

Before the Freshwater Hearings Panel

Under the Resource Management Act 1991

In the matter of Freshwater Parts of the Proposed Otago Regional Policy Statement 2021

Statement of evidence of Ben Farrell on behalf of Otago and Central South Island Fish and Game Councils, Realnz Limited, and NZSki Limited.

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**anderson
lloyd.**

Introduction

- 1 My full name is Ben Farrell. I am the owner and director of Cue Environmental Limited, an independent planning consultancy based in Queenstown. I have masters level qualifications in environmental policy and planning gained from Lincoln University in Canterbury plus 20 years practical experience working across New Zealand on a range of environmental policy and planning matters.

Code of Conduct

- 2 While this matter is not before the Court, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2023.
- 3 I note as a full practicing member of NZPI I am required to abide the NZPI Code of Ethics.

Scope of Evidence

- 4 I have been asked to prepare planning evidence on the freshwater parts of the pORPS by Otago Fish and Game Council and Central Otago Fish and Game Council (**Fish & Game**).
- 5 I generally concur with the findings and recommendations set out in the s42A Report dated June 2023 ("**FWs42**"). The further amendments I recommend are set out as track changes in the attached Appendix 1.
- 6 My evidence relies on and builds on my abovementioned evidence and focuses on the matters raised in the FWs42 in relation to issues directly related to the submissions by Fish and Game, Realnz, and NZSki respectively.
- 7 I have prepared the following evidence on the non-freshwater parts of the Proposed Otago Regional Policy Statement (**pORPS**):
 - (a) Statement of Evidence dated 28 November 2022 (EiC 2022);
 - (b) Rebuttal Evidence dated 14 December 2022 (Rebuttal 2022); and
 - (c) Summary of Evidence dated 19 April 2023 (Summary April 2023).
- 8 Numerous broad / in principle commentary in my abovementioned evidence informs and is relevant to this statement of evidence. Particularly relevant parts of my abovementioned evidence include:

EiC2022	@ pars: 23, 75-77, 80-84,106-111
Rebuttal 2022	@pars 10-14, 15-18, 23-29

- 9 To clarify I have assumed for the purposes of this evidence preparation that the statutory decision-making requirements I discussed, applied and relied on in my previous evidence and the FWs42 are taken as read.
- 10 I have not participated in any 'co-drafting' of any RPS provisions, aside from working with ORC, DOC, Ngai Tahu and Fish and Game on recommended new 'species interaction' provisions including new method LF-FW-M8A, and the expert planners conferencing that produced two separate JWS in relation to recommended new SRMRs.
- 11 My evidence focuses on the following core themes/issues:

New SRMR

- (a) For completeness, as set out in my previous evidence on the RPS I maintain my opinion that a new SRMR should be included, as recommended in Appendix 1.

State of freshwater in Otago

- (b) For completeness I record my understanding that numerous freshwater bodies in Otago are effectively degraded (in respect of water quality) and over-allocated (in respect of water quantity).

Protection and restoration of habitats of trout and salmon

- (c) The RPS must include provisions that direct councils and decision makers to protect habitats of trout and salmon. The RPS should include provisions direct councils and decision makers to restore habitats of trout and salmon. It is appropriate for the RPS to clarify that the protection and restoration of the habitats of trout and salmon is subject to being consistent with the protection of habitats of indigenous freshwater species (NPSFM Polices 9 and 10).

Use of the word 'resilient'/'resilience'

- (d) I agree with the FWs42A author that there is no need to refer to waterbodies needing to be 'resilient' when referring to a healthy waterbody. This is because a healthy waterbody will inherently be resilient.

Long term visions

- (e) I support ORC's approach in respect of providing a region-wide objective and specific FMU visions. However, it is confusing to have LF-FW-O1A labelled as an objective and not visions LF-VM-O2- LF-VM-O6. For consistency (to avoid ambiguity), I recommend that LF-FW-O1A be relabeled as a vision, or alternatively LF-VM-O2- LF-VM-O6 relabelled as objectives, so that they are the same.
- (f) The RPS must include long-term visions as objectives (3.3(1)). The visions:
 - (i) may be set at FMU, part of an FMU, or catchment level (3.3(2a)).
 - (ii) must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible) (3.3(2b))
 - (iii) identify a timeframe to achieve those goals that is both ambitious and reasonable (for example, 30 years after the commencement date) (3.3(2c))
- (g) There is no requirement to limit visions to an FMU, part of an FMU, or a catchment. Visions can be set as region-wide objectives (or objectives applying to all FMUs).
- (h) The visions should include numerous other matters (such as but not necessarily limited to) including the matters sought to be included by Fish and Game.

Use of the word 'sustains' / 'sustained'

- (i) I do not support the term 'sustain' or 'sustained' when referring to waterbodies that are in a degraded state. The term is subjective and implies that waterbodies do not need to be maintained or improved.

Amenity values associated with wetlands

- (j) The RPS should not direct a 'no reduction in amenity values' outcome in LF-FW-O9.

Protecting wetlands that do not meet the 'natural wetland' definition

- (k) RPS needs to include provisions that seek to protect and restore wetlands, as defined in the RMA, that do not fit within the definition of 'natural wetland' under the NPSFM or this RPS.

Supporting activities that result in wetland restoration / enhancement

- (l) It is appropriate for LF-FW-P9 to be amended to include an additional clause recognising the benefits of activities that support benefits to wetlands and people's appropriate use of wetlands.

Supporting activities that result in wetland restoration / enhancement

- (m) It is appropriate for LF-FW-P9 to be amended to include an additional clause recognising the benefits of activities that support benefits to wetlands and people's appropriate use of wetlands.

Directing content of regional plans (sediment and nutrient loss)

- (n) It is appropriate for LF-LS-M11 to be amended so that directs regional plan development to require the adoption of practices that avoid or minimise the risk of sediment and nutrient losses to water, rather than simply reducing these risks.

New SRMR

- 12 For completeness, as set out in my previous evidence on the RPS I maintain my opinion that a new SRMR should be included, as recommended in Appendix 1.

State of freshwater in Otago

- 13 For completeness I record my understanding that numerous waterbodies in the Otago Region are effectively in a degraded state (in respect of water quality) or over-allocated (in respect of water quantity). This matter was discussed in the previous evidence submitted by Fish and Game and is also acknowledged, to a lesser extent, in the FWs42A Report (for example @ par 283).

Protection of habitats of trout and salmon

- 14 Ms Baker-Galloway will provide submissions clarifying the legal requirements for RPS needing to protect and restore habitats of trout and salmon.
- 15 From a planning perspective, there is no reason to ignore or shy away from the clear directive policy requirements policies 9 and 10 of the NPSFM to protect the habitats of trout and salmon, insofar as this is consistent with protecting the habitats of indigenous freshwater species.

- 16 Additionally, protecting the habitat of trout and salmon is important to the Otago region. As set out by Mr Paragreen and Mr Couper, angling is an important and popular recreation and tourism activity undertaken in Otago.
- 17 I refer to and rely on the non-freshwater statements of evidence of Nigel Paragreen and Jayde Couper dated 28 November 2022 regarding the importance and popularity of angling in. In particular, I refer to paragraphs 131 - 141 of Mr Couper's evidence, including the following:
- (a) 12.5% of adult males in the Otago Fish and Game Region hold a Fish and Game fishing licence, the third highest region in the country behind the Central South Island Region and the Southland Region.¹
 - (b) The total freshwater fishing effort in the Otago Fish & Game Region between 1994 and 2015 ranged from 180,860 ± 8,330 to 218,710 ± 8,660 angler-days over the fishing season, one of the highest levels of effort in the country.²
 - (c) Fishing activity in the Upper Clutha rohe is particularly high with on average over a third of angling activity in Otago based on lakes Wanaka, Hawea and Wakatipu.³
 - (d) Angling participation by the public in Otago is high and there is a quantifiable value derived as a result. This occurs despite negative pressures on freshwater ecosystems but that does not mean the resource declines due to habitat degradation should not be addressed.⁴

The chapeau in LF-WAI-O1 captures habitats of trout and salmon and this is appropriate

- 18 LF-WAI-O1 seeks to protect and restore, where degraded, the mauri of Otago's water bodies and their health and well-being. I agree the chapeau is appropriate.
- 19 The chapeau captures the protection and restoration of habitats of trout and salmon (through reference to waterbodies health and well-being). Capturing the habitats of trout and salmon when referencing the health and

¹ Statement of Evidence of Jayde Couper at 134 citing the National Angling Survey.

² Statement of Evidence of Jayde Couper at 135 citing the National Angling Survey.

³ At 136.

⁴ At 141.

well-being of waterbodies is consistent with the language of Part 2 of the RMA, the direction in the NPSFW, and is appropriate.

LF-FW-M8A provides a method for managing the interaction between the indigenous fish species and trout and salmon

- 20 Parties have agreed that a new method should be introduced to the RPS to address the interaction between indigenous fish species and trout and salmon⁵.
- 21 Additionally, the FWs42A is recommending amending LF-FW-P7 to include a new matter to specifically protect the habitats of trout and salmon insofar as this is consistent with the protection of the habitats of indigenous freshwater species:

Environmental outcomes, attribute states (including target attribute states), environmental flows and levels, and limits ensure that:

(2) the habitats of indigenous freshwater species ~~associated with water bodies~~ are protected and sustained, including by providing for fish passage

(2A) the habitats of trout and salmon are protected insofar as this is consistent with (2)

- 22 The work to be undertaken under LF-FW-M8A will flesh out and practically deal with the protection of the habitats of trout and salmon where such protection may be inconsistent with protecting the habitats of indigenous freshwater species. It also partially gives effect to policy 3.26 of the NPSFM.

The RPS visions, including LF-FW-O1A, exclude the habitats of trout and salmon, and this is not appropriate

- 23 LF-FW-O1A and the supporting visions do not currently provide any outcome that seeks to protect or restore the habitats of trout and salmon (that I can see).
- 24 All protections are currently narrowed to “*healthy populations of indigenous species and mahika kai that are safe for consumption*”. While I understand mahika kai can include harvesting trout and salmon (on the basis some

⁵ As set out in s8 of Ms Boyd's s42A Right of Reply for Chapter 9 LF-Land and Freshwater dated 23 May 2023, and pars 194 & 195 of the FWs42 regarding 'Species interaction', noting that the actual wording recommended by Ms Boyd is not agreed in its entirety as Fish and Game is still seeking reference to “the protection **and restoration** of the habitat of trout and salmon”, not simply “the protection of the habitat of trout and salmon”.

'contemporary' mahika kai practices can rely on introduced species, such as hunting of deer and pigs, and fishing trout and salmon), my understanding is "mahika kai" references in the RPS are not intended to capture practices undertaken by pakeha / tangata tiriti.

- 25 I am somewhat bemused why the FWs42A is excluding the need to protect the habitats of trout and salmon from the vision statements including LF-FW-O1A. Unless there is duplication (that I may have missed), there is no planning rationale why the statutory requirements to protect the habitat of trout and salmon should be excluded from the RPS vision statements, including LF-FW-O1A. And the comparatively high participation levels in Otago, justify on the merits an appropriate region wide vision that captures the importance of trout and salmon habitat and angling to the Otago community.

Restoration of habitats of trout and salmon

Meaning of restore

- 26 In the non-freshwater RPS hearing Fish and Game also sought a definition of "restore" ("to return to a state of good health, well-being and resilience"). My EiC discussed this briefly at pars 50, adopting the Fish and Game submission point that it is better to provide definitions to reduce ambiguity, and numerous parts of my EiC also discussed the benefits of reducing ambiguity in the RPS. ORC does not support a definition for restore/restoration⁶.
- 27 Therefore, as set out in my evidence below I consider that the relief sought by Fish and Game can be addressed, in some provisions, by referencing directly to waterbodies being restored to/protected in a state of good health and well-being rather than being concerned with the need for a definition of 'restore'.

Fish and Game relief to restore habitats of trout and salmon

- 28 Fish and Game are seeking that the habitats of trout and salmon be protected and restored, insofar as this is consistent with protecting and restoring the mauri of Otago's waterbodies and their health and well-being.
- 29 I maintain the principle of what I said at par 80-84 of my EiC2022:

[80] The inclusion of 'restore' and clauses (9) and (10) help implement IMO1 (as recommended in the s42AReport), which

⁶ Non-Freshwater s42A Report, section 2.4

expresses an appropriate fundamental paradigm for the RPS appropriately acknowledging that human health and wellbeing relies on the natural environment being in a healthy state. As set out in the evidence of Mr Paragreen and Mr Couper, the state of Otago's freshwater is, in places, effectively degraded (in respect of quality) or overallocated (in respect of quantity). The state of freshwater in the region has resulted in parts of Otago falling well short of meeting the needs and well-being of many people in Otago because it where it is not safe for people to drink or undertake contact recreation in.

[81] Restoration will therefore be required if IMO1 is to be implemented. In principle, where the environment is not achieving a state of hauora then the policy direction should be to restore the aspect of the environment that is below the identified threshold.

[82] As set out in the evidence of Mr Paragreen, harvesting wild animals and plants has important cultural and human wellbeing values that enabled people to provide for their social, economic, and cultural well-being and for their health and safety.

[83] Ecosystem health and ecosystem services should not be interpreted as being limited to indigenous ecosystem values only. For example, the NPSFM meaning of ecosystem health is inclusive of introduced species. The NPSFM priorities indigenous ecosystems over that of trout and salmon only to the extent that the habitat of trout and salmon is to be protected insofar as this is consistent with the protection of habitats of indigenous freshwater species (policies 9 and 10).

[84] The habitats of trout and salmon are to be protected provided the habitats of indigenous freshwater species are protected (NPSFM policies 9 and 10).

- 30 However, in the absence of a definition of restore and reflecting on ORC's evidence opposed to including a definition, I consider it is appropriate for certain provisions in the RPS to specifically include reference to "return to a state of good health and well-being" as an addition or alternative to adopting "restore" as sought by Fish and Game. For example:
- (a) Rather than amending LF-FW-O1A to seek all waterbodies to be restored, it is better to amend LF-FW-O1A so that it seeks that all water bodies to be in a state of good health and wellbeing,

- (b) Rather than amending LF-FW-O1A to include a new matter seeking to protect and restore the habitats of trout and salmon, it is better to amend LF-FW-O1A to include a new matter that specifies the vision is healthy ecosystems that support habitat, including fish passage, for trout and salmon.
- (c) Rather than amending LF-FW-P7 to seek to ensure that waterbodies (inclusive of the habitats of trout and salmon) are protected and restored, it is better to amend LF-FW-P7 to seek to ensure that waterbodies (inclusive of the habitats of trout and salmon and including fish passage) are restored to, and protected in, a state of good health and well-being.

Recognising people's connections and recreation benefits in LF-WAI – O1

- 31 Fish and Game are seeking inclusion of a new limb to recognise that “people are enabled to use, enjoy and connect meaningfully with water bodies to further their health and well-being, including through recreation and harvesting food”. The FWs42A (@pars 765-766) disagrees with the relief being sought, noting that a new clause providing for use of water bodies by people may not accurately reflect the tenor and intent of the objective, but agrees 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. The s42A Report recommends amending LF-FW-O1A to address this submission point.
- 32 I am unclear why the relief being sought by Fish and Game may not accurately reflect the intent of LF-WAI – O1, and I think the additions to this objective are a helpful addition to LF-FW-O1A, and appropriate.

Use of the word “resilience”

- 33 I note Fish and Game sought numerous amendments to RPS provisions to include reference to ‘restore’ as meaning ‘to return to a good state of health, well-being, and resilience’.
- 34 The FWs42A (at par 697) opines that “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”. I agree with this, assuming a waterbody is in a good state of health and well-being, because a healthy waterbody will inherently be a resilient waterbody and conversely a waterbody that is not resilient should not be considered to be in a “good state” of health and well-being. Therefore, I consider there is no need to

include 'resilience' alongside reference to waterbodies being 'in a good state of health and well-being'.

Long Term Visions

35 Section 3.3 of the NPSFM is reasonably clear in its direction for RPS development in respect of long term visions:

3.3 Long-term visions for freshwater

(1) Every regional council must develop long-term visions for freshwater in its region and include those long-term visions as objectives in its regional policy statement.

(2) Long-term visions:

(a) may be set at FMU, part of an FMU, or catchment level; and

(b) must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible); and

(c) identify a timeframe to achieve those goals that is both ambitious and reasonable (for example, 30 years after the commencement date).

(3) Every long-term vision must:

(a) be developed through engagement with communities and tangata whenua about their long-term wishes for the water bodies and freshwater ecosystems in the region; and

(b) be informed by an understanding of the history of, and environmental pressures on, the FMU, part of the FMU, or catchment; and

(c) express what communities and tangata whenua want the FMU, part of the FMU, or catchment to be like in the future.

(4) Every regional council must assess whether each FMU, part of an FMU, or catchment (as relevant) can provide for its long-term vision, or whether improvement to the health and well-being of water bodies and freshwater ecosystems is required to achieve the vision.

36 I acknowledge the public consultation undertaken as background to inform the development of the proposed freshwater visions (discussed in the FWs42 @ pars 879-885). This background consultation forms part of the

community engagement process required by section 3.3(3) of the NPSFM but it should not be relied on entirely because it does not override or carry more weight than this statutory consultation process.

- 37 For the reasons set out in the Fish and Game submission, and having reflected on my previous evidence, the FWs42A Report, and the evidence of Ms Coughlan, Mr Couper, and Mr Paragreen, I support amending LF-FW-O1A to include numerous additional matters (discussed below), and including a new region-wide vision that cross-references to LF-FW-O1A and applies to all FMUs.
- 38 Broadly, as drafted the visions lack aspiration, do not sufficiently reflect community interests, and will not really assist in the efficient or effective implementation of the NPSFM and consequently the purpose of the RMA. I consider the visions supported in the s42A Report (inclusive of LF-FW-O1A) do not satisfactorily recognise the following significant freshwater management issues or aspirations of people in the community:
- (a) The actual desired state of freshwater health and well-being
 - (b) Recognition that activities (or people) that affect water should do so in a way that supports the health, well-being and resilience of affected water bodies
 - (c) Recognition of people (other than Ngai Tahu) wanting to harvest / source food from freshwater should be able to do so
 - (d) Recognition of people wanting abundant recreation opportunities to access and use water bodies
 - (e) The requirements to protect habitats of trout and salmon and desire of people to protect these habitats in a good state of health and well-being, and for the region's waterbodies to be able to sustain healthy populations of trout and salmon that are able to move within and between catchments, and have habitats protected in a good state of health and well-being.

The actual desired state of freshwater health and well-being

- 39 There is no clear vision statement about the desired state of freshwater health. Fish and Game are seeking a vision statement that clearly articulates (shines the light) on the desired state of freshwater for all waterbodies in the region, as a state of 'good health and well-being'. I support inclusion of such a vision, and would be surprised if any party disagrees that all waterbodies in Otago should be in at least a 'good state'.

Recognition that activities (or people) that affect water should do so in a way that supports the health and well-being of affected water bodies

- 40 Currently there is no vision statement about the direct role people play when undertaken activities that affect water. In accordance with TMOTW and KIKT all people affecting freshwater water should, fundamentally, be supporting the health and well-being of freshwater.

Recognition of tangata tiriti wanting to harvest / source food from freshwater should be able to do so

- 41 As discussed above there are many tangata tiriti members of the community that harvest food from waterbodies, including people represented by Fish and Game. There is no strong resource management or statutory planning basis that prevents or discourages the long-term vision statements from recognising the aspirations of tangata tiriti to be able to harvest plants, fish and game birds from the region's freshwater resources. It is entirely consistent with the NPS-FM long term vision provision to include this as an expression of what the community wants Otago's water bodies to provide for in the future, and it is supported by the evidence from Fish and Game in particular.

Recognition of people wanting abundant recreation opportunities to access and use water bodies

- 42 The vision statements do not include any recognition of or provision for recreation opportunities. Given the benefits and importance of recreation activities and opportunities in the region (as set out in the submissions and evidence previously prepared for Realnz, NZSki, Fish and Game) it is appropriate for the vision statements to include something aspirational about recreational opportunities associated with waterbodies.

The requirements to protect habitats of trout and salmon and desire of people to protect these habitats in a good state of health and well-being, and for the region's waterbodies to be able to sustain healthy populations of trout and salmon that are able to move within and between catchments, and have habitats protected in a good state of health and well-being.

- 43 As set out above it is appropriate for the RPS to protect and provide for (including through restoration) habitats and populations of trout and salmon, insofar as this is consistent the protection of habitats of indigenous species. Similarly, given there is a vision statement relating to the movement of indigenous fish species, it is also appropriate to include a vision statement that specifically provides for the movement of trout and

salmon, insofar as this is consistent the protection of habitats of indigenous species.

LF-VM-OA2 – Region-wide vision (applies to all FMUs)

- 44 To complement the catchment specific FMU visions, I consider it is appropriate and simpler to include an additional region-wide FMU (or objective) that applies to each FMU rather than repeating the same vision each time for each FMU, as follows:

LF-VM-OA2 – Region-wide vision (applies to all FMUs)

Achievement of the outcomes set out in LF-FW-O1A by no later than 2040 in all Otago catchments.

- 45 I have recommended an aspirational timeframe of 17 years (to be achieved by 2040). I assume this will be difficult to achieve but not impossible. I anticipate this hearing process will test my assumption.

Use of the word “sustained”

- 46 The FWs42A is recommending the term “sustained” be adopted in four freshwater provisions:

- (a) LF-WAI-PR1 – Principal reasons

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) LF-FW-O1A – Region-wide objective for fresh water

(5) the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, **is sustained**

- (c) LF-FW-O9 – Natural wetlands

(1) mahika kai and other mana whenua values **are sustained and enhanced** now and for future generations

- (d) LF-FW-P7 - Fresh water

(2) the habitats of indigenous freshwater species ~~associated with water bodies~~ are protected **and sustained**, including by providing for fish passage.

- 47 The term ‘sustained’ is appropriate if it used in relation to waterbodies that are protected in a state of good health, well-being, and are resilient. Waterbodies in this state need not be improved or restored as a priority.

However, I am troubled by the use of 'sustained' in LF-WAI-PR1 and (d) LF-FW-P7(2) given the degraded state of many waterbodies in Otago and the general theme of the RPS and direction in the NPSFM to prioritise the mauri and health and well-being of waterbodies across the region⁷.

- 48 The term 'sustained' is a relatively weak and subjective term that should not be used in the context of degraded waterbodies. The term pulls opposite to the direction of travel of "improving" and "restoring" waterbodies. The term suggests that freshwater attributes do not even need to be maintained at their current state, and the term gives the impression that freshwater attributes below national bottom lines might be appropriate. This is based on my understanding that the term 'sustain' is focused on providing enough of what is required to live or exist, with no correlation to any state of health.
- 49 In other words, seeking to sustain degraded freshwater bodies will inappropriately weaken and frustrate the requirements on and intent of the RPS to improve or restore degraded waterbodies.

Amenity Values associated with wetlands

- 50 Including 'amenity values' in clause LF-FW-O9(3) is problematic and I cannot see how including 'amenity values' in this provision can result in effective or efficient plan making and decision making under the RMA.
- 51 Amenity values are highly subjective and vary from individual to individual, and there is no common or collective understanding or guidance about what wetland amenity values actually entail. What one person considers a benefit could be seen by others as an adverse effect, and any works to a wetland could be considered to result in a reduction in amenity values. The other attributes in LF-FW-O9 (3) (wetland ecosystem health, hydrological functioning, extent or water quality) are all measurable (quantifiable) attributes, whereas the definition of 'amenity values' is so broad that it is likely to be impractical to measure or quantify. However, any changes to natural and physical qualities and characteristics of a wetland could be considered as a change to a contribution of people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes. For example, boardwalks, viewing platforms and signage undertaken to enhance recreation opportunities can reduce amenity values (visual aesthetic values of place).

⁷ The references to 'sustained' in LF-FW-O1A(5) and LF-FW-O9(1) relate only to matters affecting Kai Tahu, so I make no comment on these amendments.

- 52 Given the above it is not appropriate to:
- (a) require 'no reduction' in amenity values
 - (b) try to 'where degraded improve' amenity values associated with wetlands.

Recommended Amendment

LF-FW-09 – Natural wetlands

Otago's natural wetlands are protected or restored so that:

...

(3) there is no reduction and, where degraded, there is an improvement in their wetland ecosystem health, hydrological functioning, ~~amenity values~~, extent or water quality, ~~and if degraded they are improved~~, and

...

(5) their ability to support recreation values and food harvesting activities are enhanced now and for future generations.

Protecting Wetlands that do not meet the 'natural wetland' definition

- 53 The extent of wetland loss coupled with statutory requirements and directions point towards a need for all wetlands to be protected and restored where they are degraded, not just natural inland wetlands.
- 54 I agree with Fish and Game that the RPS should protect and promote restoration of all wetlands in Otago.
- 55 The current wetland provisions provide an appropriate level of protection for 'natural wetlands' (except in relation to 'amenity values' as discussed above). However, there should also be provisions requiring the specific protection of 'wetlands' generally (as defined in the RMA) that do not meet the definition of 'natural wetland' under the NPSFM.
- 56 I assume there is no debate that there has been considerable loss of wetlands in Otago, and apart from constructed wetlands, all remaining wetlands are an important component of Otago's water resource (while they might not be afforded specific attention under the NPSFM or NESFM, they are still regionally significant natural resources). I rely on the evidence of Mr Couper in this regard.

- 57 While wetlands that do not meet the NPSFM definition of ‘natural wetlands’ are not subject to the provisions in the NESFM or RPS LF-FW-09 (as currently drafted), they are still wetlands that need to be managed in accordance with:
- (a) Council functions under s30⁸
 - (b) the NPSFM
 - (c) [in the coastal environment] the NZCPS (for example policies 11, 13, 14, 26), not just natural wetlands as implied by LF-FW-P9(1)
 - (d) the other LF-WAI and LF-FW objectives and policies (for example LF-WAI-O1, LF-WAI-P1, LF-WAI-P2, LF-WAI-P3, LF-WAI-P4, and LF-FW-O1A)
- 58 I acknowledge there are practical difficulties managing wetlands that do not meet the definition of ‘natural wetlands’ (for example they can be difficult to identify, protect and promote or require restoration), and I do not know the extent of wetlands that will not be identified by LF-FW-P8 or protected by LF-FW-P9. I also consider that some constructed and artificial wetlands represent wetland restoration and may not warrant protection. I anticipate the most appropriate time to determine this is during the preparation of regional and district plans. Considering the above, I recommend the RPS be amended as follows.

Recommended Amendment

LF-FW-09 – ~~Natural~~ wetlands

Otago’s ~~natural~~ wetlands are protected or restored so that:

- (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,
- (2) there is no net decrease, and preferably an increase, in the ~~range extent~~ and diversity of indigenous ecosystem types and habitats in ~~natural~~ wetlands,
- (3) there is no reduction and, where degraded, there is an improvement in ~~their~~ wetland ecosystem health, hydrological

⁸ to maintain indigenous biological diversity, control land to maintain and enhance ecosystems, to control discharges, and to control effects of and on water bodies

functioning, ~~amenity values~~, extent or water quality, ~~and if degraded they are improved~~, and

(4) their flood attenuation and water storage capacity is maintained or improved.

(5) their ability to support recreation values and food harvesting activities are enhanced now and for future generations.

Recommended Amendment

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~~ all 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).

(3) protect and restore wetlands that do not meet the definition of 'natural wetlands', excluding artificial wetlands, by:

(a) Avoiding or discouraging the loss of wetland values; and

(b) Promoting restoration and enhancement of wetland values.

Supporting activities that result in wetland restoration / enhancement

59 As discussed in the s42A, 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.

60 The s42A author disagrees with NZSki and Realnz that the pORPS fails to recognise and support activities that result in benefits to wetlands, pointing to LF-FW-P9 and suggesting that this policy 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).

- 61 Respectfully, LF-FW-P9 does not explicitly provide 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, and there do not appear to be any obvious provisions in the RPS that seek to achieve the outcome NZSki and Realnz are seeking.
- 62 In principle I support the relief sought by NZSki and Realnz, because the relief is a provision that has no environmental costs and supports/strengthens the outcomes being sought in LF-FW-P10 and people's awareness of, and access to, natural wetlands for customary, or scientific, or education, or recreational uses. However, I do not think a new policy is required, rather policy P10 could be amended to include an additional clause. In addition to some formatting and language tweaks, I recommend tweaking the policy by replacing the term 'support' with 'recognise the benefits to wetland protection and restoration', and inserting 'recognise the benefits to people' as identified below.
- 63 I recommend amending LF-FW-P10 by inserting the following additional clause:

(2) Recognising the benefits to wetland protection and restoration from activities that result in either of 1-4 of LF-FW-P10 above, or the benefits to people from activities that improve people's awareness of, and access to, wetlands for customary, scientific, education, or recreational uses.

Directing content of Regional Plans – LF-FW-M6

- 64 The FWs42 recommends significant changes to LF-FW-M6. I can see the logic for deleting (4) and instead cross referencing to LF-FW-P7A, however LF-FW-P7A only addresses **use** of water, and not the state of the water bodies themselves, so this cross reference is incomplete. I cannot see the logic or reason for deleting (5). The report does not explain why it has been deleted, and there is no corresponding cross reference to the relevant policies such as LF-FW-. As the report recommends deletion of (5) the report then does not explain the reason for rejecting relief sought for (5), such as Fish and Game's. Accordingly, it seems there are now significant gaps in this method. I would support reinsertion of (4) and (5), and accordingly would also support the addition of Fish and Games clauses to (4) and (5) respectively:

Add to (4): human amenity and well-being through protecting and enhancing access to, and recreational use, of water bodies, and

Add to (5): will enable activities to support the health, well-being and resilience of water bodies when operating within limits, and

Directing content of Regional Plans – Sediment and nutrient loss

- 65 Fish and Game is seeking an amendment to LF-LS-M11 in relation to the adoption of practices that avoid or minimise reduce the risk of sediment and nutrient loss to water. The FWs42A Report⁹ does not support the relief, noting that “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”.
- 66 Firstly, if the list is non-exhaustive then it stands there should be no problem with including additional matters.
- 67 Reflecting on my experience with regional plan development in relation to sediment and nutrient losses, simply reducing the risk of sediment and nutrient loss to water is unlikely to be sufficient to improve the quality of water where it is degraded and uphold the fundamental concepts of TMOTW and KUKT. Rather, it is entirely appropriate for the RPS to direct both the regional plan to include the adoption of practices that seek to both ‘avoid’ and ‘minimise’ the risk of sediment and nutrient losses, not just seeking to ‘minimise’ losses. This is particularly the case for managing land uses (including stock) around waterbodies (including wetlands), their margins, and areas close to margins including on steep land.
- 68 I am also mindful of the level of effort that may be required of parties wanting (or required) to participate in the development of suitable regional plan provisions, along with the overlapping regulation in the NESFM and rural industry best practice guidelines and protocols.
- 69 I recommend LF-LS-M11 should be amended as follows:

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 2024 and then, when it is made operative, maintain that regional plan to:

⁹ @ par 1783

(1) manage land uses that may affect the ability of environmental outcomes for water quality to be achieved by requiring:

(a) the development and implementation of certified freshwater farm plans, ~~as required by the RMA and any regulations,~~

(b) the adoption of practices that avoid or minimise ~~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,

28 June 2023

Ben Farrell

Appendix 1 - Version showing recommendations from the hearing report prepared under Section 42A of the Resource Management 1991 (2 June 2023), along with recommendations of Ben Farrell, 28 June 2023

Proposed Otago Regional Policy Statement 2021

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

Version showing recommendations from the hearing report
prepared under Section 42A of the Resource Management
1991 (2 June 2023), along with recommendations of Ben
Farrell, 28 June 2023



~~2 June 2023~~

How to read this document

This version of the Proposed Otago Regional Policy Statement 2021 (pORPS) does not have any legal weight. It has been prepared to help the Hearing Panel, Council staff, and submitters understand what changes have been recommended by the reporting officers to the provisions in the regional policy statement since it was notified in June 2021. This page is included for information purposes only and does not form part of the pORPS.

Key

Appearance	Explanation
Black text with no shading	Non-FPI provisions as notified on 26 June 2021.
<u>Black text with underlining</u> or strikethrough	Non-FPI reply recommendations by officers as at 30 May 2023.
Black text with blue shading	FPI provisions as notified on 30 September 2022.
<u>Black text with underlining</u> or strikethrough and blue shading	Amendments recommended by officers in s42A report on FPI provisions.
<u>Red double underlined or</u> double strike through	<u>Amendments to FPI provisions, recommended by Ben Farrell 28 June 2023</u>

Where reporting officers have recommended additions or deletions, these changes are accompanied by a footnote referencing the basis for the recommended change. Usually these are references to specific submission points but in some cases refer to the provisions of Schedule 1 of the Resource Management Act 1991. In addition to those footnotes, there are 'permanent' footnotes that set out references or provide additional information. To differentiate these from the officer recommendation footnotes above, both the in-text footnote numbers and the text at the bottom of the page has been shaded grey.

Some reporting officers have recommended moving provisions. There are notes included in the relevant chapter describing the movement of these provisions. These are to aid reading and do not form part of the pORPS. They are identified as a 'note to readers' and shown with a black outline, as follows:

Note to readers: *As a result of reporting officer recommendations...*

Some reporting officers have recommended including advice notes. These are notes in a chapter to aid interpretation but have no legal weight. They do form part of the pORPS (as recommended it be amended by officers). They are shown as an 'advice note' and are underlined, as follows:

Advice note: ...

Interpretation

Definitions

Term	Definition
Certified freshwater farm plan	<p>has the same meaning as section 217B of the Resource Management Act 1991 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means a <i>freshwater</i> farm plan certified under section 217G, as amended from time to time in accordance with section 217E(2) or (3)</p> </div>
Drinking water	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means <i>water</i> intended to be used for human consumption; and includes <i>water</i> intended to be used for food preparation, utensil washing, and oral or other personal hygiene</p> </div>
National Objectives Framework	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means the framework for managing <i>freshwater</i> as described in subpart 2 of Part 3</p> </div>
Natural hazard works	<p>has the same meaning as in regulation 51(1) of the National Environmental Standard for Freshwater 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means works for the purpose of removing material, such as trees, debris, and sediment, that—</p> <p>(a) is deposited as the result of a <i>natural hazard</i>, and</p> <p>(b) is causing, or is likely to cause, an immediate hazard to people or property</p> </div>
Other infrastructure¹	<p>has the same meaning as in regulation 3 of the National Environmental Standard for Freshwater 2020 (as set out in the box below),²</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means <i>infrastructure</i>, other than <i>specified infrastructure</i>, that was lawfully established before, and in place at, the close of 2 September 2020</p> </div>
Over-allocation, or over-allocated³	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)⁴</p>

¹ Clause 10(2)(b)(i) – consequential amendment arising from FPI001.019 DCC, FPI026.031 Federated Farmers, FPI027.027 Contact

² Clause 10(2)(b)(i) – consequential amendment arising from FPI001.019 DCC, FPI026.031 Federated Farmers, FPI027.027 Contact

³ Clause 16(2), Schedule 1, RMA

⁴ Clause 16(2), Schedule 1, RMA

Term	Definition
	<p>in relation to both the quantity and quality of freshwater, is <u>means</u> the situation where:</p> <ul style="list-style-type: none"> (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; <u>or</u> (c) <u>an FMU or part of an FMU is not achieving an environmental flow or level set for it under clause 3.16.</u>
<p>Specified infrastructure⁵</p>	<p>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)⁶</p> <div style="border: 1px solid black; padding: 5px;"> <p><u>means any of the following:</u></p> <ul style="list-style-type: none"> (a) <u>infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002);</u> (b) <u>regionally significant infrastructure identified as such in a regional policy statement or regional plan;</u> (c) <u>any public flood control, flood protection, or drainage works carried out:</u> <ul style="list-style-type: none"> (i) <u>by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1951, or</u> (ii) <u>for the purpose of drainage by drainage districts under the Land Drainage Act 1908</u> </div>
<p>Specified rivers and lakes</p>	<p>has the same meaning as in Appendix 3 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px;"> <p>means:</p> <ul style="list-style-type: none"> (a) <i>rivers</i> that are fourth order or greater, using the methods outlined in the River Environment Classification System, National Institute of Water and Atmospheric Research, Version 1, and (b) <i>lakes</i> with a perimeter of 1.5km or more </div>
<p><u>Minimise</u></p>	<p><u>Means to reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.</u></p>

⁵ Clause 10(2)(b)(i) – consequential amendment arising from FPI001.019 DCC, FPI026.031 Federated Farmers, FPI027.027 Contact

⁶ Clause 10(2)(b)(i) – consequential amendment arising from FPI001.019 DCC, FPI026.031 Federated Farmers, FPI027.027 Contact

SRMR-15 – Freshwater demand exceeds capacity in some places

Statement

In *water*-short catchments, *freshwater* availability may not be able to meet competing demands from the health and well-being needs of the *environment*, the health and well-being needs of people, and the ability of people and communities to provide for their social, economic and cultural well-being. Many of these catchments are also experiencing urban growth, changes in rural *land* uses, and increased demand for hydro-electric generation. Individually and cumulatively these can alter demand including further increases in demand on *freshwater* supply. Some catchments are complex, making it challenging to identify or mitigate these *effects*.

Context

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

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, irrigation, *renewable electricity generation*⁷ and other economic uses. *Freshwater* resources in some places are reaching, or are beyond, their sustainable abstraction limits. However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to ~~achieve a balance of~~ prioritise protection of the mauri of *water bodies*, meet the health needs of people, and provide for economic, environmental, social and cultural needs well-being.⁸

On 3 September 2020, new National Environmental Standards for Freshwater (NESF) and a new National Policy Statement for Freshwater Management (NPSFM)⁹ came into force. They have a goal of making immediate improvements so that improving¹⁰ *freshwater* quality is materially improving¹¹ within five years, reversing past damage degradation¹² and bringing New Zealand’s *freshwater* resources, waterways and ecosystems to a healthy state within a generation. The NPS-FM also clarified the need to provide first for the health and well-being of *water bodies* and *freshwater* ecosystems; then health and needs of people (such as *drinking water*); and finally the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

Impact snapshot

Environmental

Freshwater abstraction can reduce *water* level or flow and connections between different *water bodies*. This can negatively impact ecosystems by affecting¹³ *freshwater* habitat size and the shape and condition of the *water body*,

⁷ FPIO16.009 Meridian

⁸ FPIO47.004 Ngāi Tahu ki Murihiku

⁹ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

¹⁰ FPIO25.010 Beef + Lamb and DINZ, FPIO26.006 Federated Farmers

¹¹ FPIO25.010 Beef + Lamb and DINZ, FPIO26.006 Federated Farmers

¹² FPIO27.010 Contact, FPIO26.006 Federated Farmers

¹³ Clapcott, 2018, Our Freshwater 2020

including *bed*, banks, margin, riparian vegetation, connections to *groundwater*, *water* chemistry (for example by increasing concentrations of pollutants), and interaction between species and their habitat. The sum of these impacts affects the overall health, well-being and resilience of the water body. How much an ecosystem is affected by taking *freshwater* is determined by departure from natural flow regimes, taking into account magnitude, frequency, timing, duration and rate of change, and ecosystem capacity to recover.

Economic

Freshwater in the Otago region is a factor of production that directly contributes to human needs (~~urban~~¹⁴ water supply) ~~agriculture~~ *primary production*,¹⁵ *industry*,¹⁶ and hydro-electric power supply, ~~and mineral extraction~~.¹⁷ *Freshwater* also indirectly contributes to the tourism industry through maintenance of *freshwater* assets for aesthetic and commercial recreational purposes. Lack of *freshwater* can negatively impact economic output of those industries that rely on *water* in the production process. To varying degrees these impacts can be mitigated through *water* efficiency measures and innovation. At the same time other industries, such as tourism that rely on the aesthetic characteristic of *rivers* and *lakes*, do not have such opportunities available to them and instead rely on management regimes that sustain flows and *water* levels suitable for their activities.

Social

Ensuring appropriate *freshwater* supply for human use ~~is available~~ is essential, including¹⁸ as part of planned urban growth and to support rural communities¹⁹ ~~is essential~~.²⁰ It is possible this may require consideration of additional *freshwater* storage in the future.

The region's *freshwater* assets also support a range of recreation uses, for example camping, fishing, *water* sports, and swimming. These values are strongly linked to environmental, health, landscape and amenity aesthetic²¹ values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values, including people's wellbeing.²² The way in which people interact with water is one aspect of why a waterbody may be considered a highly valued natural feature.

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

Statement

While the pristine areas of Otago generally maintain very²³ good *water* quality, some areas of Otago demonstrate poorer quality and declining trends in *water* quality which can often²⁴ be attributed to *discharges* from *land use*

¹⁴ Consequential amendment to FPI026.008 Federated Farmers, FPI023.003 Moutere Station

¹⁵ FPI041.001 McArthur Ridge Vineyard

¹⁶ FPI019.001 Fonterra, FPI020.008 Silver Fern Farms

¹⁷ Consequential amendment to FPI041.001 McArthur Ridge Vineyard

¹⁸ FPI038.020 NZSki, FPI039.022 Realnz

¹⁹ FPI026.008 Federated Farmers, FPI023.003 Moutere Station

²⁰ FPI038.020 NZSki, FPI039.022 Realnz

²¹ FPI037.007 Fish and Game

²² FPI037.007 Fish and Game, FPI038.020 NZSki, FPI039.022 Realnz

²³ FPI038.021 NZSki, FPI039.023 Realnz

²⁴ FPI026.011 Federated Farmers

intensification (both rural and urban) and *land* management practices. Erosion, run-off and soil loss can lead to sediment and nutrients being deposited into *freshwater* bodies resulting in declining *water* quality.

Context

The health of *water* is vital for the health of the *environment*, people and the economy. It is at the heart of culture and identity. Nationally, and in parts of Otago, *freshwater* is facing significant pressure. Population growth and land-use intensification in urban and rural *environments* has impacted the quality of *water*, increasing contamination from nutrients and sediment.

Water quality affects a wide range of environmental health factors, human health and²⁵ survival needs, and cultural, social, recreational, and economic uses. Some of the biggest impacts on *water* quality in Otago are considered to come from agriculture and urbanisation, through diffuse *discharges* and point source *discharges*.

On 3 September 2020, new National Environmental Standards (NESF) and a new National Policy Statement (NPSFM)²⁶ came into force to make immediate improvements to improve²⁷ *water* quality within five years; and reverse past damage degradation²⁸ and bring New Zealand's *freshwater* resources, waterways and ecosystems to a healthy state within a generation.

Impact snapshot

Environmental

Despite the region's *lakes* and *rivers* being highly valued by Otago communities, reports indicate that in many areas²⁹ there are reasons for concern about *water* quality and its trends with consequent potential impact on ecosystems and people.

Water quality across Otago is variable. *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*. *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, Kaikorai Stream, and the lower Clutha catchment, have some of the worst *water* quality in the region; Otago's central lakes are impacted by increased population, urban development and tourism demand; other areas, such as urban streams in Dunedin, intensified catchments in North Otago and some tributaries, also have poor *water* quality.³⁰ Between 2006 and 2017, trends in a number of *water* quality parameters were worsening.³¹

For *E. coli*, for example, 30% of sites had a probable or significant worsening trend compared to 7% of sites that had either stable or improving trends. In urban streams in Dunedin, intensified catchments in North Otago and some

²⁵ FPI047.010 Horticulture NZ, FPI043.023 OWRUG

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

²⁷ FPI026.012 Federated Farmers, FPI025.011 Beef + Lamb and DINZ

²⁸ FPI026.012 Federated Farmers

²⁹ FPI043.023 OWRUG

³⁰ Rachel Ozanne and Adam Uytendaal (2017) *State of the Environment Surface Water Quality in Otago 2006 to 2017*: Otago Regional Council p ii

³¹ Ibid.

tributaries of the ~~Pomahaka~~ Poumāhaka,³² *E. coli* was the worst performing variable³³. In many cases, the specific source of contamination is unknown.

There are many different types and sizes of *lakes* in Otago. ORC monitors *water* quality in *lakes*, of which eight have generally shown good *water* quality. There have been concerns within the community about the quality of *water* in Lakes Wānaka, Whakatipu Waimāori/Lake Wakatipu³⁴ and Lake³⁵ Hayes.

Groundwater quality also varies across the region, with some areas having elevated *E. coli* and nitrate concentrations above the NZ Drinking Water Standards. The main areas with elevated nitrate concentrations are North Otago and the Lower Clutha. Some bores across the region have exceeded the drinking *water* standards for *E. coli*; highlighting localized problems, likely due to inadequate bore head security. In addition to human sources of poorer *groundwater* quality, low *groundwater* quality from natural or geologic sources may also affect the potability of bore *water* throughout Otago (e.g. naturally occurring arsenic or boron concentrations found in bores associated with particularly geologies).

Stock entering *water bodies* can lead to pugging and destruction of riparian 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.³⁶

Sediment is a key issue for *freshwater* quality throughout Otago, including coastal estuaries where it can significantly impact the life supporting capacity of waterways. 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*,³⁷ mining, and forestry also contribute.

Agricultural intensification *land use*³⁸ 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.

Urban environmental 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. *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.

Economic

³² FPI030.049 Kāi Tahu ki Otago

³³ Ibid.

³⁴ FPI030.049 Kāi Tahu ki Otago

³⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI030.049 Kāi Tahu ki Otago

³⁶ Science Staff Survey, June 2020.

³⁷ FPI019.002 Fonterra, FPI043.023 OWRUG

³⁸ FPI043.023 OWRUG

Water pollution (from nutrients, chemicals, pathogens, and sediment and other contaminants)³⁹ can have far-reaching effects potentially impacting tourism, property values, commercial fishing, recreational businesses, and many other sectors that depend on clean *water*.⁴⁰

These impacts can be direct (varying the quality of *primary production* outputs such as fish); 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).

Social

For the wider community, *water* is a source of kai and for harvesting and food production. *Water* is also a source⁴¹ 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.⁴²

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.⁴³ Where *water* quality cannot support these recreation activities, the lifestyle of those living in Otago is impacted.

Degraded *water* quality reduces the mauri of the *water* and the habitats and species it supports, therefore also negatively affecting *mahika kai* and taoka species and places. This constitutes a loss of Kāi Tahu culture, affecting the intergenerational transfer of knowledge handed down from tūpuna over hundreds of years; and it culminates in a loss of rakatirataka and mana.

SRMR–19 – Otago lakes are subject to pressures from tourism and population growth

Statement

The beauty, recreational opportunities and regional climate of Lakes ~~Wanaka~~ Wānaka,⁴⁴ Whakatipu Waimāori/Lake Wakatipu, Lake⁴⁵ Hāwea and Te Wairere/Lake⁴⁶ Dunstan and their environs provides significant recreational benefits to people and attract visitors and residents from around the region, the country and the world. This influx supports human health and well-being and⁴⁷ 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.

³⁹ FPI026.014 Federated Farmers

⁴⁰ <https://www.epa.gov/nutrientpollution/effects-economy> (accessed 26 May 2021)

⁴¹ FPI043.023 OWRUG

⁴² FPI037.008 Fish and Game

⁴³ This estimate applies to larger rivers and lakes, defined as "rivers that are fourth order in the River Environment Classification system and lakes with a perimeter of 1.5km or more" – ORC Policy Committee Report – 29 Nov 2018 - PPRM1843

⁴⁴ FPI027.038 Contact, FPI042.142 Te Rūnanga o Ngāi Tahu, FPI042.132 Ngāi Tahu ki Murihiku

⁴⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI030.049 Kāi Tahu ki Otago

⁴⁶ FPI030.049 Kāi Tahu ki Otago

⁴⁷ FPI037.009 Fish and Game

Context

Healthy *lakes* are one of Otago's most valued natural resources and for the most part *water* quality is good. The values assigned to *lakes* include the natural features and landscapes, the quality and quantity of *water* accessible to the Otago communities, the accessibility of these resources for recreation, the health of native flora and fauna associated with Otago's *rivers* and *lakes*, and renewable energy production electricity generation.⁴⁸

Urban growth is adversely affecting the natural features and landscapes around the lakes. The amount of growth is demonstrated in the Queenstown Lakes District, including Queenstown and ~~Wanaka~~ Wānaka,⁴⁹ where the population tripled in the last 20 years from 16,750 in 1999 to 47,400 in 2020.⁵⁰ Continued growth is projected over the 30 years from 2020 to 2050 (by 63%).⁵¹

This desire of New Zealanders and international visitors⁵² 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. Individual and community benefits associated with using the lakes are significant, including from recreation which supports human health and wellbeing. At the same time the economy of the Otago lakes area is heavily dependent on tourism. For example in 2020, tourism employment accounted for an estimated 56% (or 17,758) of the jobs in the Queenstown-Lakes district; tourism GDP accounted for 43.7% (or NZ \$1.7 billion) of the district's GDP and international tourism contributed 64% (or NZ \$1.89 billion).⁵³ The Otago-Lakes area also supplies significant renewable energy electricity⁵⁴ for use in Otago and beyond.

Impact snapshot

Environmental

Population pressures arising from urban development, and tourism population pressures are impacting on the *environment*. Lake ~~Wanaka~~ Wānaka,⁵⁵ Lake Hāwea, and Whakatipu Waimāori/Lake Wakatipu,⁵⁶ as well as the Kawarau River and upper reaches of the Clutha Mata-au and ~~Taieri~~ Taiari⁵⁷ Rivers all have good *water* quality which equates to the "A" band (being top/best level) for the *National Objectives Framework*.⁵⁸

However, *water* quality is being adversely impacted by increased population, urban development and tourism demand which is straining existing waste management infrastructure. In addition, localised degradation of some areas is occurring due to overuse and unregulated use (e.g. freedom camping). The amenity of these areas is being compromised in some places by over-crowding.

Recreation *use* impacts on the *environment* can be a *risk*, for example the distribution of pest species can be accelerated as has occurred for lake snow and *Lagarosiphon* weeds being spread by recreation boating movements.

⁴⁸ FPI027.012 Contact

⁴⁹ FPI027.038 Contact, FPI042.142 Te Rūnanga o Ngāi Tahu, FPI042.132 Ngāi Tahu ki Murihiku

⁵⁰ Infometrics online database (February 2021)

⁵¹ Queenstown-Lakes District Council demand projections by Utility

⁵² FPI046.002 QLDC

⁵³ Infometrics online database; (February 2021)

⁵⁴ FPI027.012 Contact

⁵⁵ FPI027.038 Contact, FPI042.142 Te Rūnanga o Ngāi Tahu, FPI042.132 Ngāi Tahu ki Murihiku

⁵⁶ FPI030.049 Kāi Tahu ki Otago

⁵⁷ FPI030.049 Kāi Tahu ki Otago

⁵⁸ Land, Air, Water, Aotearoa: <https://www.lawa.org.nz/explore-data/otago-region/> (accessed 26 May 2021).

Natural features and landscape values ~~are also~~ can be adversely impacted by tourism and urban growth, and ~~energy production~~ electricity generation.⁵⁹

Economic

The economic benefits of urban development, tourism, ~~agriculture~~ primary production,⁶⁰ ~~energy production~~ renewable electricity generation⁶¹ and water supply can be positive for the Otago-Lakes' communities and visitors. It also impacts on the region's natural assets with a growing cost to the region that puts at *risk* the *environment* highly prized by residents and visitors. There are also impacts between industry sectors.

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.⁶² This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry's social licence to operate. At the same time tourism can negatively impact on how ~~agriculture~~ primary production⁶³ can operate, potentially limiting its contribution to the regional economy.

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 production⁶⁴ can operate.

Social

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.⁶⁵

SRMR-I12 – Social, cultural and economic wellbeing of Otago's communities depends on use and development of natural and physical resources

Statement

The social, cultural and economic health and wellbeing of Otago's people and communities relies on the ability of people being able to access, use and develop the region's natural and physical resources.

Context

The social, cultural and economic wellbeing of Otago's communities depends on use and development of natural and physical resources. Loss or degradation of resources can diminish their intrinsic values and constrains opportunities for use and development now and into the future. Some of Otago's resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

⁵⁹ FPI027.012 Contact

⁶⁰ FPI043.026 OWRUG

⁶¹ FPI027.012 Contact

⁶² FPI 038.023 NZSki, FPI039.025 Realnz

⁶³ FPI043.026 OWRUG

⁶⁴ FPI043.026 OWRUG

⁶⁵ FPI 038.023 NZSki, FPI039.025 Realnz

Sustainable management under the RMA includes enabling social, economic and cultural wellbeing for present and future generations. Resource management decisions need to recognise that individual and community wellbeing depends on use, development and protection of natural and physical resources.

Impact snapshot

Environmental

Subdivision, use and development of natural resources can result in appropriate environmental effects including net environmental benefits, particularly where that subdivision, use or development results in enhancement and restoration of degraded parts of the natural environment.

Human use (associative) benefits of from human use of accessing and using natural resources contributes to the significant values of highly valued natural features and natural landscapes, and outstanding waterbodies.

Enabling people to access and use natural resources results in significantly positive human health and well-being benefits.

Social and economic

Enabling people to access and use natural resources is required to support a prosperous regional economy. Limiting people's ability to access and use resources use can limit productive economic opportunities and adversely impact the health and well-being of Otago's people and communities.

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

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

The 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. These activities 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.

RMIA–WAI–13 – The effects of land and water use activities on freshwater habitats have resulted in adverse effects on the diversity and abundance of ~~mahika kai~~ mahika kai⁶⁶ resources and harvesting activity

~~Mahika kai~~ Mahika kai⁶⁷ is the gathering of foods and other resources, the places where they are gathered, and the practices used in doing so. ~~Mahika kai~~ Mahika kai⁶⁸ is an intrinsic part of Kāi Tahu identity and economic well-being. Kāi Tahu fishing rights were explicitly protected by the Treaty of Waitangi. Not only was the right to engage in ~~mahika kai~~ mahika kai⁶⁹ activity confirmed, so too was the expectation that such activity will continue to be successful as measured by reference to past practice. However, as described in evidence provided to the Waitangi Tribunal in the Ngāi Tahu claim, there has been a dramatic loss of ~~mahika kai~~ mahika kai⁷⁰ 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 significant loss for mana whenua and a diminishing of rakatirataka and⁷¹ of mana. ~~Mahika kai~~ Mahika kai⁷² 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.⁷³

LF – Land and freshwater

LF-WAI – Te Mana o te Wai

Objectives

LF-WAI-01 – Te Mana o te Wai

The mauri of Otago's water bodies and their health and well-being is protected, and restored 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~~ connects⁷⁴ past, present and future,
- (3) each *water body* has a unique whakapapa and characteristics,

⁶⁶ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁷ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁸ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁶⁹ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁷⁰ Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁷¹ FPI030.014 Kāi Tahu ki Otago

⁷² Clause 10(2)(b)(i) – consequential amendment arising from 00226.038 Kāi Tahu ki Otago

⁷³ FPI030.014 Kāi Tahu ki Otago

⁷⁴ FPI024.015 DairyNZ

- (4) fresh water, and land, and coastal water⁷⁵ 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,⁷⁶
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their *kaitiakitaka* duty of care and attention over wai and all the life it supports, ~~and~~
- (6) People are enabled to use, enjoy and connect meaningfully with water bodies to further their health and well-being, including through recreation and harvesting food, and
- (67) all people and communities have a responsibility to exercise stewardship, care, and respect in the management of fresh water.⁷⁷

Policies

LF-WAI-P1 – Prioritisation

In all decision-making affecting management of⁷⁸ *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 to⁷⁹ the health and well-being of the environment (te hauora o te taiao), ~~and together with~~⁸⁰ the exercise of *mana whenua* to uphold these,⁸¹
- (2) second, health ~~and well-being~~⁸² needs of people, (te hauora o te tangata);⁸³ interacting with *water* through ingestion (such as *drinking water* and consuming ~~harvested~~ resources harvested from the water body)⁸⁴ and immersive activities (such as harvesting resources and ~~bathing~~ primary contact),⁸⁵ and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

Principal reasons

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,

⁷⁵ 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

⁷⁶ FPI043.051 OWRUG, FPI019.003 Fonterra

⁷⁷ FPI019.003 Fonterra, FPI037.012 Fish and Game, FPI032.014 Te Rūnanga o Ngāi Tahu, FPI030.015 Kāi Tahu ki Otago, FPI044.005 DOC

⁷⁸ FPI024.016 DairyNZ, FPI027.016 Contact, FPI019.004 Fonterra, FPI012.003 Minister for the Environment, FPI017.004 Ravensdown, FPI021.002 Ballance

⁷⁹ FPI030.016 Kāi Tahu ki Otago

⁸⁰ FPI017.004 Ravensdown, FPI021.002 Ballance

⁸¹ 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.

⁸² FPI016.011 Meridian

⁸³ FPI017.004 Ravensdown

⁸⁴ FPI030.016 Kāi Tahu ki Otago, FPI017.004 Ravensdown, FPI045.006 Forest and Bird

⁸⁵ FPI017.004 Ravensdown

recognising that⁸⁶ 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 people⁸⁷ is ~~sustained~~ protected in a state of good health that *water* ~~should~~ can be used for economic purposes. Giving effect to *Te Mana o te Wai* requires actively involving ~~takata~~ mana⁸⁸ *whenua* in freshwater planning and management.

Anticipated environmental results

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*.⁸⁹

⁸⁶ FPI030.017 Kāi Tahu ki Otago, FPI027.017 Contact

⁸⁷ FPI027.017 Contact

⁸⁸ FPI030.017 Kāi Tahu ki Otago, FPI032.016 Te Rūnanga o Ngāi Tahu

⁸⁹ FPI026.021 Federated Farmers, FPI043.058 OWRUG, FPI024.018 DairyNZ, FPI019.005 Fonterra

LF-VM – Visions and management LF-FW – Fresh water

Note to readers: As a result of reporting officer recommendations, this chapter combines the LF-VM and LF-FW provisions as notified. The numbering in this section reflects the notified numbering of the provisions so that it is clear that the provision has been moved rather than introduced as 'new'. The numbering will be corrected at the end of the hearing process.

Objectives

LF-FW-O1A – Region-wide **objective vision** for fresh water

In all FMUs and rohe in Otago and within the timeframes specified in the *freshwater* visions in LF-VM-O2 to LF-VM-O6:

(1A) all waterbodies are in a state of good health and well-being,

(1) healthy *freshwater* ecosystems support healthy populations of indigenous species and *mahika kai* that are safe for consumption,

(2) the interconnection of *land*, *freshwater* (including *groundwater*) and *coastal water* is recognised,

(3) indigenous species 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,

(9) people and activities affecting *freshwater* support the health and well-being of affected *water bodies*,

(10) food is available to be harvested from *water bodies* in abundance and is safe to consume,

(11) people have abundant recreation opportunities to access and use *water bodies*,

(12) subject to LF-FW-O1A (1), healthy populations of trout and salmon are able to move within and between *catchments*, and have *habitats* protected in a good state of health and well-being.

LF-VM-OA2 – Region-wide vision (applies to all FMUs)

Achievement of the outcomes set out in LF-FW-O1A by no later than 2040 in all Otago catchments.

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~~ Tāwhirimātea⁹⁰ to the top of the mauka and into the awa,
- ~~(2) fresh water is managed in accordance with the LF-WAI objectives and policies,~~⁹¹
- ~~(3) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,~~⁹²
- ~~(4) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,~~⁹³
- ~~(5) indigenous species migrate easily and as naturally as possible along and within the river system,~~⁹⁴
- (6) the national significance of the Clutha hydro-electricity generation scheme is recognised,
- ~~(6A) water bodies support a range of outdoor recreation opportunities,~~⁹⁵
- (7) in addition to (1) to (6) above:⁹⁶
 - ~~(a) in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, and if degraded are restored improved,~~⁹⁷ 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:~~⁹⁸
 - ~~(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,~~
- ~~(7A) in the Lower Clutha rohe:~~

⁹⁰ FPI027.019 Contact

⁹¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁹² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁹³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁹⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁹⁵ FPI038.008 NZSki, FPI039.010 Realnz

⁹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

⁹⁷ FPI027.019 Contact

⁹⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

- ~~(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, and⁹⁹~~
- ~~(ii) — the ecosystem connections between *freshwater, wetlands* and the coastal environment are preserved and, wherever possible, restored,¹⁰⁰~~
- ~~(iii) — *land* management practices reduce discharges of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and¹⁰¹~~
- ~~(iv) — there are no direct *discharges of wastewater* to *water bodies*, and¹⁰²~~

(8) the outcomes sought in ~~(7)~~ this vision¹⁰³ 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 Manuherekia rohe.

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,¹⁰⁴~~
- ~~(1B) — the national significance of the Waitaki hydroelectricity generation scheme is recognised,¹⁰⁵~~
- ~~(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*,¹⁰⁶~~
- ~~(3) — healthy riparian margins, *wetlands*, estuaries and lagoons support thriving *mahika kai*, indigenous habitats and¹⁰⁷ the health of¹⁰⁸ downstream coastal ecosystems,~~
- ~~(4) — indigenous species can migrate easily and as naturally as possible to and from the coastal environment,¹⁰⁹~~
- ~~(5) — *land* management practices reduce *discharges* of nutrients and other *contaminants* to *water bodies* so that they are safe for human contact, and¹¹⁰~~

⁹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹⁰⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹⁰¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹⁰² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹⁰³ Clause 16(2), Schedule 1, RMA

¹⁰⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI033.001 Fulton Hogan

¹⁰⁵ FPI016.013 Meridian

¹⁰⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹⁰⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹⁰⁸ Clause 16(2), Schedule 1, RMA

¹⁰⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹¹⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

~~(6) innovative and sustainable *land* and *water* management practices support food production in the area and improve resilience to the *effects of climate change*.¹¹¹~~

LF-VM-O4 – ~~Taiari~~ Taiari¹¹² FMU vision

By 2050 in the ~~Taiari~~ Taiari¹¹³ FMU:

~~(1) *fresh water* is managed in accordance with the LF-WAI objectives and policies,¹¹⁴~~

~~(2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,¹¹⁵~~

~~(3) *healthy wetlands* are restored in¹¹⁶ the upper and lower catchment *wetland* complexes, including the ~~Waipori/Waihola Wetlands~~ Waipōuri/Waihola wetland complex,¹¹⁷ ~~Tunaheketaka/Lake Taiari, scroll plain, Upper Taiari wetland complex~~,¹¹⁸ and connected¹¹⁹ tussock areas are restored or enhanced where they have been degraded or lost,¹²⁰~~

~~(4) the gravel *bed* of the lower ~~Taiari~~ Taiari¹²¹ is restored and sedimentation of the ~~Waipori~~ Waipōuri/Waihola¹²² wetland¹²³ complex is reduced,~~

~~(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.¹²⁴~~

~~(6) *water bodies* support healthy populations of *galaxiid* species,~~

~~(7) there are no direct *discharges of wastewater to water bodies*, and¹²⁵~~

~~(8) innovative and sustainable *land* and *water* management practices support food production in the area and improve resilience to the *effects of climate change*.¹²⁶~~

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,¹²⁷~~

¹¹¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹¹² FPI030.049 Kāi Tahu ki Otago

¹¹³ FPI030.049 Kāi Tahu ki Otago

¹¹⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹¹⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹¹⁶ FPI025.020 Beef + Lamb and DINZ

¹¹⁷ FPI030.022 Kāi Tahu ki Otago

¹¹⁸ FPI044.011 DOC

¹¹⁹ FPI022.005 Manawa Energy

¹²⁰ FPI025.020 Beef + Lamb and DINZ

¹²¹ FPI030.049 Kāi Tahu ki Otago

¹²² FPI030.049 Kāi Tahu ki Otago

¹²³ FPI030.022 Kāi Tahu ki Otago

¹²⁴ FPI043.002 OWRUG

¹²⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹²⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹²⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

- ~~(2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,¹²⁸~~
- ~~(3) healthy riparian margins, wetlands, estuaries, and lagoons and coastal waters¹²⁹ 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,¹³⁰~~
- ~~(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, and¹³¹~~
- ~~(5) discharges of contaminants from urban environments are reduced so that *water bodies* are safe for human contact.¹³²~~

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,¹³³~~
- ~~(2) the ongoing relationship of Kāi Tahu with *wāhi tūpuna* is sustained,¹³⁴~~
- ~~(3) *water bodies* support thriving *mahika kai* and access of Kāi Tahu whānui to *mahika kai*,¹³⁵~~
- (4) the high degree of naturalness of the *water bodies*¹³⁶ 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, and¹³⁷~~
- (6) healthy, clear and clean *water* supports opportunities for recreation and sustainable food production for future generations.

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 net¹³⁸ decrease, and preferably an increase,¹³⁹ in the range extent¹⁴⁰ and diversity of habitats and indigenous ecosystem types ~~and habitats~~ in *natural wetlands*,

¹²⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹²⁹ FPI001.012 DCC

¹³⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³⁶ FPI030.024 Kāi Tahu ki Otago

¹³⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI044.007 DOC and others

¹³⁸ FPI033.003 Fulton Hogan

¹³⁹ FPI035.012 Wise Response

¹⁴⁰ FPI030.029 Kāi Tahu ki Otago, FPI021.004 Ballance, FPI025.027 Beef + Lamb and DINZ

- (3) there is no reduction and, where degraded, there is an improvement¹⁴¹ in their wetland¹⁴² ecosystem health, hydrological functioning, ~~amenity values~~, extent or water quality, ~~and if degraded they are improved, and~~¹⁴³
- (4) their flood attenuation and water storage¹⁴⁴ capacity is maintained or improved.¹⁴⁵
- (5) their ability to support recreation values and food harvesting activities are enhanced now and for future generations.

Policies

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

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

Table 1 – Freshwater Management Units and rohe

Freshwater Management Unit	Rohe
Clutha Mata-au	Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha
Taieri-Taiari ¹⁴⁶	n/a
North Otago	n/a
Dunedin & Coast	n/a
Catlins	n/a

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.~~¹⁴⁷

¹⁴¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI033.003 Fulton Hogan

¹⁴² FPI033.003 Fulton Hogan

¹⁴³ FPI033.003 Fulton Hogan

¹⁴⁴ FPI030.029 Kāi Tahu ki Otago

¹⁴⁵ FPI035.012 Wise Response

¹⁴⁶ FPI030.049 Kāi Tahu ki Otago

¹⁴⁷ FPI021.004 Ballance

- (a) must¹⁴⁸ 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,¹⁴⁹ may be developed for the *FMU* or the rohe or a combination of both,
- (4) any *limit* or action plan developed to apply within a rohe:
- (a) prevails over any *limit* or action plan developed for the *FMU* for the same *attribute*, unless explicitly stated to the contrary, and
 - (b) must be no less stringent than any *limit or action plan*¹⁵⁰ set for the parent *FMU* for the same *attribute*, and
 - (c) must not conflict with any *limit set or action plan developed*¹⁵¹ for the underlying parent¹⁵² *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).

¹⁴⁸ FPIO30.026 Kāi Tahu ki Otago

¹⁴⁹ FPIO21.004 Ballance

¹⁵⁰ FPIO21.004 Ballance

¹⁵¹ FPIO21.004 Ballance

¹⁵² Clause 16(2), Schedule 1, RMA

LF-FW-P7 - Fresh water

Environmental outcomes, attribute states (including target attribute states), environmental flows and levels,¹⁵³ and limits ensure that:

- (1) ~~the health and well-being of water bodies is maintained or, if degraded, improved~~ are restored to and protected in a state of good health and well-being
- (2) the habitats of indigenous freshwater species ~~associated with water bodies~~¹⁵⁴ are restored to a state of good health and protected ~~and sustained~~,¹⁵⁵ including by providing for fish passage,
- (2A) the habitats of trout and salmon, including fish passage, are restored to a state of good health and protected insofar as this is consistent with (2),¹⁵⁶
- (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 including¹⁵⁷ *mahika kai* and *drinking water* are safe for human consumption,
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, ~~and~~

LF-FW-P7A – Water allocation and use¹⁵⁸

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.¹⁵⁹

¹⁵³ FPI030.030 Kāi Tahu ki Otago, FPI017.010 Ravensdown, FPI021.005 Ballance, FPI027.026 Contact

¹⁵⁴ FPI027.026 Contact, FPI021.005 Ballance

¹⁵⁵ FPI030.030 Kāi Tahu ki Otago, FPI027.026 Contact

¹⁵⁶ FPI037.019 Fish and Game

¹⁵⁷ FPI037.018 Fish and Game

¹⁵⁸ FPI025.028 Beef + Lamb and DINZ, FPI045.016 Forest and Bird, FPI043.065 OWRUG, FPI009.008 COWA, FPI047.023 Horticulture NZ, FPI022.006 Manawa Energy, FPI027.026 Contact, FPI023.010 Moutere Station

¹⁵⁹ FPI043.065 OWRUG, FPI009.008 COWA, FPI047.023 Horticulture NZ, FPI027.026 Contact, FPI022.006 Manawa Energy

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 all 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)*.¹⁶⁰
- (3) ~~wetlands that do not meet the definition of 'natural wetlands', excluding artificial wetlands, are to be protected and restored by:~~

~~(a) Avoiding or discouraging the loss of wetland values; and~~

~~(b) Promoting restoration and enhancement of wetland values.~~

Protect *natural wetlands* by:

(1) ~~avoiding a reduction in their values or extent unless:~~

~~(a) the *loss of values* or extent arises from:~~

- ~~(i) the customary harvest of food or resources undertaken in accordance with tikaka Māori,~~
- ~~(ii) restoration activities,~~
- ~~(iii) scientific research,~~
- ~~(iv) the sustainable harvest of sphagnum moss,~~
- ~~(v) the construction or maintenance of *wetland utility structures*,~~
- ~~(vi) the maintenance of operation of *specific infrastructure*, or *other infrastructure*,~~
- ~~(vii) *natural hazard works*, or~~

~~(b) the Regional Council is satisfied that:~~

- ~~(i) the activity is necessary for the construction or upgrade of *specified infrastructure*,~~
- ~~(ii) the *specified infrastructure* will provide significant national or regional benefits,~~
- ~~(iii) there is a *functional need* for the *specified infrastructure* in that location,~~
- ~~(iv) the *effects* of the activity on *indigenous biodiversity* are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and~~
- ~~(v) the other *effects* of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the *effects management hierarchy*, and~~

~~(2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:~~

- ~~(a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v) will be applied to the *loss of values* or extent of the *natural wetland*, and~~
- ~~(b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v).~~

¹⁶⁰ FPI001.019 DCC, FPI026.031 Federated Farmers, FPI027.027 Contact

LF-FW-P10 – Restoring *natural wetlands*

Improve the ecosystem health, hydrological functioning, ~~water quality~~¹⁶¹ and extent of *natural wetlands* that have been degraded or lost by

(1) requiring, ~~where possible~~ to the greatest extent practicable:¹⁶²

- ~~(1-a)~~ an increase in the extent and quality condition¹⁶³ of habitat for indigenous species,
- ~~(2-b)~~ the restoration of hydrological processes,
- ~~(3-c)~~ control of pest species and vegetation clearance, and
- ~~(4-d)~~ the exclusion of stock.

(2) Recognising the benefits to wetland protection and restoration from activities that result in either of 1-4 of LF-FW-P10 above, and recognising the benefits to people from activities that improve people’s awareness of, and access to, wetlands for customary, scientific, education, or recreational uses.

LF-FW-P15 - ~~Stormwater and wastewater~~¹⁶⁴ discharges

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* and ~~wastewater~~¹⁶⁵ 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~~¹⁶⁶

(2) requiring:

- ~~(a) — all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,~~¹⁶⁷
- (ab) integrated catchment management plans for management of *stormwater* in *urban areas*,¹⁶⁸
- (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*,¹⁶⁹

¹⁶¹ FPI024.030 DairyNZ

¹⁶² FPI045.018 Forest and Bird, FPI025.043 Beef + Lamb and DINZ, FPI035.015 Wise Response, FPI020.017 Silver Fern Farms, FPI022.008 Manawa Energy

¹⁶³ FPI046.012 QLDC

¹⁶⁴ FPI044.019 DOC

¹⁶⁵ FPI044.019 DOC

¹⁶⁶ FPI001.021 DCC, FPI017.022 Ravensdown

¹⁶⁷ FPI001.021 DCC, FPI017.022 Ravensdown, FPI030.033 Kāi Tahu ki Otago

¹⁶⁸ FPI030.033 Kāi Tahu ki Otago

¹⁶⁹ FPI001.021 DCC, FPI017.022 Ravensdown

- (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,¹⁷⁰
- ~~(d) on-site wastewater systems to be designed and operated in accordance with best practice standards,¹⁷¹~~
- (e) that any stormwater and wastewater discharges do not prevent water bodies from¹⁷² meeting any applicable water quality standards set for FMUs and/or rohe, and
- (f) the use of water sensitive urban¹⁷³ design techniques ~~to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land,¹⁷⁴~~ wherever practicable, and

(3) ~~promoting to the greatest extent practicable, requiring¹⁷⁵ the reticulation of stormwater and wastewater¹⁷⁶ in urban areas,~~ and

(4) promoting source control as a method for reducing contaminants in discharges.¹⁷⁷

LF-FW-P16 – Discharges containing animal effluent, sewage, and industrial and trade waste¹⁷⁸

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,

¹⁷⁰ FPI001.024 DCC

¹⁷¹ FPI019.009 Fonterra, FPI017.022 Ravensdown

¹⁷² FPI001.021 DCC, FPI017.022 Ravensdown

¹⁷³ FPI017.022 Ravensdown

¹⁷⁴ Out of scope recommendation in accordance with clause 49(2)(a)

¹⁷⁵ FPI046.013 QLDC

¹⁷⁶ FPI019.009 Fonterra, FPI017.022 Ravensdown

¹⁷⁷ FPI001.021 DCC, FPI017.022 Ravensdown, FPI030.033 Kāi Tahu ki Otago

¹⁷⁸ FPI019.009 Fonterra, FPI017.011 Ravensdown, FPI030.033 Kāi Tahu ki Otago

~~(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.~~

Methods

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 2024¹⁷⁹ and, after it is made operative, maintain that *regional plan* to:

~~(1A) implement the required steps in the NOF process in accordance with the NPSFM,~~¹⁸⁰

~~(1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,~~¹⁸¹

~~(2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,~~¹⁸²

~~(3) identify *water bodies* that are *over-allocated* in terms of either their *water quality or quantity*¹⁸³ 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*,~~¹⁸⁴

~~(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~~¹⁸⁵

~~(5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A,~~¹⁸⁶

~~(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*,~~

¹⁷⁹ Clause 16(2), Schedule 1, RMA

¹⁸⁰ FPI025.030 Beef + Lamb and DINZ

¹⁸¹ FPI025.030 Beef + Lamb and DINZ

¹⁸² FPI025.030 Beef + Lamb and DINZ

¹⁸³ FPI001.028 DCC

¹⁸⁴ FPI012.007 Minister for the Environment

¹⁸⁵ FPI025.030 Beef + Lamb and DINZ

¹⁸⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including LF-FW-P7A

- (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*, and¹⁸⁷

(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*, and¹⁸⁸

(7) identify and manage *natural wetlands* in accordance with LF-FW-P7, ~~LF-FW-P8~~ and¹⁸⁹ LF-FW-P9 and LF-FW-P10¹⁹⁰ while recognising that some activities in and around *natural wetlands* are managed under the NESF and the NESPF,¹⁹¹ 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.¹⁹²

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026¹⁹³ 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~~ protect¹⁹⁴ 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 activities on the surface of water,¹⁹⁵
- (3) require, wherever practicable, the adoption of water sensitive ~~urban~~¹⁹⁶ design techniques when managing *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,

¹⁸⁷ FPI025.030 Beef + Lamb and DINZ

¹⁸⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including new clause (5A) and new policy LF-FW-P7A

¹⁸⁹ Clause 16(2), Schedule 1, RMA

¹⁹⁰ FPI035.017 Wise Response

¹⁹¹ FPI014.003 Rayonier Matariki

¹⁹² Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from FPI019.009 Fonterra, FPI017.011 Ravensdown, FPI030.033 Kāi Tahu ki Otago

¹⁹³ FPI001.002 DCC

¹⁹⁴ FPI047.026 Horticulture NZ

¹⁹⁵ FPI030.035 Kāi Tahu ki Otago, FPI044.021 DOC

¹⁹⁶ Clause 16(2), Schedule 1, RMA

- (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.

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, and¹⁹⁷
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

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

[Source – page 39 paragraph 154 of Ms Boyd's Reply Report 09

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

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

(a) describe the habitats required to provide for the protection of indigenous species for the purposes of 2(a), (b), and (c),

(b) 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 areas where it will not be consistent,

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

(i) determine information needs to manage the species,

(ii) set short-, medium- and long-term objectives for the species involved,

(iii) identify appropriate management actions that will achieve the objectives determined in (ii), including measures to manage the adverse effects of trout and salmon on indigenous species where appropriate, and

(iv) consider the use of a range of tools, including those in the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, as appropriate.

¹⁹⁷ FPI034.007 The Fuel Companies

Explanation

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.

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*¹⁹⁸ *_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 and the indigenous biodiversity and hydrological values of wetland systems.¹⁹⁹ [Note to reader: originally LF-FW-E3 para 2]

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.

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.²⁰⁰ 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 rural²⁰¹ *land* uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects. [Note to reader: originally LF-FW-PR3 para 1]

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~~²⁰² reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in

¹⁹⁸ 00226.196 Kāi Tahu ki Otago

¹⁹⁹ 00226.196 Kāi Tahu ki Otago

²⁰⁰ FPI009.010 COWA

²⁰¹ FPI030.038 Kāi Tahu ki Otago

²⁰² FPI030.038 Kāi Tahu ki Otago

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. [Note to reader: originally LF-FW-PR3 para 2]

Anticipated environmental outcomes

LF-FW-AER4	<i>Fresh water</i> is allocated within limits that contribute to achieving specified <i>environmental outcomes</i> for <i>water bodies</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF-VM section of this chapter.
LF-FW-AER5	<i>Specified rivers and lakes</i> are suitable for primary contact within the timeframes set out in LF-FW-P7.
LF-FW-AER6	<i>Degraded water</i> quality is improved so that it meets specified <i>environmental outcomes</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF-VM section of this chapter.
LF-FW-AER7	Water in Otago’s aquifers is suitable for human consumption, unless that <i>water</i> is naturally unsuitable for consumption.²⁰³
LF-FW-AER8	Where <i>water</i> is not <i>degraded</i> , there is no reduction in <i>water</i> quality.
LF-FW-AER9	<u>Direct discharges of wastewater to water are phased out to the greatest extent practicable and the</u> The ²⁰⁴ 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 <u>an improvement</u> ²⁰⁵ in the extent or <u>quality condition</u> ²⁰⁶ of Otago’s <i>natural wetlands</i> .

²⁰³ FPI047.027 Horticulture NZ, FPI026.035 Federated Farmers, FPI020.023 Silver Fern Farms

²⁰⁴ FPI032.026 Te Rūnanga o Ngāi Tahu, FPI030.040 Kāi Tahu ki Otago

²⁰⁵ FPI020.027 Silver Fern Farms

²⁰⁶ FPI046.023 QLDC

~~LF-FW – Fresh water~~

Note to readers: *As a result of reporting officer recommendations, the provisions of this chapter have been moved into the previous chapter (notified LF-VM)*

LF-LS – Land and soil

Note to readers: As a result of reporting officer recommendations, the following provisions have been moved to the LF-LS chapter:

- UFD-O4 – Development in rural areas
- UFD-P7 – Rural areas
- UFD-P8 – Rural lifestyle and rural residential zones
- UFD-M2(8) and (9)
- UFD-E1 – Explanation (third paragraph)
- UFD-PR1 – Principal reasons (sixth paragraph)

The notified numbering of UFD-O4, UFD-P7, and UFD-P7 has been retained in the LF-LS chapter as an interim measure so that it is easier to link submission points to provisions. The numbering of both chapters will be updated and made chronological following a final decision by Council.

Objectives

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,²⁰⁷ 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.

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 maintained²⁰⁸ or, if *degraded*, improved²⁰⁹ to meet *environmental outcomes* set for *Freshwater Management Units* and/or rohe by:

- (1) reducing or otherwise managing the adverse effects of²¹⁰ 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.²¹¹

²⁰⁷ FPI017.013 Ravensdown

²⁰⁸ 00121.066 Ravensdown

²⁰⁹ 00226.206 Kāi Tahu ki Otago

²¹⁰ FPI029.037 Contact, FPI017.014 Ravensdown, FPI021.006 Ballance

²¹¹ FPI029.037 Contact, FPI017.014 Ravensdown, FPI044.022 DOC

Methods

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 2024²¹² and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans*, ~~as required by the RMA and any regulations,~~²¹³
 - (b) the adoption of practices that avoid or minimise 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, and²¹⁴
- (3) implement policies LF-LS-P16 to LF-LF-P22.

Explanation

Anticipated environmental results

LF-LS-AER14 The use of *land* supports the achievement of *environmental outcomes* and objectives in Otago's *FMUs* and rohe.

²¹² Clause 16(2), Schedule 1, RMA

²¹³ FPI037.022 Fish & Game, FPI030.043 Kāi Tahu ki Otago

²¹⁴ FPI044.023 DOC

Appendix 2 - Planning Evidence of Ben Farrell 28 November 2022

**Before the Hearings Panel
For the Proposed Otago Regional Policy Statement**

Under the Resource Management Act 1991 (“**Act**”)

In the matter of Submissions on the Proposed Otago Regional Policy Statement 2021 (excluding parts determined to be a freshwater planning instrument)

Between **Otago Fish and Game Council and Central Otago Fish and Game Council**
Submitter #231 & FS00231

Real Group Limited
Submitter #00411

NZSki Limited
Submitter #00206

Planning Evidence of Ben Farrell

28 November 2022

CONTENTS

EXECUTIVE SUMMARY	3
INTRODUCTION	3
Qualifications and experience.....	3
Scope of evidence.....	3
Code of conduct.....	4
STATUTORY REQUIREMENTS	4
GENERAL RELIEF AND PLAN DRAFTING	4
SPECIFIC RELIEF	5
Description of the Region – Natural Character and landscapes.....	5
New SRMR Section and various minor amendments.....	5
SRMR Section: Various minor amendments.....	7
Definitions: 'Natural Environmental Limits' and 'Other Environmental Limits'.....	8
Definitions: Natural Environment.....	10
Definitions: Minimise.....	10
Definitions: Precautionary approach.....	10
Definitions: Restore.....	11
Definitions: Regionally Significant Infrastructure.....	11
Definitions: Ski Area Infrastructure.....	12
IM-P1 - Integrated approach to decision-making, IM-P2 – Decision priorities.....	12
IM-P4 – Setting a strategic approach to ecosystem health.....	13
IM-P5 – Managing environmental interconnections, IM-P13 – Managing cumulative effects.....	14
IM-P10 – Climate change adaptation and climate change mitigation.....	15
IM-P12 – Contravening environmental limits for climate change mitigation.....	16
IM-P14 – Human Impact.....	16
IM-M1 – Regional plans and district plans.....	17
IM-M2 – Relationships.....	17
LF-WAI-P3 – Integrated management/ki uta ki tai.....	18
LF-FW-P12 – Identifying and managing outstanding water bodies.....	19
LF-FW-P13 – Preserving natural character and instream values.....	19
LF-FW-P13A – Effects management hierarchy (in relation to natural wetlands and rivers).....	20
LF-FW-P14 – Restoring natural character and instream values.....	21
LF-LS-O11, O11A, O12, LF-LS-P16, LF-LS-P19.....	Error! Bookmark not defined.
LF-LS-P20 - Land use change.....	21
LF-LS-M12 – District Plans.....	21
ECO-O1 – Indigenous biodiversity.....	22
ECO-P5 – Existing activities in significant natural areas.....	22
ECO-P8 – Restoration and enhancement.....	23
ECO-M5 – District plans.....	23
ECO-M8 – Other incentives and mechanisms.....	24
ECO-AER1.....	24
ECO-AER2.....	24
EIT-INF-P13 – Locating and managing effects of infrastructure.....	24
EIT-INF-M4 – Regional plans.....	25
EIT-INF-M5 – District plans.....	26
EIT-EN-O2 – Renewable electricity generation.....	27
EIT-EN-P1 – Operation and maintenance.....	27
EIT-EN-P2 - Recognising renewable electricity generation activities in decision making.....	28
EIT-EN-P3 – Development and upgrade of renewable electricity generation activities.....	28
EIT-EN-P5 – Non-renewable energy generation.....	29
EIT-TRAN-P19 – Transport system design.....	29
HCV-HH-P5 – Managing historic heritage.....	30
NFL-O1 - NFL-O1 – Outstanding and highly valued natural features and landscapes and NFL-P4 – Restoration.....	30
UFD-P7 – Rural Areas.....	31
UFD-M1 – Strategic Planning.....	32
APP1 - Criteria for identifying outstanding water bodies.....	32
APP6 – Methodology for natural hazard risk assessment.....	32
APP9 – Identification criteria for outstanding and highly valued natural features, and landscapes and (including seascapes).....	33
S32AA SUMMARY	33
CONCLUSION	34

EXECUTIVE SUMMARY

- 1 My name is Ben Farrell. I am the owner and director of Cue Environmental Limited, an independent planning consultancy based in Queenstown. Much of my work experience over the last decade has been undertaken in Southland, Otago and Canterbury, including regional policy and plan developments for these regions. I am familiar with Otago's natural and built environments, and mana whenua rights and interests. I am experienced in the preparation and practical application of most resource management processes applicable in Otago.
- 2 I have been asked by Otago Fish and Game Council and Central Otago Fish and Game Council (Fish and Game), Real Group Limited (Realnz), and NZSki Limited (NZSki) to provide evidence in relation to the appropriateness of some of the pRPS.
- 3 I generally concur with and rely on many of the findings and recommendations set out in the respective s42A Reports. However, my assessment is that many of the amendments recommended in the s42 Report should be amended further in order to be the most appropriate in respect of a s32 evaluation.

INTRODUCTION

Qualifications and experience

- 4 My full name is Ben Farrell. I am an Independent Planning Consultant based in Queenstown. I have masters level qualifications in environmental policy and planning gained from Lincoln University in Canterbury plus 20 years practical experience working across New Zealand on a range of environmental policy and planning matters.

Scope of evidence

- 5 I have been asked to prepare planning evidence on parts of the pRPS by Otago Fish and Game Council and Central Otago Fish and Game Council (Fish & Game), Real Group Limited (Realnz), and NZSki Limited (NZSki).
- 6 My evidence is focused on core issues and specific provisions of particular interest to these submitters excluding relief sought that is supported in the s42A Report (for brevity I have tried to avoid commenting on provisions where ORC is supporting the relief of Fish and Game, Realnz, NZSki).
- 7 In preparing this evidence I have reviewed or refer to: the ORC s32 evaluation material and s42A Report (inclusive of all supplementary evidence); original and further submissions of numerous submitters; and evidence of Mr Paragreen and Mr Couper for Fish and Game, Mr Norris for Realnz and Mr Anderson for NZSki. I have also referred to content of the Natural and Built and Environment Act bill.
- 8 In preparing this evidence I have also had discussions with planning experts and representatives of other parties, including through the formal pre-hearing meeting process.

Code of conduct

- 9 While this matter is not before the Court, I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2014.
- 10 As a member of NZPI I am also required to abide the NZPI Code of Ethics.
- 11 I declare that I am married to Ms Ailsa Cain who is a member of the Cain whanau. The Cain whanau are mana whenua in Otago and have an interest in the provisions in this RPS (Submission #0110).

STATUTORY REQUIREMENTS

- 12 The description of the relevant statutory requirements are set out in paragraphs 23-27 and section 1.4 of the s32 Report, primarily in respect of the requirements of a regional policy statement under s.62 and the evaluations required under s32 and s32AA.
- 13 The s32 Analysis provided in the s42A Report assesses the costs and benefits of various provision options. While not always expressed or referenced directly in my analysis below the relevant s32 matters provide the starting point for my assessments. Applying these evaluation matters, my evidence below outlines why the amendments discussed in my evidence are more appropriate compared to the amendments recommended in the s42A report.

GENERAL RELIEF AND PLAN DRAFTING

- 14 Fish and Game, Realnz and NZSki have sought general relief to amend provisions to remove ambiguous and unclear wording and replace with consistent, directive terms.
- 15 As a matter of good plan drafting the RPS should utilise consistent and concise phrasing and remove as much uncertainty as can practicably be achieved. The benefits of reducing or removing uncertainty (through providing clear direction) include:
- (a) Improved understanding by lay people (who are effectively the major end user).
 - (b) Actual measurable protection of environmental values (where policy directives are sufficiently clear and precise)
 - (c) Improved clarity over people's rights and interests to utilise resources, inclusive of avoidance or reductions in future costs and risks in investment opportunities associated with the preparation and administration of lower order plans and consent applications.
- 16 The RPS will be improved through additional clarity by accepting the relief sought by Fish and Game, Realnz and NZSki in relation to:
- (a) Including the word 'natural' before landscape every time there is reference to outstanding natural features or landscapes' and 'highly valued natural features or landscapes;
 - (b) Referring to 'indigenous' rather 'native'.

SPECIFIC RELIEF

- 17 A full list of all amendments I am recommending, shown as track changes to the amendments recommended in the s42A Report, is attached to this evidence as Appendix 1.

Description of the Region – Natural Character and landscapes

Recommendation

- 18 Insert the following statement in the section:

There is an extensive and important amount of unmodified land and water, particularly in National Parks and other Public Conservation Areas.

Reason

- 19 Fish and Game, Realnz and NZSki are seeking the statement is amended to include “*There is a tremendous amount of unmodified land in our National Parks and other Public Conservation Land*” because the description understates the amount and importance of unmodified natural environment throughout Otago and sought amendment to include.
- 20 There is a large and important amount of unmodified land in Otago and it is appropriate to ensure the RPS identifies or acknowledges these ‘natural state’ characteristics as these areas:
- (a) Provide an actual baseline for comparing natural environmental conditions with degraded environmental conditions;
 - (b) Provide people with human health and well-being benefits;
 - (c) Are significant resources for the region, such as for tourism.
- 21 There is some emotive context associated with the term tremendous as identified in the s42A Report. Therefore, it is appropriate to replace tremendous with a more neutral or factual word, such as extensive and important.

New SRMR Section and various minor amendments

Recommendation

- 22 Insert a new section, as follows. Alternatively, insert a narrower section related only to the benefits of human health and well-being benefits associated with accessing (i.e. transport to and within) and recreating in (i.e. using) natural resources/natural environment.

SRMR-112 – Social, cultural and economic wellbeing of Otago’s communities depends on use and development of natural and physical resources

Statement

The social, cultural and economic health and wellbeing of Otago’s people and communities relies on the ability of people being able to access, use and develop the region’s natural and physical resources.

Context

The social, cultural and economic wellbeing of Otago's communities depends on use and development of natural and physical resources. Loss or degradation of resources can diminish their intrinsic values and constrains opportunities for use and development now and into the future. Some of Otago's resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

Sustainable management under the RMA includes enabling social, economic and cultural wellbeing for present and future generations. Resource management decisions need to recognise that individual and community wellbeing depends on use, development and protection of natural and physical resources.

Impact snapshot

Environmental

Subdivision, use and development of natural resources can result in appropriate environmental effects including net environmental benefits, particularly where that subdivision, use or development results in enhancement and restoration of degraded parts of the natural environment.

Human use (associative) benefits of from human use of accessing and using natural resources contributes to the significant values of highly valued natural features and natural landscapes, and outstanding waterbodies.

Enabling people to access and use natural resources results in significantly positive human health and well-being benefits.

Social and economic

Enabling people to access and use natural resources is required to support a prosperous regional economy. Limiting people's ability to access and use resources use can limit productive economic opportunities and adversely impact the health and well-being of Otago's people and communities.

Reason

- 23 Enabling people to access, develop and use resources for their benefit (including their benefitting other people and future generations) within natural environmental limits (set at an extent that safeguards/protects the natural environment to provide for future generations) is at the heart of the fundamental concept of sustainable management. However, there is no imperative to allow the use of natural resources where that use does not safeguard Otago's life supporting capacity of air, water, soil, and ecosystems. Where Otago's natural resources are depleted or depleting (at a regional scale) then s5 should be read as directing a need to protect or restore that natural resource until its life-supporting capacity is safeguarded (at a regional scale).
- 24 The provision for human health and well-being (within environmental limits) is effectively the fundamental purpose of the RMA yet the pRPS does not acknowledge as a significant resource management issue that providing for social, cultural and economic health and wellbeing of Otago's people and communities relies on the ability of people being able to access, use and develop the region's natural and physical resource. This includes the needs of people to, among other things, be able to able to recreate (indoors and outdoors).

- 25 Outdoor recreation is an important part of Otago and New Zealand's identity and social and cultural well-being. Commercial outdoor recreation (and transport services associated with outdoor recreation) in Otago provide considerable socioeconomic benefits to the region. This is evidenced in the Economic Assessment undertaken by Mr Benje Patterson attached to the evidence of Mr Anderson. For example, this research identified that skiing results in social and cultural wellbeing benefits.

SRMR Section: Various minor amendments

Recommended Amendments

- 26 Add the following to end of the paragraph following Figure 2:
Finally, issues of economic and domestic pressures, cumulative impacts and resilience, and social and economic wellbeing, are considered.
- 27 Add the following to the economic description for SRMR-I5
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, tourism (for example water supply for visitor destinations and snowmaking), and mineral extraction.
- 28 Add the following to the social description for SRMR-I5
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).
- 29 Add the following to the statement under SRMR17:
Subdivision, development and changing land use can result in ecological enhancement and restoration benefits, particularly in areas where indigenous biodiversity has been degraded.
- 30 Add the following to the context description for SRMR-I7
A means of enhancing and restoring indigenous biodiversity in the Region includes promoting subdivision and changes in land use (including development) which results in ecological enhancement and restoration benefits, including outside SNAs where indigenous biodiversity has been heavily degraded or lost.
- 31 Amend the context description for SRMR8 as follows:
Such activities ~~can be~~ are important contributors to the ~~existing and future~~ health and well-being of people and communities. ~~when they are located and managed appropriately.~~
- 32 Amend the statement for SRMR19 as follows:
The beauty, recreational opportunities and regional climate of Lakes Wanaka, Wakatipu, Hāwea and Dunstan and their environs provides significant recreational benefits to people and attract visitors and residents from around the region, the country and the world. This supports human health and well-being and ~~influ~~ brings economic ~~benefit through urban growth and tourism~~ opportunities, but the activities and services created to take advantage of it can degrade the environment and undermine the experience that underpins their attractiveness
- 33 Amend the context description for SRMR19 as follows:

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

...

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. Individual and community benefits associated with using the lakes are significant, including from recreation which supports human health and wellbeing.

- 34 Amend the economic description for SRMRI9 as follows:

The economic benefits of urban development, tourism, agriculture, energy production and water supply are significant to can be positive for the Otago-Lakes' communities and visitors. ~~It also impacts on the region's natural assets with a growing cost to the region that puts at risk the environment highly prized by residents and visitors. There are also impacts between industry sectors. However, For example, the clean green image of New Zealand, of which a large part of the Otago Lakes area is symbolic, is at risk of being compromised because of poorly designed development, inadequate infrastructure and over-crowding in some location. speak tourism seasons. This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry's social licence to operate. At the same time tourism can negatively impact on how agriculture can operate, potentially limiting its contribution to the regional economy.~~

- 35 Add the following to the start of social description for SRMRI9 as follows:

The social benefits of urban development, tourism and recreation are significant to the Otago-Lakes' communities and visitors.

- 36 Amend the statement for SRMRI10 as follows:

Tourism and recreation, which relies on the environment and provides significant benefits to the economy and people's health and well-being, can also put pressure on natural environments.

Reasons

- 37 The SRMR section should be amended to include the above amendments (or wording with like effect) to help the RPS better recognise and appropriately provide for the benefits of and provide for human health and well-being.

Definitions: 'Natural Environmental Limits' and 'Other Environmental Limits'

Recommendation

- 38 Retain references to 'biophysical limit' and amend references to 'environmental limit' or 'limit' to 'biophysical limit', and include meaning for 'biophysical limit' to accord with the meaning of environmental limit adopted in the NBEA bill. Suggested wording is:

Biophysical limit

A biophysical environmental limit must be expressed as relating to the ecological integrity of the natural environment or to human health.

A biophysical limit may be:

(a) qualitative or quantitative:

(b) set at different levels for different management units:

(c) set in a way that integrates more than 1 of the aspects of the natural environment.

- 39 Any consequential amendments (if required) to avoid overlap with the references to 'limit (in relation to freshwater)' and 'limit on resource use'.

Reason

- 40 The s42A Report clarifies ORC's intentions around applying environmental limits in the regional planning framework. However, the recommended amendments do not clarify what limits might apply to what aspects of the environment. In practice it will be difficult to achieve or progress towards healthy and resilient natural environmental systems in the absence of limits.
- 41 This uncertainty should be minimised by amending the RPS to clarify the circumstances where limits may not be practicable and set out a criteria or methodology for dealing with the impracticality.
- 42 In principle, the poorer the state of the natural environment then the poorer the state of human wellbeing, and vice versa. The RPS refers to "tipping points" (a scientific term describing the point at which part of the natural environmental system is nudged into different state of irreversible change that is beyond human control). Once a tipping point is crossed then economic situations reliant on those environmental or natural resources become uncontrollable and this cannot be undone. Transformational change is required compared to the way that the environment and resources have been managed in historically under previous environmental law in New Zealand. This is already evident in the highly prescribed and restrictive policy direction set out in parts of the NZCPS, NPSFM and the NPSHPL. It is therefore appropriate that the RPS directs lower order planning documents to include measurable and quantifiable natural environmental limits.
- 43 The approach taken in the s42A Report would allow limits to be set in relation to matters that are not consistent with the purpose of setting environmental limits set out in the NBEA (for example on amenity and landscape values). Strict measurable / quantifiable limits on resource use should not be imposed in respect of anthropocentric environmental values, such as landscape, historic heritage, cultural values, rights and interests of Ngai Tahu. These anthropocentric values fundamentally do not threat natural environmental systems or have biophysical tipping points.

- 44 The meaning of environmental limit, in a New Zealand context, has been clarified somewhat in the drafting of the NBEA Bill. Under the Bill the purpose of setting environmental limits is (a) to prevent the ecological integrity of the natural environment from degrading from the state it was in at the commencement of this Part: (b) to protect human health. Environmental limits must be set for air, indigenous biodiversity, coastal water, estuaries, freshwater, and soil. Environmental limits can also be set for any other aspect of the natural environment in accordance with the purpose of setting environmental limits. While this bill is not law, the definition provided in the bill is generally consistent with version sought in the submission by Fish and Game.

Definitions: Natural Environment

Recommendation

- 45 Provide a definition of natural environment as sought by the submitter. Suggested wording is that identified in the NBEA bill:

Natural environment means:

(a) the resources of 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; and

(b) ecosystems and their constituent parts

Reason

- 46 The term “natural environment” is used throughout the RPS but is not defined. If the meaning of natural environment is not defined in the RPS then uncertainty and ambiguity will arise.

Definitions: Minimise

Recommended Amendment

Minimise means to reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.

Reason

- 47 The term ‘minimise’ is used many times in the RPS but it is not defined. The definition of ‘minimise’ sought by the submitters is used (and has recently been adopted by the Court) in at least two regional planning documents I have been involved in (Wellington and Southland land and water plans). Including a definition for ‘minimise’ should reduce ambiguity in the plan provisions.

Definitions: Precautionary approach

Recommendation

- 48 Provide a definition of or meaning for ‘precautionary approach’:

Precautionary approach means an approach that:

(a) avoids not acting due to uncertainty about the quality or 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

Reason

- 49 There are multiple references in the RPS to applying a 'precautionary approach' but there is no clarity what applying a precautionary approach actually entails. In my opinion it is more appropriate to provide a definition than not providing a definition. I have supported the definition provided in the Fish and Game submission but I observe there is similar definition sought by the Waitaki Irrigators that could be appropriate.

Definitions: Restore

Recommendation

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

Reason

- 50 A definition should be provided to assist with clarity when implementing the RPS, on the basis that the RPS objectives, policies or methods refer to restore.

Definitions: Regionally Significant Infrastructure

Recommendation

- 51 Add Ski Area Infrastructure (as defined by and sought by Realnz and NZSki) to the list of matters identified as Regionally Significant Infrastructure.

Reason

- 52 It is appropriate for the RPS recognise and provide for the significant benefits of outdoor recreation (using skiing and angling as an example) including commercial recreation and associated transport infrastructure and services that are necessary for people to access the (often remote) parts of Otago's natural environment:

- (a) The four ski main ski areas in the Queenstown District have regionally significant benefits, as evidenced in the economic assessment undertaken in 2021 by Mr B Patterson. The maintenance and upgrading of ski area infrastructure also has logistical and locational constraints that make it impracticable and potentially not possible to always avoid wetlands (refer evidence of Mr Anderson).
- (b) As identified by Mr Anderson, the fact that unless classified as regionally significant infrastructure, the NESFM prohibits some activities interference with some wetlands would be prohibited, and the relief being sought is simply to allow for a consenting pathway so such works can be considered on their merits (including potential positive environmental restoration as part of offsetting)
- (c) There is no guidance in any higher order document providing clear or settled direction about what criteria should be applied when determining 'Regionally significant infrastructure'.

- 53 The definition proposed by Realnz and NZSki includes infrastructure as defined in the RMA. It does not (and is not intended to) capture buildings and services associated with the ski areas that are not infrastructure.

Definitions: Ski Area Infrastructure

Recommendation

54 Include definition of Ski Area Infrastructure as sought by Realnz and NZSki:

Means infrastructure associated with the construction, operation, maintenance, upgrading, or expansion of the following existing ski areas:

(a) Cardrona Alpine Resort

(b) Coronet Peak

(c) Remarkables

(d) Treble Cone

Reason

55 Definition required to clarify what is intended by Ski Area Infrastructure in the definition of Regionally Significant Infrastructure.

IM-P1 - Integrated approach to decision-making, IM-P2 – Decision priorities

Recommended Amendment

IM-P1 – Integrated approach to decision-making and prioritisation

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to:

(1) place limits on resource use unless exceptional circumstances stated in this RPS apply; and

(2) consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed unless exceptional circumstances stated in this RPS apply, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:

(1) (a) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then

(2) (b) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

(c) if there are competing directives within the matters in priority (1) above then priority shall be given to the principles of sustainability, equity, and efficiency ensuring that the principles of the Treaty of Waitangi are given effect;

(d) if there are competing directive within the matters in priority (2) above then priority shall be given to the principles of sustainability, equity, and efficiency, ensuring that the principles of the Treaty of Waitangi are given effect.

56 The s42A version of this policy directs that conflicts between provisions in the RPS are to be resolved by application of higher order documents.

57 As a matter of good plan drafting, internal policy conflicts should wherever possible be addressed in the document, otherwise it results in ambiguity such that it fails from being suitably effective and efficient. Policy IMP1 and IMP2 (as notified) clarify how the RPS provides an integrated approach and how 'competing policy directives' are to be resolved.

- 58 The s42A Report approach creates uncertainty and severely weakens the relevance of this policy and the RPS. While s61(2)(da) requires the RPS to be prepared in accordance with applicable higher level documents, failure to reconcile policy conflict between higher order documents (inclusive of Part 2 of the RMA) is unlikely to produce an RPS that satisfactorily meets some of ORC's required functions under s30. For example, the RPS must accord with the provisions in part 2 and in doing so consideration must be given to the higher order documents. It could be a perverse outcome to have an RPS that, after completion, still requires decisions made under the RPS to reconsider the higher order planning documents and Part 2 at a later date. Section 30(1) requires integrated management of the natural and physical resources of the region 'to be achieved', and s30(gb) requires "the strategic integration of infrastructure with land use through objectives, policies, and methods". Integrated management and strategic integration will not be achieved efficiently or effectively if the RPS does not at least attempt to reconcile competing policy directives.
- 59 The s42A version of this policy does not give any direction on how to reconcile (or assert priority) where there are conflicts within priority 1 and priority 2 respectively. This is a difficult and still largely emerging aspect of resource management in New Zealand. I have recommended additional clauses (c) and (d) above (based on the principles of sustainability, equity, and efficiency, given effect to the TOW) in attempt to provide clearer direction about how competing policies can be prioritised. These principles are borne out of the rationale set out in the NBEA bill for addressing water allocation plus explicit reference to the principles of the TOW and should provide helpful guidance in what will typically be complicated and difficult decision-making processes.
- 60 Fish and Game sought a subtle amendment to the notified version of this policy to suggest that an appropriate way to reconcile many potential competing interests / directives is to for the RPS to direct that all activities be carried out within the environmental constraints limits identified in the RPS.
- 61 The s42A version of this policy does not provide any reference to utilising resource within environmental limits or resource management limits. The notified version of IM-P2 was appropriately directive in this regard.
- 62 Amalgamating IMP1 and IMP2 is appropriate for the reasons set out in the s42A evidence. However, if the IMP1 and IMP2 are to be merged then the title should reflect the policy is about both integration and prioritisation.

IM-P4 – Setting a strategic approach to ecosystem health

Recommended Amendment

- 63 Amend policy as follows:

IM-P4 – Setting a strategic approach to ecosystem services health

Healthy and resilient ecosystems and ecosystem services are achieved through a planning framework that:

- (1) protects their intrinsic values,
- (2) takes a long-term strategic approach that recognises changing environments,

(3) recognises and provides for ecosystem complexity and interconnections, and

(4) anticipates, or responds swiftly to, changes in activities, pressures, environmental state and trends,

(5) measures cumulative effects on the environment and requires their proactive management, and

(6) Identifies and implements environmental limits in at least the following matters:

(a) air,

(b) coastal waters,

(c) estuaries,

(d) freshwater,

(e) wetlands, and

(f) soil.

(7) Promotes use and development of resources which support the above.

Reason

- 64 Reference to 'resilient' ecosystems is appropriate for the reasons set out in the submission of fish and game and the s42A Report.
- 65 It is appropriate for the RPS to, wherever applicable, promote the use and development of resources that result in benefits to the natural environment, particularly natural environmental enhancement, and restoration initiatives. There should be more emphasis and policy direction for supporting activities which will result in healthy ecosystems and ecosystem services are achieved.
- 66 The title should be amended from referencing 'ecosystem health' to referencing 'ecosystem services' because the policy applies to the state of health and resilience of ecosystem services, it is not limited to the management of ecosystem health.
- 67 Articulating the meaning of wetland or natural wetland - while the evolving nature of the NESFM has resulted in changes to the meaning of natural wetlands managed by the NESFM. It is therefore important for the RPS to have a clear meanings or criteria for clarifying what wetlands are being protected or otherwise managed under the RPS provisions.

IM-P5 – Managing environmental interconnections, IM-P13 – Managing cumulative effects

Recommendation

IM-P5 – Managing environmental interconnections

In resource management decision-making, manage the use and development ~~Coordinate the management~~ of interconnected *natural and physical resources* by recognising and providing for:

(1) situations where the value and function of a natural or physical resource, or the natural environment, extends beyond the immediate, or directly adjacent, area of interest, in time or space,

(2) the effects of activities on a natural or physical resource, or the natural environment, as a whole when that resource is managed as sub-units, and

(3) the impacts of management of one natural or physical resource, or the natural environment, on the values of another, or on the environment.

(4) the impact of individual and cumulative effects on the form, function, and resilience of Otago's environment such that the sum of human activity in Otago supports a healthy environment and provides opportunities available for future generations.

68 Managing cumulative effects is greater than interconnection and should be provided for. It is unclear how removing the reference to 'providing for' (in the chapeaux) is an improvement on the notified version of this policy. Direction to only 'recognise' the stated matters is unlikely to be sufficient to deal with the interconnected aspect of cumulative effects.

69 It is appropriate to capture both natural and physical resources, but 'resources' does not capture all of the 'environment', so it makes sense to manage cumulative effects on the natural 'environment' in addition to natural and physical resources.

70 Cumulative effects can be addressed in individual applications. Addressing cumulative adverse does not require cumulative effects to be resolved. Rather, it is reasonable to require all individual consents to do their part to help address cumulative effects and contribute to resolving cumulative issues. If the intention is not for applicants and decision makers to consider cumulative effects then there is an inconsistency with IMM1 (as proposed and recommended) as it contains a prescribed list of matters to apply when considering cumulative effects.

71 Including Fish and Game's relief sought (adding "such that the sum of human activity in Otago supports the health, well-being and resilience of the natural environment") is appropriate because it reinforces integrated management of natural and physical resources. There should not be any practical difficulties with resource consent applicants and decision-makers (approving applications) having to demonstrate an understanding of how the activity forms part of the environment and forms part of the collective of all activities working together to achieve relevant long-term visions set out in the RPS or lower order planning documents.

IM-P10 – Climate change adaptation and climate change mitigation

Recommendation

72 Adopt s42A version and add a clause and associated amendment to IM-M1 directing councils to include in their plans ways for reducing climate change emissions and improving energy efficiency, for example:

(5) Provide measures or guidance for reducing climate change emissions and improving energy efficiency.

Reasons

- 73 This policy and associated method should be amended (or a new policy and associated method included) to require councils to include in their plans ways for reducing climate change emissions and improving energy efficiency. This is appropriate in order to adapt to and help mitigate the effects of climate change, and for the reasons set out in the submission by the Otago Environmental Defence Society.

IM-P12 – Contravening environmental limits for climate change mitigation

Recommendations

...

(4) the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and

(5) the activity will not contravene an bottom line environmental limit set in a national policy statement or national environmental standard, and

(6) there are no other reasonable alternatives, including changes in the nature or scale of associated activities; and

Reasons

- 74 A new clause relating to “no other reasonable alternatives” is appropriate for the reasons stated in the submission by Fish and Game and Forest and Bird, particularly if a proposal is going to have significant adverse effects on the environment.

IM-P14 – Human Impact

Recommendation

IM-P14 – Human impact

When preparing regional plans and district plans, Ppreserve opportunities for future generations by:

(1) identifying environmental and resource use limits, to both growth and adverse effects of human activities beyond which the environment or resources will be degraded,

(2) requiring that activities are established in places, and carried out in ways, that support the health, well-being and resilience of the environment and are within those environmental and resource use limits and are compatible with the natural capabilities and capacities of the resources they rely on, ~~and~~

(3) regularly assessing and adjusting environmental and resource use limits ~~and thresholds~~ for activities over time in light of the actual and potential environmental impacts, including those related to climate change, and

(4) promoting activities that reduce, mitigate, or avoid adverse effects on the environment.

- 75 The introduction of the term 'where practicable' weakens the effectiveness of the policy intention and risks undermining the direction of limits being imposed. Reference to 'where practicable' will create uncertainty and give rise to conflict at the implementation stage. This potential uncertainty will create costs, both in terms of administrative costs (through contested decision-making processes) and environmental costs (degradation of the environment).
- 76 The addition of 'beyond which the environment is degraded' sets out an important philosophical direction in the RPS. It could create a race to the bottom, whereby actions should happen until the point of degradation.
- 77 It would be more appropriate to take the opposite approach, for example as taken by the Environment Court in its first Interim Decision of the Proposed Southland Water and Land Plan (par 62), where the court confirmed the appropriateness of a new objective requiring all people involve in land uses that affect freshwater to carry a positive obligation to support health:

*"This direction appears in line with the Treaty principle of active protection and would **impose a positive obligation on all persons exercising functions and powers under the Act to ensure that when using water people also provide for health.** This may have been what Nga Runanga's planning witness was meaning when she referred to the Treaty principles. This direction juxtaposes with the usual line of inquiry as to how health will be impacted by a change in water quality (i.e. the effects of the activity on the environment). The NPS-FM makes clear that providing for the health and wellbeing of waterbodies is at the forefront of all discussions and decisions about fresh water. This is our third key understanding." **Bold my emphasis.***

IM-M1 – Regional plans and district plans

Recommendation

IM-M1 – Regional plans and district plans

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

...

(6) establish clear environmental thresholds and biophysical limits, and manage resource use to conform to these thresholds and limits, for, and limits' on, activities have the potential to adversely affect healthy ecosystem services and intrinsic values, which to support the health, well-being and resilience of the environment.

...

(7) Include provisions that encourage or require reductions in greenhouse gas emissions and improving energy efficiency.

- 78 Consequential amendments to implement the IMP policies (discussed above).

IM-M2 – Relationships

Recommendation

IM-M2 – Relationships

Local authorities must:

...

(3) consult with Otago's communities to ensure policy frameworks adequately respond to the diverse facets of ~~environmental~~ ecological, social, cultural, and economic well-being.

Reason

79 The term 'environmental' has a broad meaning that encapsulates ecological, social, cultural, and economic elements (at least as defined in the Act). Replacing 'environment' with 'ecological' or 'natural environment' will avoid confusion and overlap.

LF-WAI-P3 – Integrated management/ki uta ki tai

Recommendation

LF-WAI-P3 – Integrated management/ki uta ki tai

Manage the use of *freshwater* and *land*, in accordance with tikanga and kawa, using an integrated approach that:

(1) recognises, ~~and~~ sustains and, where degraded or lost, restores the natural connections and interactions between *water bodies* (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral),

(2) sustains and, ~~wherever possible~~ where degraded or lost, restores the natural connections and interactions between *land* and *water*, from the mountains to the sea,

(3) sustains and, wherever possible, restores the habitats of mahika kai and indigenous species, including taoka species associated with the ~~water body~~ bodies,

(4) manages the *effects* of the use and development of *land* to maintain or enhance the health and well-being of *freshwater*, ~~and~~ *coastal water* and associated ecosystems,

(5) ~~requires~~ encourages the coordination and sequencing of regional or urban growth to ensure it is sustainable,

(6) has regard to foreseeable *climate change* risks and the potential effects of climate change on water bodies, including on their natural functioning, and

(7) has regard to cumulative *effects*, and

~~(8) the need to apply~~ applies a precautionary approach where there is limited available information or uncertainty about potential adverse *effects*.

(9) preferentially considers effects against the naturalised flow and unpolluted state of a water body when making flow and quality decisions about the health, well-being and resilience of water bodies and freshwater ecosystems, including when setting limits or environmental outcomes, and

(10) requiring all activities affecting water bodies to support the health, well-being and resilience of relevant water bodies and associated freshwater ecosystems.

(11) Recognise and provide for the human health and well-being benefits that people and communities derive from accessing and using water, including outdoor recreation and harvesting natural resources for personal use.

Reason

- 80 The inclusion of 'restore' and clauses (9) and (10) help implement IMO1 (as recommended in the s42AR report), which expresses an appropriate fundamental paradigm for the RPS appropriately acknowledging that human health and wellbeing relies on the natural environment being in a healthy state. As set out in the evidence of Mr Paragreen and Mr Couper, the state of Otago's freshwater is, in places, effectively degraded (in respect of quality) or overallocated (in respect of quantity). The state of freshwater in the region has resulted in parts of Otago falling well short of meeting the needs and well-being of many people in Otago because it where it is not safe for people to drink or undertake contact recreation in.
- 81 Restoration will therefore be required if IMO1 is to be implemented. In principle, where the environment is not achieving a state of hauora then the policy direction should be to restore the aspect of the environment that is below the identified threshold.
- 82 As set out in the evidence of Mr Paragreen, harvesting wild animals and plants has important cultural and human wellbeing values that enabled people to provide for their social, economic, and cultural well-being and for their health and safety.
- 83 Ecosystem health and ecosystem services should not be interpreted as being limited to indigenous ecosystem values only. For example, the NPSFM meaning of ecosystem health is inclusive of introduced species. The NPSFM prioritises indigenous ecosystems over that of trout and salmon only to the extent that the habitat of trout and salmon is to be protected insofar as this is consistent with the protection of habitats of indigenous freshwater species (policies 9 and 10).
- 84 The habitats of trout and salmon are to be protected provided the habitats of indigenous freshwater species are protected (NPSFM policies 9 and 10).

LF-FW-P12 – Identifying and managing outstanding water bodies

Recommendation

- 85 Amend policy as follows:

LF-FW-P12 – ~~Protecting~~ Identifying and managing outstanding water bodies

~~The significant and outstanding values of outstanding water bodies are:~~

- ~~(1) identified in the relevant regional and district plans, and~~
- ~~(2) protected by avoiding adverse effects on those values.~~

Identify outstanding water bodies and their significant and outstanding values in the relevant regional plans and district plans and protect those outstanding and significant values by avoiding adverse effects on them, except as provided by EIT-INF-P13 and EIT-INF-P13A.

Reason

- 86 Minor plan drafting matter to clarify that it is the 'outstanding and significant' values that are to be protected. Also more consistent with the terminology used in LF-FW-M5.

LF-FW-P13 – Preserving natural character and instream values

Recommended amendment

LF-FW-P13 – Preserving natural character and instream values

...

establishing environmental flow and level regimes and water quality standards that support the health, and well-being and resilience of the water body,

wherever practicable possible, sustaining the form and function of a water body that reflects its natural behaviours,

...

(ii) for other effects on the natural character or rivers (excluding those managed under (1)(b)(i)), the effects management hierarchy (in relation to natural wetlands and rivers) in LF-FW-P13A

(b) any consent is granted subject to conditions that apply the effects management hierarchies hierarchy (in relation to indigenous biodiversity) in (1)(b)(i) and the effects management hierarchy (in relation to natural wetlands and rivers) in (1)(b)(ii) in respect of any loss of values or extent of the river,

(3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*, acknowledging that environmental flow and level regimes may change over time due to climate change

(7) preventing permanent modification that would reduce the braided character of a river, unless the modification is necessary to avoid or mitigate risk to people's health and safety, and

Reason

87 The amendments above provide clearer direction compared to the s42A version.

88 As discussed in the s42A Report and evidence of Mr Paragreen, Fish and Game is no longer seeking specific reference to the habitat of trout and salmon in this provision on the basis alternative relief can be provided in the freshwater provisions (not subject to this hearing).

LF-FW-P13A – Effects management hierarchy (in relation to natural wetlands and rivers)

Recommendation

89 Reference to 'natural wetlands' should be amended to 'wetlands'. While this approach is more stringent than the direction in the NPSFM, the regional council is required under its functions under s.30(ga) to establish, implement, and review of objectives, policies, and methods for maintaining indigenous biological diversity; and the NPSFM allows regional council protections on wetlands to be more stringent than the NPSFM directives and there has been such extensive depletion of Otago's low-lying wetlands that it is appropriate for the RPS to provide some level of protection for all wetlands in the Region.

LF-FW-P14 – Restoring natural character and instream values

Recommendation

LF-FW-P14 – Restoring natural character and instream values

Where the natural character or instream values of *lakes* and *ivers* ~~and~~ or the natural character of their margins has been reduced or lost, ~~promote~~ require actions that:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems and creating fish barriers to prevent predation where necessary,

Reason

- 90 The chapeaux should use the term 'require' rather than 'promote' and the relief sought by Fish and Game for specific reference to the habitat of trout and salmon is appropriate (for the reasons stated above, in the submission by Fish and Game, the evidence of Mr Paragreen and Mr Couper.

LF-LS-P20 - Land use change

Recommendation

LF-LS-P20 - Land use change

Promote changes in land use or land management practices that support and improve:

- (1) the sustainability ~~and efficiency~~ of water use,
- (2) resilience to the impacts of climate change,
- (3) the health and quality of soil,
- (4) restoration or enhancement of indigenous vegetation, or
- (5) amenity and recreation values and the ability of the public to freely access the coastal marine area, lakes and rivers.

Reason

- 91 Deleting 'efficiency' from clause (1) was suggested by Kāi Tahu and is supported by Fish and Game because, among other things, reference to efficiency (in respect of land uses) risks changing the focus to a water quantity issue at the catchment scale.
- 92 Land uses can have dramatic adverse impacts on recreation and access and the amendment above aligns with LF-LS-P22 (Public access).
- 93 It is appropriate to promote land use change that supports and improves the restoration or enhancement of indigenous vegetation (as discussed in evidence above).

LF-LS-M12 – District Plans

Recommendation

- 94 Adopt the s42A version except amend clause (3)(b) as sought by Realnz as follows:

(3) facilitate public access to and along lakes and rivers by:

(a) requiring the establishment of *esplanade reserves* and *esplanade strips*, and

(b) promoting the use of legal roads, including paper roads, and any other means of public access rights, to that connect with esplanade reserves and esplanade strips.

Reason

95 There are a range of ways that public access arrangements can be provided (for example private easements and covenants ensuring public access). These opportunities for enhanced public access arrangements should be provided for and not restricted.

ECO-01 – Indigenous biodiversity

Recommendation

ECO-01 – Indigenous *biodiversity*

Otago's ecosystems and indigenous biodiversity is healthy and thriving and any decline in quality, quantity and diversity is halted.

Objectives still do not recognise the ecosystem part of the chapter. Ecosystems are more than indigenous biodiversity.

Reason

96 As set out in the evidence of Mr Couper ecosystems are more than indigenous biodiversity so the objective should recognise the ecosystem part of the chapter. This approach is also consistent with the definition of ecosystem in the NBEA bill.

ECO-P5 – Existing activities in significant natural areas

Recommended amendment

ECO-P5 – Existing activities in significant natural areas

~~Except as provided for by ECO-P4,~~ Provide for existing activities that are lawfully established and land uses within significant natural areas (outside the coastal environment) and that may adversely affect indigenous species and ecosystems that are taoka, if:

(1) the continuation, expansion, maintenance and minor upgrades of an existing activity that is lawfully established, or an anticipated land use, will not lead to the loss (including through cumulative loss) of extent or degradation of the ecological integrity of any significant natural area or indigenous species or ecosystems that are taoka, and

(2) the adverse effects from the continuation, expansion, maintenance and minor upgrades of an existing activity that is lawfully established, or an anticipated land use, are no greater in character, overall spatial extent, intensity or scale than they were before this RPS became operative.

Reason

- 97 The region's four main ski areas and other lawfully established key visitor destinations are lawfully established activities or land uses (for example zoned land where development is anticipated) contain or may contain SNA (especially in the future if significant ecological restoration initiatives are established, such as at Walter Peak). I consider it is appropriate that these activities are not prevented from expanding or upgrading their infrastructure (to more than a minor extent) simply because they are located within or contain an area of SNA.

ECO-P8 – Restoration and enhancement

Recommended amendment

ECO-P8 – Restoration and enhancement

The extent, occupancy and condition of Otago's indigenous biodiversity is increased by:

- (1) restoring and enhancing habitat for indigenous species, including taoka and mahika kai species,
- (2) improving the health and resilience of indigenous biodiversity, including ecosystems, species, important ecosystem function, and intrinsic values, and
- (3) buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai
- (4) provide for subdivision, use and development that support 1-4 above.

Reason

- 98 It is appropriate to promote subdivision, use and development which will support the achievement of the matters in clause 1-3.

ECO-M5 – District plans

Recommended Amendment

ECO-M5 – District plans

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

...

- (5) provide for activities ~~that promote or undertake the n for the purpose of restoration ing or enhancement ing of~~ the habitats of indigenous flora and fauna, and...

Reason

- 99 I agree with Realnz that District plans should provide for activities which promote as well as undertake the restoration or enhancement of habitats of indigenous flora and fauna

ECO-M8 – Other incentives and mechanisms

Recommendation

ECO-M8 – Other incentives and mechanisms

...

(1) providing information and guidance on the maintenance, restoration and enhancement of ~~indigenous~~ ecosystems, indigenous biodiversity and habitats, taoka and mahika kai species and ecosystems.

...

(7) gathering information on ~~indigenous~~ ecosystems, indigenous biodiversity and habitats, including outside significant natural areas.

Reasons

100 As set out in the evidence of Mr Couper use of 'indigenous ecosystems' is restrictive and should be clarified in (1) and (7). It looks like the s42A author tried to do this but it ends up capturing both indigenous ecosystems and ecosystems generally, as if they're different.

ECO-AER1

Recommended Amendment

There is no further decline in the quality, quantity or diversity of ecosystems and indigenous biodiversity.

Reason

101 Amendments recommended as a consequence to the recommended amendments for ECO-O1 (as discussed above and in the evidence of Mr Paragreen).

ECO-AER2

Recommended Amendment

The quality, quantity and diversity of ecosystems and indigenous biodiversity within Otago improves over the life of this Regional Policy Statement.

Reason

102 Amendments recommended as a consequence to the recommended amendments for ECO-O1 (as discussed above and in the evidence of Mr Couper).

EIT-INF-P13 – Locating and managing effects of infrastructure

Recommended Amendment

EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment

When providing for new infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment

...

(2) if it is not ~~possible~~ demonstrably practicable to avoid locating in the areas listed in (1) above because of the functional needs or operational needs of the infrastructure, nationally significant infrastructure and regionally significant infrastructure manage adverse effects as follows:

(a) for nationally significant infrastructure¹⁰⁷⁹ or regionally significant infrastructure:

(i) in significant natural areas, in accordance with ECO-P4,

(ii) in natural wetlands, in accordance with the relevant provisions in the NESF,

(iii) in outstanding water bodies, in accordance with LF-FW-P12,

(iiia) in relation to wāhi tūpuna, in accordance with HCV-WT-P2

(iv) in other areas listed in EIT-INF-P13(1) above, minimise the adverse effects of the infrastructure on the values that contribute to the area's importance,

~~(b) for all infrastructure that is not nationally significant infrastructure or regionally significant infrastructure, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.~~

Reason

103 It is not always possible or practical to avoid all adverse effects from infrastructure. Infrastructure could be appropriate if adverse effects are not extensive and the positive effects are significant, depending on the circumstances of each particular case. An example is the upgrading or expansion of existing infrastructure (such as a wharf or jetty on an outstanding freshwater body) where the development may have adverse effects on the landscape values that contribute to the waterbodies outstanding nature or significance but those adverse effects may not be extensive and may not be inappropriate when factoring in other circumstances (for example benefits of the proposal and compatibility with surrounding land uses).

EIT-INF-M4 – Regional plans

Recommended amendment

EIT-INF-M4 – Regional plans

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

(1) manage the adverse effects of infrastructure activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:

(a) are in the beds of lakes and rivers, or

(b) are in the coastal marine area, or

(c) involve the taking, use, damming or diversion of water or,

(d) involve the discharge of water or contaminants, and

~~(2) require the prioritisation of sites for infrastructure where adverse effects on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.~~

Reason

104 Clause 2 is ambiguous and inappropriate because:

- (a) There is no direction or clarify about how regional plans should prioritise sites, and from what types of activities.
- (b) There is no basis for the prioritisation of infrastructure, for example there are no higher order policy directives or exceptional circumstances warranting prioritisation
- (c) Prioritising particular uses could have unforeseen and significant costs and adverse effects on existing or alternative new activities.

EIT-INF-M5 – District plans

Recommended amendment

EIT-INF-M5 – District plans

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

(1) require a strategic approach to the integration of land use and nationally significant infrastructure or regionally significant infrastructure,

~~(2) enable planning for the electricity transmission network and National Grid to achieve efficient distribution of electricity,~~

~~(3) map the electricity transmission network, and in relation to the National Grid, and 1094 identify a buffer corridor within which sensitive activities shall generally not be allowed, and~~

(4) manage the subdivision, use and development of land to ensure nationally significant infrastructure or regionally significant infrastructure can develop to meet increased demand,

(5) manage the adverse effects of developing, operating, maintaining, or upgrading nationally significant infrastructure or regionally significant infrastructure, including, where appropriate, identifying activities that qualify as minor upgrades, that are on: (a) the surface of rivers and lakes and on land outside the coastal marine area, and (b) the beds of lakes and rivers,

(6) ensure that development is avoided where: (a) it cannot be adequately served with infrastructure, (b) it utilises infrastructure capacity for other planned development, or (c) the required upgrading of infrastructure is not funded, and

~~(7) require the prioritisation of sites for infrastructure, nationally significant infrastructure and regionally significant infrastructure where adverse effects on those matters are addressed by EIT-INF-P13 and EIT-INF-P13A on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.~~

Reason

- 105 In addition to the reasons provided in relation to EITINFM4 above, there is insufficient justification for infrastructure to be prioritised over other existing or potentially new land uses, particularly given there are numerous environmental matters that could be adversely affected by infrastructure. In the absence of any comprehensive spatial plan (undertaken in a fair, transparent and meaningful way with affected and interested parties) clause 7 as supported in the s42A Report presents unknown and potentially significant risks to the environment.

EIT-EN-O2 – Renewable electricity generation

Recommended amendment

The total generation capacity of renewable electricity generation activities in Otago:

(1) is maintained or increased and, if practicable maximised, as far as practicable within environmental thresholds and biophysical limits, and

(2) to continue to contributes to meeting New Zealand's national target for renewable electricity generation.

Reason

- 106 It is not practicably achievable to “maximise” the generation capacity of renewable electricity generation activities (REG) in Otago, nor is it appropriate. reference to ‘maximising’ would require an impractically comprehensive amount of investigation work and public and private investment to be undertaken with the cooperation of most landowners, electricity generators, and affected parties working together to plan, design and construct much more renewable electricity generation that is likely to be needed in the foreseeable future.
- 107 It is appropriate to protect REG from reverse sensitivity effects given the direction in the NPSREG but the policy direction in the NPSREG does not extend to outright protection and the NPSREG does not apply to water allocation. REG activities also have a potential pathway under IM-P12 for contravening environmental limits in certain conditions. On this basis it is not appropriate to automatically protect water taken for hydro electricity generation (including existing water takes) ahead of implementing the NPSFM, which requires the application of TMOTW and prioritisation to the mauri and health wellbeing of the waterbodies and human health before the benefits of REG are to be considered.
- 108 REG in Otago already contributes to meeting New Zealand's national target for renewable electricity generation, and this can be recognised by amending clause 2.

EIT-EN-P1 – Operation and maintenance

Recommended amendment

The operation and maintenance of existing renewable electricity generation activities is provided for where it occurs within environmental thresholds and biophysical limits while minimising its adverse effects.

109 Minimising adverse effects may not always be an appropriate outcome, particularly where existing hydroelectricity generation is taking water to the point a waterbody is overallocated. In such scenarios it could be appropriate to set targets (including timeframes) for reducing water take. EIT-EN-O2 and EIT-EN-M1 already include direction for REG to be undertaken within limits.

EIT-EN-P2 - Recognising renewable electricity generation activities in decision making

Recommended amendment

Recognising renewable electricity generation activities in decision making

Decisions on the allocation and use of natural and physical resources, including the use of fresh water and development of land:

- (1) recognise the national, regional and local benefits of existing renewable electricity generation activities,
- (2) take into account the ~~benefits of need to~~ at least maintaining current renewable electricity generation capacity, and
- (3) recognise that the attainment of increases in renewable electricity generation capacity will require ~~significant~~ development of renewable electricity generation activities.

Reason

110 Recognising and providing for existing and new REG is a matter of national significance to be considered in all decisions affecting REG (in accordance with the NPSREG) except the NPSREG does not apply to water allocation and there is no directive in the NPSREG or any higher order planning document requiring decision makers to:

- (a) Take into account any 'need' to at least maintain current REG capacity in Otago.
- (b) Acknowledge there 'needs' to be a significant increase in REG generation in Otago.

EIT-EN-P3 – Development and upgrade of renewable electricity generation activities

Recommended amendment

EIT-EN-P3 – Development and upgrade of renewable electricity generation activities

The overall security of renewable electricity supply is maintained or improved in Otago within environmental thresholds and biophysical limits through appropriate provision for the development or upgrading of renewable electricity generation activities and diversification of the type or location of electricity generation activities.

Reason

111 These amendments align with the discussion above that development and upgrading of REG should be provided for, within limits.

EIT-EN-P5 – Non-renewable energy generation

Recommendation

EIT-EN-P5 – Non-renewable energy generation

Where use of renewable energy is not practical, avoid the development of non-renewable energy generation activities in Otago and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation.

Reason

- 112 While there is a need to reduce reliance on non-renewable sources of energy in order to address the impacts of climate change, it is not always practical to provide renewable sources of energy at this point in time. For example, in some remote off grid locations where small loads of electricity are sourced by diesel generators (providing either permanent or back up supply) and renewable electricity supply is disrupted or not available.

EIT-TRAN-P19 – Transport system design

Recommendation

EIT-TRAN-P19 – Transport system design

Resilience and adaptability of the transport system supports efficient networks for the transport of people and goods that are sustained, ~~and~~ improved, and responsive to growth by:

- (1) promoting a consolidated urban form that integrates land use activities with the transport system,
- (2) placing a high priority on active transport, and public transport, and private passenger transport services, and their integration into the design of development and transport networks, and
- (3) encouraging ~~regional connectivity, including to key visitor destinations, and~~ improved access to public spaces, including the coastal marine area, lakes and rivers, and key visitor destinations.

Reason

- 113 The relief sought by Realnz and Trojan (NZSki) is to be more appropriate compared to the s42A version because:
- (a) Passenger transport services provide considerable benefits in the same way as public transport services, and even more so where there are no reliable public transport services available.
 - (b) Consideration of transport options to key visitor destinations within the region should be a strategic priority. The s42A version excludes the importance of improving transportation to key visitor destinations within a district and within the region.
 - (c) Key visitor destinations should be identified by ORC or relevant TA, and included in transport strategies.
 - (d) It is unclear what is intended by encouraging regional connectivity, and therefore what associated costs and adverse effects might be “encouraged” by referring to regional connectivity.

HCV-HH-P5 – Managing historic heritage

Recommendation

HCV-HH-P5 – Managing historic heritage

Protect historic heritage by:

(1) requiring the use of accidental discovery protocols in accordance with APP11,

~~(2) avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities, except in the circumstances where HCV-HH-P7 applies~~

~~(3) avoiding significant adverse effects on areas or places with historic heritage values or qualities, except in the circumstances where HCV-HH-P7 applies~~

(4) avoiding, as the first priority, ~~other~~ adverse effects on areas or places with historic heritage values or qualities,

(5) and where it is demonstrated that adverse effects ~~demonstrably~~ cannot be completely avoided, ~~they are remedied or mitigated~~ remedying or mitigating them, and

(6) recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).

Reason

114 Section 6(f) of the RMA does not require avoidance of historic heritage values. Rather (like the direction for ONFLS) the matter of national importance to be recognised and provided for is the protection of historic heritage from inappropriate subdivision, use, and development.

115 The identification directives in HCVHHP4 inclusive of methodology APP8 set reasonably low thresholds (for example aesthetic and social qualities) that could capture a very large unquantifiable amount of natural and physical resources are highly ambiguous and subject to considerable subjectivity. If HCVHHP5 is not amended (and continues to direct avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities) then there is an unknown potentially high risk of significant opportunity costs associated with people not being able to subdivide, use and develop resources that adverse effect historic heritage.

NFL-O1 - NFL-O1 – Outstanding and highly valued natural features and landscapes and NFL-P4 – Restoration

Recommended amendments

NFL-O1 – Outstanding and *highly valued natural features and landscapes*

The areas and values of Otago's outstanding and *highly valued natural features and landscapes* are identified, and the use and development of Otago's *natural and physical resources* results in:

(1) the protection of outstanding natural features and outstanding natural landscapes from inappropriate subdivision, use and development, and

(2) the maintenance or enhancement of *highly valued natural features and landscapes*.

(3) the restoration of outstanding and highly valued natural features and landscapes.

NFL-P4 – Restoration

Promote restoration of the areas and values of outstanding and highly valued natural features and natural landscapes where those areas or natural values have been reduced or lost.

Reason

- 116 Amending this policy to include reference to the restoration of outstanding and highly valued natural features and landscapes is appropriate for the reasons set out in the s42A Report.
- 117 Reforestation is also an essential component of reducing greenhouse gas emissions. Much of Otago's landscape values, including land identified as ONL, is actually highly degraded (through the removal of indigenous flora and fauna and agricultural land uses). The RPS should ensure that the outstanding and highly valued landscape protection provisions in the Nature Features and Landscapes section do not lock in the current landscape / status quo and facilitate appropriate land use change – particularly change that supports restoration of the natural environment.
- 118 Clause (1) should be amended to implement the clear legal direction in s6b for protecting ONFLs from 'inappropriate subdivision, use and development'. There is no requirement or imperative to safeguard subjective environmental values and in respect of outstanding natural features and landscapes the clear direction in s6b is to protect these areas from 'inappropriate development'. There is no imperative to protect these features from development or avoid effects from development. The direction to preserve the natural character of water bodies and their margins under 6a is a very separate direction compared to s6b.
- 119 Development and activities in ONFLs can be appropriate even if they result in adverse effects on ONFL values, which are almost always subjective.

UFD-P7 – Rural Areas

Recommended Amendment

The management of rural areas:

...

(8) enables outdoor recreation (including commercial recreation),

(9) facilitates growth or expansion of existing visitor destination places and activities.

Reason

- 120 Recreation and visitor destination locations are not adequately recognised or provided for in the rural area provisions including UFD7.

UFD-M1 – Strategic Planning

Recommended Amendment

UFD-M1 – Strategic planning

Otago Regional Council and territorial authorities:

(6) must individually or jointly develop further regulatory or non-regulatory methods and actions to implement strategic and spatial plans, including to guide the detail of how, when and where development occurs, including matters of urban design, requirements around the timing, provision, and responsibilities for open space, connections and infrastructure, including by third parties, and the ongoing management of effects of urban development on matters of local importance, and any spatial plan shall identify key visitor destinations outside the urban environment, and...

Reason

- 121 Inclusion of the statement ‘and any spatial plan shall identify key visitor destinations outside the urban environment’, as sought by Realnz and NZSki, is appropriate because key visitor destinations outside the urban environment are significant components of a community that are under high transport demand and logical locations for growth.
- 122 Key visitor destinations can host many people (the equivalent size of small towns) for example Cardrona Alpine Resort and Coronet Peak ski areas can currently each host around 5,000 people each day. In order to manage land use and development, including supporting infrastructure, in an integrated and strategic manner spatial Plans should identify key visitor destinations located outside the urban environment.

APP1 - Criteria for identifying outstanding water bodies

Recommendation

- 123 There is no direction in the NPSFM or any other higher order policy document guiding the appropriate methodology for identifying outstanding waterbodies. Therefore, some precaution should be applied to determining the assessment criteria in APP1.
- 124 Given the subjective nature of determining what is and what is not outstanding, it will be important for reasonably comprehensive engagement with local people and communities to be undertaken to help identify or verify the region's Outstanding waterbodies.

APP6 – Methodology for natural hazard risk assessment

Recommendation

- 125 The policy directives in HAZNHP3 and HAZNHP4 are very restrictive, for example the strong directive for ORC under HAZNHP3(2) to remove or restricting existing land uses where land uses to people or property (where there is significant risk (in relation to natural hazards). Taking such action is relatively drastic and will result in significant costs to people and property.

- 126 Due to the significant potential and unknown costs it is very important that the methodology in APP6 does not carry any legal weight or priority nor set unreasonably low thresholds for determining what is a significant natural hazard risk without fair and transparent community input into the formulation of the risk determinants.
- 127 The consequence table, as recommended in the s42A Report, potentially includes impractically low thresholds. For example, the alpine fault is expected to rupture more than once every thousand years and presumably a major earthquake will be modelled to result in more than 10 people dying each time.

APP9 – Identification criteria for outstanding and highly valued natural features, and landscapes and (including seascapes)

Recommendation

- 128 Amend the criteria to:
- (a) Require community consultation as sought in the submissions by Realnz and NZSki.
 - (b) Expand the criteria to provide more guidance about how the landscape 'capacity' directives set out in NFL-P1 and CE-P6 are to be implemented.

Reason

- 129 The subjectivity of landscape values warrants a methodology that requires community consultation, particularly to identify or verify the use values associated with people's appreciation and use of natural resources.
- 130 In respect of highly valued natural features and natural landscapes, the criteria should be expanded to more explicitly encompasses the use values associated with people's appreciation of, and recreational use of natural resources.
- 131 The methodology should be developed further if decisions are to be made to establish whether a natural feature, landscape or seascape is outstanding as seems to be directed by NFL-P1 and CE-P6.

S32AA SUMMARY

- 132 In summary, for reasons set out in my evidence above, the amendments I recommend should individually and collectively:
- (a) More appropriately implement Part 2 and the national directions as relevant.
 - (b) Result in more socioeconomic, environmental and human health and wellbeing benefits compared to amendments recommended in the s42 Report.

- (c) Not result in any significantly worse adverse environmental effect. In terms of environmental and financial costs I assume that degraded parts of the natural environment need to be appropriately protected and restored to enable current and future generations provide for their social, economic, and cultural well-being and for their health and safety. From an intergenerational perspective it is my assumption that the longer it takes to remedy or restore degradation then the more expensive on people it will be. In this regard where environmental restoration is required my evidence assumes the generally well understood principle that costs of action are dwarfed by the costs of inaction.
- (d) Generally align with or not offend manawhenua cultural values (this will be tested through the course of the hearing and evidence exchanges).

CONCLUSION

- 133 Upon consideration of the relevant policy direction, and reliance on many of the findings and recommendations set out in the s42A Report and my own experience with the practical application of RMA plans and processes in Otago, the amendments I recommend are more appropriate compared to the notified and s42Report versions of the pRPS.
- 134 In conclusion, the amendments I recommend should suitably accord with the purpose of the RMA. At a minimum the RPS should be more aligned with the purpose of the RMA and better implement the relevant matters set out in Part 2 in a more efficient and effective manner compared to the notified or s42Report versions.

Ben Farrell

28 November 2022

Appendix 3 - Rebuttal Evidence of Ben Farrell (Planning) 14 December 2022

**Before the Hearings Panel
For the Proposed Otago Regional Policy Statement**

Under the Resource Management Act 1991 (“**Act**”)

In the matter of Submissions on the Proposed Otago Regional Policy Statement 2021 (excluding parts determined to be a freshwater planning instrument)

Between **Otago Fish and Game Council and Central South Island Fish and Game Council**
Submitter #0231 & FS00231

Real Group Limited
Submitter #00411

NZSki Limited
Submitter #00206

Rebuttal Evidence of Ben Farrell (Planning)

14 December 2022

CONTENTS

INTRODUCTION	3
Name, Qualifications and experience	3
Scope of evidence.....	3
Code of conduct	3
COMMON THEMES	3
Integrated Management – prioritisation and using resources within limits.....	4
Providing for development for the health and wellbeing of people	4
Managing effects of infrastructure on the environment	5
Managing effects on infrastructure	6
Alignment with NBEA	6
Te mana o te wai.....	6
Reference to ‘where possible’.....	8
Natural Features & Landscapes	8
Carbon Farming (Exotic Forests).....	9
Pest Species - new policy and definition.....	9
SPECIFIC PROVISIONS	9
IM-O3	9
IM-P1 and IM-P2	9
IM-P10	9
IM-P12	9
IM-P5 & IM-P13 – Cumulative Effects	10
IM-P14	10
LF-FW-P14 and LF-FW-M8A.....	10
LF-WAI-P3(5)	10
LF-LS	11
LF-LS-M12(1)(b).....	11
ECO Objectives.....	11
EIT-EN-O1	11
EIT-EN-O2, EIT-EN-P1, EIT-EN-P2, EIT-EN-P3	11
EIT-EN-P4.....	11
EIT-EN-P6 and new EIT-EN Policy.....	12
EIT-EN-M1 and EIT-EN-M2.....	13
EIT-INF-O4.....	13
EIT-INF-P11 & EIT-INF-P11	13
APP1	13
APP6.....	14

INTRODUCTION

Name, Qualifications and experience

- 1 My full name is Ben Farrell. I am the owner and director of Cue Environmental Limited, an independent planning consultancy based in Queenstown. My qualifications and experience are set out in my EiC dated 28 November 2022.

Scope of evidence

- 2 This expert evidence has been commissioned by Otago Fish and Game Council and Central Otago Fish and Game Council (Fish & Game), Real Group Limited (Realnz), and NZSki Limited (NZSki). This evidence is focused on core issues and specific provisions of particular interest to these submitters.
- 3 In preparing this evidence I have reviewed or refer to the matters raised in my EiC, as well as the EiC of other parties as references throughout this evidence. In preparing this evidence I have also had discussions with planning experts and representatives of other parties.
- 4 This evidence responds to evidence in chief (EiC) provided by numerous other experts whom I have referenced throughout this evidence accordingly. I have considered the evidence of others and in places I support further amendments to the RPS compared to that set out in my EiC, as set out in my evidence below.

Code of conduct

- 5 While this matter is not before the Court, I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2014.
- 6 As a member of NZPI I am also required to abide the NZPI Code of Ethics.
- 7 I declare that I am married to Ms Ailsa Cain who is a member of the Cain whanau. The Cain whanau are mana whenua in Otago and have an interest in the provisions in this RPS.

COMMON THEMES

- 8 There is much overlapping and evidence in common. Accordingly, for brevity, this evidence is structured around the RPS provisions and often references the relevant experts (whom this evidence rebuts) generally rather than individually or specifically.
- 9 Common themes related to matters raised in my EiC are summarised below.

Integrated Management – prioritisation and using resources within limits

- 10 For reasons set out in my EiC I agree with Mr Brass¹ that it is entirely appropriate to prioritise the long-term life supporting capacity and mauri of the natural environment ahead of the health needs of people.
- 11 There are diverging opinions about the appropriateness of including reference to limits in the RPS². Having reviewed the evidence of others I remain supportive of the position set out in my EiC – that it is appropriate for the RPS to require activities to be undertaken subject to biophysical limits that will be set for each FMU when it comes to freshwater. In short, reference to using resources subject to environmental limits is an important paradigm shift that needs to occur. The fundamental problem with allowing activities to occur without any environmental limits is that the natural environment will continue to degrade and increase risks of natural systems breaching tipping points.
- 12 I do not agree with Ms O’Sullivan, Mr Tuck, or Ms O’Callahan³ that without a specific parameter that would apply as a limit, there is no valuable use of the term within the context of the RPS provisions, as the setting of environmental limits can be appropriately undertaken in resource management plans. I have provided definitions for environmental limits deriving from the NBE Bill, although I am not wedded to the actual definitions of environmental and resource limits recommended in my EiC.
- 13 Ms O’Sullivan and Mr Tuck highlight that the approach of referencing limits does not take into account the amount to which a limit is exceeded (i.e. no regard to the significance or scale of adverse effects). Ms O’Sullivan’s rationale set out in 6.13 is akin to ‘an overall broad judgement approach’ and risks continuing to fail to protect or maintain natural environment limits, particularly from cumulative adverse effects where often individual effects are small and readily trumped by net benefits of individual proposals, irrespective of cumulative impacts being significant and adverse.
- 14 I acknowledge that in some cases there will be benefits associated with breaching or exceeding limits. Policy IM-P12 identifies circumstances where environmental limits can potentially be breached or exceeded.

Providing for development for the health and wellbeing of people

- 15 Various planners are supporting a new SRMR issue, or amendments to an existing issue, to address infrastructure, use and development of resources⁴. There is also a range of evidence about what constitutes the health and well-being of people and communities. For example:

¹EiC @ pars 53-56

²For example Ms McLeod EiC @ pars 7.21-7.27, Mr Horne EiC @ pars 6.1–6.14, Ms O’Sullivan EiC @ pars 6.9–6.13, Mr Tuck EiC @ pars 5.1-5.5, Ms O’Callahan EiC @ pars 52–62, Ms Ho EiC @ pars 8.33–8.36, Ms Hunter EiC @ pars 8.25–8.31, Mr Ferguson EiC @ pars 39–43, Ms Tait EiC @ pars 8.8-8.10, Ms Ho EiC @ pars 1.3, 8.1–8.4, 8.18–8.20.

³Ms O’Sullivan @ EiC pars 6.9 – 6.13, Mr Tuck EiC @ pars 5.1-5.5, Ms O’Callahan EiC @ pars 52 – 62

⁴ Ms Hunter @ EiC par 7.16 onwards, Ms Ho EiC @ Pars 8.10 – 8.17

- (a) REG companies⁵ identify the link between energy generation and health and well-being. Similarly, the transmission companies⁶ seek amendments to recognise the health, wellbeing and safety needs of electricity supply.
 - (b) Hort NZ suggest the production of food is a second-tier priority under TMOTW⁷.
 - (c) Mr Horne in support of Chorus, Vodafone, Spark recommends a new SRMR issue for the importance of infrastructure⁸.
 - (d) Ms Hunter in support of Oceana Gold suggests insertion of a new LF-LS objective and supporting policies to recognise the role of resource use and development and its contribution to peoples' wellbeing.
 - (e) Ms Tait⁹ in support of Fonterra supports amendments to SRMR-I6, -I10 and -I11 (or the drafting of a new issue) to recognise that the inevitable use of resources is a key function of economic and social wellbeing.
- 16 For reasons set out in my EIC I agree with various planners (for example with Ms Tait) that the SRMR currently provides a one-sided approach to sustainable management not anticipated by the RMA or national policy, and that it should be amended to acknowledge the regional significance of the use and development of resources (within limits).
- 17 I also agree with Ms Hunter¹⁰ that lakes (including those resulting from dam construction) provide a range of benefits including recreation, which is directly related to human health.
- 18 I support amendments to the RPS that recognise and provide for development, including for example the new objective endorsed by Ms McLeod¹¹ in relation to the national grid, except that this provision for the national grid should occur subject to environmental limits, with clear policy direction about reconciling the internal policy conflict(s).

Managing effects of infrastructure on the environment

- 19 Numerous versions of an effects management hierarchy are supported by the planners engaged by the different infrastructure providers, including exemptions from having to be subject to environmental limits¹².

⁵Ms Hunter @ pars 11.9-11.11, Ms Styles (Manawa Energy Ltd) @ Pars 5.7, 10.15,

⁶Ms McLeod (Transpower) @ Paras 7.13 – 7.15, Ms Justice (Aurora Energy) @ Pg 47, para 8.1 – 8.3

⁷Roberts EIC @ par 4 and 95-97

⁸EIC @ par 4.20

⁹EIC @ par 7.10

¹⁰EIC @ par 7.11

¹¹EIC @ pars 8.55 – 8.58

¹²For example Ms Justice EIC @ par 7.16 onwards, Ms Hunter EIC @ par 8.11-8.15, Ms Foran EIC @ pars 31 – 37, Ms Styles EIC @ pars 5.4-5.12, 5.8, Ms McLeod EIC pars 8.23-8.37, Ms Justice EIC p49 and pars 9.1 – 9.5, Ms Craw EIC @ para 7.1 – 7.14, Ms Dempster EIC @ par 9.1 – 9.4, 10.1 – 10.8, para 11.1 – 11.3, 13.1 – 13.5, Ms O'Sullivan EIC @ par 6.2 – 6.8, 10.4.1, 10.12 – 10.20, Appendix A, Mr Horne EIC @ pars 4.16 – 4.18

- 20 I tend to agree with Ms McIntyre¹³ that infrastructure should not be granted a broad exemption from the PORPS requirements relating to management of adverse effects.

Managing effects on infrastructure

- 21 Infrastructure providers are seeking various iterations of provisions that seek to protect existing infrastructure¹⁴. For reasons set out in my EiC it is not appropriate to provide outright/unqualified protection of REG. Such an approach would not be consistent with giving effect to the NPS Freshwater Management.

Alignment with NBEA

- 22 I agree with Mr Horne¹⁵ that it is actually “good planning” to use terms that both give effect to the RMA but that are also consistent with the NBEA terminology.

Te mana o te wai

- 23 I do not agree with Ms Tait’s rationale¹⁶ that LF-WAI-P4 should be deleted. Rather, I agree with the s42A Report that this policy, and giving effect to TMOTW, is fundamental to the RPS framework. The approach suggested by Ms Tait (and Fonterra) to leave TMOTW to the NPSFM fails to acknowledge that the RPS must implement TMOTW. Section 3.2(3) of the NPSFM clearly directs that a RPS must include an objective that describes how the management of freshwater in the region will give effect to Te Mana o te Wai, and clause (4) directs that TMOTW inform the interpretation of the provisions required by this National Policy Statement to be included in regional policy statements (as well as regional and district plans).
- 24 In principle, I support the inclusion of a new method in the LF-WAI chapter to set out a practical approach to implementing TMOTW. Part of the practical approach to implementing TMOTW will require education/upskilling of practitioners and people who use or affect water to better understand what this concept means.
- 25 Parties are taking a range of policy positions as to what the second tier in TMOTW (NPS-FM) means. As I understand Fish and Game’s position on the merits, is that people’s direct contact with freshwater for recreation should fall under this tier 2/Objective 2.1 (1) (a) NPS-FM for two main reasons; firstly, primary contact with water should not put at risk people’s physical health due to water quality; and secondly, active and passive recreation associated with water is good for peoples’ health and wellbeing.

¹³EiC @ pars 118 – 122

¹⁴For example Ms Hunter EiC @ pars 8.11 & 8.15

¹⁵EiC @ par 6.9

¹⁶EiC @ par 10.5

- 26 Other parties take a policy position that as a matter of principle, in terms of degrees of separation from water, is quite different to that of Fish and Game.
- 27 For example, whilst the production of food is obviously important for human health, that relationship between the water itself and people's health is indirect: See Ms Roberts [Par 96(f)] that food production is part of the 2nd tier in TMOTW:
- (a) While vegetables and fruit are essential human health needs, and water is required to produce vegetables and fruit, as there is no direct contact with or link between the human use of water and the growing of fruit and vegetables in relation to any particular waterbody I do not consider this is the logical place within the framework to locate horticultural use of water.
 - (b) Hort NZs interpretation of TMOTW suggests that the use of water to produce food for the local market is more important (from a human health perspective) to the export market. This rationale is also problematic. The concept of TMOTW does not distinguish between different market sectors.
 - (c) Logically, if Hort NZs position is agreed then the 'door is open' for any human health need that has an indirect link to water to be considered a second tier priority. Taken to the extreme this could include the need to take water from a waterbody to produce milk or wine (for example as some people will say milk and wine are essential for human health).
 - (d) I see a similar illogicality with the suggestion the generation of electricity comes within tier 2.
- 28 Mr Hodgson (Hort NZ) supports a new definition of "essential human health"¹⁷. While I support his intent to clarify what is and what is not applicable to the tier two priority, the definition remains ambiguous and reference to essential human health is not consistent with nor implements the broader policy directive of "human health".¹⁸ As an example, the definition put forward by Mr Hodgson does not appear to capture the psychological health benefits of people's direct contact and interaction with a waterbody, including recreation and harvesting food.
- 29 Notwithstanding the above, I acknowledge that determining what is and what is not a tier 2 priority is a matter of statutory interpretation.

¹⁷"Essential human health: means the physiological needs of humans, it includes safe drinking water and sanitation, nutritious food, adequate shelter and warmth."

¹⁸EiC @ par 39 onwards

Reference to 'where possible'

30 I share Ms Styles¹⁹ concern that the word 'possible' used throughout the PORPS is too strong. However, I do not agree with Ms Styles that reference to 'demonstrably practicable' (as recommended in the Council's supplementary evidence) is not appropriate. McIntyre discusses the difference between 'demonstrably practicable' and 'possible' in the context of EIT-INF-P13²⁰, referencing Mr Langman's evidence for ORC. While I do not agree the term 'demonstrably practicable' 'sets a higher bar than possible', I remain supportive of 'demonstrably practicable' over 'possible' and 'practicable' because:

- (a) Possible is unworkable (as identified by others and in my EiC)
- (b) Whereas "demonstrably practicable" places an obligation on the developer to clearly demonstrate why it is not practicable to avoid or mitigate adverse effects.

Natural Features & Landscapes

31 As set out in my EiC the NFL provisions are not appropriate. I agree with the evidence of:

- (a) Mr Devlin in respect of NFL-O1 and NFLP2 to enable development in outstanding and highly valued natural features and landscapes, while providing for the limbs of NFL-O1 including promoting restoration and recognition of restoration in NFL-P2²¹.
- (b) Mr Brown²² that reference to 'restore' is applicable only in places where values have been reduced or lost.
- (c) Styles et al that seek to add "from inappropriate subdivision, use and development" from NFL-O1 and NFL-P2.

32 I do not agree with Mr Ferguson²³ that 'restoration' is necessarily (or at least clearly) encompassed within 'protection'. Focusing on protection reinforces maintenance of the status quo and does not give sufficient recognition to natural landscape values that have been reduced or lost over time.

33 For reasons set out in my EiC I do not agree with the amendments recommended to NFLP2 by Mr Bathgate²⁴ or Mr Brass²⁵. In short it is not appropriate to simply to avoid adverse effects on natural features or landscapes, irrespective of their significance.

¹⁹EiC @ pars 6.10 – 6.13

²⁰EiC par 124

²¹EiC @ pars 35 and 49 respectively

²²EiC @ pars 2.1 – 2.3

²³EiC @ pars 10 – 29

²⁴EiC @ pars 137 – 139]

²⁵EiC @ pars 225 – 226, 232 – 236

Carbon Farming (Exotic Forests)

- 34 I agree with the evidence of Ms Cook and Ms Bartlett that there are some significant resource management issues associated with the planting and of exotic forests.

Pest Species - new policy and definition

- 35 Mr Brass²⁶ proposes a new policy *LF-LS-PX Pest Species* based on the evidence of McKinlay²⁷. I agree with Mr Brass and the reasons he gives that this new policy is appropriate.

SPECIFIC PROVISIONS

IM-O3

- 36 I agree with Ms Taylor²⁸ about the appropriateness of the change to IM-O3 set out in the s42A to change 'preserve' to 'support and restore'.

IM-P1 and IM-P2

- 37 For reasons set out above, and in my EiC, I generally concur with Mr Brass²⁹ about the need for integrated decision-making approach including prioritisation.
- 38 I do not agree with Ms Hunter and Ms Styles et al that a new limb should be included to exempt REG or other RSI. The NPSREG (and Part 2) do not warrant provision for REG in a way that trumps other environmental considerations, including in respect of freshwater allocation and prioritisation ahead of the FMU process being completed in accordance with the NPSFM 2020.

IM-P10

- 39 I agree with Ms Styles et al that REG should be recognised and provided for in this policy to appropriately acknowledge that providing for REG is part of achieving national climate change obligations.

IM-P12

- 40 For reasons set out above and in my EiC the Styles et al relief to delete the minimise approach (reducing to the smallest amount reasonably practicable) is not appropriate. Simply 'avoiding, remedying or mitigating effects' will not result in the long term sustainable management of natural resources and will not suitably address cumulative adverse effects.

²⁶EiC @ par 105
²⁷EiC @ pars 171-178
²⁸EiC @ pars 4.4 – 4.9
²⁹EiC @ pars 46-56

IM-P5 & IM-P13 – Cumulative Effects

- 41 For reasons set out in my EiC, and consistent with the evidence of Ms McIntyre³⁰ and Mr Brass, I do not agree with Ms McLeod that a precautionary approach adds very little to achieve integrated management. However, as set out in my EiC, I am comfortable with the directive in IMP13 being relocated to IMP5(4) as recommended in the s42A Report.

IM-P14

- 42 For reasons set out in my EIC I concur with Ms McIntyre [par 85] that the setting of limits should be directed at a policy level to being “wherever practicable”. I am not aware of any actual evidence highlighting how it will be impractical to set limits.

LF-FW-P14 and LF-FW-M8A

- 43 I concur with the amendments recommended by Mr Brass, Ngai tahu ki Murihiku, and Earnslaw One (including based on the evidence of Dr Richardson and Mr McKinley) relating to fish passage and pest species.
- 44 Bathgate³¹ and Brass³² discuss that it is appropriate to take into account Te Mana o te Taiao – the Aotearoa New Zealand Biodiversity Strategy 2020. That strategy supports a planning framework for introduced species that is very similar to what Fish and Game is seeking in respect of Trout & Salmon.
- 45 I do not agree with Styles et al that there should be a ‘where practicable’ clause to limb (3). While I acknowledge that Ms Style and Ms Hunter³³ et al express concerns that it will be difficult to restore natural character in all instances, such as in the Clutha due to dams, I do not agree with the inclusion of ‘where appropriate and it is practicable to do so’ to LF-FW-P14. This could effectively render the directive impotent or meaningless. It is appropriate that the RPS provide a direction that the natural form and function of all waterbodies should be restored to some extent. The extent to how much restoration occurs along the continuum of naturalness will be a matter of circumstance and will presumably be elaborated on in terms of implementing the freshwater provisions (namely LF-WAI-O1, LF-WAI-P1, and the LF-VM visions and management).

LF-WAI-P3(5)

- 46 Jones³⁴ is concerned the use of ‘sustainable’ in LF-WAI-P3(5) is unclear and suggests instead being specific that extraction limits and freshwater quality is not adversely affected. I support the amendment recommended by Ms Jones, for the reasons she provides.

³⁰EiC @ par 80(b) and (c), EiC @ pars 57 – 59, EiC @ pars 7.28 – 7.33

³¹[Para 89]

³²EiC @ par 118-121

³³EiC @ par 9.14

³⁴EiC @ par 4.7 – 4.12

LF-LS

- 47 Brass³⁵ is recommending two new objectives. I have no issues with these objectives being introduced except there is potential of ambiguity whether reference to ecosystems is intended to capture all ecosystems or be limited to indigenous ecosystems. If the following objective is to be introduced then it should be worded as follows (to clarify that reference to ecosystems is not limited to indigenous ecosystems):

Otago's land environments support healthy habitats for
ecosystems and indigenous species ~~and ecosystems~~.

LF-LS-M12(1)(b)

- 48 I agree with the reasons provided by Ms Jones³⁶ that 'minimising' the removal of tall tussock grasslands is more appropriate than 'avoiding' the removal of tall tussock grassland.

ECO Objectives

- 49 Ms Hunter is recommending a new objective to protect and manage indigenous biodiversity in a way that provides for peoples' wellbeing. I have no objection to this objective, acknowledging it is to be read alongside (and will not trump) the other ECO objectives.

EIT-EN-O1

- 50 Ms Styles³⁷ is recommending adding 'the health and well-being' to the start of this Objective. I support this amendment.

EIT-EN-O2, EIT-EN-P1, EIT-EN-P2, EIT-EN-P3

- 51 Ms Styles³⁸ et al is recommending a suite of amendments to this objective and its supporting policies EIT-EN-P1, EIT-EN-P2, EIT-EN-P3. Most of the amendments are appropriate and could be incorporated into the provisions alongside the amendments recommended in my EiC.
- 52 An exception to the amendments being appropriate are the suite of amendments that introduce directives to maintain or protect generation or operational capacity. For reasons set out in my EiC I do not agree it is appropriate for the RPS to provide blanket protection over existing REG.

EIT-EN-P4

- 53 I have no objection to Ms Styles et al amendments to this policy that add REG development alongside investigation activities.
- 54 I note my assumption that the term 'prioritise' in this policy is relative to prioritising between different REG activities/opportunities, not prioritising

³⁵EiC @ pars 101-103

³⁶EiC @ pars 6.1 – 6.3

³⁷

³⁸EiC @ pp 37-40

REG over clauses a-f. If the intention is to prioritise REG over clauses a-f then I do not support any reference to prioritise in this policy, because to do so would frustrate the appropriate intent of the RPS to not prioritise REG over other matters such as the health and well-being of the natural environment and intention to give effect to the principles of te Tiriti o Waitangi.

EIT-EN-P6 and new EIT-EN Policy

- 55 I do not agree with Styles et al that the management of effects of REG should only be subject to this policy, or that REG should not be subject to environmental limits (which is the effect of the amendments recommended by Styles et al to this policy).
- 56 I do not agree with the rationale of providing a new policy 'in order to ensure that the Energy chapter is appropriately self-contained'. As identified above such an approach frustrates the intended architecture of the RPS and does not support integrated management of the Regions resources, particularly as Policy IM-P12 already provides direction for decision-makers on applications proposing to contravene environmental limits.
- 57 Notwithstanding this, I have no objection (in principle) to the RPS containing a policy that seeks to reconcile the tensions between the need to provide for REG within environmental limits, except:
- (a) The policy should not apply an exemption to limits on freshwater ahead of the FMU process being completed (as doing so would undermine the process set out in the NPSFM20).
 - (b) Irrespective of the benefits of REG, it would be inappropriate to ignore the RPS objectives around tangata whenua, particularly Objective MW-O1 in respect of the Principles of Te Tiriti o Waitangi.
 - (c) A significant benefit of REG is typically benefits provided to local communities. It is therefore appropriate to ensure that any REG activity that might exceed environmental limits is required to provide local benefits.
- 58 If a new policy is to be introduced, then I recommend it be amended as follows:

EIT – EN – P10 Climate Change Mitigation

Except for limits on freshwater quality and quantity, Where a proposed renewable electricity generation activity provides, or will provide, enduring regionally or nationally significant mitigation of climate change impacts, with commensurate benefits for the well-being of people and local communities and the wider environment, decision makers may, at their discretion, allow non-compliance with an environmental bottom line

set in any policy or method of this RPS or in a Land and Water Plan, only if they are satisfied that:

(1) the activity is designed and carried out to avoid, remedy or mitigate adverse effects as far as is practicable having regard to ~~consistent with~~ its purpose and functional needs,

(2) the activity is consistent with other regional and national climate change mitigation activities, and

(3) where adverse effects on the environment cannot be avoided, remedied, or mitigated, decision makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected, and

(4) the activity gives effect to the principles of Te Tiriti o Waitangi.

EIT-EN-M1 and EIT-EN-M2

59 As discussed above I do not support direction of 'protection of operational capacity, as recommended by Styles et al.

60 I do not agree it is appropriate to amend clause 5 as recommended by Styles et al. As identified in my EiC there is no blanket policy directive (including in the NPSREG) to 'avoid' establishment or operation of activities that may result in reverse sensitivity effects or compromise the operation or maintenance of renewable electricity generation activities or adversely affect the efficient functioning of renewable electricity generation infrastructure (including impacts on generation capacity).

EIT-INF-O4

61 I agree with Mr Brass³⁹(par 197-203) to the extent that, if reference to environmental limits is removed from this Objective, then it will be appropriate to amend the objective to clarify that infrastructure is subject to other provisions in the RPS, not just the EIT-INF provisions.

EIT-INF-P11 & EIT-INF-P11

62 I generally agree with Mr Barr in respect of terminology used in EIT-INF-P13 and EIT-INF-P11⁴⁰.

APP1

63 I agree with Mr Coombs⁴¹ that APP1 is really a list of potential values as opposed to criteria for determining what is and what is not an Outstanding Waterbody, and that some of the values are complicated and competing.

³⁹

⁴⁰EiC @ pars 5.12 – 5.33, and pars 5.12 – 5.33

⁴¹EiC @ par 10.1 onwards

- 64 Mr Brass recommends changes to APP1, including the removal of clause c in respect of angling amenity, without providing any rationale for this deletion. This clause should not be deleted without any rationale being provided. Amendments have been proposed to clause (c) in Mr Coupers' EIC for Fish and Game.
- 65 In response to Ms Hunter⁴² I consider that it is appropriate that modified lakes can still be considered outstanding in respect of some attributes, for example recreation. It is logical that if a waterbody is outstanding because of its recreation values then those outstanding recreation values should be protected. There is no need for other (non-outstanding values) to be protected.
- 66 Under the NPS-FM an outstanding water body is 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**. There is no prerequisite that a water body needs to be in a natural state or have outstanding natural values to be considered outstanding. For example, if a modified water body affords recreational opportunities, such as the habitat and fishing afforded by Lake Dunstan, or the recreational use of the artificial wave constructed on the Hawea River, that are highly valued by user groups, then it is reasonable for these waterbodies to qualify as outstanding.
- 67 Dr Keesing⁴³ seeks deletion of "habitat for trout and salmon" as an outstanding ecological value and proposes it instead just be considered under the recreational criteria. On my assessment of the NPS-FM directives in respect of identification and protection of the significant values of outstanding water bodies (policy 8) along with the protection of the habitat of trout and salmon (policy 10), there is no policy support for Dr Keesing's suggestion. The management of species interaction (being his concern) is dealt with in other parts of the RPS, not in the context of identification of outstanding values.
- 68
- 69 There are a range of views on the introduction of the much more detailed APP1 that has come through from the section 42A report. It is apparent that the transferability from the Hawkes Bay to Otago is not a good fit for some of the criteria and values. Others are completely missing whereas they would have been captured by the more generic notified version (for example commercial and non-commercial motorised boating on lakes for example, sailing, windsurfing etc).

APP6

⁴²EiC @ par 9.5

⁴³EiC @ par 17.16

- 70 Mr Place comments on APP6 opining among other things that it is too conservative, including when compared to (for example) the Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management 2007 (AGS) methodology. While helpful in respect of providing guidance, the Australian Geomechanics Society Practice Note Guidelines for Landslide Risk Management 2007 (AGS) methodology, should not provide any authoritative direction until it is transparently tested with affected stakeholders.
- 71 It is not appropriate to limit consideration of natural hazard risk to 'technical experts' (assuming Mr Place is excluding planning experts in this reference) and affected stakeholders from determining tolerability. To do so is ignorant of real world (practical) scenarios and real costs on people and communities. I've found, in practice, Councils (territorial and regional) lose sight of actual costs and risks compared with theoretical costs and risks, and therefore I consider it important to ensure that community views and tolerance for risk (including associated costs) is provided for.
- 72 By way of an extreme (yet true) example of inappropriate and costly approaches to natural hazard risk, I was involved in a resource consent application where (ORC) tried (through submissions, evidence and an appeal to the environment court) to prevent a hotel on a site zoned for a hotel because, among other natural hazard risks, the site could be affected by an 80m high tsunami. Similarly, in another application I have been involved in, QLDC declined a resource consent application for a large storage shed in a rural zone because of rockfall risk, even though the storage shed provided a safer environment than the status quo and the theoretical risk was insignificant compared to the actual risk the affected person faced on a day-to-day basis (an outdoor adventure company. In both examples above the consents were eventually approved (by the Court on appeal), at costs of hundreds of thousands of dollars to each applicant.
- 73 Aside from risks associated with major earthquakes and coastal Tsunamis, there are few pressing natural hazard risks at a community scale that justify costly regulation (i.e. regulation that directly intervenes with property rights and requires people to spend lots of money to pay for their own technical advice to participate in resource management processes) without or ahead of meaningful engagement with affected communities to determine risk tolerability.
- 74 Identifying and managing natural hazard risk is critically important for implementing the purpose of the Act, and this often (but not always) requires solid 'technical' findings. However, identifying and managing natural hazard risk should also be done in a way that is:

- (a) Moderated through meaningful engagement with the affected stakeholder/community.
- (b) Not too conservative where the actual financial costs of being conservative are relatively high compared to the theoretical costs of a natural hazard event occurring.
- (c) Inclusive of a collaborative approach to working with affected stakeholders and communities, not creating or relying on arbitrary or untested methodologies tailored to the local context.

75 I maintain that APP6 be amended to ensure that it does not carry any legal weight or priority nor set unreasonably low thresholds for determining what is a significant natural hazard risk without fair and transparent community input into the formulation of the risk determinants and what the community is willing to tolerate.



Ben Farrell

14 December 2022