policy interacted with other parts of the pORPS (namely the application of effects management hierarchies).

1443. LF-FW-P9 as notified reflects the mandatory policy in clause 3.22 contained in the NPSFM when it was notified in 2020. That policy was significantly amended in December 2022 which I have explained previously in section 3.1.3.5 of this report. As a consequence, the policy is now three times longer than its original version and contains a high degree of prescription which is most appropriately implemented through regional plans. The drafting of the pORPS has generally sought not to replicate higher order documents, however in some instances there is limited scope for additional or alternative direction in the regional policy statement.
1444. DCC, Federated Farmers, and Contact all note these issues and generally seek either deletion or amendments to better align with the NPSFM. I agree with those submitters that the pORPS should implement the NPSFM as directed, however given the level of prescription now included in clause 3.22, I do not consider it is an appropriate level of detail for a regional policy statement. I recommend deleting LF-FW-P9 and replacing it with a policy requiring natural wetlands to be protected in accordance with clause 3.22 except in two circumstances relating to the coastal environment and indigenous biodiversity which I have set out below.

Coastal wetlands

1445. Beef + Lamb and DINZ seeks to clarify whether LF-FW-P9 applies to coastal wetlands. Forest and Bird considers the pORPS should use “natural inland wetlands” rather than “natural wetlands” because applying the effects management hierarchy in the NPSFM is inconsistent with the more absolute bottom lines in the NZCPS, including Policy 11.
1446. The definition of “natural wetland” in the pORPS is a non-FPI provision and I have addressed where it applies and the difference between “natural wetlands” in the pORPS and “natural inland wetlands” in the pORPS in my supplementary evidence which is summarised in section 3.1.3.4 of this report. In short, LF-FW-P9 (and any other provisions referring to natural wetlands) apply to all natural wetlands, including those in the coastal environment and coastal marine area.
1447. Forest and Bird considers that applying the effects management hierarchy set out in the NPSFM (and replicated in LF-FW-P13A of the pORPS) is inconsistent with the NZCPS. I agree that the NZCPS contains policies that apply to natural wetlands and that some of those policies (particularly Policies 11, 13, and 15) are more directive than the NPSFM. Which parts of the national policy statements apply will need to be determined on a case-by-case basis, depending on the wetland in question, its location, and the effects of the activity proposed. In situations where there is an apparent conflict, the relationship between the instruments must be determined by looking at the words used and the strength of the language in the relevant provisions. Every effort should be made to see if the planning instruments can “work together.” Where there is a direct conflict, the stronger language of the avoidance policies in the NZCPS must prevail.

1448. The inconsistency raised by Forest and Bird would not be resolved by using the term “natural inland wetland” because those wetlands can also be located in the coastal environment where the provisions of the NZCPS apply. I do not recommend using the term “natural inland wetland” and instead recommend retaining “natural wetland” with amendments to align with the NPSFM (except for the exclusion of wetlands in the coastal marine area).
1449. I acknowledge that the difference between “natural inland wetland” and “natural wetland” is subtle and that readers may not, at first read, appreciate that the latter incorporates wetlands in the coastal marine area in a way the NPSFM does not. This lack of clarity is highlighted in the submissions on the FPI, including those by Beef + Lamb and DINZ and Forest and Bird. To assist readers, and to recognise that the NZCPS may ‘override’ the NPSFM in certain circumstances, I recommend the policies to replace LF-FW-P9 (as referred to in paragraph 1443) make it explicit that natural wetlands in the coastal environment (which includes the coastal marine area) must also be managed in accordance with the NZCPS.

Effects management hierarchies

1450. There are a number of submissions on the inclusion of the effects management hierarchy (in relation to indigenous biodiversity) in LF-FW-P9:
- a. Silver Fern Farms considers that this approach inappropriately substitutes the NPSFM hierarchy for the ECO hierarchy and seeks to delete this element of the policy,
 - b. Contact considers it is inappropriate to apply a more restrictive effects management hierarchy than the one set out in the NPSFM,
 - c. Fulton Hogan seeks to include reference to additional ECO policies that set out exceptions to the ECO policies referenced in LF-FW-P9,
1451. These submitters have also raised similar issues in the non-FPI part of the pORPS. As I have outlined in section 8.5.7.3 above, despite the amendments to the NPSFM 2022 which I consider increased the stringency of the effects management hierarchy in that document by the inclusion of Appendices 6 and 7 containing principles for aquatic offsetting and compensation, I agree with Ms Hardiman in her *Reply report 10: ECO- Ecosystems and indigenous biodiversity* that it remains less stringent than the pORPS hierarchy contained in ECO-P6. I do not consider there is justification for managing aquatic biodiversity less stringently than terrestrial biodiversity and so do not recommend accepting these submission points.
1452. There are many other submission points on the clauses of LF-FW-P9, however given my recommendations above to replace those clauses from the policy I have not considered those points any further in this report.
1453. LF-FW-P9 as notified was the only provision in the pORPS that used the defined terms ‘specified infrastructure’ and ‘other infrastructure’. As a result of my recommended amendments to LF-FW-P9, those terms will no longer be used anywhere in the pORPS therefore as a consequential amendment I recommend deleting them.

8.5.7.5. Recommendation

1454. I recommend deleting the content of LF-FW-P9 and replacing it with the following:

LF-FW-P9 – Protecting *natural wetlands*

Protect *natural wetlands* by implementing clause 3.22(1) to (3) of the NPSFM, except that:

- (1) in the coastal environment, *natural wetlands* must also be managed in accordance with the NZCPS, and
- (2) when managing the adverse *effects* of an activity on *indigenous biodiversity*, the *effects management hierarchy (in relation to indigenous biodiversity)* applies instead of the *effects management hierarchy (in relation to natural wetlands and rivers)*.¹⁰⁰⁰

1455. As a consequential amendment, I recommend deleting the definitions of ‘specified infrastructure’ and ‘other infrastructure’.

8.5.8. LF-FW-P10 – Restoring natural wetlands

8.5.8.1. Introduction

1456. As notified, LF-FW-P10 reads:

LF-FW-P10 – Restoring *natural wetlands*

Improve the ecosystem health, hydrological functioning, *water* quality and extent of *natural wetlands* that have been degraded or lost by requiring, where possible:

- (1) an increase in the extent and quality of habitat for indigenous species,
- (2) the restoration of hydrological processes,
- (3) control of pest species and vegetation clearance, and
- (4) the exclusion of stock.

8.5.8.2. Submissions

1457. Te Rūnanga o Ngāi Tahu, DCC and Kāi Tahu ki Otago support LF-FW-P10 and seek that it be retained as notified.¹⁰⁰¹

1458. Fish and Game seeks unspecified relief that will protect and restore, or promote the restoration, of wetlands that are not considered ‘natural’.¹⁰⁰²

1459. Contact seeks unspecified amendments to appropriately recognise the specific exception for specified infrastructure provided in clause 3.22 of the NPSFM, and to give effect to the NPSREG.¹⁰⁰³

¹⁰⁰⁰ FPI001.019 DCC, FPI026.031 Federated Farmers, FPI027.027 Contact

¹⁰⁰¹ FPI032.024 Te Rūnanga o Ngāi Tahu, FPI001.020 DCC, FPI030.032 Kāi Tahu ki Otago

¹⁰⁰² FPI037.018 Fish and Game

¹⁰⁰³ FPI027.028 Contact

1460. DairyNZ seeks to amend the chapeau to remove the references to water quality, extent, and ‘lost’ wetlands. The submitter considers that the term ‘ecosystem health’ includes the management of five biophysical components, including water quality, and that it may not always be appropriate to restore ‘lost’ wetlands.¹⁰⁰⁴
1461. Forest and Bird and Beef + Lamb and DINZ consider refinement of the chapeau of LF-FW-P10 is necessary to assist with interpretation. These amendments include:
- Deletion of “where possible”,¹⁰⁰⁵
 - Deletion of “requiring” and replacing with “encouraging” or “supporting” to correlate with non-regulatory methods identified.¹⁰⁰⁶
1462. Wise Response seeks that clauses (1) through (4) are required where ‘technically possible’, on the basis that the improvement of wetlands can be justified on economic grounds alone.¹⁰⁰⁷ Conversely, Silver Ferns Farms and Manawa Energy seek that improvements are only required where practicable, to provide flexibility for cases where restoration is possible but not practicable.¹⁰⁰⁸ Silver Fern Farms provides an example of this situation, being where the decommissioning or removal of an asset may restore hydrological process, but would have wider adverse effects making the removal inappropriate. Silver Fern Farms also seeks clarity on situations where an overall net gain in wetland extent and value could be obtained in part by degradation or removal of an existing wetland.¹⁰⁰⁹
1463. Beef + Lamb and DINZ considers clauses (1) and (2) as currently drafted signal potentially unachievable and unreasonable environmental outcomes and therefore seek amendments to quantify how much increase and restoration is required.¹⁰¹⁰
1464. Wise Response seeks amendments to clauses (1) and (2) to quantify the increase in extent and quality of indigenous species. It seeks the following amendments:¹⁰¹¹
- (1) an increase in the extent and quality of former wetland habitat for indigenous species by 10%/an,
 - (2) the restoration of hydrological and ecological processes, including the steady re-establishment of the original ground and surface water levels,
1465. Wise Response notes in its submission that only 10% of New Zealand’s wetlands remain, yet they are important both for ecological and hydrological reasons, and it is imperative that wetland area is significantly increased.
1466. Oceana Gold requests the deletion of clause (2) relating to the restoration of hydrological processes, as it considers achieving this is aspirational, and not easily achieved or measured.

¹⁰⁰⁴ FPI024.030 DairyNZ

¹⁰⁰⁵ FPI045.018 Forest and Bird

¹⁰⁰⁶ FPI025.043 Beef + Lamb and DINZ

¹⁰⁰⁷ FPI035.015 Wise Response

¹⁰⁰⁸ FPI020.017 Silver Fern Farms, FPI022.008 Manawa Energy

¹⁰⁰⁹ FPI020.017 Silver Fern Farms

¹⁰¹⁰ FPI025.043 Beef + Lamb and DINZ

¹⁰¹¹ FPI035.015 Wise Response

It considers that achieving the matters in clauses (1), (3) and (4) will have consequential positive effects on hydrological processes, so clause (2) can be removed.¹⁰¹²

1467. QLDC seeks to reorder the policy so that clauses (1) and (2) are swapped with (3) and (4). The submitter considers ‘where possible’ in the chapeau should only apply to the clauses about habitat for indigenous species and hydrological processes, therefore making the control of pest species and vegetation clearance, and exclusion of stock, requirements. QLDC also seeks to replace the ‘quality’ of habitats with ‘condition.’¹⁰¹³
1468. Beef + Lamb and DINZ, Federated Farmers and John Highton consider that it is not always necessary to exclude stock from wetlands. Beef + Lamb and DINZ seeks to exempt sheep from the exclusion requirement or delete the provision. They also seek unspecified amendments to reflect that exclusion of stock is only required where necessary to enhance values, not as a blanket provision.¹⁰¹⁴ Federated Farmers seeks amendments to clarify that the exclusion of stock is as per the Stock Exclusion Regulations.¹⁰¹⁵ John Highton does not seek specific amendments.¹⁰¹⁶ DairyNZ requests the deletion of clause (4) as stock exclusion is already managed by the Stock Exclusion Regulations, and duplication is not needed.¹⁰¹⁷

8.5.8.3. Links with FPI provisions

1469. Although the main provisions managing wetlands are FPI provisions (LF-FW-O9, LF-FW-P9, and LF-FW-P10), the definition of ‘natural wetland’ they rely on, and which determines the scope of their application, is in the non-FPI part of the pORPS. In section 3.1.3 of this report I have outlined the implications of the amendments to the NPSFM made in December 2022 and summarised my non-FPI supplementary evidence on this matter. In summary, I recommend amending the definition of ‘natural wetland’ to mirror the NPSFM definition of ‘natural inland wetland’ except for the exclusion in the coastal marine area, meaning in the pORPS ‘natural wetland’ applies in and outside the coastal environment.

8.5.8.4. Analysis

1470. The definition of ‘wetland’ in the RMA is very broad and captures a wide range of water bodies, including constructed wetlands (for example, as part of a stormwater management system) as well as areas of wet pasture. To address this, the NPSFM 2020 introduced a new definition of ‘natural wetlands’ to identify a subset of the broader ‘wetlands’ category. This is important because there are provisions in the NPSFM and the NESF which restrict the activities that can occur in or near these water bodies
1471. However, some wetlands (for example, ponds and stormwater treatment wetlands) have been constructed for purposes other than conservation and it is unreasonable to make it more difficult for them to be used for their intended purpose which is why they are excluded from the definition of ‘natural inland wetland’ in the NPSFM. Further, some areas that may

¹⁰¹² FPI031.011 Oceana Gold

¹⁰¹³ FPI046.012 QLDC

¹⁰¹⁴ FPI025.043 Beef + Lamb and DINZ

¹⁰¹⁵ FPI026.032 Federated Farmers

¹⁰¹⁶ FPI007.065 John Highton

¹⁰¹⁷ FPI024.030 DairyNZ

have previously been wetlands or streams but are now heavily modified (for example, grazed pasture that gets wet after heavy rainfall) are also excluded by part (c) of the definition. I consider this is appropriate and do not consider LF-FW-P10 should apply to wetlands not captured by the definition of 'natural wetland'. I do not recommend accepting the submission point by Fish and Game.

1472. I understand Contact considers that considers that specified infrastructure is exempt from the requirement in the mandatory policy in clause 3.22 to promote the restoration of natural inland wetlands. The wording of the policy is unclear, but it appears that clause (b), applying to specified infrastructure, applies to all activities listed in the chapeau of the policy. That is, avoiding the loss and extent of wetlands, protecting their values, and promoting their restoration. The exemption for specified infrastructure is not a 'full' exemption – effects must still be managed by applying the effects management hierarchy. The steps in that hierarchy require avoiding, minimising, and remediating adverse effects where practicable (and in that order). Then, offsetting of more than minor adverse effects is provided for. However, if offsetting of any more than minor residual adverse effects is not possible, compensation can be provided. If compensation is not appropriate, the activity must be avoided. Within that context, I consider there are opportunities to improve the ecosystem health, hydrological functioning, and extent of natural wetlands that have been degraded or lost. For these reasons, I do not recommend accepting the submission point by Contact. Other submitters have opposed the reference to improving these factors "where possible". I have addressed those submissions later in this section and consider my recommended amendment in response also goes some way to addressing Contact's submission point.
1473. As notified, LF-FW-P10 refers to improving the ecosystem health, hydrological functioning, water quality, and extent of natural wetlands that have been degraded or lost. I agree with DairyNZ that 'ecosystem health' as it is described in Appendix 1A of the NPSFM includes water quality, water quantity, habitat, aquatic life, and ecological processes and therefore the reference to "water quality" is not necessary.
1474. DairyNZ states that it may not always be appropriate to restore 'lost' wetlands. I agree and do not consider this policy mandates that outcome in every situation. In relation to extent, if a wetland has been lost then improving its ecosystem health and hydrological functioning is not possible – the only real option is to improve its extent. I recommend accepting this submission point in part.
1475. When considering this submission point, I have noted that clause 3.22(4) of the NPSFM requires regional plan provisions that provide for and promote the restoration of natural wetlands with a particular focus on ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values. These are the values listed in the definition of "loss of value". It may assist for these policies to align, however no submitter has sought amendments that I consider provide scope for this type of amendment. Submitters may wish to comment on this in their evidence.
1476. A range of submitters seek to either increase or reduce the stringency of the direction in the chapeau, including Forest and Bird, Beef + Lamb and DINZ, Wise Response, Silver Fern Farms, and Manawa Energy. Across New Zealand, an estimated 90 percent of wetlands have been drained since pre-human settlement, particularly those on flatter land. The latest data on

wetland extent indicates that since 1996, Otago has lost more than 400 hectares of freshwater wetlands, the fifth highest regional total in the country, after Southland, West Coast, Northland, and Waikato (Stats NZ, 2021). 80 hectares of this reduction occurred between 2012 and 2018, suggesting that while the rate of loss has slowed, it has not halted.

1477. Wetlands are taoka for mana whenua and are sources of mahika kai as well as important plants such as harakeke and raupō for weaving and rongoā plants. I note that the submission by Kāi Tahu ki Otago states at [3.15]:

“The significant loss of wetlands in Otago has had devastating effects on mahika kai and indigenous biodiversity and has also affected water yield and flood behaviour. Kā Rūnaka support the provisions in the PORPS to protect remaining wetlands and reverse the degradation that has occurred. Kā Rūnaka consider this appropriately reflects the direction in the NPSFM 2020 and recognises the key role of wetlands in supporting catchment function and mahika kai.”

1478. While I acknowledge that Policy 6 of the NPSFM only requires ‘promoting’ the restoration of natural wetlands, clause 3.22(4) requires regional plans to include provisions that “provide for and promote” their restoration. Given the loss that has occurred, I consider it is appropriate for this policy to be more stringent than the NPSFM. However, I accept that “where possible” may be too stringent. Elsewhere in this report, I have recommended replacing “where possible” with “to the greatest extent practicable”. I consider this amendment would reduce the stringency of the direction without removing it. I recommend accepting the submission points of Forest and Bird, Beef + Lamb and DINZ, Wise Response, Silver Fern Farms, and Manawa Energy in part.
1479. Beef + Lamb and DINZ consider that clauses (1) and (2) signal potentially unachievable and unreasonable environmental outcomes and seek to quantify how much increase and restoration is required. I do not agree the outcomes are unachievable or unreasonable and consider that, taking into account the significant loss that has occurred, increasing the extent and quality of habitat for indigenous species and restoring hydrological processes are appropriate measures to take to restore the health of natural wetlands. The specific detail about how much increase or restoration is required is a matter for the regional plan to address and is better considered on a smaller spatial scale than the region-wide pORPS. I do not recommend accepting this submission point.
1480. The submission by Wise Response provides no evidence for the 10% per annum increase in extent and quality of habitat for indigenous species so I am unsure how practical or achievable this is. I am also unsure how the 10% increase in quality would be measured. I also have difficulty with requiring “re-establishment of the original ground and surface water levels” because it is unclear what “original” is. I do not recommend accepting this submission point.
1481. The drainage of wetlands (and therefore the degradation of their hydrological processes) is a significant driver behind the loss of New Zealand’s wetlands, including in Otago. Restoring hydrological processes, such as their connections with surface water bodies and groundwater, is an important part of restoring wetland health. I do not recommend accepting the submission point by Oceana Gold.

1482. Although I am not opposed to the restructuring proposed by QLDC, I am not convinced it will always be possible to control pest species or exclude stock from natural wetlands. I also note the non-FPI evidence of Ms Crutchley for OWRUG, Federated Farmers, and DairyNZ, which describes the approach on Puketoi Station to lightly grazing wetland areas with sheep in order to control exotic grasses, weeds and pests.¹⁰¹⁸ I prefer the notified wording with my recommended amendment to the chapeau. QLDC also seeks to replace 'quality' with 'condition' on the basis that it is consistent with amendments made in the non-FPI part of the pORPS. I agree this would be sensible, noting that the reporting officer for the ECO chapter has recommended replacing 'quality' with 'condition' in ECO-O1 which is consistent with the notified phrasing of ECO-P8. I recommend accepting this submission point in part.
1483. I understand that some of the negative effects of stock access to wetlands are:
- Consumption of plants,
 - Trampling of plants,
 - Nutrient inputs and bacterial contamination from faeces and urine,
 - Introduction and dispersal of seeds.
1484. However, grazing can also be beneficial – for example, as a pragmatic way to control introduced grass swards over large areas which can invade native plantings. The Stock Exclusion Regulations do not manage sheep access but do manage the access of beef cattle, dairy cattle, dairy support cattle, deer, and pigs to natural wetlands as follows:
- All stock must be excluded from any natural wetland that is identified in a regional or district plan or a regional policy statement that is operative on the commencement date of the Regulations (regulation 16),
 - All stock must be excluded from any natural wetland that supports a population of threatened species as described in the compulsory value for threatened species in the NPSFM,
 - All stock on low slope land must be excluded from any natural wetland that is 0.05 hectares or more.
1485. Sheep were deliberately excluded from the regulations.¹⁰¹⁹ I understand that the approach adopted in the regulations was intended to prevent some of the more significant adverse effects of heavier stock types while providing for the benefits of lighter grazing and recognising the practical difficulties with fencing in hill country areas. This is arguably less stringent than the direction in [LF-FW-P10\(4\)](#) which does not provide any exclusions.
1486. I note that regulation 19 of the Stock Exclusion Regulations allows a more stringent rule in a regional plan to prevail over a provision in the regulations that relates to the same matter. I am reluctant to foreclose that opportunity through the pORPS on the evidence provided by submitters but am aware of the potential implications raised by submitters of the notified wording. I am not inclined to recommend accepting the relief sought by Federated Farmers

¹⁰¹⁸ Emma Crutchley for OWRUG, Federated Farmers, and DairyNZ, para [78]

¹⁰¹⁹ See Cabinet Paper: Action for healthy waterways – Decisions on national direction and regulations for freshwater management, para 58. Available from: <https://environment.govt.nz/assets/publications/Cabinet-papers-briefings-and-minutes/cab-paper-action-for-healthy-waterways-decisions-on-national-direction-and-regulations-for-freshwater-management.pdf>

for this reason and consider the approach sought by Beef + Lamb and DINZ may be more appropriate as it would “qualify” the currently blunt requirement in (4). These submitters have not sought specific wording, which would assist further consideration of this point. At this stage, I do not recommend accepting the submission points by John Highton, Federated Farmers or Beef + Lamb and DINZ. The submitters, particularly Beef + Lamb and DINZ, may wish to comment on this in their evidence.

1487. I agree with DairyNZ that the Stock Exclusion Regulations will continue to apply regardless of this policy, but I consider there may be cases where additional stringency to the Regulations may be important for restoring natural wetlands. Rather than delete the clause, and linked to the discussion above, I am of the view that this clause should be refined to clarify when additional stringency should be considered. Submitters may wish to respond to this proposal in their evidence.

8.5.8.5. Recommendation

1488. I recommend the following amendments:

LF-FW-P10 – Restoring *natural wetlands*

Improve the ecosystem health, hydrological functioning, ~~water quality~~¹⁰²⁰ and extent of *natural wetlands* that have been degraded or lost by requiring, ~~where possible to~~ the greatest extent practicable:¹⁰²¹

- (1) an increase in the extent and quality condition¹⁰²² of habitat for indigenous species,
- (2) the restoration of hydrological processes,
- (3) control of pest species and vegetation clearance, and
- (4) the exclusion of stock.

8.5.9. LF-FW-P15 – Stormwater and wastewater discharges

8.5.9.1. Introduction

1489. As notified, LF-FW-P15 reads:

LF-FW-P15 – *Stormwater and wastewater discharges*

Minimise the adverse *effects* of direct and indirect *discharges of stormwater and wastewater to fresh water* by:

- (1) except as required by LF-VM-O2 and LF-VM-O4, preferring *discharges of wastewater to land over discharges to water*, unless adverse *effects* associated with a *discharge to land* are greater than a *discharge to water*, and

¹⁰²⁰ FPI024.030 DairyNZ

¹⁰²¹ FPI045.018 Forest and Bird, FPI025.043 Beef + Lamb and DINZ, FPI035.015 Wise Response, FPI020.017 Silver Fern Farms, FPI022.008 Manawa Energy

¹⁰²² FPI046.012 QLDC

(2) requiring:

- (a) all sewage, industrial or trade waste to be *discharged* into a reticulated *wastewater* system, where one is available,
- (b) all *stormwater* to be *discharged* into a reticulated system, where one is available,
- (c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated *stormwater* and *wastewater* systems,
- (d) on-site *wastewater* systems to be designed and operated in accordance with best practice standards,
- (e) *stormwater* and *wastewater discharges* to meet any applicable water quality standards set for *FMUs* and/or *rohe*, and
- (f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse *effects of contaminants* on receiving *water bodies* from the *subdivision*, use or development of *land*, wherever practicable, and

(3) promoting the reticulation of *stormwater* and *wastewater* in urban areas.

8.5.9.2. Submissions

1490. DOC, Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago seek that LF-FW-P15 be split into two policies but there are differences in the specific relief sought:

- a. DOC seeks that one policy is specific to wastewater, while the other is specific to stormwater, and that each policy adequately addresses the effects of the relevant discharge, but does not seek specific wording.¹⁰²³
- b. Fonterra seeks that LF-FW-P15 is amended to apply only to stormwater and industrial and trade waste, and the introduction of new policy LF-FW-P16 that applies to wastewater.¹⁰²⁴
- c. DCC and Ravensdown seek that LF-FW-P15 be amended to only apply to stormwater discharges, and that LF-FW-P16 apply to wastewater discharges, including discharges containing sewage and other human waste, trade and industrial waste and animal effluent.¹⁰²⁵
- d. Kāi Tahu ki Otago seeks the same split as DCC and Ravensdown but the other way around – LF-FW-P15 for discharges containing animal effluent, sewage and other human wastes, and industrial and trade waste and LF-FW-P16 for stormwater discharges.¹⁰²⁶

¹⁰²³ FPI044.019 DOC

¹⁰²⁴ FPI019.009 Fonterra

¹⁰²⁵ FPI001.021 DCC, FPI017.022 Ravensdown

¹⁰²⁶ FPI030.033 Kāi Tahu ki Otago

1491. Like Kāi Tahu ki Otago, Te Rūnanga o Ngāi Tahu seeks that the scope of the policy be expanded to include human waste (including cremated ashes).
1492. There are a number of slight differences between the versions of the policies sought by the submitters above. For comparison, I have set out the relief sought by Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago in two tables on the following pages: Table 9 includes those focused on stormwater and Table 10 those focused on wastewater and other discharges.

Table 9: Policies on stormwater

Fonterra ¹⁰²⁷	DCC ¹⁰²⁸	Ravensdown ¹⁰²⁹	Kāi Tahu ki Otago ¹⁰³⁰
<p>LF-FW-P15 – Stormwater and wastewater industrial and trade waste discharges</p> <p>Minimise the adverse effects of direct and indirect discharges of stormwater and <u>industrial and trade waste</u> wastewater to fresh water by:</p> <p>(1) except as required by LF-VM-O2 and LF-VMO4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and</p> <p>(2) requiring:</p> <p>(a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,</p> <p>(b) all stormwater and <u>industrial and trade waste</u> to be discharged into a reticulated system, where one is <u>made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring <u>for into</u> reticulated stormwater and wastewater systems,</p> <p>(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,</p> <p>(e) stormwater and wastewater that discharges to meet any applicable water quality standards environmental outcomes set for FMUs and/or rohe, and</p> <p>(f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and</p> <p>(3) promoting the reticulation of stormwater and wastewater in urban areas, and</p> <p>(4) <u>promoting source control as a method for reducing contaminants in discharges of stormwater and industrial and trade waste.</u></p>	<p>LF-FW-P15 – Stormwater and wastewater discharges</p> <p>Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:</p> <p>(1) except as required by LF-VM-O2 and LF-VMO4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and</p> <p>(2) requiring:</p> <p>(a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,</p> <p>(b) all stormwater to be discharged into a reticulated system, where one is <u>made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,</p> <p>(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,</p> <p>(e) stormwater and wastewater discharges to meet any applicable water quality standards applicable to those discharges set for FMUs and/or rohe, and</p> <p>(f)(3) <u>promoting the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable and beneficial, and</u></p> <p>(4) promoting the reticulation of stormwater and wastewater in urban areas, and</p>	<p>LF-FW-P15 – Stormwater and wastewater discharges</p> <p>Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:</p> <p>(1) except as required by LF-VM-O2 and LF-VM-O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and</p> <p>(2) requiring:</p> <p>(a) all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,</p> <p>(b) all stormwater to be discharged into a reticulated system, where one is <u>made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring <u>for into</u> reticulated stormwater and wastewater systems,</p> <p>(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,</p> <p>(e) <u>that any stormwater and wastewater discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe, and</u></p> <p>(f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and</p> <p>(3) promoting the reticulation of stormwater and wastewater in urban areas, and</p> <p>(4) <u>promoting source control as a method for reducing contaminants in discharges of stormwater.</u></p>	<p>LF-FW-P16 – Stormwater discharges</p> <p>Minimise the adverse effects of direct and indirect <u>discharges of stormwater to fresh water by:</u></p> <p>(1) <u>requiring:</u></p> <p>(a) <u>integrated catchment management plans for management of stormwater in urban areas,</u></p> <p>(b) <u>stormwater to be discharged into a reticulated system where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(c) <u>consideration of the use of on-site systems to attenuate flow and filter stormwater prior to discharge into any reticulated system,</u></p> <p>(d) <u>implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated stormwater systems,</u></p> <p>(e) <u>on-site stormwater management systems to be in accordance with best practice standards,</u></p> <p>(f) <u>stormwater to be managed so that any discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe,</u></p> <p>(g) <u>the use of water sensitive design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and</u></p> <p>(2) <u>promoting source control as a method for reducing contaminants in discharges of stormwater</u></p>

¹⁰²⁷ FPI019.009 Fonterra

¹⁰²⁸ FPI001.022 to FPI001.027 DCC

¹⁰²⁹ FPI017.011 Ravensdown

¹⁰³⁰ FPI030.033 Kāi Tahu ki Otago

Table 10: Policies on wastewater and other discharges

Fonterra ¹⁰³¹	DCC ¹⁰³²	Ravensdown ¹⁰³³	Kāi Tahu ki Otago ¹⁰³⁴
<p>LF-FW-P16 – Discharges containing sewage and other human wastes</p> <p><u>Avoid the adverse effects of direct and indirect discharges containing sewage and other human wastes (including cremated ashes) to fresh water by:</u></p> <p>(1) <u>requiring new discharges containing sewage or other human wastes to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to fresh water, and</u></p> <p>(2) <u>requiring:</u></p> <p>(a) <u>that all discharges containing sewage or other human wastes are discharged into a reticulated wastewater system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(b) <u>implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated wastewater systems,</u></p> <p>(c) <u>on-site wastewater systems to be designed and operated in accordance with best practice standards,</u></p> <p>(d) <u>that discharges meet any applicable environmental outcomes set for FMUs and/or rohe, and</u></p> <p>(3) <u>promoting the reticulation of wastewater in urban areas, and</u></p> <p>(4) <u>promoting source control as a method for reducing contaminants in discharges containing sewage and other human wastes.</u></p>	<p>LF-FW-P15 – Stormwater and wastewater discharges Wastewater discharges, including discharges containing sewage and other human waste, trade and industrial water, and animal effluent</p> <p><u>Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to fresh water by:</u></p> <p>(1) <u>except as required by LF-VM-O2 and LF-VMO4, preferring discharges of wastewater to land over discharges to freshwater, unless adverse effects associated with a discharge to land are greater than a discharge to water, and</u></p> <p>(2) <u>requiring:</u></p> <p>(a) <u>all sewage, industrial or trade waste wastewater to be discharged into a reticulated wastewater system, where one is available, by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(b) all stormwater and to be discharged into a reticulated system, where one is available,</p> <p>(c) <u>implementation of appropriate methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for from reticulated stormwater and wastewater systems,</u></p> <p>(d) <u>on-site wastewater systems to be designed and operated in accordance with best practice standards,</u></p> <p>(e) <u>stormwater and wastewater discharges to meet any applicable water quality standards applicable to those discharges set for FMUs and/or rohe, and</u></p> <p>(f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and</p> <p>(3) <u>promoting the reticulation of stormwater and wastewater in urban areas, and</u></p>	<p>Policy LF-FW-P16 –Discharges containing animal effluent, sewage and other human wastes, and industrial and trade waste.</p> <p><u>Avoid the adverse effects of direct and indirect discharges containing animal effluent, sewage and other human wastes (including cremated ashes), and industrial and trade waste to fresh water by:</u></p> <p>(1) <u>requiring new discharges containing sewage or other human wastes, or industrial and trade waste to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to fresh water,</u></p> <p>(1A) <u>requiring discharges containing animal effluent to be to land,</u></p> <p>(2) <u>requiring:</u></p> <p>(a) <u>that all discharges containing sewage, other human wastes or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(b) <u>implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated wastewater systems,</u></p> <p>(c) <u>on-site wastewater systems and animal effluent systems to be designed and operated in accordance with best practice standards,</u></p> <p>(d) <u>that any discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe,</u></p> <p>(3) <u>promoting the reticulation of wastewater in urban areas, and</u></p> <p>(4) <u>promoting source control as a method for reducing contaminants in discharges containing sewage, other human wastes or industrial and trade waste.</u></p>	<p>LF-FW-P15 – Discharges containing animal effluent, sewage and other human wastes, and industrial and trade waste</p> <p><u>Avoid the adverse effects of direct and indirect discharges containing animal effluent, sewage and other human wastes (including cremated ashes), and industrial and trade waste to fresh water by:</u></p> <p>(1) <u>requiring new discharges containing sewage or other human wastes, or industrial and trade waste to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to fresh water,</u></p> <p>(2) <u>phasing out existing direct discharges of sewage or industrial and trade wastes, whether treated or untreated, to fresh water, and</u></p> <p>(3) <u>requiring discharges containing animal effluent to be to land,</u></p> <p>(4) <u>requiring:</u></p> <p>(a) <u>that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, unless alternative treatment and disposal methods will result in improved environmental outcomes,</u></p> <p>(b) <u>implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated wastewater systems,</u></p> <p>(c) <u>on-site wastewater systems and animal effluent systems to be designed and operated in accordance with best practice standards,</u></p> <p>(d) <u>that any discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe, and</u></p> <p>(5) <u>promoting source control as a method for reducing contaminants in discharges containing industrial and trade waste.</u></p>

¹⁰³¹ FPI019.009 Fonterra

¹⁰³² FPI001.022 to FPI001.027 DCC

¹⁰³³ FPI017.011 Ravensdown

¹⁰³⁴ FPI030.033 Kāi Tahu ki Otago

1493. Contact seeks that LF-FW-P15 only applies to urban stormwater, while also noting their neutrality in relation to the inclusion of LF-FW-P16 as previously recommended in the (now obsolete) s42A report on this provision.¹⁰³⁵
1494. Waka Kotahi seeks that the direction regarding discharging into a reticulated system is amended to “practically made available”, considering that what “available” means is unclear.¹⁰³⁶
1495. Wise Response seeks several amendments to encourage the reintegration of stormwater from urban areas with the natural cycle or to store stormwater for reuse or slower release. The changes include preferring stormwater discharges to reintegrate with natural processes instead of being discharged to reticulated systems and requiring stormwater buffering systems and private rainwater collection in clause (2)(c).¹⁰³⁷
1496. In addition to Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago, several submitters consider that the policy should allow for alternative treatment and disposal methods to reticulated networks to be used where they will result in improved environmental outcomes.¹⁰³⁸ Silver Fern Farms seeks to enable the management of discharges outside a reticulated network where the alternative is environmentally neutral or positive, compared to the reticulated network.¹⁰³⁹
1497. Te Rūnanga o Ngāi Tahu seeks that the requirement for on-site wastewater systems to be designed and operated in accordance with best practice standards be expanded to apply to both stormwater and wastewater.¹⁰⁴⁰
1498. Silver Fern Farms requests clarification of the reference to ‘water quality standards’ in the policy.¹⁰⁴¹
1499. Horticulture NZ seeks the addition of a new matter in clause (2), to recognise that the identification and management of highly productive land consider the interactions with freshwater management and urban development:¹⁰⁴²
- (g) The use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects on the productivity of primary production on highly productive land related to the cumulative impacts of contaminants on receiving water bodies from the subdivision, use or development of land wherever practicable
1500. Forest and Bird seeks amendments to “provide for” reticulation in urban areas.¹⁰⁴³ QLDC seeks stronger wording that would require reticulation where practicable. QLDC considers

¹⁰³⁵ Background document – Freshwater Planning Instrument (prepared for information purposes only), dated 30 September 2022

¹⁰³⁶ FPI018.005 Waka Kotahi

¹⁰³⁷ FPI035.016 Wise Response

¹⁰³⁸ FPI038.013 NZSki, FPI039.015 Realnz, FPI017.003 Ravensdown, FPI019.009 Fonterra, FPI001.023 DCC, FPI030.033 Kāi Tahu ki Otago

¹⁰³⁹ FPI020.018 Silver Fern Farms

¹⁰⁴⁰ FPI032.025 Te Rūnanga o Ngāi Tahu

¹⁰⁴¹ FPI020.018 Silver Fern Farms

¹⁰⁴² FPI047.024 Horticulture NZ

¹⁰⁴³ FPI045.019 Forest and Bird

that exclusions to reticulation should only be relevant for special cases, such as outlying settlements where infrastructure funding constraints are a challenge.¹⁰⁴⁴

1501. Wise Response seeks to replace the requirement to promote reticulation with a far more comprehensive clause:¹⁰⁴⁵

(3) *promoting the reticulation of stormwater and wastewater in urban areas. ORC is to identify urban centres which might benefit from improved stormwater and wastewater facility and for communities wishing to explore feasibility, ensure that the wider sustainable management and social implications are assessed, including:*

- i) public health issues and potential gains*
- ii) any potential to avoid or contain sprawl that preserves productive land, contains infrastructure costs or preserves pedestrian and cyclist options*
- iii) minimising adverse environmental impact considering the implications of climate change and National emissions reduction policy*
- iv) the potential for better management of the existing arrangement*
- v) alternative collection, management and disposal systems and the potential to deliver useful resource.*
- vi) the cost-of-living and demographic impacts on the current residents*
- vii) the operation and maintenance costs and technical support requirements*

1502. Similar to Fonterra, Ravensdown, and Kāi Tahu ki Otago, The Fuel Companies seeks to incorporate a new clause for promoting awareness and actions to reduce contaminant discharges through source control.¹⁰⁴⁶

1503. Transpower seeks a new clause to allow for infrastructure as follows:¹⁰⁴⁷

(4) except that (2) does not apply to nationally significant infrastructure where the adverse effects of direct and indirect discharges of stormwater and wastewater are minimized.

1504. Wise Response considers that ORC has a role in promoting alternatives to hazardous substances to reduce stress on the environment and states that there is evidence that bee die back is due to chemical poisoning from herbicides which it considers is a good example of where integrated management has failed. The submitter seeks to include the following new clause:¹⁰⁴⁸

(4) where the use of environmentally hazardous substances cannot be entirely avoided, ensure use is essential and actively promote a shift to more benign and biodegradable alternatives.

¹⁰⁴⁴ FPI046.013 QLDC

¹⁰⁴⁵ FPI035.016 Wise Response

¹⁰⁴⁶ FPI034.003 The Fuel Companies

¹⁰⁴⁷ FPI013.003 Transpower

¹⁰⁴⁸ FPI035.016 Wise Response

1505. The Fuel Companies submit that the role of industry good practice should be recognised, such as the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand, and seek the following additional clause:¹⁰⁴⁹

(5) recognising the role of relevant industry guidelines.

Wastewater-specific matters

1506. Oceana Gold considers that it is unclear whether the policy is intended to apply to industrial discharges which contain contaminants but may or may not be mixed with stormwater or wastewater. Oceana Gold seeks amendments to address this uncertainty, and also requests amendments to recognise that there may be functional or locational constraints or other reasons of practicability as to why industrial discharges may be made to water, and to allow for direction irrigation to land with nitrate or sulphate rich water.¹⁰⁵⁰
1507. Te Rūnanga o Ngāi Tahu (in addition to Fonterra, Ravensdown, and Kāi Tahu ki Otago) seeks to strengthen the direction to avoiding, rather than minimising adverse effects, in the chapeau.¹⁰⁵¹ Te Rūnanga o Ngāi Tahu also seeks that the policy require phasing out all direct wastewater discharges to water.¹⁰⁵²
1508. Forest and Bird seeks amendments to 'require' wastewater to be discharged to land rather than 'preferring' this.¹⁰⁵³

8.5.9.3. Analysis

Structure

1509. LF-FW-P15 applies to both stormwater and wastewater discharges, however some of the direction is specific to each type. I recommend accepting the submission point by DOC to split LF-FW-P15 into two policies so that there is clarity about the direction applying to each type of discharge. Fonterra seeks to include industrial and trade waste with the direction on stormwater, whereas DCC, Ravensdown, and Kāi Tahu ki Otago seek to include it with wastewater. Industrial and trade waste is defined in the National Planning Standards, and in the pORPS, as:

liquid waste, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes sewage and greywater.

1510. This includes waste from commercial and industrial activities such as meat processing and rendering. I understand that these types of discharges can contain higher concentrations of contaminants than domestic wastewater as well as substances such as grease and fat. In urban areas, trade wastes are generally discharged into wastewater treatment systems and that process is managed under bylaws prepared by territorial authorities. I do not consider

¹⁰⁴⁹ FPI034.003 The Fuel Companies

¹⁰⁵⁰ FPI031.012 Oceana Gold

¹⁰⁵¹ FPI032.025 Te Rūnanga o Ngāi Tahu

¹⁰⁵² FPI032.025 Te Rūnanga o Ngāi Tahu

¹⁰⁵³ FPI045.019 Forest and Bird

industrial and trade waste is comparable to stormwater and therefore do not recommend accepting this part of the submission point by Fonterra. The submitter seeks a number of amendments to [LF-FW-P15](#) to include reference to industrial and trade waste. Given my recommendation here, I have not addressed those specific amendments any further.

1511. DCC, Ravensdown, and Kāi Tahu ki Otago seek to include industrial and trade waste alongside wastewater discharges, sewage and other human wastes, and animal effluent. I consider industrial and trade waste is better addressed with wastewater activities than stormwater activities for the reasons I have set out above. DCC, Ravensdown, Kāi Tahu ki Otago, and Te Rūnanga o Ngāi Tahu also seek to include other human wastes in the policy direction for wastewater. Te Rūnanga o Ngāi Tahu states that the discharge of other human waste (such as cremated ashes), directly to water without first being cleansed by Papatūānuku (the earth) is culturally abhorrent to Te Rūnanga o Ngāi Tahu.
1512. While I accept that position, I have recently been involved in discussions on the new LWRP about managing the spreading of cremated ashes, including in a region-wide stakeholder discussion group. Those discussions highlighted the sensitivity around regulating the spreading of ashes – most participants were not comfortable with the idea of even relatively low levels of enforcement action against grieving families in the event that plan rules were breached. It was considered that working with crematoria on guidance about appropriate (and inappropriate) places to spread ashes would be a more effective and considerate response to this issue. For these reasons, I do not consider this policy should apply to human wastes such as cremated ashes and therefore do not recommend accepting the submission point by Te Rūnanga o Ngāi Tahu.
1513. I have no particular view on whether the stormwater policy should come before or after the wastewater policy. Given more submitters seek to address stormwater first, followed by wastewater, I recommend that approach.
1514. Due to my recommendation to split this policy into two, I have addressed the remaining amendments sought by submitters in relation to the two separate policies I recommend.

[LF-FW-P15 – Stormwater discharges](#)

1515. Contact seeks to restrict the scope of the policy on stormwater to only applying to urban stormwater as it considers that the provision may not be appropriate for all situations, such as construction stormwater in rural environments. It is not clear to me whether the submitter considers the entirety of the policy would be inappropriate or whether the issues are in relation to particular parts of the policy. Contact may wish to clarify in its evidence. At this stage, I do not recommend accepting this submission point.
1516. Fonterra seeks to retain notified clause (1) whereas DCC, Ravensdown, and Kāi Tahu ki Otago seek its deletion. I agree it should be deleted as it relates to wastewater discharges, not stormwater discharges. All four submitters seek to delete clause (2)(a) which I agree with as it also relates to wastewater discharges.
1517. Kāi Tahu ki Otago seeks to include a new sub-clause in clause (2) which would require integrated catchment management plans for the management of stormwater in urban areas. This is a commonly adopted approach around the country to managing stormwater

systems servicing large areas while ensuring that the individual stormwater management areas or catchments within the wider serviced area are managed in a way that is appropriate for that particular environment. I recommend including this additional clause.

1518. Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago all seek the same wording for clause (2)(b), being that all stormwater is discharged into a reticulated stormwater system where one is made available by the operator of the stormwater system unless alternative treatment and disposal methods will result in improved environmental outcomes. Similar relief is sought by NZSki and Realnz. Waka Kotahi seeks that this wording be “practically made available”, considering that what “available” means is unclear.
1519. I consider the amendments sought by Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago are practical and will assist with achieving the objectives relating to freshwater quality. In my view, those amendments also go some way in addressing the issues raised by Waka Kotahi. I prefer these amendments sought by Fonterra and others to those sought by Silver Fern Farms, noting that the amendments sought by Silver Fern Farms are in relation to both stormwater and wastewater discharges. “Enable” is generally linked to permitted activity status in plans, and I am not convinced that will always be appropriate. I consider the “environmentally neutral or positive” test is unclear, given the broad definition of the term “environment” in the RMA. I do not recommend accepting this submission point.
1520. ‘Environmental outcomes’ is a defined term in the pORPS and I do not consider the definition is applicable to the use of ‘environmental outcomes’ in the wording proposed by Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago. I therefore recommend referring to ‘outcomes for fresh water’ instead.
1521. I do not consider that it is practically possible for the majority of stormwater to be reintegrated with natural hydrological processes and consider that the amendment I have recommended above to provide for alternative treatment and disposal methods goes some way in addressing the matters raised by Wise Response in relation to clause (2)(b). I do not recommend accepting this part of the submission point.
1522. Clause (2)(c) as notified requires implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated stormwater and wastewater systems. Fonterra, Ravensdown, and Kāi Tahu ki Otago seek to retain this clause but delete the reference to wastewater systems, and DCC seeks its deletion on the basis that it does not apply to stormwater systems.
1523. I understand wet weather overflows occur when stormwater infiltrates and overloads wastewater systems, which can then cause overflows into stormwater systems depending on the design of the systems. The methods implemented to reduce the frequency and volume of wet weather overflows could therefore either be targeted at the stormwater systems (i.e. by reducing the potential for infiltration of wastewater systems) or to wastewater systems (i.e. by reducing or eliminating the connections between stormwater and wastewater systems). For that reason, I consider it is appropriate to retain the clause but that everything after “overflows” could be deleted. In my view, which system the

overflow is occurring into is not important – it is reducing the potential for the overflow occurring in the first place that is the key point.

1524. I consider that Wise Response has misunderstood the purpose of clause (2)(c), which is designed to address a significant existing problem with the presence of constructed overflows in wastewater systems, whereby during wet weather events that overload the system, sewage can be rerouted to the stormwater system. I do not consider that the amendments sought provide for the same outcome (i.e. a reduction in overflows) and therefore do not recommend accepting this submission point.
1525. Fonterra, DCC, and Ravensdown seek to delete notified clause (2)(d) requiring on-site wastewater systems to be designed and operated in accordance with best practice standards on the basis that it is not relevant for stormwater systems. Kāi Tahu ki Otago seeks to retain the clause but replace the reference to on-site wastewater systems with on-site stormwater management systems. Te Rūnanga o Ngāi Tahu seeks a similar amendment to expand the requirement to on-site stormwater management systems. In my experience, AS/NZS 1547:2012 is generally considered to be best practice for designing, constructing, and managing on-site domestic wastewater systems. I am less familiar with on-site stormwater management, but am aware of a number of different guidelines on this topic:
- a. New Zealand Water Environment Research Foundation’s *On-site stormwater management guidelines* published in 2004,¹⁰⁵⁴ and
 - b. Those developed by individual councils, such as Christchurch City Council,¹⁰⁵⁵ Bay of Plenty Regional Council,¹⁰⁵⁶ and Waikato Regional Council.¹⁰⁵⁷
1526. If there is a good understanding of what constitutes best practice for on-site stormwater management then I am not opposed to making the amendments sought by Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu. At this stage, I do not recommend making the amendment sought and would appreciate further evidence from submitters on this matter. As the notified clause applies to wastewater systems only, I recommend accepting the request by Fonterra, DCC, and Ravensdown to delete it.
1527. There are two elements to the amendments sought by submitters to clause (2)(e). The first relates to the way discharges are referred to and the second is the relationship between these discharges and water quality standards, including whether that is the appropriate term to use. Fonterra seeks to refer to “discharges” whereas DCC and Ravensdown prefer “stormwater discharges”. Kāi Tahu ki Otago seeks a slightly different approach, requiring “stormwater to be managed so that any discharges...” I prefer the wording proposed by DCC and Ravensdown. The policy is about stormwater discharges, and it is those discharges that are intended to be captured by this clause. I consider that the amendments sought by Kāi Tahu ki Otago introduce some uncertainty as to whether “any discharges” relates only to discharges of stormwater or something else.

¹⁰⁵⁴ https://www.waternz.org.nz/Attachment?Action=Download&Attachment_id=2967

¹⁰⁵⁵ <https://ccc.govt.nz/assets/Documents/Services/Wastewater/Onsite-Stormwater-Mitigation-Guide.pdf>

¹⁰⁵⁶ <https://www.boprc.govt.nz/media/520746/guidelines-2012-01-stormwater-management-guidelines-for-the-bay-of-plenty-region2.pdf>

¹⁰⁵⁷ <https://www.waikatoregion.govt.nz/assets/WRC/WRC-2019/TR20-07.pdf>

1528. Fonterra seeks to replace “water quality standards” with “environmental outcomes” in clause (2)(e), whereas DCC, Ravensdown, and Kāi Tahu ki Otago seek amendments to refer to “any applicable water quality standards.” I consider the latter amendment is more appropriate. Environmental outcomes are set at the FMU (or part of an FMU) level and will not generally be applicable to the assessment of individual discharges. It is common for regional plans to include more specific standards for receiving water quality and I consider the wording proposed by DCC, Ravensdown, and Kāi Tahu ki Otago leaves the door open for this approach in the LWRP without mandating it in every circumstance. I consider this addresses the clarification sought by Silver Fern Farms.
1529. In relation to clause (2)(f), Fonterra, Ravensdown, and Kāi Tahu ki Otago seek a minor amendment to delete “urban” from the phrase “water sensitive urban design techniques”. I understand water sensitive design is not only limited to ‘urban areas’ and therefore agree with the amendment sought. I recommend accepting this part of the submission points.
1530. Horticulture NZ seeks to include a new clause regarding potential adverse effects on the productivity of primary production on highly productive land from cumulative impacts of contaminants on receiving water bodies. I consider this clause is difficult to understand and I am unsure of the practical outcome that would result from its implementation. I do not recommend accepting this submission point.
1531. DCC seeks to move (2)(f) to a new (3) so that the direction is to “promote” the use of water sensitive urban design techniques rather than “require” it be undertaken, as well as a definition of “water sensitive urban design.” DCC also seeks that this is only promoted where practicable “and beneficial”. While I understand the concerns raised by DCC in relation to the suitability of using water sensitive design techniques for managing stormwater, in my opinion it is appropriate for those techniques to be the starting point, with other techniques coming into play in situations where it is not practicable to implement water sensitive design techniques.
1532. The submitter does not propose wording for a definition of “water sensitive design” and I do not consider the term requires definition. I understand this is a commonly used and well-understood term and consider there are benefits in allowing flexibility for territorial authorities to determine what this looks like in their districts. I do not consider that the clause needs to be qualified by “beneficial” as sought by DCC. There is flexibility in the clause for different techniques to be adopted on different sites, so long as they avoid or mitigate the potential adverse effects of contaminants on receiving water bodies. It seems unlikely to me that a developer would seek to implement techniques that achieve this outcome but are not “beneficial”.
1533. When considering this submission point, and [LF-FW-P15\(2\)\(f\)](#) more closely, I have noticed that the direction to use water sensitive design techniques is linked only to the management of contaminants. I understand water sensitive design is also relevant for managing the quantity of stormwater, including by providing for detention and reducing overall volumes. I consider a minor amendment could be made to remove the reference to avoiding or mitigating the adverse effects of contaminants so that the clause read simply “the use of water sensitive design techniques, wherever practicable”. This would capture the use of these techniques for both quality and quantity-related matters. No submitter has sought this

amendment or raised this particular issue more generally. I consider it would be appropriate for the panel to exercise its discretion under clause 49(2) to make recommendations outside the scope of submissions in order to make this change because it will make the policy more effective at managing the effects (both quantity and quality) of stormwater.

1534. Kāi Tahu ki Otago seeks to delete the direction to promote reticulation in urban areas but does not specifically explain why in its submission. Without further explanation, I do not recommend deleting this clause. Fonterra, DCC, and Ravensdown seek to retain the direction but to narrow its scope to stormwater systems. Forest and Bird seeks to change “promote” to “require” while QLDC seeks “require where practicable.” I agree with QLDC that reticulation should be the ‘default’ with exceptions as required, rather than the other way around. I prefer including ‘to the greatest extent practicable’ because, while there will be cases where it is not practicable to reticulate an area as identified by QLDC, reticulation should be the ‘default’ and only in limited circumstances should this not occur.
1535. I recommend accepting in part the submission point of Forest and Bird and accepting the submission point of QLDC. At this stage, I recommend accepting the submission points by Fonterra, DCC and Ravensdown to delete reference to wastewater systems, accepting in part the submission by Forest and Bird, and accepting in full the submissions point by QLDC. I note the amendment sought by QLDC applied to both stormwater and wastewater systems, which I have recommended splitting into two separate policies. I recommend making the same amendment to LF-FW-P16 in relation to stormwater systems.
1536. The highly detailed additional clauses sought by Wise Response under clause (3) introduce considerable uncertainty into the provision. In my view, the provision of infrastructure is only partly managed by the RMA and therefore it would be ineffective to attempt to curtail that decision-making through this policy. I also note that decisions about funding infrastructure are not made by ORC – they are made by the relevant territorial authority. I do not recommend accepting this part of the submission point.
1537. Fonterra, Ravensdown, Kāi Tahu ki Otago, and The Fuel Companies seek to include a new clause for promoting source control as a method for reducing contaminants in discharges of stormwater. I agree that is a practical and effective option for some discharges. I recommend making this amendment but stopping after “discharges”. In my view, source control can be an effective method for any type of discharge.
1538. The submission by Transpower states that it seeks a limited amendment to provide for particular situations or land uses where stormwater is disposed of on-site and that these types of situations may be managed in a site-specific manner rather than by applying clause (2). I consider that the amendment sought by the submitter is far greater than described in its submission as it seeks to exclude nationally significant infrastructure. I consider that my amendment to clause (2)(b) to provide for alternative treatment and disposal methods addresses the concern expressed in the submission by Transpower in a more appropriate way than a full exclusion from clause (2). I do not recommend accepting this submission point.
1539. The management of hazardous substances primarily occurs under the Hazardous Substances and New Organisms Act 1996 and there are limited circumstances where it is appropriate

for plans developed under the RMA to also manage these substances. In my opinion, Wise Response has not provided sufficient evidence to justify managing hazardous substances in this way and therefore I do not recommend accepting this part of the submission point.

1540. I agree with The Fuel Companies that industry guidelines can be useful resources for determining how particular types of discharges should be managed. However, the clause sought by the submitter is not clear. In particular, I am unsure how or through what process the submitter anticipates the role of guidelines being recognised. The submitter may wish to clarify this in evidence. At this stage, I do not recommend accepting this submission point.

LF-FW-P16 – Discharges containing animal effluent, sewage, and industrial and trade waste

1541. Many of the matters raised in submissions were made in relation to the notified policy, which applies to stormwater and wastewater discharges. Where I have discussed those matters above in relation to stormwater, and my view is the same in relation to wastewater, I have carried through the amendments I recommended previously to this policy and have not discussed them again in this section. Instead, this section focuses on any amendments that are specific to the discharges managed under this policy or where my recommendations are different to those discussed above.

1542. For the reasons I have set out for splitting LF-FW-P15 and my recommendations about the scope of these policies, I recommend accepting in part the title of this new policy as proposed by Ravensdown and Kāi Tahu ki Otago in preference to those proposed by Fonterra and DCC, noting that I have addressed the inclusion of “other human wastes” previously and do not recommend incorporating that aspect.

1543. I understand Oceana Gold’s concern arises from the use of the term “wastewater” which is defined in the National Planning Standards as follows:

...any combination of two or more the [sic] following wastes: sewage, greywater or industrial and trade waste.

1544. As discussed previously, I consider sewage and industrial and trade waste to have the potential for significant adverse effects and do not consider that it is appropriate over the long-term, to continue to discharge these types of contaminants to water. However, LF-FW-P15(1)(a) does provide a pathway for discharging directly to water where the adverse effects of a discharge to land are demonstrably greater than a discharge to water. I do not recommend accepting the submission point by Oceana Gold.

1545. Fonterra, Ravensdown, Kāi Tahu ki Otago, and Te Rūnanga o Ngāi Tahu seek that the primary direction for managing these types of discharges is that adverse effects are avoided by implementing the specified actions. In contrast, DCC, as well as other submitters not seeking to split the policy, seeks to retain the original direction in LF-FW-P15 as notified, which is to minimise adverse effects. In my view, discharges containing animal effluent, sewage, and industrial and trade waste require a more stringent management framework to stormwater as they generally contain higher concentrations of contaminants. However, I am not convinced that the requirements set out in the sub-clauses will always result in all adverse effects being avoided. That is consistent with the wording I have recommended in LF-FW-

O1A which sets out the long-term objective for Otago’s fresh water. I recommend retaining the originally notified wording.

1546. Fonterra, DCC, Ravensdown, Kāi Tahu ki Otago, and Forest and Bird seek that new discharges containing animal effluent, sewage, or industrial and trade waste are required to be to land unless the adverse effects are greater than a discharge to fresh water. Fonterra, Ravensdown, and Kāi Tahu ki Otago seek that these are “demonstrably” greater. I consider the amendments sought by these three submitters appropriately reflects the level of cultural offence posed by these discharges and the need for treatment via land prior to being discharged (indirectly) to water.
1547. Kāi Tahu ki Otago and Te Rūnanga o Ngāi Tahu seek that all existing direct discharges of sewage or industrial and trade waste (treated or untreated) to fresh water are phased out. In combination with the previous clause, I consider this means the policy allows for new discharges to water (if their adverse effects are demonstrably less than a discharge to land) but requires all existing discharges to be transitioned to land. I do not consider that is appropriate, particularly considering the practical constraints on changing existing discharges compared to the ability to design and situate new discharges.
1548. The direction in my new recommended LF-FW-O1A is for discharges of wastewater to water bodies to be phased out to the greatest extent practicable. I consider that this recognises there will be some discharges which cannot be phased out – including some existing discharges which, perhaps for feasibility reasons, cannot be replaced by a discharge to land as well as some new discharges where the adverse effect of a discharge to land is demonstrably higher than a discharge to water. I recommend including clause (1) in LF-FW-P16 for existing discharges that reflects the direction in LF-FW-O1A and that clause (2) retains the notified requirement for new discharges to be to land, unless adverse effects are demonstrably greater than to water. I recommend accepting these submission points in part.
1549. Ravensdown and Kāi Tahu ki Otago seek to include an additional clause requiring discharges containing animal effluent to be to land. That reflects the current direction in the Water Plan, which prohibits discharges of animal effluent to water. I agree that retaining that direction in the pORPS is appropriate, given the development of the new LWRP occurring currently. These submitters also seek to require animal effluent systems to be designed and operated in accordance with best practice standards. That is also the current requirement in the Water Plan and I agree it should be reflected in the pORPS.
1550. Fonterra, DCC, and Ravensdown seek to include promoting the reticulation of wastewater in urban areas, in the same way as LF-FW-P15 for stormwater. Kāi Tahu ki Otago does not seek to include this. In my experience, the cumulative effects of many on-site wastewater treatment systems can adversely affect water bodies and there comes a point where reticulating these areas must be considered. For this reason, I recommend including the clause as sought by Fonterra, DCC, and Ravensdown. In relation to stormwater reticulation, I indicated that while I supported more directive wording in this clause I was unsure whether the RPS was the appropriate vehicle for this. I note that the same issue arises in this case.
1551. In the versions of the policy sought by Ravensdown and Kāi Tahu ki Otago, the first three clauses all begin with “requiring”. In LF-FW-P15 as I have recommended it be amended, all

clauses beginning with “requiring” are grouped together. For consistency, I recommend the same approach be adopted for LF-FW-P16.

8.5.9.4. Recommendation

1552. I recommend the following amendments:

LF-FW-P15 - ~~Stormwater and wastewater~~¹⁰⁵⁸ discharges

Minimise the adverse *effects* of direct and indirect *discharges of stormwater and wastewater*¹⁰⁵⁹ to *fresh water* by:

- (1) ~~except as required by LF-VM-O2 and LF-VM-O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and~~¹⁰⁶⁰
- (2) requiring:
 - (a) ~~all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,~~¹⁰⁶¹
 - (ab) integrated catchment management plans for management of stormwater in urban areas,¹⁰⁶²
 - (b) all stormwater to be discharged into a reticulated system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved outcomes for fresh water,¹⁰⁶³
 - (c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,¹⁰⁶⁴
 - (d) ~~on-site wastewater systems to be designed and operated in accordance with best practice standards,~~¹⁰⁶⁵
 - (e) that any stormwater and wastewater discharges do not prevent water bodies from¹⁰⁶⁶ meeting any applicable water quality standards set for FMUs and/or rohe, and
 - (f) the use of water sensitive urban¹⁰⁶⁷ design techniques ~~to avoid or mitigate the potential adverse effects of contaminants on receiving~~

¹⁰⁵⁸ FPI044.019 DOC

¹⁰⁵⁹ FPI044.019 DOC

¹⁰⁶⁰ FPI001.021 DCC, FPI017.022 Ravensdown

¹⁰⁶¹ FPI001.021 DCC, FPI017.022 Ravensdown, FPI030.033 Kāi Tahu ki Otago

¹⁰⁶² FPI030.033 Kāi Tahu ki Otago

¹⁰⁶³ FPI001.021 DCC, FPI017.022 Ravensdown

¹⁰⁶⁴ FPI001.024 DCC

¹⁰⁶⁵ FPI019.009 Fonterra, FPI017.022 Ravensdown

¹⁰⁶⁶ FPI001.021 DCC, FPI017.022 Ravensdown

¹⁰⁶⁷ FPI017.022 Ravensdown

~~water bodies from the subdivision, use or development of land,~~¹⁰⁶⁸
wherever practicable, and

(3) ~~promoting to the greatest extent practicable, requiring~~¹⁰⁶⁹ the reticulation of stormwater and wastewater¹⁰⁷⁰ ~~in urban areas,~~ and

(4) promoting source control as a method for reducing contaminants in discharges.¹⁰⁷¹

LF-FW-P16 – Discharges containing animal effluent, sewage, and industrial and trade waste¹⁰⁷²

Minimise the adverse *effects* of direct and indirect *discharges* containing animal effluent, sewage, and industrial and trade waste to fresh water by:

(1) phasing out existing discharges containing sewage or industrial and trade waste directly to water to the greatest extent possible,

(2) requiring:

(a) new discharges containing sewage or industrial and trade waste to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to fresh water,

(b) discharges containing animal effluent to be to land,

(c) that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for fresh water,

(d) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring into reticulated wastewater systems,

(e) on-site wastewater systems and animal effluent systems to be designed and operated in accordance with best practice standards,

(f) that any discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe,

(3) to the greatest extent practicable, requiring the reticulation of wastewater in urban areas, and

(4) promoting source control as a method for reducing contaminants in discharges.

¹⁰⁶⁸ Out of scope recommendation in accordance with clause 49(2)(a)

¹⁰⁶⁹ FPI046.013 QLDC

¹⁰⁷⁰ FPI019.009 Fonterra, FPI017.022 Ravensdown

¹⁰⁷¹ FPI001.021 DCC, FPI017.022 Ravensdown, FPI030.033 Kāi Tahu ki Otago

¹⁰⁷² FPI019.009 Fonterra, FPI017.011 Ravensdown, FPI030.033 Kāi Tahu ki Otago

8.5.10. New policies

8.5.10.1. Submissions

1553. NZSki and Realnz seek the addition of a new policy supporting some activities near wetlands, as they consider that the pORPS fails to recognise and support activities that result in benefits to wetlands, as well as improving people's awareness of and access to natural wetlands. They seek the following wording:¹⁰⁷³

LF-FW-PX

Support activities which result in either of 1-4 of LF-FW-P10 above, or improve people's awareness of, and access to, natural wetlands for customary, or scientific, or education, or recreational uses.

1554. Meridian notes that while LF-FW-M6 directs the regional plan to provide for off-stream storage, there is no policy in the LF-FW section that provides this direction. As such, Meridian seeks a new policy relating to off-stream storage, with the following wording sought:¹⁰⁷⁴

LF-FW-PX

Provide for the off-stream storage of surface water where storage will give effect to the objectives and policies of this RPS.

1555. Wise Response considers that a policy is needed regarding the use of management practises that avoid the polluting side effects of potentially hazardous substances, to ensure that it must be demonstrated to the satisfaction of council that there are no other effective alternatives. Their submission includes the following wording:¹⁰⁷⁵

LF-FW-PX

Regional and district plans are to require the use of potentially harmful chemical substances to be fully justified and if use is approved, any polluting side effects will be monitored and reported on.

8.5.10.2. Analysis

1556. I disagree with NZSki and Realnz that the pORPS fails to recognise and support activities that result in benefits to wetlands. LF-FW-P9 explicitly provides a pathway for activities in or near natural wetlands that are for the purpose of customary harvest, restoration, and constructing or maintaining wetland utility structures (which include structures whose purpose is recreation, education, conservation, restoration, or monitoring). I do not recommend accepting these submission points.

1557. I agree with Meridian that there is little policy support for the direction regarding off-stream storage in LF-FW-M6. In response to submissions on LF-FW-P7 seeking additional direction on water use and efficiency, I have recommended including a new policy LF-FW-P7A which specifically addresses off-stream storage. I consider this addresses the issue raised by

¹⁰⁷³ FPI038.012 NZSki, FPI039.014 Realnz

¹⁰⁷⁴ FPI016.018 Meridian

¹⁰⁷⁵ FPI035.019 Wise Response

Meridian and therefore that the new policy sought by the submitter is not necessary. I recommend accepting this submission point in part.

1558. The use of individual substances is not a matter for a regional policy statement – the discharge of contaminants, including hazardous substances, is controlled by regional plans. I am unsure what Wise Response considers to be ‘fully justified’. I do not recommend accepting this submission point.

8.5.10.3. Recommendation

1559. I do not recommend any amendments.

8.5.11. LF-FW-M6 – Regional plans

8.5.11.1. Introduction

1560. As notified, LF-FW-M6 reads:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

- (1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,
- (2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,
- (3) identify *water bodies* that are *over-allocated* in terms of either their *water* quality or quantity,
- (4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that give effect to *Te Mana o te Wai* and provide for:
 - (a) the behaviours of the *water body* including a base flow or level that provides for variability,
 - (b) healthy and resilient mahika kai,
 - (c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*,
 - (d) the hydrological connection with other *water bodies*, estuaries and coastal margins,
 - (e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and
 - (f) community *drinking water* supplies, and
- (5) include limits on resource use that:

- (a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available *water*,
 - (b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,
 - (c) control the *effects* of existing and potential future development on the ability of the *water body* to meet, or continue to meet, *environmental outcomes*,
 - (d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and
- (6) provide for the off-stream storage of surface *water* where storage will:
- (a) support Te Mana o te Wai,
 - (b) give effect to the objectives and policies of the LF chapter of this RPS, and
 - (c) not prevent a surface *water body* from achieving identified *environmental outcomes* and remaining within any limits on resource use, and
- (7) identify and manage *natural wetlands* in accordance with LF-FW-P7, LF-FW-P8 and LF-FW-P9 while recognising that some activities in and around *natural wetlands* are managed under the NESF, and
- (8) manage the adverse *effects* of *stormwater* and *wastewater* in accordance with LF-FW-P15.

8.5.11.2. Submissions

1561. DOC supports the provisions as notified, except where revisions are required for consistency with other submission points.¹⁰⁷⁶
1562. Beef + Lamb and DINZ consider the method is not consistent with the requirements of the NPSFM, and that it “excludes some things which are necessary and makes connections between different aspects that are not consistent with the wording of the NPSFM.”¹⁰⁷⁷ Their submission seeks that the method is deleted and replaced with a policy which links back to achieving Te Mana o te Wai and the long-term visions for each FMU, but does not include specific policy wording. Beef + Lamb and DINZ states that the policy should include a reference to “maintaining resilience and flexibility of land use to provide for ongoing social and economic wellbeing within the identified limits.” In regard to the notified wording of LF-FW-M6, the submitter states that clause (2) should link environmental outcomes to values, and that in clause (3), after environmental outcomes have been identified, attributes, baseline states and target attribute states must be identified.¹⁰⁷⁸

¹⁰⁷⁶ FPI044.020 DOC

¹⁰⁷⁷ FPI025.030 Beef + Lamb and DINZ

¹⁰⁷⁸ FPI025.030 Beef + Lamb and DINZ

1563. McArthur Ridge seeks the addition of a new clause to address the obligations of Te Mana o te Wai, which include the economic use of water and providing for people’s wellbeing. It seeks the following wording:¹⁰⁷⁹

3A Enable innovative, efficient and effective uses of water in a manner consistent with the principles and hierarchy of obligations in Te Mana o te Wai.

1564. DCC and Kāi Tahu ki Otago seek amendments to clause (3) for clarity. Kāi Tahu ki Otago seeks to delete the word ‘either’ which precedes “their water quality or quantity.”¹⁰⁸⁰ DCC states that explicit reference to over-allocation in terms of water quality or quantity, is confusing as ‘over-allocation’ is defined in the pORPS and already includes both freshwater quality and quantity. DCC seeks the following amendment:¹⁰⁸¹

(3) identify water bodies that are over-allocated ~~in terms of either their water quality or quantity.~~

1565. Kāi Tahu ki Otago states that the method is generally appropriate to achieve the objectives of the pORPS, give effect to the NPSFM 2020 and Te Mana o Te Wai. However, the submitter seeks several amendments throughout the provision to link environmental flow and level regimes to freshwater visions and recognise the hydrological connections between water bodies and wetlands. Additionally, Kāi Tahu ki Otago requests a new clause to ensure Kāi Tahu cultural and spiritual concerns regarding the mixing of water between different catchments are considered and addressed in the development of the regional plan. The amendments the submitter seeks are as follows:¹⁰⁸²

(4) include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai, support achievement of the vision for the Freshwater Management Unit set out in the LF-VM objectives and provide for:

(a) the natural behaviours of the water body including a base flow or level that provides for variability,

...

(d) the hydrological connection with other water bodies, wetlands, estuaries and coastal margins,

...

(5) include limits on resource use that support achievement of the vision for the Freshwater Management Unit set out in the LF-VM objectives:

(a) differentiate between types of uses, including drinking water, and social, cultural and economic uses, in order to provide long-term certainty ~~in relation to~~ about the availability of water for those uses ~~of available water,~~

¹⁰⁷⁹ FPI041.009 McArthur Ridge

¹⁰⁸⁰ FPI030.034 Kāi Tahu ki Otago

¹⁰⁸¹ FPI001.028 DCC

¹⁰⁸² FPI030.034 Kāi Tahu ki Otago

- (b) for water bodies that have been identified as over – allocated, provide methods and timeframes for phasing out that over-allocation within the timeframes required to achieve the vision for the Freshwater Management Unit set out in the LF-VM objectives,

...

- (7a) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments, and

1566. Wise Response seeks several changes to clause (4) in relation to the setting of environmental flows and levels, with their requested amendments set out below.¹⁰⁸³

- (4) include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai by the specified timeframes and provide for:

- (a) a variable presumptive flow regime above a minimum flow or level for each water body ~~the behaviours of the water body, including a base flow or level that provides for variability,~~

...

- (c) the needs of all indigenous fauna, including taoka species, and aquatic species associated with the water body,
- (d) the essential need for hydrological connection with other water bodies, estuaries and coastal margins for sustainable resource management,

1567. Several submitters seek the addition of new matters to clause (4) that environmental flow and level regimes must provide for. Fish and Game seeks the addition of a new matter for clause (4) to specifically protect and enhance access to, and recreational use of waterbodies, in recognition of this being a part of human amenity and well-being. It proposes the following wording:¹⁰⁸⁴

- (g) human amenity and well-being through protecting and enhancing access to, and recreational use, of water bodies, and

1568. NZSki and Realnz seek a similar addition to Fish and Game, but seek that the clause specifically reference that the use of water is to ‘support outdoor recreation activities’.¹⁰⁸⁵ Manawa Energy also seeks an addition to clause (4), being the generation of hydroelectricity. Manawa Energy considers that the recognition of the role of water should be extended to specifically refer to water utilised for the provision of lifeline utilities.¹⁰⁸⁶

1569. Horticulture NZ seeks that flows and levels provide for ‘abstraction and discharges to support domestic food security’. Its submission includes a specific reference to the provision of rootstock survival water and frost protection water, which Horticulture NZ considers is a

¹⁰⁸³ FPI035.017 Wise Response

¹⁰⁸⁴ FPI037.063 Fish and Game

¹⁰⁸⁵ FPI038.014 NZSki, FPI039.016 Realnz

¹⁰⁸⁶ FPI022.009 Manawa Energy

mechanism provided in most regional plans to ensure continuity of food production, supply and security.¹⁰⁸⁷

1570. The Minister for the Environment states that the separation between clause (4), which requires flows and level regimes, and clause (5), which requires limits to be set, places the phasing out of over-allocation in the limits section. Therefore, the submitter seeks to amend LF-FW-M6 to clarify that environmental flows and levels can be used to phase out over-allocation together and as part of limits.¹⁰⁸⁸
1571. DCC seeks to amend sub-clause (5)(a) for clarity and to reflect the fact that setting limits on resource use solely for drinking water (as defined in the RPS) separate from social and economic uses will be difficult to achieve considering reticulated drinking water supplies are typically used for a wide range of purposes aside from human consumption. Therefore, DCC seeks to replace 'drinking water' with 'community drinking water supply.' In doing so, it also seeks amendments to clause (7) and (8) for consistency with other amendments.¹⁰⁸⁹
1572. For the same reasons an amendment is requested to clause (4), Manawa Energy also seeks that water for renewable electricity generation be included alongside drinking water in clause (5)(a), and some amendments to clause (c) to enable future development where the effects are managed in accordance with the effects management hierarchy.¹⁰⁹⁰ In a similar vein, Horticulture NZ also seeks changes to clause (a), such that it references human health needs, such as drinking water and food security.¹⁰⁹¹
1573. Wise Response seeks that clause (5)(d) is amended to require that adverse effects on waterbodies are avoided or minimised, rather than managed.¹⁰⁹²
1574. Fish and Game seek the addition of a new matter for clause (5) to require that activities operate within limits that support the health, well-being and resilience of water bodies. It proposes the following wording:¹⁰⁹³
- (e) will enable activities to support the health, well-being and resilience of water bodies when operating within limits, and
1575. McArthur Ridge proposes some additional detail in clause (5)(b), giving a coherent basis for resolving over-allocation. The clauses sought set out the strategic direction for the criteria that will be incorporated into the regional plan, in accordance with clause 3.28 of the NPSFM. It proposes the following wording:¹⁰⁹⁴
- (b) for water bodies that have been identified as over-allocated, provide methods and timeframes for phasing out that over-allocation that optimise reliability of primary allocation, with priority given to water uses that generally:

¹⁰⁸⁷ FPI047.025 Horticulture NZ

¹⁰⁸⁸ FPI012.007 Minister for the Environment

¹⁰⁸⁹ FPI001.031, FPI001.033, FPI001.034 DCC

¹⁰⁹⁰ FPI022.009 Manawa Energy

¹⁰⁹¹ FPI047.025 Horticulture NZ

¹⁰⁹² FPI035.017 Wise Response

¹⁰⁹³ FPI037.063 Fish and Game

¹⁰⁹⁴ FPI041.010 McArthur Ridge

- (i) have a small environmental footprint in terms of greenhouse gas emissions, nutrient loss, sediment loss and microbial contaminant loss;
- (ii) use less water per hectare than other uses;
- (iii) provide greater economic return and associated employment per volume of water used;
- (iv) are able to use less water at times that coincide with seasonal low flows,

1576. Also in relation to clause (5), COWA seeks that the method supports the establishment of specific provisions for the take and use of water for viticulture activities. These specific provisions have been discussed in detail in section 8.5.3. COWA also seeks that the method provide a mechanism for the consideration of Freshwater Farm Plans using Sustainable Winegrowing NZ data.¹⁰⁹⁵
1577. John Highton seeks to amend clause (6) to include a provision that requires planning to be undertaken on forms of water storage and how this will interact with Te Mana o Te Wai, but has not provided specific wording for this amendment.¹⁰⁹⁶
1578. OWRUG and Federated Farms seek to include reference to on-stream or in-stream storage in clause (6).¹⁰⁹⁷ DCC seeks to include a definition of the term “off-stream storage of surface water” but does not suggest specific wording.¹⁰⁹⁸ Horticulture NZ seeks to delete the term ‘off-stream’, so that clause (6) provides for storage more generally.¹⁰⁹⁹
1579. Meridian seeks to amend clause (6) so that storage is provided where it will give effect to the objectives and policies of the RPS. It considers that clauses (a) and (c) are not needed as they are part of (b), with the requested amendment incorporating clause (b) into (6). Meridian also notes that there is no policy in the pORPS that provides for off-stream storage of surface water, and that a policy addressing this matter be provided, as sought elsewhere.¹¹⁰⁰
1580. Wise Response seeks to include reference to LF-FW-P10 in clause (7).¹¹⁰¹
1581. In clause (7), Rayonier and the Otago Forestry Companies seek that the NESPF is referenced alongside the NESF.¹¹⁰² The Otago Forestry Companies also seek the addition of some new wording after clause (8) to recognise that the NESPF provisions must be applied by regional councils, unless it is determined that a more stringent rule is necessary to achieve a freshwater objective under the NPSFM.¹¹⁰³ It is not clear from the relief sought whether this is intended to be included as a new clause, or a note to the method.

¹⁰⁹⁵ FPI009.009 COWA

¹⁰⁹⁶ FPI007.017 John Highton

¹⁰⁹⁷ FPI043.069 OWRUG, FPI026.033 Federated Farmers

¹⁰⁹⁸ FPI001.032 DCC

¹⁰⁹⁹ FPI047.025 Horticulture NZ

¹¹⁰⁰ FPI016.017 Meridian

¹¹⁰¹ FPI035.017 Wise Response

¹¹⁰² FPI014.003 Rayonier, FPI036.003 Otago Forestry Companies

¹¹⁰³ FPI036.003 Otago Forestry Companies

1582. Wise Response seeks the addition of a new clause to increase emphasis on shifting land use practice to low carbon practice, and more resilient enterprise aimed at promoting the fastest possible emission reductions. It includes the following wording:¹¹⁰⁴

(9) actively promote low impact regenerative landuse practice that maximises carbon sequestration, maximises water harvest in soils, aquifers and hence baseflow to rivers, minimises the need for supplementary nutrient and promotes catchment level planning to maximise community resilience.

1583. The Fuel Companies seek to include a provision for the control of contaminants at source which the submitters consider is an effective and efficient means of minimising the potential for generation of contaminants. The submitters seek to include the following wording, but it is not clear where in the method this wording will fit:¹¹⁰⁵

Promote awareness and actions to reduce contaminant discharges through source control

1584. Silver Fern Farms seeks that consequential amendments are made to the references to other LF-FW provisions in clauses (6)(b), (7) and (8), in accordance with other relief sought by the submitter.¹¹⁰⁶

1585. Contact seeks consequential amendments to reflect their requested changes elsewhere in the LF-FW chapter. It also seeks that the method includes a specific reference to clause 3.31 of the NPSFM, although it is not clear where this reference would be included.¹¹⁰⁷

8.5.11.3. Links with non-FPI provisions

1586. Submitters on the methods in the non-FPI part of the pORPS have questioned whether it is lawful for the methods to contain timeframes by which they must be implemented, given that the funding of those processes is determined through long term plan and annual plan processes under the Local Government Act 2002. Legal advice is that it is lawful.¹¹⁰⁸ I address this matter from a planning perspective in my non-FPI *Reply report 1: Introduction and general themes* where I conclude that, generally, the timeframes for regional plans are in line with ORC's Long-term Plan 2021-31 and are therefore appropriate, and timeframes sought by submitters or where there is other justification for needing a timeframe are appropriate (for example, undertaking natural hazard risk assessments in accordance with APP6). However, I have not found any particular justification for the general timeframes associated with district planning activities and therefore have recommended their removal.

8.5.11.4. Analysis

1587. The chapeau of this method requires ORC to notify its LWRP by 31 December 2023, which was the timeframe in place when the FPI was notified. However, the Minister for the Environment has since granted an extension for the notification of the LWRP until 30 June

¹¹⁰⁴ FPI035.017 Wise Response

¹¹⁰⁵ FPI034.004 The Fuel Companies

¹¹⁰⁶ FPI020.020 Silver Fern Farms

¹¹⁰⁷ FPI027.030 Contact

¹¹⁰⁸ ORC closing legal submissions on the non-FPI part of the pORPS, 30 May 2023, para [231]-[234]

2024. No submitter has sought to amend the timeframe in this provision. However, I consider for practical reasons it is appropriate to update the date to reflect the new notification date approved by the Minister and that such an amendment would be of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.

1588. In section 8.5.6 of this report, I have recommended including a new policy LF-FW-P7A regarding allocation and use of water. As a consequential amendment, I also recommended including a new clause (5A) in LF-FW-M6 to implement the policy. I have also recommended deleting LF-FW-M6(6) to remove duplication between this and new clause (5A).
1589. I agree with Beef + Lamb and DINZ that there are some discrepancies between the requirements of the NPSFM and LF-FW-M6. The steps of the NOF are set out in detail in the NPSFM and it is inefficient to repeat them in the pORPS. It is also inefficient (and potentially misleading) for some steps to be identified but not others. For that reason, I recommend accepting in part the submission by Beef + Lamb and DIN, deleting clauses (1) to (5) and replacing them with a new clause (1A) as follows:
- (1A) implement the required steps in the NOF process in accordance with the NPSFM
1590. McArthur Ridge seeks a new sub-clause 3A to enable innovative, efficient and effective uses of water. I consider this is addressed by my recommended new policy LF-FW-P7A and the consequential amendment I recommend to LF-FW-M6. I recommend accepting this submission point in part.
1591. As I am recommending deleting clauses (1), (2), (4), (5) and (6), I have not addressed the submission points seeking amendments to those clauses any further.¹¹⁰⁹ Clause (3) is not a requirement of the NPSFM and therefore I consider it should remain.
1592. I agree with DCC that over-allocation is a defined term and that everything after that term in clause (3) should be deleted to avoid confusion. I recommend accepting this submission point and accepting in part the submission point by Kāi Tahu ki Otago seeking to delete 'either' from the clause.
1593. I agree with the Minister for the Environment that flow and level regimes and limits on resource use may be methods used to address over-allocation. I recommend including reference to methods (including through environmental flows and levels, and limits) and timeframes for addressing over-allocation in clause (3). I recommend accepting this submission point in part.
1594. In relation to the request by McArthur Ridge for changes that set priorities within primary, I consider that the amendments seek to, in part, dictate how the allocation of water should occur in detail which is better addressed in the development of the Regional Plan. I do not recommend accepting this submission point.
1595. In section 8.5.3 of this report I have considered submissions seeking new provisions for viticulture, and in particular to establish an allocation regime for this industry and

¹¹⁰⁹ FPI030.034 Kāi Tahu ki Otago, FPI001.028 DCC, FPI035.017 Wise Response, FPI037.063 Fish and Game, FPI038.014 NZSki, FPI039.016 Realnz, FPI022.009 Manawa Energy, FPI047.025 Horticulture NZ, FPI001.031 DCC, FPI001.032 DCC, FPI001.033 DCC, FPI001.034 DCC, FPI041.010 McArthur Ridge, FPI009.009 COWA, FPI007.017 John Highton, FPI043.069 OWRUG, FPI026.033 Federated Farmers, FPI016.017 Meridian

recommended not including those provisions. As a result, I also recommend rejecting the submission point by COWA seeking similar amendments to this method. Given the uncertainty currently about the content of Freshwater Farm Plans and how they will operate, I do not consider the other amendment sought by COWA to this method is appropriate either.

1596. Wise Response seeks to include reference to LF-FW-P10 in clause (7). I agree that this policy is relevant and should be included. I recommend accepting this part of the submission point.
1597. I agree with Rayonier Matariki and the Otago Forestry Companies that clause (7) should be amended to refer to the NESPF. The NESPF does include setback requirements from wetlands and consent is required where those are not complied with, as such it is appropriate to amend clause (7). In relation to clause (8), I do not consider the test for plans including additional stringency needs to be included as this is required to be considered in the development of the regional plan.
1598. I note that clause (8) as notified reflected the original title and content of LF-FW-P15. I have recommended splitting that policy into two separate policies and clarifying the types of discharges to which each policy applies. I therefore recommend consequential amendments to clause (8) to reflect these changes.
1599. Wise Response seeks to include additional direction for the management of particular activities in this method. I do not consider that the level of detail sought by this submitter is appropriate for the pORPS. Decisions about incentivising particular activities (or not) should be made in the development of the LWRP, once values have been identified and environmental outcomes developed. I do not recommend accepting these submission points.
1600. I have previously recommended including the promotion of source control as a method for reducing contaminants in discharges in policies LF-FW-P15 and new LF-FW-P16 as sought by The Fuel Companies. I do not consider any amendments are required to LF-FW-M6 because LF-FW-M6(8) already addresses policies LF-FW-P15 and LF-FW-P16 which contain the direction on promoting source control.
1601. I have recommended consequential amendments to this method as a result of amendments I have recommended elsewhere and therefore recommend accepting in part the submission points by Silver Fern Farms and Contact.

8.5.11.5. Recommendation

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than ~~31 December 2023~~ 30 June 2024¹¹¹⁰ and, after it is made operative, maintain that *regional plan* to:

¹¹¹⁰ Clause 16(2), Schedule 1, RMA

~~(1A) implement the required steps in the NOF process in accordance with the NPSFM,¹¹¹¹~~

~~(1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,¹¹¹²~~

~~(2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,¹¹¹³~~

~~(3) identify *water bodies* that are *over-allocated* in terms of either their *water quality or quantity*¹¹¹⁴ and the methods and timeframes for phasing out that *over-allocation* (including through environmental flows and levels and *limits*) within the timeframes required to achieve the relevant *freshwater vision*,¹¹¹⁵~~

~~(4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that give effect to *Te Mana o te Wai* and provide for:~~

~~(a) the behaviours of the *water body* including a base flow or level that provides for variability;~~

~~(b) healthy and resilient mahika kai;~~

~~(c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*;~~

~~(d) the hydrological connection with other *water bodies*, estuaries and coastal margins;~~

~~(e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and~~

~~(f) community *drinking water* supplies, and¹¹¹⁶~~

~~(5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A,¹¹¹⁷~~

~~(5) include *limits on resource use* that:~~

~~(a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available *water*;~~

~~(b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,~~

¹¹¹¹ FPI025.030 Beef + Lamb and DINZ

¹¹¹² FPI025.030 Beef + Lamb and DINZ

¹¹¹³ FPI025.030 Beef + Lamb and DINZ

¹¹¹⁴ FPI001.028 DCC

¹¹¹⁵ FPI012.007 Minister for the Environment

¹¹¹⁶ FPI025.030 Beef + Lamb and DINZ

¹¹¹⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including LF-FW-P7A

~~(c) control the *effects* of existing and potential future development on the ability of the *water body* to meet, or continue to meet, *environmental outcomes*,~~

~~(d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and¹¹¹⁸~~

~~(6) provide for the off-stream storage of surface *water* where storage will:~~

~~(a) support *Te Mana o te Wai*,~~

~~(b) give effect to the objectives and policies of the LF chapter of this RPS, and~~

~~(c) not prevent a surface *water body* from achieving identified *environmental outcomes* and remaining within any *limits on resource use*, and¹¹¹⁹~~

(7) identify and manage *natural wetlands* in accordance with LF-FW-P7, LF-FW-P8, ~~and LF-FW-P9 and LF-FW-P10~~¹¹²⁰ while recognising that some activities in and around *natural wetlands* are managed under the NESF and the NESPF,¹¹²¹ and

(8) manage the adverse *effects* of *stormwater* and ~~*wastewater discharges*~~ containing animal effluent, *sewage*, or *industrial and trade waste* in accordance with LF-FW-P15 and LF-FW-P15A.¹¹²²

8.5.12. LF-FW-M7 – District plans

8.5.12.1. Introduction

1602. As notified, LF-FW-M7 reads:

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026 to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
- (2) include provisions to avoid the adverse *effects* of activities on the significant and outstanding values of *outstanding water bodies*,
- (3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing the *subdivision*, use or development of *land*, and

¹¹¹⁸ FPI025.030 Beef + Lamb and DINZ

¹¹¹⁹ FPI025.030 Beef + Lamb and DINZ

¹¹²⁰ FPI035.017 Wise Response

¹¹²¹ FPI014.003 Rayonier Matariki

¹¹²² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI019.009 Fonterra, FPI017.011 Ravensdown, FPI030.033 Kāi Tahu ki Otago

- (4) reduce the adverse *effects of stormwater discharges* by managing the *subdivision, use and development of land* to:
- (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,
 - (b) minimise adverse *effects on fresh water and coastal water* as the ultimate receiving environments, and the capacity of the *stormwater network*,
 - (c) encourage on-site storage of rainfall to detain peak *stormwater flows*, and
 - (d) promote the use of permeable surfaces.

8.5.12.2. Submissions

1603. Kāi Tahu ki Otago generally supports the method, particularly the clear direction for district plans to include provisions to reduce the adverse effects of stormwater discharges from subdivision and land development.¹¹²³
1604. DOC seeks that the method be reviewed, and any changes made for consistency with submissions points made on the LF-FW objectives and policies.¹¹²⁴ DCC seeks to amend the timeframe to provide flexibility for issues outside territorial authority's control but does not seek specific amendments.¹¹²⁵
1605. Meridian, Beef + Lamb and DINZ seek to adopt the same or similar wording for clauses (1) and (2) of this provision as in Policy 8 of the NPSFM.¹¹²⁶ Meridian seeks the following specific amendments:
- (1) map outstanding water bodies and identify their ~~outstanding~~ and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
 - (2) include provisions to avoid the adverse effects of activities on the significant ~~and outstanding~~ values of outstanding water bodies,
1606. Wise Response considers the method requires more emphasis to recognise and provide for climate change and regenerative land use practices. A range of amendments are sought to provide for this, as set out below.¹¹²⁷
- (2) include provisions to avoid the adverse effects of activities on the significant and outstanding ~~values of outstanding~~ water bodies and associated values,
 - (3) require, wherever practicable, the adoption of ~~water~~ hydrologically and ecologically sensitive urban design techniques when managing the subdivision, use or development of land, and

¹¹²³ FPI030.035 Kāi Tahu ki Otago

¹¹²⁴ FPI044.021 DOC

¹¹²⁵ FPI001.035 DCC

¹¹²⁶ FPI016.019 Meridian, FPI025.031 Beef + Lamb and DINZ

¹¹²⁷ FPI035.018 Wise Response

(4) reduce the adverse effects of stormwater discharges by managing the subdivision, use and development of land to:

...

(c) promote encourage on-site storage of rainfall in soil, wetlands and reservoirs to detain peak stormwater flows, and

...

(5) actively promote low impact regenerative landuse practice that maximises carbon sequestration, maximises water harvest in soils, aquifers and hence baseflow to rivers, minimises the need for supplementary nutrient and promotes catchment level planning to maximise community resilience.

(6) give practical effect to all the relevant freshwater policies

1607. Horticulture NZ seeks that clause (2) is simplified, so that it requires the protection of outstanding values of outstanding water bodies, with no reference to avoiding adverse effects.¹¹²⁸

1608. NZSki, Realnz and Contact seek an amendment to clause (2), so that it provides a pathway to remedy or mitigate adverse effects on the values of waterbodies, rather than only requiring that they be avoided. NZSki and Realnz consider that it is not appropriate, practical or reasonable to avoid adverse effects.¹¹²⁹ Contact seeks that in relation to any outstanding water bodies within the Clutha Scheme, this clause only apply to the extent reasonably practicable, given the direction in the NPSFM to provide for the generation capacity, storage and operational flexibility of the scheme.¹¹³⁰ Similarly, Silver Fern Farms seeks to reword clause (2), so that it protects values from adverse effects of inappropriate activities, as it considers the avoidance of all adverse effects goes beyond the requirement in section 6(b) of the RMA.¹¹³¹

1609. Waka Kotahi seeks an exclusion from clause (2) for regionally and nationally significant infrastructure that has a functional or operational need to be located there. The submitter considers that the current wording is very restrictive for infrastructure providers, who often have to undertake activities within outstanding water bodies that may create unavoidable adverse effect on values. The submission includes the example of the new Beaumont Bridge which is being built in and over the Clutha River/Mata-au.¹¹³²

1610. Kāi Tahu ki Otago and DOC seek the addition of a new clause (2A):¹¹³³

(2A) include provisions to preserve the natural character of lakes and rivers and their margins from the adverse effects of activities on the surface of water and land use and development on their margins,

¹¹²⁸ FPI047.026 Horticulture NZ

¹¹²⁹ FPI038.015 NZSki, NZ039.017 Realnz

¹¹³⁰ FPI027.031 Contact

¹¹³¹ FPI020.021 Silver Fern Farms

¹¹³² FPI018.006 Waka Kotahi

¹¹³³ FPI027.031 Contact

1611. Contact seeks a similar new clause (2A) but with amendments so that natural character in respect of the lakes and rivers associated with the Clutha Hydro Scheme can only be preserved to the extent reasonably practicable.¹¹³⁴
1612. Kāi Tahu ki Otago and DOC seek a very similar additional clause to Contact.¹¹³⁵
- (x) include provisions to preserve the natural character of lakes and rivers and their margins from the adverse effects of land use and development and activities on the surface of water
1613. DCC submits that the use of water sensitive design techniques will not always be appropriate and seeks that their adoption is promoted, rather than required in clause (3). DCC also seeks to include a definition of “water sensitive water design” to assist with clarity but does not suggest one.¹¹³⁶
1614. Also in relation to clause (3), NZSki and Realnz consider that it is not appropriate or necessary to adopt water sensitive urban design techniques for land development outside the urban environment, and request an amendment to this effect.
1615. Fish and Game submits that resolving legacy issues associated with existing stormwater systems will require time and significant staged investment and proposes the following amendment to clause (3) and insertion of an additional clause:¹¹³⁷
- (3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing ~~the existing~~ subdivision, use or development of land in urban areas,
- (3a) require the adoption of water sensitive urban design techniques when managing new subdivision, use or development or land in urban areas, and
1616. Beef + Lamb and DINZ seeks to include provisions that address all adverse effects of urban development, including providing for drinking water, wastewater treatment, and effects of earthworks on waterbodies. The submitter also seeks that clause (3) is amended to ensure stormwater can be managed in a way that is consistent with achieving the long-term vision in all cases.¹¹³⁸ The submitters have not provided specific wording for these amendments.
1617. DCC also raises concerns about the adverse effects of requiring on-site storage of rainwater and seeks the following amendments to clause (4):¹¹³⁹
- (a) minimise the peak volume of stormwater load of contaminants carried by stormwater needing off-site disposal and the load of contaminants carried by it,
- ...

¹¹³⁴ FPI027.031 Contact

¹¹³⁵ FPI030.035 Kāi Tahu ki Otago, FPI044.021 DOC

¹¹³⁶ FPI001.035 DCC

¹¹³⁷ FPI037.020 Fish and Game

¹¹³⁸ FPI025.031 Beef + Lamb and DINZ

¹¹³⁹ FPI001.037 DCC

- (c) encourage on-site storage of rainfall to detain peak stormwater flows where appropriate, and
- (d) ~~promote the use of permeable surfaces~~ control the area of impermeable surfaces where necessary

1618. Ravensdown seeks the same amendment as DCC to clause (4)(c).¹¹⁴⁰

1619. The Fuel Companies submit that they have experienced instances of network operators “insisting stormwater discharges permitted under the regional plan be discharged to wastewater.” The submitters consider this is not effects based, does not promote sustainable management, and is contrary to the intention to reduce wet weather overflows from the wastewater system. The Fuel Companies seek amendments to direct network operators to accept discharges to networks, where they are permitted under the regional plan or compliant with a relevant discharge consent.¹¹⁴¹

8.5.12.3. Links with non-FPI provisions

1620. LF-FW-M7 is the sole method for district plans for implementing all the policies in this section, some of which are in the non-FPI part of the process. This method will need to incorporate recommendations to policies made through both processes. Where I consider there are consequential amendments required to implement recommendations on non-FPI provisions, I have discussed these below.

8.5.12.4. Analysis

1621. The issue raised by DCC regarding the imposition of timeframes for implementing methods has also been raised in the non-FPI process and I understand ORC intends to address this in closing submissions. At this stage, I do not recommend any amendments to the timeframe in LF-FW-M7 but consider that this method should reflect any amendments recommended to non-FPI provisions through closing.

1622. Meridian considers that “significant” values and “outstanding” values are the same and seeks amendments accordingly in LF-FW-P11, LF-FW-P12, and LF-FW-M6. The NPSFM contains little direction on the identification or management of outstanding water bodies. Policy 8 requires that:

The significant values of outstanding water bodies are protected.

1623. This is supported by a definition of the term “outstanding water body” (my emphasis added):

outstanding water body means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values

1624. A considerable amount of research and literature review occurred as part of the *Community Environment Fund – Outstanding water bodies project* jointly undertaken by Hawke’s Bay

¹¹⁴⁰ FPI017.012 Ravensdown

¹¹⁴¹ FPI034.005 The Fuel Companies

RC, Auckland Council, and the Ministry for the Environment. That project has informed the development of the provisions for outstanding water bodies in the pORPS.

1625. I do not agree with Meridian’s interpretation that “outstanding” and “significant” have the same meaning. This issue was canvassed through the reports prepared as part of the *Outstanding freshwater body project* which summarised the distinction as follows: (Harper, 2017, p. ix)

“An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessary [sic] be outstanding (based on legal advice and case law in context of s6 RMA). ...

Significant values of outstanding water bodies are different from outstanding values and it is more appropriate that these be determined by councils during the RMA Schedule 1 plan change process with community input.”

1626. The legal advice referred to above is included as Appendix 5 to the report and states:

“Are “outstanding values” as referred to the definition of outstanding water bodies the same as “significant values” referred to in Objectives A2(a) and Objective B4 in the NPSFM?

There is no case law on this specific question in the context of the NPSFM, but case law in relation to water conservation orders and outstanding natural features and landscapes indicates that the threshold for “outstanding” is high. In our opinion, it is open to regional councils to assess what is outstanding at a regional scale for the purposes of the NPSFM. Based on our review of case law, we consider that “outstanding values” is a higher threshold than “significant values”. We anticipate that an outstanding value will always be significant, but a significant value will not necessarily be outstanding.”

1627. I agree with the report above that there is a distinction between “significant” and “outstanding” values and therefore do not recommend accepting the submission point by Meridian. Beef + Lamb and DINZ seeks unspecified amendments to align the method with Policy 8 of the NPSFM, which I presume is not dissimilar to the amendments sought by Meridian. For the same reasons, I do not recommend accepting that submission point either.

1628. I consider that Wise Response has misunderstood the national direction regarding outstanding water bodies and do not consider the amendment sought to clause (2) would helpfully assist with interpretation or application. I do not recommend accepting this part of the submission point.

1629. In my opinion, water sensitive design is a commonly understood term and it would not be helpful for clarity or certainty to amend the term as sought by Wise Response. It is not clear to me what distinction the submitter anticipates by amending “encouraging” to “promoting” in clause (4)(c). I consider that on-site storage is likely to require site-specific assessment before it can be ascertained whether storage is appropriate or not and therefore prefer to retain the wording as notified.

1630. Wise Response seeks to include additional direction for the management of particular activities in this method. I do not consider that the level of detail sought by this submitter is

appropriate for the pORPS. Decisions about incentivising particular activities (or not) should be made within the context of each district plan. Finally, the submitter seeks to “give practical effect” to all the relevant freshwater policies. I do not consider that assists with interpretation as the legal requirement is for district plans to “give effect to” regional policy statements. I do not recommend accepting the submission point by Wise Response.

1631. LF-FW-M7(1) and (2) outline the district plan-specific methods for implementing LF-FW-P11 and LF-FW-P12. One of the recommendations I have made to LF-FW-P12 is to delete the direction on avoiding adverse effects and instead refer to protecting the significant and outstanding values of outstanding water bodies. I consider that a consequential amendment to LF-FW-M7(2) is required for consistency. I recommend replacing “avoid the adverse effects of activities on” with “protecting” as sought by Horticulture NZ. I consider this also addresses the concerns raised by NZSki, Realnz, Contact, Silver Fern Farms, and Waka Kotahi and recommend accepting those submission points in part.
1632. I agree with Contact, Kāi Tahu ki Otago, and DOC that a new clause is necessary to reflect that the natural character of the margins and surfaces of rivers and lakes are within the functions of territorial authorities to manage in their district plans. I do not consider the additional amendments sought by Contact are necessary because the policy on preserving natural character (LF-FW-P13), as I recommend it be amended already contains those types of qualifiers. I consider the wording proposed by Kāi Tahu ki Otago and DOC is clearer than that proposed by Contact. I recommend accepting these submission points in part.
1633. In LF-FW-P15(2)(f), I recommend accepting the submission points by Fonterra, Ravensdown, and Kāi Tahu ki Otago seeking to delete ‘urban’ from ‘water sensitive urban design’ as the techniques are not limited only to application in urban areas. I note that LF-FW-M7 also uses the term “water sensitive urban design” and as a consequential amendment from my recommendation on LF-FW-P15, I recommend also deleting ‘urban’ in LF-FW-M7.
1634. While I understand the concerns raised by DCC in relation to the suitability of using water sensitive design techniques, in my opinion it is appropriate for those techniques to be the starting point, with other techniques coming into play in situations where it is not practicable to implement water sensitive design techniques. I understand the term “water sensitive design” is generally well-understood and am not convinced a definition is necessary, particularly as the submitter has not suggested a definition. For these reasons, I do not recommend accepting the submission point by DCC on clause (3).
1635. I agree with NZSki and Realnz that it may not be appropriate to adopt water sensitive urban design in all land development situations but consider the current wording of the clause ensures that these circumstances can be considered through the words “where practicable”. I do not recommend accepting this submission point.
1636. In response to the submission by Fish and Game, I do not consider that water sensitive design techniques will be suitable in all situations. I prefer to retain the notified wording to retain flexibility for these techniques to be applied in a site-specific way and therefore do not recommend accepting this submission point.

1637. It is not clear what relief Beef + Lamb and DINZ seeks in relation to this method. Without further clarification, and preferably specific amendments, I do not recommend accepting this submission point.
1638. The amendments sought by DCC to clause (4)(a) are unclear. I am unsure whether it is the contaminants or the stormwater needing off-site disposal in the amendments sought. In relation to clause (4)(c), I agree with DCC and Ravensdown that there may be circumstances where on-site storage is not appropriate, however as the requirement is to ‘encourage’ on-site storage, rather than mandate it, I do not consider any further qualification regarding appropriateness is necessary. I do not recommend accepting these submission points. Finally, I consider the amendment sought by DCC to clause (4)(d) reduces the clarity of the clause – I am unsure when controls would be necessary or unnecessary. I prefer the notified wording.
1639. The operation of infrastructure networks is not managed under district plans. I do not consider it is efficient or effective to mandate operational requirements through district plans in the manner sought by The Fuel Companies and therefore do not recommend accepting this submission point.

8.5.12.5. Recommendation

1640. I recommend the following amendments:

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* ~~no later than 31 December 2026~~¹¹⁴² to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
- (2) include provisions to ~~avoid the adverse effects of activities on~~ protect¹¹⁴³ the significant and outstanding values of *outstanding water bodies*,
- ~~(2A)~~ include provisions to preserve the natural character of *lakes* and *rivers*, and their margins, from the adverse *effects* of *land* use and development and of activities on the surface of *water*,¹¹⁴⁴
- (3) require, wherever practicable, the adoption of water sensitive ~~urban~~¹¹⁴⁵ design techniques when managing the *subdivision*, use or development of *land*, and
- (4) reduce the adverse *effects* of *stormwater discharges* by managing the *subdivision*, use and development of *land* to:
 - (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,

¹¹⁴² FPI001.002 DCC

¹¹⁴³ FPI047.026 Horticulture NZ

¹¹⁴⁴ FPI030.035 Kāi Tahu ki Otago, FPI044.021 DOC

¹¹⁴⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI017.022 Ravensdown

- (b) minimise adverse *effects* on *fresh water* and *coastal water* as the ultimate receiving environments, and the capacity of the *stormwater* network,
- (c) encourage on-site storage of rainfall to detain peak *stormwater* flows, and
- (d) promote the use of permeable surfaces.

8.5.13. LF-FW-M8 – Action plans

8.5.13.1. Introduction

1641. As notified LF-FW-M8 reads:

LF-FW-M8 – Action plans

Otago Regional Council:

- (1) must prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2B of the NPSFM,
- (2) may prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2A of the NPSFM, and
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

8.5.13.2. Submissions

1642. QLDC and Kāi Tahu ki Otago support the provision as drafted and seek it be retained as notified.¹¹⁴⁶
1643. DairyNZ seeks that LF-FW-M8 be deleted, as the method duplicates the NPSFM 2020, so is not required to be repeated.¹¹⁴⁷
1644. Beef + Lamb and DINZ seeks unspecified amendments to provide more certainty about the process and how ORC will consult with community, for example about options and costs.¹¹⁴⁸
1645. Contact seeks amendments to the method to require that the consideration for clause 3.31 of the NPSFM should be part of developing the action plan(s).¹¹⁴⁹

8.5.13.3. Analysis

1646. I agree with DairyNZ that there is no requirement to repeat content from the NPSFM. In my view, the two main ‘vehicles’ for implementing the NPSFM are regional plans and action plans. Regional plans are addressed in LF-FW-M6 despite also covering material required by the NPSFM and I consider it would be inconsistent to take a different approach to action

¹¹⁴⁶ FPI046.014 QLDC, FPI030.036 Kāi Tahu ki Otago

¹¹⁴⁷ FPI024.031 DairyNZ

¹¹⁴⁸ FPI025.032 Beef + Lamb and DINZ

¹¹⁴⁹ FPI027.032 Contact

plans. They are a legitimate means for implementing the NOF and I consider it is helpful to highlight their role in the pORPS. I do not recommend accepting this submission point.

1647. As set out in LF-FW-M10, all of the methods in the LF-WAI, LF-VM, and LF-LS sections also assist with implementing the policies in the LF-FW section. Relevantly, this includes LF-VM-M3 which sets out how ORC will work with communities. Although the NPSFM does not contain specific direction on the process for developing action plans, clause 3.15(5) states that (my emphasis added):

(5) *Before preparing an action plan, or amending an action plan other than in a minor way, the regional council must consult with communities and tangata whenua.*

1648. That requirement is in addition to clause 3.7(1) which requires that at each step of the NOF process (which under clause 3.7(2)(f) includes the preparation of action plans), every regional council must engage with communities and tangata whenua. On that basis, and as the submitters have not specified what amendments they seek to LF-FW-M8, I do not recommend accepting the submission point by Beef + Lamb and DINZ.

1649. I do not consider the amendment sought by Contact is necessary. Action plans may be prepared for whole FMUs, parts of FMUs, or multiple FMUs, and set out a phased approach to achieving environmental outcomes.¹¹⁵⁰ Environmental outcomes must be set for each value identified in an FMU and attributes must be identified for those values.¹¹⁵¹ Baseline and target attribute states must then be set. There are specific exceptions to this requirement, including clause 3.31 (Large hydro-electric generation schemes). Following this thread, if an action plan is being prepared for an FMU where environmental outcomes are affected by the exceptions provided in the NPSFM (including for large hydro-electric generation schemes) then the action plan will necessarily need to consider that exception. I do not recommend accepting this submission point.

1650. When considering this method, I have noted that it does not include the other circumstances under which the NPSFM provides for action plans to be developed. For example:

- a. Clause 3.7(2)(f) requires setting limits as rules and preparing action plans (as appropriate) to achieve environmental outcomes,
- b. Clauses 3.12(3)(b) and 3.15(3) provide for the preparation of an action plan to support the achievement of environmental outcomes,
- c. Clause 3.20 provides for the preparation of an action plan as part of taking action to halt or reverse degradation when a regional council detects that an FMU or part of an FMU is degrading.

1651. The Fuel Companies made a general submission seeking that the FPI provisions give effect to the NPSFM. On this basis, I recommend including the following new clause in LF-FW-M8:

(2A) may prepare an action plan for any other purpose set out in the NPSFM, and¹¹⁵²

¹¹⁵⁰ Clause 3.15(1), NPSFM.

¹¹⁵¹ Clause 3.10(1), NPSFM.

¹¹⁵² FPI034.007 The Fuel Companies

8.5.13.4. Recommendation

1652. I recommend the following amendments:

LF-FW-M8 – Action plans

Otago Regional Council:

- (1) must prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2B of the NPSFM,
- (2) may prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2A of the NPSFM, ~~and~~
- (2A) may prepare an action plan for any other purpose set out in the NPSFM, and¹¹⁵³
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

8.5.14. New method

8.5.14.1. Submissions

1653. Fish and Game seeks the addition of a new method to provide a clear pathway for how the management of species interaction and populations is undertaken to implement the policies and achieve the objectives of the chapter. Fish and Game considers that without this direction, it will be difficult to co-ordinate integrated management, as there are a number of parties that have statutory functions. The submitter notes that current legislation, such as the Conservation Act 1987 provides additional support for this to be achieved. The following wording is proposed by Fish and Game:¹¹⁵⁴

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

(1) Local authorities:

(a) when making decisions involving the interactions between trout and salmon and indigenous species, 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-Mx(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 and restoration of the habitat of trout and salmon, including fish passage, will be consistent with the protection and restoration of the habitat of indigenous species, and

¹¹⁵³ FPI034.007 The Fuel Companies

¹¹⁵⁴ FPI037.021 Fish and Game

- (b) identify areas where the protection and restoration of the habitat of trout and salmon will not be consistent with the protection and restoration 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, and
 - (ii) determine short, medium and long term objectives, and
 - (iii) determine 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, where appropriate.

8.5.14.2. Analysis

1654. Fish and Game made a similar request in its submission on the non-FPI part of the pORPS. Legal advice confirmed that was the appropriate process for including the new method, therefore I have recommended the method sought be included in the non-FPI part of the pORPS.

8.5.14.3. Recommendation

1655. I do not recommend any amendments.

8.5.15. LF-FW-E3 – Explanation

8.5.15.1. Introduction

1656. As required by section 62(1)(d), LF-FW-E3 provides an explanation for the policies in this chapter. Parts of this provision are in the FPI and parts are not, as shown below. As notified, LF-FW-E3 reads:

LF-FW-E3 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM.

The outcomes sought for *natural wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *natural wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of *takata whenua* and the community that *fresh* and *coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger

stance, requiring improvement where *natural wetlands* have been *degraded* or lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of *wetlands* in Otago.

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse *effects*.

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character.

The impact of *discharges* of *stormwater* and *wastewater* on *freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water* quality issues in some *water bodies*. The policies set out a range of actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse *effects* on receiving environments.

8.5.15.2. Submissions

1657. Silver Fern Farms seeks that the explanation (along with other provisions) are amended to ensure the pORPS gives effect to and accords with, the higher-order NPSFM.¹¹⁵⁵ Contact also seeks amendments to reflect the NPSFM, specifically amendments to reflect the treatment of specified infrastructure within the NPSFM.¹¹⁵⁶
1658. Kāi Tahu ki Otago seeks to replace ‘takata whenua’ with ‘mana whenua’.¹¹⁵⁷ This is the same amendment sought by Te Rūnanga o Ngāi Tahu in relation to LF-WAI-PR1,¹¹⁵⁸ although the submitter has not specifically sought that amendment in LF-FW-E3.
1659. Kāi Tahu ki Otago also seeks the following amendment to better reflect the content of the relevant policies:¹¹⁵⁹

¹¹⁵⁵ FPI020.022 Silver Fern Farms

¹¹⁵⁶ FPI027.033 and .034 Contact Energy

¹¹⁵⁷ 00226.196 Kāi Tahu ki Otago

¹¹⁵⁸ FPI030.017 Kāi Tahu ki Otago, FPI032.016 Te Rūnanga o Ngāi Tahu

¹¹⁵⁹ FPI0030.037 Kāi Tahu ki Otago

... This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of wetlands in Otago, and the indigenous biodiversity values and hydrological values of wetland systems.

1660. DairyNZ seeks the following consequential amendments to give effect to their relief sought in relation to LF-FW-P7 and LF-FW-P10:¹¹⁶⁰

While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where natural wetlands have been degraded ~~or lost~~. This is because of the importance of restoration to Kāi Tahu ~~and in recognition of the historic loss of wetlands in Otago.~~

8.5.15.3. Analysis

1661. I consider the explanation in this section is consistent with the NPSFM and I do not agree with Contact that specific reference to 'specified infrastructure' is necessary. I do not recommend accepting the submission points of Silver Fern Farms or Contact.
1662. I agree with Kāi Tahu ki Otago that 'mana whenua' is more consistent with the terminology used elsewhere in the pORPS. I also agree with the submitter's relief sought regarding wetlands, noting that these values are identified in the relevant objective (LF-FW-O9) and policies (LF-FW-P9 and LF-FW-P10). I recommend accepting this submission point in part and making minor grammatical changes to the amendments sought to improve readability.
1663. I consider that amendment to include reference to indigenous biodiversity and hydrological values of wetland systems reflects the policy direction in this section. I recommend accepting this submission point in part and recommend making these amendments as well as a consequential amendment to the sentence regarding wetlands in order to improve the grammar and readability.
1664. I have not recommended accepting the submission points by DairyNZ in relation to LF-FW-P7 or LF-FW-P10 therefore I do not recommend accepting the consequential amendments sought here.

8.5.15.4. Recommendation

1665. I recommend the following amendments to the second paragraph of LF-FW-E3:

The outcomes sought for *natural wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *natural wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of *takata mana*¹¹⁶¹ *whenua* and the community that *fresh* and *coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where *natural wetlands* have been *degraded*

¹¹⁶⁰ FPI024.032, FPI024.033 DairyNZ

¹¹⁶¹ 00226.196 Kāi Tahu ki Otago

or lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of *wetlands* in Otago and the indigenous biodiversity and hydrological values of wetland systems.¹¹⁶²

1666. Due to my recommendation to merge LF-VM and LF-FW, I note that the second paragraph of LF-FW-E3 will be moved to become the third paragraph of LF-VM-E2 and the fifth paragraph of LF-FW-E3 will become the sixth paragraph of LF-VM-E2.

8.5.16. LF-FW-PR3 – Principal reasons

8.5.16.1. Introduction

1667. As required by section 62(1)(f), LF-FW-PR3 provides the principal reasons for adopting the objectives, policies, and methods of implementation set out in this chapter. As notified, LF-FW-PR3 reads:

LF-FW-PR3 – Principal reasons

Otago's *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. A growing population combined with increased *land* use intensification has heightened demand for *water*, and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago's historical mining privileges, coupled with contemporary *land* uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects.

This section of the LF chapter contains more specific direction on managing *fresh water* to give effect to *Te Mana o te Wai* and contributes to achieving the long-term *freshwater* visions for each *FMU* and rohe. It also reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council's *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes*, *attribute states*, target *attribute states* and limits.

8.5.16.2. Submissions

1668. Kāi Tahu ki Otago submits that the reference to giving effect to *Te Mana o te Wai* and achieving *freshwater* visions is confusing without further explanation. The submitter seeks the following amendments to address this and to recognise that both urban and rural land uses contribute to the degradation of *water bodies*:¹¹⁶³

The legacy of Otago's historical mining privileges, coupled with contemporary urban and rural land uses, contribute to ongoing *water* quality and quantity issues in ~~some~~ *water bodies*, with significant cultural effects.

¹¹⁶² 00226.196 Kāi Tahu ki Otago

¹¹⁶³ FPI030.038 Kāi Tahu ki Otago

This section of the LF chapter ~~contains more specific direction on managing fresh water to give effect to Te Mana o te Wai and contributes to achieving the long-term freshwater visions for each FMU and rohe. It also reflects key direction in the NPSFM for managing the health and well-being of fresh water.~~

1669. Contact and Meridian both seek amendments to reflect the importance of renewable energy generation.¹¹⁶⁴ Contact specifically seeks recognition of the importance of the Clutha Hydro Scheme in addition to this and provides an example of how this could be included as an additional paragraph:¹¹⁶⁵

Otago's water bodies make a significant and important contribution to New Zealand's renewable electricity generation, including through the nationally significant Clutha Hydro Scheme. In order to protect this contribution, it is essential that the provisions recognise, provide for and protect this essential infrastructure, which forms a core part of climate change mitigation.

1670. Meridian seeks a specific amendment to the second paragraph to ensure that the direction in the NPSREG is given effect to. This amendment is as follows:¹¹⁶⁶

... It also reflects key direction in the NPSFM for managing the health and well-being of fresh water, including wetlands and rivers in particular. At the same time, this section of the LF chapter recognises and provides for the national significance of renewable electricity generation activities, and matters of national importance under section 6 of the RMA 1991 ...

1671. COWA seeks an amendment to highlight the importance and value of freshwater to people and communities:¹¹⁶⁷

Otago's water bodies are significant features of the region and play an important role in Kāi Tahu beliefs and traditions and enable people and communities to provide for their social, economic, and cultural wellbeing.

8.5.16.3. Analysis

1672. I consider that the amendments sought by Kāi Tahu ki Otago improve the clarity and accuracy of [LF-FW-PR3](#) and recommend accepting this submission point.
1673. I consider that the amendments sought by Contact and Meridian are not necessary and do not reflect the content of the provisions in this chapter. Renewable electricity generation is addressed in the EIT-EN section and the explanation and principal reasons set out the context for these activities. I do not recommend accepting these amendments.
1674. I consider the amendment sought by COWA is correct and a key reason the provisions in this chapter are so important to communities. I recommend accepting this submission point in part. Rather than the wording sought by COWA, I consider it would improve readability for

¹¹⁶⁴ FPI027.035 Contact, FPI016.020 Meridian

¹¹⁶⁵ FPI027.035 Contact

¹¹⁶⁶ FPI016.020 Meridian

¹¹⁶⁷ FPI009.010 COWA

this addition to be a separate sentence and for “support” better recognises the relationship between water and communities, rather than “enable.”

8.5.16.4. Recommendation

1675. I recommend the following amendments:

LF-FW-PR3 – Principal reasons

Otago’s *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. They support people and communities to provide for their social, economic, and cultural well-being.¹¹⁶⁸ A growing population combined with increased *land* use intensification has heightened demand for *water*, and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago’s historical mining privileges, coupled with contemporary urban and rural¹¹⁶⁹ *land* uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects.

~~This section of the LF chapter contains more specific direction on managing *fresh water* to give effect to *Te Mana o te Wai* and contributes to achieving the long term *freshwater* visions for each *FMU* and *rohe*. It also~~¹¹⁷⁰ reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council’s *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes*, *attribute states*, target *attribute states* and limits.

8.5.17. LF-FW-AER4 – LF-FW-AER11

8.5.17.1. Introduction

1676. As notified, LF-FW-AER4 to LF-FW-AER11 read:

LF-FW-AER4 *Fresh water* is allocated within limits that contribute to achieving specified *environmental outcomes* for *water bodies* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF–VM section of this chapter.

LF-FW-AER5 *Specified rivers* and *lakes* are suitable for primary contact within the timeframes set out in LF-FW-P7.

LF-FW-AER6 *Degraded water* quality is improved so that it meets specified *environmental outcomes* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF–VM section of this chapter.

¹¹⁶⁸ FPI009.010 COWA

¹¹⁶⁹ FPI030.038 Kāi Tahu ki Otago

¹¹⁷⁰ FPI030.038 Kāi Tahu ki Otago

LF-FW-AER7	<i>Water</i> in Otago’s aquifers is suitable for human consumption, unless that <i>water</i> is naturally unsuitable for consumption.
LF-FW-AER8	Where <i>water</i> is not <i>degraded</i> , there is no reduction in <i>water</i> quality.
LF-FW-AER9	The frequency of <i>wastewater</i> overflows is reduced.
LF-FW-AER10	The quality of <i>stormwater discharges</i> from existing <i>urban areas</i> is improved.
LF-FW-AER11	There is no reduction in the extent or quality of Otago’s <i>natural wetlands</i> .

1677. There were few submissions received therefore the AERs have been evaluated together in this section of the report.

8.5.17.2. Submissions

1678. Four submitters cumulatively support all of the AERs.¹¹⁷¹

1679. COWA seeks unspecified amendments to the LF-FW-AERs to reflect any additional provisions or changes made as a result of their submission.¹¹⁷²

1680. Wise Response considers it is important to ensure water allocation limits are consistent with all RPS and national directives and seeks to amend the LF-FW-AER4 as follows:¹¹⁷³

Fresh water is allocated within limits that contribute to achieving specified environmental outcomes for water bodies within timeframes set out in regional plans that are no less stringent than the timeframes in the LF-VM section of this chapter and meet all RPS and National policies and standards.

1681. Horticulture NZ, Silver Fern Farms and Federated Farmers seek to delete LF-FW-AER7. Horticulture NZ considers it is unachievable and unnecessary for all water in aquifers to be suitable for human consumption, while Federated Farmers considers it is not always appropriate or cost-feasible and Silver Fern Farms considers that it is unclear what the opportunity costs are from restoring aquifer quality for the sake of it, rather than to resolve a pressing resource management issue.¹¹⁷⁴

1682. Silver Fern Farms requests amendments to LF-FW-AER8 to provide more detail on water quality reductions, with the following wording sought:¹¹⁷⁵

Where water is not degraded, there is no reduction (as a result of consented activities) in water quality below any specified environmental outcomes or limits relevant to the waterbody.

¹¹⁷¹ FPI046.016, 017, 018, 019,020, 021, 022 QDLC, FPI030.039 Kāi Tahu ki Otago, FPI020.025, 026 Silver Fern Farms, FPI033.005 Fulton Hogan

¹¹⁷² FPI009.011 COWA

¹¹⁷³ FPI035.020 Wise Response

¹¹⁷⁴ FPI047.027 Horticulture NZ, FPI026.035 Federated Farmers, FPI020.023 Silver Fern Farms

¹¹⁷⁵ FPI020.024 Silver Fern Farms

1683. Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago seek an amendment to LF-FW-AER9 to reflect earlier submission points on the phasing out of direct discharges of wastewater to water. The submitters seek the following amendments:¹¹⁷⁶

~~The Direct discharges of wastewater to water are phased out and~~ frequency of wastewater overflows is reduced.

1684. Ngāi Tahu ki Murihiku seek a similar, but more detailed change to LF-FW-AER9 to better reflect the Te Mata-au and Te Ākau Tai Toka visions, and be more consistent with mātauraka and Ngāi Tahu ki Murihiku objectives. Ngāi Tahu ki Murihiku seeks the following amendments:¹¹⁷⁷

~~The frequency of Direct discharges of wastewater overflows to water bodies is~~ reduced across the region and no longer occurring in some places to support visions for water bodies.

1685. Similar to their amendments to LF-FW-AER9, Ngāi Tahu ki Murihiku seeks additions to LF-FW-AER10 to reduce direct discharges of stormwater to water, with the following amendments proposed:¹¹⁷⁸

~~Direct discharges of stormwater to water bodies are reduced across the region,~~ and ~~the~~ quality of stormwater discharges from ~~existing~~ urban areas is improved.

1686. Silvern Fern Farms requests the deletion of LF-FW-AER11, as it considers that the phrase ‘no reduction’ implies no scope for adverse effects, which does not reflect the direction of the NPSFM or the consenting pathways available under the NESF for activities within or near wetlands.¹¹⁷⁹

1687. Several submitters seek changes to amend LF-FW-AER11:

- Wise Response seeks to replace ‘no reduction’ with ‘steady gain’.¹¹⁸⁰
- QLDC seek to change ‘quality’ to ‘condition’, while DairyNZ seeks to use the term ‘values’.¹¹⁸¹
- Federated Farmers seeks to include the phrase ‘from an activity’ at the end of the AER.¹¹⁸²

8.5.17.3. Analysis

1688. I do not consider any consequential amendments to the AERs are required as a result of COWA’s submission. I do not recommend accepting this submission point.

1689. I do not consider that the amendment sought by Wise Response to LF-FW-AER4 is necessary as it does not describe the result expected from implementing the provisions of this chapter.

¹¹⁷⁶ FPI032.026 Te Rūnanga o Ngāi Tahu, FPI030.040 Kāi Tahu ki Otago

¹¹⁷⁷ FPI042.012 Ngāi Tahu ki Murihiku

¹¹⁷⁸ FPI042.013 Ngāi Tahu ki Murihiku

¹¹⁷⁹ FPI020.027 Silver Fern Farms

¹¹⁸⁰ FPI035.021 Wise Response

¹¹⁸¹ FPI046.023 QLDC, FPI.024.034 DairyNZ

¹¹⁸² FPI026.034 Federated Farmers

I consider that the provisions of the LF chapter give effect to national direction and note that regional plans are required by the RMA to give effect to regional policy statements. I do not recommend accepting this submission point.

1690. I agree with Horticulture NZ, Silver Fern Farms and Federated Farmers that LF-FW-AER7 does not reflect the policy direction contained in the LF-FW section. I recommend accepting these submission points and deleting the provision.
1691. I am unsure why Silver Fern Farms considers that only consented activities would reduce water quality – in many cases, it is the cumulative effect of permitted activities that is as much of an issue as individual consented activities. I do not consider the additional wording is necessary as this is an AER, not a policy. I do not recommend accepting this submission point.
1692. I consider that the amendments sought by Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago to LF-FW-AER9 more accurately reflect the policy direction in the LF chapter and therefore recommend accepting in part these submission points. In line with my recommended new objective LF-FW-O1A and policy LF-FW-P16, I consider LF-FW-AER9 should refer to discharges being phased out “to the greatest extent practicable.” I consider this addresses the submission point of Ngāi Tahu ki Murihiku and recommend accepting that submission point in part.
1693. I do not agree with Ngāi Tahu ki Murihiku that the provisions in the LF-FW section require a reduction in stormwater discharges and therefore do not recommend accepting this submission point.
1694. I agree with Silver Fern Farms that LF-FW-AER11 does not reflect the content of the policies. I consider that “no reduction” should be replaced with “an improvement” to address this. I recommend accepting this submission point in part. I consider this also addresses the submission points of Wise Response and DairyNZ and recommend accepting them in part.
1695. I agree with QLDC that “condition” is more appropriate than “quality” and this reflects previous amendments I have made to similar provisions. I recommend accepting this submission point.
1696. I do not consider that AERs are intended to apply on an individual activity basis and do not recommend accepting the submission point by Federated Farmers.

8.5.17.4. Recommendation

1697. I recommend the following amendments:

~~**LF-FW-AER7** — Water in Otago’s aquifers is suitable for human consumption, unless that water is naturally unsuitable for consumption.¹¹⁸³~~

LF-FW-AER9 Direct discharges of wastewater to water are phased out to the greatest extent practicable and the ~~The~~¹¹⁸⁴ frequency of wastewater overflows is reduced.

¹¹⁸³ FPI047.027 Horticulture NZ, FPI026.035 Federated Farmers, FPI020.023 Silver Fern Farms

¹¹⁸⁴ FPI032.026 Te Rūnanga o Ngāi Tahu, FPI030.040 Kāi Tahu ki Otago

LF-FW-AER11 There is ~~no reduction~~ an improvement¹¹⁸⁵ in the extent or ~~quality~~ condition¹¹⁸⁶ of Otago's natural wetlands.

8.5.18. New AERs

8.5.18.1. Submissions

1698. QLDC submits that over-allocation and competition for water is a significant and unresolved issue for the region, but notes that there is no associated AER that the allocation of water will deliver good social and environmental outcomes for Otago's communities. The submitter seeks to include the following new AER:¹¹⁸⁷

LF-FW-AER12 Fresh water is allocated in a way that will deliver a balance of good social, cultural and environmental outcomes that ensure the wellbeing of local communities.

8.5.18.2. Analysis

1699. I do not consider the new AER sought by QLDC is necessary as LF-FW-AER4 already describes the anticipated environmental result from freshwater allocation. I note that environmental outcomes are required to be developed for all identified values in an FMU or part of a FMU and that these values may include matters such a drinking water supply, hydro-electric power generation, and commercial and industrial use. I do not recommend accepting this submission point.

8.5.18.3. Recommendation

1700. I do not recommend any amendments.

8.6. LF-LS – Land and soils

8.6.1. Introduction

1701. This section of the LF chapter is focused on the management of land and soils, including for soil quality and conservation purposes as well as in relation to the management of fresh water. The relevant provisions for this section are:

LF-LS-O11 – Land and soil
LF-LS-O12 – Use of land
LF-LS-P16 – Integrated management
LF-LS-P17 – Soil values
LF-LS-P18 – Soil erosion
LF-LS-P19 – Highly productive land
LF-LS-P20 – Land use change
LF-LS-P21 – Land use and freshwater

¹¹⁸⁵ FPI020.027 Silver Fern Farms

¹¹⁸⁶ FPI046.023 QLDC

¹¹⁸⁷ FPI046.015 QLDC

LF-LS-P22 – Public access
LF-LS-M11 – Regional plans
LF-LS-M12 – District plans
LF-LS-M13 – Management of beds and riparian margins
LF-LS-M14 – Other methods
LF-LS-E4 – Explanation
LF-LS-PR4 – Principal reasons
LF-LS-AER12
LF-LS-AER13
LF-LS-AER14

8.6.2. Links with non-FPI provisions

1702. As demonstrated above, the majority of the LF-LS provisions are in the non-FPI part of the pORPS. Importantly, this includes the objectives of the chapter which set out the outcomes the suite of policies and methods are designed to achieve. In my non-FPI *Reply report 1: Introduction and general themes*, I recommend expanding the scope of the LF-LS chapter and replacing the notified objectives with the following three objectives (shown ‘clean’ without tracked changes, for ease of reading):

LF-LS-O11 – Land and soil

Otago’s *land* and soil resources support healthy habitats for indigenous species and ecosystems.

LF-LS-O12 – Use, development, and protection of ~~land~~

The use, development, and protection of *land* and soil:

- (1) safeguards the life-supporting capacity of soil,
- (2) contributes to achieving *environmental outcomes* for *fresh water*, and
- (3) recognises the role of these resources in providing for the social, economic, and cultural well-being of Otago’s people and communities.

UFD-O4 – Development in *rural areas*

Development in Otago’s *rural areas* occurs in a way that:

- (1) provides for the ongoing use of *rural areas* for *primary production* and *rural industry*, and
- (2) does not compromise the long-term viability of *primary production* and rural communities.

1703. The expansion in scope means that this chapter now addresses the role of land and soil resources in supporting the habitats of indigenous species (LF-LS-O11), the role of these resources in providing for well-being (LF-LS-O12(3)), and development in rural areas (UFD-O4). The first matter is implemented primarily through a new policy I recommend to address the impacts of pest species on land and soil (LF-LS-P16A). The second and third matters are addressed through my amendments to LF-LS-P19 which manages highly productive land (and, as I recommend it be amended, land that is suitable for horticulture and viticulture

prior to mapping of highly productive land occurring) as well as by the inclusion of UFD-P7 and UFD-P8 which manage development in rural areas, including rural lifestyle development.

1704. Despite the expanded scope, I do not consider this affects the FPI provisions. The notified content in the objectives relevant for the FPI provisions remains – that is, the use, development, and protection of land contributes to achieving environmental outcomes for fresh water. However, I consider my non-FPI recommendations go some way to addressing the more general concerns of submitters on both parts that the pORPS as notified does not sufficiently address the value of primary production and particularly the food and fibre sector.

8.6.3. General

8.6.3.1. Submissions

1705. Fish & Game supports the provisions within the LF-LS section, subject to the comments on specified provisions.¹¹⁸⁸
1706. Ngāi Tahu ki Murihiku seeks to amend the provisions to better recognise the relationship of forestry with land and water management, including water quantity, erosion and competition with other land uses.¹¹⁸⁹ The submitter also seeks that references to primary production need to differentiate forestry activities, particularly in relation to highly productive land. The submitter has not sought any specific changes.
1707. Beef + Lamb and DINZ oppose the LF-LS chapter and consider that it should be redrafted in line with the operative NPSHPL.¹¹⁹⁰ They consider that the LF-LS section should focus on soil as a valuable resource in its own right and recognise that all farmed land is important to food and fibre production. They anticipate that ORC will want to revisit the wording of the LF-LS chapter, and refine the wording of some provisions in light of the requirements of the NPSHPL.

8.6.3.2. Analysis

1708. I acknowledge the support of Fish & Game and respond to Fish & Game's provision-specific comments later in the report.
1709. Ngāi Tahu ki Murihiku seeks greater recognition of the relationship of plantation forestry with land and water management. LF-LS-P21 directs that environmental outcomes will be achieved in part by managing land uses to reduce discharges of contaminants to water and land uses that have adverse effects on water flows and recharge. Given the matters captured by LF-LS-P21 are of particular relevance to plantation forestry, I consider the relationship highlighted by Ngāi Tahu ki Murihiku is provided for in this provision. I recommend accepting the submission point, but do not recommend any changes to provisions.

¹¹⁸⁸ FPI037.064 Fish & Game

¹¹⁸⁹ FPI042.014 Ngāi Tahu ki Murihiku

¹¹⁹⁰ FPI025.044 and FPI025.040 Beef + Lamb and DINZ

1710. In relation to the submission by Beef + Lamb and DINZ, I consider that the key provisions managing highly productive land¹¹⁹¹ are in the non-FPI part of the pORPS and not part of this process. For completeness, I consider that as drafted, and a result of my non-FPI recommendations set out in *Reply report 9: LF – Land and freshwater*, the LF-LS section gives effect to the NPSHPL.

8.6.3.3. Recommendation

1711. I do not recommend any changes to provisions based on the general submissions.

8.6.4. LF-LS-P18 – Soil erosion

8.6.4.1. Introduction

1712. As notified LF-LS-P18 reads:

LF–LS–P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (1) implementing effective management practices to retain topsoil in-situ and minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure,
- (2) maintaining vegetative cover on erosion-prone *land*, and
- (3) promoting activities that enhance soil retention.

8.6.4.2. Submissions

1713. Four submitters support LF-LS-P18 and seek that it be retained as notified.¹¹⁹² No submitters oppose LF-LS-P18 in its entirety.

1714. Oceana Gold seeks to amend the chapeau of the policy to include the phrase “to the extent practicable”.¹¹⁹³ The submitter considers that there is an element of practicability in implementing methods to minimise soil erosion, and that the policy should recognise this.

1715. Contact seeks that clauses (1) and (2) of the policy reflect that there may be practical limitations to their implementation, through the inclusion of “where practicable” in both clauses.¹¹⁹⁴

1716. Ravensdown seeks changes to clauses (1) and (2), such that clause (1) refers to “appropriate and effective management practices”, and clause (2) includes the phrase “to the extent practicable”.¹¹⁹⁵ The submitter notes that the changes sought are consistent with the recommendations in the section 42A report that was published prior to the re-notification of the FPI aspects of the pORPS.

¹¹⁹¹ LF-LS-O11, LF-LS-P19, UFD-O4, UFD-P7, UFD-P8, UFD-M2.

¹¹⁹² FPI043.075 OWRUG, FPI001.038 DCC, FPI030.041 Kāi Tahu ki Otago, FPI047.028 Horticulture NZ

¹¹⁹³ FPI031.013 Oceana Gold

¹¹⁹⁴ FPI027.036 Contact

¹¹⁹⁵ FPI017.013 Ravensdown

1717. DairyNZ seeks the removal of the term “effective” in clause (1) on the basis that it may be difficult to assess whether a management practice is effective or not.¹¹⁹⁶ The submitter also considers that new, innovative practices should be able to be tested.
1718. Federated Farmers acknowledges that retaining soil is a fundamental part of farm systems but consider that there is variability in farm systems depending on the size of the operation and the type of system, so the term “scale” in clause (1) might require more clarity.¹¹⁹⁷
1719. Silver Fern Farms seeks that clause (2) is amended to include reference to re-establishing, as well as maintaining, vegetative cover.¹¹⁹⁸ The submitter considers that this amendment will reflect that works on erosion-prone land may necessitate vegetation clearance that is subsequently required to be established.
1720. QLDC seeks that clause (2) be amended to include reference to enhancing, as well as maintaining, vegetative cover.¹¹⁹⁹ The submitter considers that the inclusion of enhancing will enable the improvement of vegetation cover where it is not sufficient.
1721. Wise Response seeks that clause (3) be amended to refer to soil structure alongside soil retention.¹²⁰⁰ The submitter considers that improving soil structure through increased organic matter will reduce erosion.

8.6.4.3. Analysis

1722. In relation to the practicability of implementing the requirements set out in [LF-LS-P18](#), several different approaches are proposed by submitters. I do not support Oceana Gold’s proposal to subject the full policy to a practicability test or Contact’s proposal to apply a similar practicability test to clause (1). I consider the notified wording provides flexibility for resource users to adopt practices based on the activity being undertaken. In my view, requiring these types of practices to be adopted is consistent with prioritising the health and well-being of water bodies when managing land resources.
1723. Regarding the amendment sought by Ravensdown to clause (1) to require practices to be “appropriate” as well as effective, I am unsure on what basis practices would be considered appropriate or inappropriate. I am reluctant to introduce uncertainty into the policy and I consider that, as explained above, the notified wording allows for a range of practices to be adopted. I agree with Ravensdown and Contact that maintaining vegetative cover as required by (2) will not always be possible or practicable but I am reluctant to introduce a “practicability” test. Instead, I consider that an alternative solution would be to reverse the order of clauses (1) and (2) so that maintaining vegetative cover is the first step (current clause (2)), and where that is not possible, effective management practices (current clause (1)) are required to be implemented.
1724. On this basis, I recommend:

¹¹⁹⁶ FPI024.035 DairyNZ

¹¹⁹⁷ FPI026.036 Federated Farmers

¹¹⁹⁸ FPI020.028 Silver Fern Farms

¹¹⁹⁹ FPI046.024 QLDC

¹²⁰⁰ FPI035.022 Wise Response

- a. Rejecting in part the Ravensdown submission point as it relates to clause 1, and accepting in part the Ravensdown submission point as it relates to clause (2);
 - b. Rejecting in part the Contact submission point as it relates to clause (1), and accepting in part the Contact submission point as it relates to clause (2); and
 - c. Rejecting the Oceana Gold submission point.
1725. At this stage, despite changing their order, I have retained the original numbering of the clauses so that it is easier to understand the submissions and my analysis of them.
1726. I consider that clause (1) of the policy describes what effective management practices are, in that they must retain topsoil in-situ and minimise the potential for soil to be discharged to waterbodies. Clause (1) of the policy does not preclude the use of new or innovative practices relating to soil loss management practices, in particular where they improve on current knowledge. I recommend rejecting the submission point of DairyNZ.
1727. In response to the concern of Federated Farmers, I consider that the term ‘scale’ in clause (1) is synonymous with the term ‘extent’, which is commonly used when describing land use and earthworks activities. In my experience, earthworks consents typically limit the area of disturbed ground, requiring work to proceed in stages. I consider that policy LF-LS-P18 is cast at a relatively high level, and that specific detail around the implementation of management practices is likely to be included through the regional plan, as described in LF-LS-M11 and including the implementation of freshwater farm plans in accordance with national direction, and through district plans as described in LF-LS-M12. I recommend rejecting the Federated Farmers submission point.
1728. In relation to the additional terms sought to be included in clause (2), I consider that the amendments I have recommended above will go some way to address the concerns of the submitters. Reversing the order of (1) and (2) and linking them more clearly acknowledges the issue identified by Silver Fern Farms, and will provide for the loss of vegetation during works when it is clearly not possible to maintain vegetative cover, on the basis that alternative practices are in place to reduce the risk of sediment loss to water.
1729. In relation to the amendment sought by QLDC to include reference to enhancement, I do not consider clause (2) prevents this occur. “Maintaining” vegetative cover does not impede the adoption of a more stringent approach. I recommend rejecting the Silver Fern Farms and QLDC submission points.
1730. As described in Wise Response’s submission, improving soil structure will enhance soil retention. For this reason, I consider explicit reference to soil structure in clause (3) is not necessary, as it is already captured by the notified wording, alongside other practices that will enhance soil retention. I recommend rejecting the Wise Response submission point.

8.6.4.4. Links with non-FPI provisions

1731. Policy LF-LS-P18 contributes to achieving the objectives of the LF-LS section, which are non-FPI provisions. I have recommended separating the two notified objectives into three separate objectives addressing soil resources (LF-LS-O11), highly productive land (LF-LS-O11A), and the impacts of land use on fresh water (LF-LS-O12). Minimising soil erosion is a

key course of action for achieving LF-LS-O11, LF-LS-O11A and LF-LS-O12. I consider my recommended amendments below to LF-LS-P18 do not change their effectiveness at achieving the objectives but improve efficiency by recognising the practical constraints on these activities.

8.6.4.5. Recommendation

1732. I recommend the following amendments:

LF-LS-P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (2) maintaining vegetative cover on erosion-prone *land*, ~~and~~
- (1) where vegetation removal is necessary or there is no vegetative cover,¹²⁰¹ implementing effective management practices to retain topsoil in-situ and minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure, and
- (3) promoting activities that enhance soil retention

8.6.5. LF-LS-P21 – Land use and fresh water

8.6.5.1. Introduction

1733. As notified LF-LS-P21 reads:

LF-LS-P21 – Land use and fresh water

Achieve the improvement or maintenance of *fresh water* quantity or quality to meet *environmental outcomes* set for *Freshwater Management Units* and/or rohe by:

- (1) reducing direct and indirect *discharges of contaminants* to *water* from the use and development of *land*, and
- (2) managing *land* uses that may have adverse *effects* on the flow of *water* in surface *water bodies* or the recharge of *groundwater*.

8.6.5.2. Submissions

1734. Four submitters support LF-LS-P21 and seek that it be retained as notified.¹²⁰² Beef + Lamb and DINZ seek that the policy be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter.¹²⁰³

1735. Silver Fern Farms seeks that the chapeau of the policy be rephrased so it begins “Improve or maintain fresh water quality...”¹²⁰⁴ Similarly, four other submitters seek to amend the policy

¹²⁰¹ FPI017.013 Ravensdown

¹²⁰² FPI045.020 Forest and Bird, FPI006.003 Wendy Gunn, FPI034.006 The Fuel Companies, FPI041.012 McArthur Ridge

¹²⁰³ FPI025.041 Beef + Lamb and DINZ

¹²⁰⁴ FPI020.019 and FPI020.029 Silver Fern Farms – duplicate submission points.

so it begins “The health and well-being of water bodies is maintained, or if degraded, improved...”¹²⁰⁵

1736. Kāi Tahu ki Otago and DOC seek that the chapeau reference ecosystem values alongside freshwater quantity and quality.¹²⁰⁶ This change is intended to ensure an integrated management approach is taken.

1737. QLDC seeks that the chapeau of the policy refer to water quantity and quality, rather than referring to quality or quantity, to better capture the freshwater conditions sought.¹²⁰⁷

1738. Wise Response seeks to amend the chapeau as follows:¹²⁰⁸

Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe and consistent with other regional and national policy by:

1739. Several submitters seek amendments to clause (1). Five submitters seek to include the term “managing the adverse effects of discharges” instead of, or alongside reducing discharges.¹²⁰⁹ Several of these submitters also seek to include the wording “to meet environmental outcomes” at the end of clause (1). These changes are on the basis that clause (1) overlooks other methods to control the effects of discharges, and it may be more appropriate to manage the adverse effects of discharges such that they are avoided or mitigated, rather than reducing the discharges themselves, and also overlooks situations where discharges cannot practicably be reduced.

1740. OWRUG and Horticulture NZ seek that clause (1) only requires the reduction of contaminant discharges where improvement is required, to ensure consistency with the chapeau of the policy to maintain or improve water quantity or quality.¹²¹⁰ In a similar vein, Oceana Gold seeks that the reductions are only required where practicable, on the basis that some discharges may not result in adverse effects, and therefore a reduction in the discharge is not necessary.¹²¹¹

1741. Wise Response seeks that clause (1) be changed from reducing discharges to enforcing discharge standards.¹²¹² The submitter also seeks that clause (2) be changed from managing adverse effects of land uses, to actively promoting their beneficial effects.¹²¹³ These changes are intended to make a clearer link between land use and water quality.

1742. DairyNZ seeks changes to simplify and improve the policy, including the following amendments:

a. Clarifying that discharges are to fresh water in clause (1);

¹²⁰⁵ FPI029.037 Contact, FPI024.036 DairyNZ, FPI017.014 Ravensdown, FPI021.006 Ballance

¹²⁰⁶ FPI030.042 Kāi Tahu ki Otago, FPI044.022 DOC

¹²⁰⁷ FPI046.025 QLDC

¹²⁰⁸ FPI035.023 Wise Response

¹²⁰⁹ FPI019.010 Fonterra, FPI020.019 Silver Fern Farms, FPI029.037 Contact, FPI017.014 Ravensdown, FPI021.006 Ballance

¹²¹⁰ FPI043.076 OWRUG, FPI047.029 Horticulture NZ

¹²¹¹ FPI031.014 Oceana Gold

¹²¹² FPI035.023 Wise Response

¹²¹³ FPI035.023 Wise Response

- b. Delete the word “may” in clause (2), limiting its application to managing land uses that *have* adverse effects rather than *may have*; and
 - c. Replace “flow” with “quantity” in clause (2).¹²¹⁴
1743. In relation to clause (2), Federated Farmers seeks that consideration is given to variable or intermittent water flow that is not the result of an activity or land use.¹²¹⁵ They cite the existence of naturally intermittent springs that form, disappear and reappear at different locations, so that landowners cannot control the flows from these springs, and any change in flow may not be as a result of a landowner’s actions.
1744. OWRUG seeks that consideration should be given to a provision encouraging the adoption of good practice measures, but does not provide specific wording.¹²¹⁶
1745. Three submitters seek that a new clause be added to the policy regarding the maintenance and enhancement of riparian margins.¹²¹⁷ They seek the following wording:
- (3) maintaining or, where degraded, enhancing the habitat and biodiversity values of riparian margins in order to reduce sedimentation of water bodies and support improved functioning of catchment process.
1746. This clause is intended to acknowledge that maintaining or enhancing habitat in riparian margins has the potential to assist with improving or maintaining the health and well-being of water bodies by managing the interface between land and water resources.
1747. John Highton seeks that the pORPS places particular emphasis on protection of water yielding capabilities in the upper reaches of river catchments, such as upland tussock grasslands and wetlands in upper catchments.¹²¹⁸
1748. DCC seeks that the policy be amended to restrict its application to a more specific set of land use activities, with a more realistic policy outcome threshold.¹²¹⁹ The submitter considers that clause (2) gives a very broad mandate to manage land uses that may have an adverse effect on the flow of water, and that on a strict literal interpretation, would create too much uncertainty around what urban land uses may be permissible under the RPS. DCC proposes the following wording:
- When considering appropriate areas to enable new urban growth or setting rules to manage land uses, consider how land uses may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater, and ensure that management approaches will achieve the *environmental outcomes* set for *Freshwater Management Units* and/or rohe.

¹²¹⁴ FPI024.036 DairyNZ

¹²¹⁵ FPI026.037 Federated Farmers

¹²¹⁶ FPI043.076 OWRUG

¹²¹⁷ FPI029.037 Contact, FPI017.014 Ravensdown, FPI044.022 DOC

¹²¹⁸ FPI007.018 John Highton

¹²¹⁹

00139.124 DCC

8.6.5.3. Analysis

1749. Given this policy seeks to manage the effects of land uses on freshwater, I consider it is best placed in the LF-LS chapter. I recommend rejecting the submission point by Beef + Lamb and DINZ.
1750. I agree with submitters that the wording of the chapeau could be simplified. I recommend adopting the amendment sought by Contact and others, as this wording, and the qualification for when improvement is required, is consistent with the wording of [LF-FW-P7](#) and gives effect to policy 5 of the NPSFM. I recommended rejecting the Silver Fern Farms submission, and accepting the submission of Contact, DairyNZ, Ravensdown and Ballance in full.
1751. Kāi Tahu ki Otago and DOC seek to include reference to ecosystem values in the chapeau of this policy in order to ensure an integrated approach is taken. I agree with the submitter's reasoning but am unsure what is meant by the term ecosystem values. I note that Policy 5 of the NPSFM requires the "health and well-being" of water bodies to be improved, where degraded, or maintained, with the relief sought by Contact using this terminology. I consider that adopting this wording in the chapeau will address the concerns of Kāi Tahu ki Otago and DOC in a way that is consistent with the NPSFM and that does not introduce uncertain terms to the policy. I recommend rejecting those submission points.
1752. Based on the changes I recommend to the chapeau, I consider the change sought by QLDC is no longer required as the reference to the health and well-being of water bodies captures both water quantity and quality, as sought. I recommend rejecting the QLDC submission point.
1753. I do not consider that the amendment sought by Wise Response to include reference to other regional and national policy is necessary. The Council has a range of obligations to meet under the RMA, including responding to the direction in other policy instruments in the manner set out in the RMA. I recommend rejecting this submission point.
1754. I agree with submitters that there may be circumstances where it is not necessary to reduce discharges of contaminants to water, and circumstances where management of discharges may be more appropriate than their reduction or avoidance. I recommend including "or otherwise managing" after "reducing". I consider it is clear that the outcome sought by reducing or managing these contaminants is to meet environment outcomes, as stated in the chapeau, such that this does not need to be repeated in clause (1). I recommend accepting in part the submission points by Fonterra, Silver Fern Farms, Contact, Ravensdown, Ballance, OWRUG and Horticulture NZ.
1755. I consider that this amendment addresses in part the submission of Oceana Gold. However, I do not agree with the submitter's proposal to only require reductions "where practicable." The NPSFM requires maintaining water quality and, where it is degraded, improvement. There is no practicability test. I recommend rejecting the Oceana Gold submission.
1756. I do not recommend accepting the submission point by Wise Response seeking to reference the enforcement of discharge standards. Not all contaminants may be subject to standards, and not all contaminant discharges may be sufficiently measurable to determine

compliance. The submitter has also sought to refocus clause (2) from managing land uses to actively promoting their beneficial effects. It is unclear how this promotion might occur, and what guidance there would be for activities that have adverse effects. I recommended rejecting the submission point.

1757. DairyNZ seeks several changes to simplify and improve the policy. I acknowledge that the reference to “water” includes coastal water which is inconsistent with the chapeau, which only relates to “water bodies” (defined as fresh water that is not located within the coastal marine area). I recommend accepting this part of the submission point.
1758. I do not agree with the relief sought by DairyNZ to delete “may” from clause (2) on the basis that it may not be certain if some land uses will have adverse effects on freshwater, and therefore a more cautious approach to managing those activities is required. I also do not agree with the amendment sought to replace “flows” with “quantity” in clause (2). I consider that the use of the term flows captures both the volume of water (quantity), and potential changes in flows (variation). I recommend rejecting these parts of the submission point.
1759. LF-LS-P21(2) does not prescribe how land use activities should be managed or how the effects of land uses on naturally variable waterbodies might be quantified. I consider that guidance on management of land uses affecting, or affected by the waterbodies described by Federated Farmers is best contained in the regional plan, or worked through on a case by case basis in freshwater farm plans or consent applications. I recommend rejecting this submission point.
1760. I agree with OWRUG that the adoption of good practice measures should be encouraged. I note that non-FPI policy LF-LS-P20 focuses on the promotion of land management practices that improve the sustainability and efficiency of water use, the health and quality of soil, or water quality. I recommend rejecting this submission point.
1761. I agree with Contact, Ravensdown and DOC that healthy riparian margins contribute to the wider health and well-being of freshwater bodies and that it is appropriate to recognise that in LF-LS-P21, particularly given the requirements set out in LF-LS-M13. However, I do not consider that it is necessary to specify that these actions are to reduce sedimentation and support improved functioning of catchment processes. There may be many reasons to maintain or enhance the habitat and biodiversity values of riparian margins and those reasons are largely irrelevant if the action is assisting with meeting environmental outcomes. I recommend accepting these submission points in part.
1762. I consider Mr Highton’s requested addition is captured by clause (2), which seeks to manage land uses that affect flows of water. This will be applicable in upper catchment areas where land use affects surface flows and groundwater recharge. I recommend rejecting the submission point.
1763. I disagree with DCC that clause (2) is uncertain, given the management of land uses that may adversely affect water flows is likely to require policies and rules direction in regional plans. In addition, I consider that the management of land uses is applicable to all activities, as urban and rural land uses alike can adversely affect surface water flows and groundwater recharge. I recommend rejecting this submission point.

8.6.5.4. Links with non-FPI provisions

1764. Policy LF-LS-P21 contributes to achieving the objectives of the LF-LS section, which are non-FPI provisions. I have outlined the amendments I have recommended to those objectives in section 8.6.2 of this report. In summary, the content relevant to the FPI provisions has not changed. Policy LF-LS-P21 is a key course of action for achieving LF-LS-O12, explicitly linking the management of land to the achievement of environmental outcomes in FMU and rohe. I consider my recommended amendments below to LF-LS-P21 do not change their effectiveness at achieving the objective but make general improvements to the clarity of the provision.

8.6.5.5. Recommendation

1765. I recommend the following amendments:

LF-LS-P21 – Land use and fresh water

~~Achieve the improvement or maintenance of fresh water quantity, or quality~~ The health and well-being of water bodies is maintained¹²²⁰ or, if degraded, improved¹²²¹ to meet environmental outcomes set for Freshwater Management Units and/or rohe by:

- (1) ~~reducing or otherwise managing the adverse effects of¹²²² direct and indirect discharges of contaminants to water from the use and development of land,~~ and
- (2) ~~managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater-, and~~
- (3) ~~maintaining or, where degraded, enhancing the habitat and biodiversity values of riparian margins.~~ ¹²²³

8.6.6. LF-LS-M11 – Regional plans

8.6.6.1. Introduction

1766. As notified LF-LS-M11 reads:

LF-LS-M11 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:

¹²²⁰ 00121.066 Ravensdown

¹²²¹ 00226.206 Kāi Tahu ki Otago

¹²²² FPI029.037 Contact, FPI017.014 Ravensdown, FPI021.006 Ballance

¹²²³ FPI029.037 Contact, FPI017.014 Ravensdown, FPI044.022 DOC

- (a) the development and implementation of *certified freshwater farm plans* as required by the RMA and any regulations,
- (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
- (c) effective management of effluent storage and applications systems, and
- (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and

- (2) provide for changes in *land* use that improve the sustainable and efficient allocation and use of *fresh water*, and
- (3) implement policies LF–LS–P16 to LF–LF–P22.

8.6.6.2. Submissions

1767. Four submitters support LF-LS-M11 and seek that it be retained as notified.¹²²⁴ Beef + Lamb and DINZ seek that the method be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter.¹²²⁵ DOC seeks that this method be revised to ensure that regional plans give effect to all relevant matters relating to land, other than the narrow range of effects on water.¹²²⁶
1768. DCC neither supports nor opposes LF-LS-M11 but notes that it is problematic to consider the policy direction of the pORPS without having consulted on the content of the new regional plan. The submitter expresses concerns regarding the policies referenced in clause (3), and their effect on content in the Regional Plan.¹²²⁷ The submission does not include any proposed amendments to the wording of the methods.
1769. Fish & Game and Kāi Tahu ki Otago seek to delete the reference to certified freshwater farm plans being ‘required by the RMA and any regulations’ in the second part of clause (1)(a).¹²²⁸ John Highton seeks that wording be added to clause (1)(a) requiring individual farm plans to be informed by a related catchment plan.¹²²⁹ Specific wording is not provided.
1770. In clause (1)(b), Fish & Game seeks to include reference to avoiding land uses which result in any pugging in critical source areas, and limiting high risk activities on steep slopes.¹²³⁰ The submitter considers that the importance of managing these areas for water quality and soil health is well researched, and this should be reflected in the management of land in the region.

¹²²⁴ FPI046.026 QLDC, FPI017.015 Ravensdown, FPI047.030 Horticulture NZ, FPI041013 McArthur Ridge

¹²²⁵ FPI025.042 Beef + Lamb and DINZ

¹²²⁶ FPI044.023 DOC

¹²²⁷ FPI001.040 DCC

¹²²⁸ FPI037.022 Fish & Game, FPI030.043 Kāi Tahu ki Otago

¹²²⁹ FPI007.019, FPI007.058 John Highton

¹²³⁰ FPI037.022 Fish & Game

1771. Wise Response seeks to include a requirement to minimise the use of synthetic fertiliser in clause (1)(b), in order to have better control over supplementary nutrients.¹²³¹
1772. Wendy Gunn seeks to bold the word ‘improve’ in clause (1)(d).¹²³²
1773. DairyNZ seeks several changes to the wording of clause (1), to better reflect what needs to happen through the regional plan, and to recognise that managing some activities will need support.¹²³³ In particular, DairyNZ seeks the following changes:
- a. Remove the word ‘requiring’ from clause (1).
 - b. Amend clauses (a) and (b) to include the word ‘supporting’ at the start of each clause.
 - c. Remove the examples provided in clause (b) referring to the management of exposed soil, buffers and critical source areas.
 - d. Amend clauses (c) and (d) to include the word ‘requiring’ at the start of each clause.
1774. Wise Response seeks that the focus of clause (2) shift from ‘providing for’ to ‘actively promoting’, and seeks that the reference to land use is extended to also include land use management.¹²³⁴ The submitter seeks to require ‘active promotion’ of systems that are compatible with national emissions reduction policy, as a means to link systems with national carbon zero goals.
1775. Kāi Tahu ki Otago seeks an amendment to clause (2) to remove the reference to efficient allocation and instead reference reducing demand on freshwater resources to give effect to objectives developed under the NPSFM.¹²³⁵ The submitter considers that while using water efficiently is an inherent component of sustainable management, clause (2) could be interpreted as encouraging efficiency of use without broader sustainability focus. Kāi Tahu ki Otago also considers that it is incorrect to refer to allocation in the context of clause (2), as allocation is a management technique, rather than a result of changes in land use.
1776. In relation to clause (3), Wise Response seeks that the wording be amended to require the implementation of the listed policies.¹²³⁶
1777. The Otago Forestry Companies and Rayonier seek to include an additional matter in clause (1), relating to NESPF management plans.¹²³⁷ The following wording is sought:
- (b) _____ the development and implementation of harvest and forest earthwork management plans as set out in the NES-PF.
1778. OWRUG seeks an additional clause requiring identification and mapping of highly productive land.¹²³⁸ The submitter considers that mapping highly productive land is an important part of achieving LF-LS-P19. The following wording is sought:

¹²³¹ FPI035.024 Wise Response

¹²³² FPI006.002 Wendy Gunn

¹²³³ FPI024.037 DairyNZ

¹²³⁴ FPI035.024 Wise Response

¹²³⁵ FPI030.043 Kāi Tahu ki Otago

¹²³⁶ FPI035.024 Wise Response

¹²³⁷ FPI036.004 Otago Forestry Companies

¹²³⁸ FPI043.077 OWRUG

(4) identify and map highly productive land.

8.6.6.3. Analysis

1779. The chapeau of this method requires ORC to notify its LWRP by 31 December 2023, which was the timeframe in place when the FPI was notified. However, the Minister for the Environment has since granted an extension for the notification of the LWRP until 30 June 2024. No submitter has sought to amend the timeframe in this provision. However, I consider for practical reasons it is appropriate to update the date to reflect the new notification date approved by the Minister and that such an amendment would be of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA.
1780. This method sets out a range of requirements for ORC's new LWRP, which will manage uses of land that are within the functions of the regional council (including for the purpose of maintaining or improving water quality). I consider the LF-LS section is the correct part of the chapter for this method and recommend rejecting the Beef + Lamb and DINZ submission point.
1781. In relation to DOC's submission, I note that the submitter seeks amendments to the non-FPI parts of the LF-LS section that would have the effect of broadening the scope of the chapter including, by consequence, the scope of LF-LS-M11. I have discussed this in section 8.6.2 of this report. . At this stage, given that matter remains unresolved, I consider it is appropriate that the scope of LF-LS-M11 is limited to the matters currently addressed in the chapter but note that this may be revisited should the scope of the chapter be amended. I note that methods relating to land are included in other chapters of the pORPS as well, such as ECO and HAZ. At this stage, I recommend rejecting the submission point.
1782. I agree with Fish & Game and Kāi Tahu ki Otago that the clause (1)(a) reference to the RMA and any regulations is not necessary. Freshwater farm plans are already required by Part 9A of the RMA, with work ongoing to develop regulations that will set out requirements for freshwater farm plans. Any compulsory requirement for freshwater farm plans will likely stem from national legislation, rather than a regional plan. I consider that farm plans will be a means to achieve catchment and wider FMU outcomes once those have been developed in the regional plan. On this basis, I recommend accepting the submission points on clause (1)(a) from Fish & Game, Kāi Tahu ki Otago and John Highton, but only recommend removing the reference to the RMA and regulations.
1783. In terms of specific best practices sought by Fish & Game in clause (1)(b), I consider that pugging is captured by the management of critical sources areas, and the practices as notified capture the key risk pathways on steep slopes. I note that the wording of the clause is "the adoption of practices that reduce the risk of sediment and nutrient loss to water, including ..." (my emphasis). This is not an exhaustive list and it is anticipated that other measures to achieve the same outcomes will also be identified in the land and water regional plan. I recommend rejecting the submission point.
1784. While I agree with Wise Response that minimising the use of supplementary nutrients is a means to reduce nutrient losses to water, I am unsure how this would be implemented given that supplementary nutrients could include both artificial and natural fertilisers, as well as

nutrient supplements fed directly to stock. In addition, the use of supplementary nutrients in some circumstances may aid in reducing nutrient losses to water, rather than increase those losses, as implied by the submitter. I consider that specific management of nutrient inputs is best managed by the regional plan, alongside the synthetic nitrogen provisions in the NESF. I recommend rejecting the submission point.

1785. While I acknowledge the intent of Ms Gunn’s submission, the use of bold font to add emphasis is not consistent with the formatting of the pORPS and may raise questions about the weighting to be provided to bolded provisions over other provisions. I recommend rejecting this submission point.
1786. As written, clause (1) provides direction on what regional plans must include to manage land uses. The use of the term ‘require’ is deliberate, and effectively sets a minimum standard for land use management. I consider the changes sought by DairyNZ add ambiguity into clause (1). The definition of “certified freshwater farm plan” is linked to the regulations that require the development of those plans. If there are no regulations, then there are no certified freshwater farm plans, and therefore there is no ‘requirement’. In my view, this is appropriate and acknowledges that certified freshwater farm plans may be developed in the future.
1787. I do not agree that the adoption of practices that reduce the risk of sediment and nutrient loss to water is not ‘required’. The objective of the NPSFM is to “ensure that natural and physical resources are managed in a way that prioritises ... first, the health and well-being of water bodies and freshwater ecosystems.” I consider that applies to all people managing land. It would be incongruent with that requirement to then allow the adoption of practices that either maintain or increase the risk of sediment and nutrient loss to water (which is generally not conducive to healthy freshwater ecosystems). In relation to the deletion of the second half of clause (b), I consider the examples provided are a useful indication of the key practices to minimise sediment and nutrient losses to water, and that the list is not exhaustive. I recommend rejecting this submission point.
1788. In relation to Wise Response’s amendments sought to clause (2), I consider it is not clear what ‘active promotion’ would look like in practice, nor how the relevant land use changes that are compatible with net zero carbon goals would be identified. I recommend rejecting this submission point.
1789. I recommend retaining reference to efficiency of use as this is the direction provided in Policy 12 of the NPSFM. Additionally, any water use will be required to comply with other relevant direction in the LF chapter, including LF-WAI. On this basis, I recommend rejecting the submission point of Kāi Tahu ki Otago.
1790. I disagree with the wording change sought by Wise Response and consider the syntax of clause (3) when read with the chapeau is correct. I recommend rejecting the submission point.
1791. I note that clause (3) refers to LF-LF-P22 which does not exist. The correct reference is to **LF-LS-P22**. I recommend correcting this error in accordance with clause 16(2) of Schedule 1 of the RMA.

1792. I disagree with the additional clause sought by the Otago Forestry Companies and Rayonier, as the management plans required by the NESPF are required to be prepared by the person undertaking the forestry activity, rather than included in a regional plan. I recommended rejecting these submission points.

1793. In relation to OWRUG's submission seeking the identification and mapping of highly productive land, I agree that this is an important part of implementing the NPSHPL. In my Brief of Second Supplementary Evidence LF – Land and Freshwater prepared as part of the non-FPI process, I have recommended including a new method in the LF-LS chapter that captures the relief sought by OWRUG. I therefore recommend rejecting this submission point.

8.6.6.4. Links with non-FPI provisions

1794. Methods are the means by which policies are implemented. LF-LS-M11 is the method specifying how the full suite of LF-LS policies will be implemented in regional plans and therefore needs to reflect any amendments to non-FPI provisions as well as FPI provisions. In my non-FPI *Reply report 9: LF – Land and freshwater*, I recommend including a new policy (LF-LS-P16A) related to managing the impacts of pests. That policy primarily contains direction for managing land uses and is therefore mostly relevant to district plans (which are the subject of LF-LS-M12). However, the policy seeks to enable the control of pests on land. One way this occurs is through the discharge of pesticides and herbicides, which is a matter controlled under the regional plan. As a consequential amendment arising from introducing LF-LS-P16A, I recommend including a new clause (2A) in LF-LS-M11 as follows:

(2A) enable the discharge of contaminants to land for pest control, and¹²³⁹

1795. Although arising from the non-FPI part, I consider this also responds to DOC's FPI submission.

1796. The additional matters I have recommended including in LF-LS are primarily matters for district plans to control and therefore I do not consider any further amendments to LF-LS-M11 are required.

8.6.6.5. Recommendation

1797. I recommend the following amendments:

LF-LS-M11 – Regional plans

Otago Regional Council must publicly notify a Land and Water Regional Plan no later than ~~31 December 2023~~ 30 June 2024¹²⁴⁰ and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:

¹²³⁹ FPI044.023 DOC

¹²⁴⁰ Clause 16(2), Schedule 1, RMA

- (a) the development and implementation of *certified freshwater farm plans*, as required by the RMA and any regulations,¹²⁴¹
- (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
- (c) effective management of effluent storage and applications systems, and
- (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and

(2) provide for changes in *land* use that improve the sustainable and efficient allocation and use of *fresh water*, and

(2A) enable the *discharge of contaminants to land for pest control*, and¹²⁴²

(3) implement policies LF-LS-P16A to LF-LS-P22.¹²⁴³

8.6.7. LF-LS-AER14

8.6.7.1. Submissions

1798. QLDC support LF-LS-AER14 and seeks that it be retained as notified.¹²⁴⁴

1799. OWRUG seeks consequential amendments to LF-LS-AER14 to give effect to relief sought in relation to the objectives, policies and methods in this chapter. No specific changes are sought.¹²⁴⁵

1800. Kāi Tahu ki Otago seeks that the AER is amended to delete the reference to objectives, such that it only refers to environmental outcomes set for Otago's FMUs and rohe.¹²⁴⁶

8.6.7.2. Analysis

1801. I have not recommended accepting any of the submission point by OWRUG on LF-LS-P18 or LF-LS-P21, therefore I do not consider there are any consequential amendments required. I recommend rejecting this submission point.

1802. While I agree with Kāi Tahu ki Otago that environmental outcomes will be the key objectives to achieve, there will likely be other relevant objectives in FMU and rohe chapters that the use of land will contribute to achieving. For example, depending on the values identified in the FMUs and rohe, there may be matters not addressed in environmental outcomes that are still important for achieving the purpose of the RMA. One example is natural character, which is a matter of national importance under section 6 of the RMA but "natural form and character" is not a mandatory value in Appendix 1A of the NPSFM. In advance of knowing

¹²⁴¹ FPI037.022 Fish & Game, FPI030.043 Kāi Tahu ki Otago

¹²⁴² FPI044.023 DOC

¹²⁴³ Clause 16(2) Schedule 1, RMA

¹²⁴⁴ FPI046.027 QLDC

¹²⁴⁵ FPI043.082 OWRUG

¹²⁴⁶ FPI030.044 Kāi Tahu ki Otago

the breadth of environmental outcomes, I consider it is more appropriate to retain the broader reference to objectives alongside environmental outcomes. I therefore recommend rejecting this submission point.

8.6.7.3. Recommendation

1803. I do not recommend any amendments.

