



POLICY COMMITTEE AGENDA

Thursday 29 November 2018

11:00 am, Council Chamber,
Level 2 Philip Laing House, 144 Rattray Street,
Dunedin

Membership

Cr Gretchen Robertson	<i>(Chairperson)</i>
Cr Michael Laws	<i>(Deputy Chairperson)</i>
Cr Graeme Bell	
Cr Doug Brown	
Cr Michael Deaker	
Cr Carmen Hope	
Cr Trevor Kempton	
Cr Ella Lawton	
Cr Sam Neill	
Cr Andrew Noone	
Cr Bryan Scott	
Cr Stephen Woodhead	

Disclaimer

Please note that there is an embargo on agenda items until 48 hours prior to the meeting. Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

For our future

TABLE OF CONTENTS

1. Apologies.....	4
2. Leave of Absence.....	4
3. Attendance	4
4. Confirmation of Agenda	4
5. Conflict of Interest.....	4
6. Public Forum	4
7. Presentations.....	4
8. Confirmation of Minutes.....	4
9. Actions.....	4
10. Matters for Council Decision	6
10.1. Air Quality Strategy Implementation	6
10.2. Deemed Permits Process.....	13
10.3. Final regional swimming targets	31
10.4. Options for Resolution on Priority Catchments Minimum Flow.....	38
11. Matters for Noting	48
11.1. Director's Report on Progress.....	48
11.2. Summary of Reports – Regions Implementing NPSFM	52
11.3. Implications of NPSFM Announcement	57
11.4. Clutha Natural Character and Recreation	6
12. Notices of Motion	11
13. Closure	11

RECOMMENDATIONS FOR COUNCIL DECISION

10.1. Air Quality Strategy Implementation

Recommendation:

- a) *That the Policy Committee approves an early implementation of the Air Quality Strategy focusing on non-regulatory methods (Option 2 of this report)*
- b) *That the Policy Committee approves the proposed work programme attached in Appendix 1*
- c) *That the Policy Committee notes that a review of the proposed work programme in upcoming annual and long-term plan processes will be required*

10.3. Final regional swimming targets

Recommendation:

That the Council:

Publish the following final regional swimming targets for Otago on the Council website by 31 December 2018:

- *90 percent of rivers and 98 percent of lakes are swimmable by 2030; and*
- *95 percent of rivers and 100 percent of lakes are swimmable by 2040.*

10.4. Options for Resolution on Priority Catchments Minimum Flow

Recommendation:

That Council:

- a) *Note the report;*
- b) *Identify a preferred option; and*
- c) (i) *Either commence work on the preferred option; or*
(ii) *Undertake a targeted community consultation meeting on the preferred option.*

1. APOLOGIES

2. LEAVE OF ABSENCE

Leave of Absence noted for Cr Woodhead

3. ATTENDANCE

4. CONFIRMATION OF AGENDA

Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

5. CONFLICT OF INTEREST

Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

6. PUBLIC FORUM

7. PRESENTATIONS

8. CONFIRMATION OF MINUTES

Recommendation

That the minutes of the meeting held on 17 October 2018 be received and confirmed as a true and accurate record.

Attachments

1. Policy Minutes 17 October 2018 [8.1.1]

9. ACTIONS

Status report on the resolutions of the Policy Committee.

Amendment 2 (National Environmental Standards for Plantation Forestry) to the Regional Plan: Water for Otago	13/06/2018	b) Make Amendment 2 (NES Plantation Forestry) operative from 1 July 2018. c) Publicly notify Amendment 2 (NES Plantation Forestry) on Saturday 30 June 2018	OPEN
Air Quality Strategy	13/06/2018	c) That a paper on implementation be brought to the Policy Committee in the next 2-3 months	OPEN
Draft Biodiversity Strategy - Feedback	13/6/2018	c) That a paper on implementation be brought to the Policy Committee in the next 2-3 months	
Director's Report on Progress to	13/6/2018	a) That 31 August is confirmed for notification subject to Minimum Flow	

13 June 2018: Minimum Flow Plan Change Manuherikia, Arrow and Upper Cardrona catchments		<i>figures and missing section 32 components being completed and brought to the Council and brought to the communities.</i>	
Minimum Flow Plan Change Update	1/8/18	That the CEO engage an appropriately qualified facilitator to help consultation associated with Priority Catchments Minimum Flows and Residual Flow Plan Change. (Mrs Gardner advised this action was in process, with a facilitator to be appointed.	
Biodiversity Action Plan	17/10/18	Approve the draft Biodiversity Action Plan in Attachment 2 for consultation with iwi and key stakeholders before a final draft is brought back to this committee for approval on 28 November 2018.	
South Dunedin Collaboration	17/10/18	That through the Chairperson and Chief Executive that ORC initiate discussion around forming a governance group on South Dunedin, including councillors.	
Director's report on Progress – Waste Plan	17/10/18	That a paper be brought to this table detailing issues or gaps of the Waste Plan that need to be addressed. The report to include comment on the statutory responsibility as regard to waste for ORC.	
Government's New "Essential Water" Policy Framework	17/10/18	That Council ask the Director Policy, Planning and Resource Management to provide an analysis of the impacts of this new policy framework for Otago and this Council to its Policy Committee in November 2018	

Attachments

Nil

10. MATTERS FOR COUNCIL DECISION

10.1. Air Quality Strategy Implementation

Prepared for: Policy Committee
Report No. PPRM1834
Activity: Regulatory: Policy Development
Prepared by: Sylvie Leduc, Senior Policy Analyst
Date: 25 September 2018

1. Précis

In view of the persistent winter air pollution observed in Otago, Council has re-affirmed its commitment to achieving healthy air everywhere in Otago, at all times, in a new Air Quality Strategy adopted in June 2018. In considering the strategy's implementation, Council must decide 1) how early the implementation of the strategy should start, and 2) whether it should focus on regulation or non-regulatory method (e.g. community engagement).

This report presents the three following options, and their implications in terms of effectiveness, costs and benefits:

- Option 1: Deferred implementation, as provided for in the LTP;
- Option 2: Earlier implementation with primary focus on non-regulatory methods; or
- Option 3: Earlier implementation with primary focus on full review of the Air Plan.

Option 2 is the option which is expected to achieve the region's air quality objectives the earliest. It is also expected to be more costly than what has been originally budgeted for in the LTP for years 2018-2028.

2. Recommendation

- a) *That the Policy Committee approves an early implementation of the Air Quality Strategy focusing on non-regulatory methods (Option 2 of this report)*
- b) *That the Policy Committee approves the proposed work programme attached in Appendix 1*
- c) *That the Policy Committee notes that a review of the proposed work programme in upcoming annual and long-term plan processes will be required*

3. Background

Even though for most of the year, air quality in Otago is very good, elevated particulate levels are observed during winter months, particularly in Central Otago, due to the combined effects of an increase in home-heating emissions, and calm conditions coupled with strong temperature inversions. In 2007, ORC adopted its first Air Quality Strategy, focused on domestic emissions. Since then, and despite significant reductions in emissions, the strategy did not result in Otago meeting air quality standards for good health as prescribed in the National Environmental Standard for Air Quality (NESAQ).

In 2018, to re-affirm its commitment to achieve healthy air everywhere in Otago at all times, the strategy was reviewed and structured around five outcomes, which reflect the various sources of particle emissions in Otago.

Those five outcomes are (in descending order of priority):

1. Adopt cleaner heating
2. Reduce reliance on outdoor burning
3. No nuisance from emissions and dust
4. Toxic emissions do not cause harm to people or ecosystems
5. Air pollution from traffic and industries is effectively addressed.

The strategy itself makes a few commitments on how those outcomes will be achieved. Those commitments are first summarised, before three broad implementation options are examined.

4. Existing commitments

The following table describes the commitments ORC has made, for each of the air quality outcomes.

Outcome 1: Adopt cleaner heating
<p>To achieve this outcome, Council has committed to:</p> <ul style="list-style-type: none">▪ Developing local air quality programs in areas with air pollution issues. Those air quality programs:<ul style="list-style-type: none">○ Combine and align education / information and rule enforcement activities; and○ Involve the local community, local councils and other potential partners in developing tailored solutions for the community;▪ Supporting research in low impact heating and informing people about their options▪ Promoting upgrades to low impact heating through information, education and targeted financial assistance;▪ Advocating, promoting and supporting what will facilitate the uptake of low impact heating, including home insulation or cheaper electricity;▪ Ensuring legislation is consistent and requires low impact heating to be installed in new homes; and▪ Encouraging new housing developments to look at offering appropriate community heating systems.
Outcome 2: Reduce reliance on outdoor burning
<p>To achieve this outcome, Council has committed to:</p> <ul style="list-style-type: none">▪ Reviewing relevant Air Plan provisions to limit burning to appropriate areas and times;▪ Promoting the development and adoption of acceptable alternatives to outdoor burning with industries;▪ Working with local councils to make it easier to dispose of green waste and diseased material appropriately; and▪ Raising community awareness on rules on burning of offensive waste and appropriate disposal methods. <p>ORC has also made the commitment to identify “outcomes and issues for outdoor burning around urban areas” this financial year, within its ORC’s Long-Term Plan 2018-2028.</p>

Outcome 3: No nuisance from emissions and dust

To achieve this outcome, Council has committed to:

- Tightening up rules on the use of outdoor fires in residential areas;
- Working with suppliers/industry to make sure adequately-designed outdoor fires are installed in these areas;
- Advocating for effective dust control provisions in district plans;
- Advocating for adequate controls in district plans and other relevant legislation to prevent nuisance activities; and
- Responding to complaints about nuisance.

Outcome 4: Toxic emissions do not cause harm to people or ecosystems

To achieve this outcome, Council has committed to:

- Monitoring new research on the impact of chemical use and work to raise awareness about chemical risks; and
- Supporting and promoting good practices in chemical use and informing about available alternatives.

Outcome 5: Air pollution from traffic and industries is effectively addressed

To achieve this outcome, Council has committed to:

- Promoting greater choices in transport modes and the provision of public transport and walking and cycling paths;
- Liaising with city and district councils on policies on low emissions vehicles; and
- Managing industrial discharges through plans and consents.

Those commitments are leading ORC towards:

- Developing tailored local air quality programmes;
- Actively engaging with communities and relevant industry sectors on issues such as outdoor burning, or the use of pesticides;
- Working and partnering with city and district councils, and central government for a more coherent legislative framework; and
- A full review of the Air Plan, with a particular focus on outdoor burning, on emissions from new developments, and on high urban growth areas.

The three broad implementation options described in the next section have all been based on the commitments above. Other circumstances have been taken into account, including:

- The requirement to review the Regional Plan: Air under RMA s79 (the Plan having been operative for more than ten years), especially in the context of the upcoming review of the NESAQ, and the National Planning Standards; and
- ORC's commitment to grant \$45,000 a year to Cosy Home Trust for 3 years, as decided as part of the LTP 2018-2028.

5. Implementation options

The strategy leaves scope to decide how much resource and effort Council puts into implementing the strategy, and the staging of its implementation program. In making that decision, ORC could consider three broad options.

5.1 Option 1: Deferred implementation as provided for in the LTP

The LTP budgets and targets were established based on the assumptions that:

- *ORC provides \$100,000 worth of grant every year under the clean heat clean air programme;*
- *The development of local air quality programmes starts in 2020-2021;*
- *ORC will itself carry out a research programme trialling options for low emission technologies; and*
- *Changes to the Air Plan addressing outdoor burning, airshed boundaries, and discharges of hazardous substances, would precede a full review of the Air Plan, due to commence in 2024.*

This programme has been budgeted for a total of \$ 4.49 Million over 10 years.

Given the high costs of ultra-low emission heating¹, and the limited amount left in the Clean Heat Clean Air reserve fund in that scenario, change and transition towards ultra-low emission heating will not be affordable under this option, and so likely be driven instead by the review of the Air Plan and the introduction of more stringent rules, while local air quality programs would improve public awareness and burning practices. Assuming that the Air Plan review is completed in 2026, and that it requires ultra-low emission heating within a period of 10 years after the plan is operative, Otago's air quality objectives could be expected to be realised no earlier than 2036.

Beyond the impact of a delayed implementation on the health risks borne by Otago's communities in polluted towns; postponing the active implementation of the strategy could be detrimental to ORC's reputation and may lead to missed opportunities to establish local partnerships, to strengthen its relationships with local community, and its visibility in communities. For example, residents of Arrowsmith have expressed interest in working with ORC and other partners (Cosy Home Trust, the Southern District Health Board and QLDC) to actively address winter pollution from next winter (2019-2020).

5.2 Option 2: Earlier implementation with primary focus on non-regulatory methods

In Option 2, ORC would:

- *Start the staged development of its local air quality programmes earlier than in option 1, by starting with Arrowsmith in 2019;*
- *Strengthen the "Clean Heat Clean Air" fund, with new funding established, to allow a faster transition towards low impact heating, and in recognition of the significant costs of low impact heating on households; and*
- *Rely on establishing partnerships to reduce implementation costs, including for the integration between housing policies and initiatives, and clean air programmes; and for the trialling and maintaining a watching brief over new technologies.*

¹ Ultra-low emission burners cost between \$5,500 and \$11,000, excluding installation costs, while pellet fires and heatpumps cost approx. \$5,000, but have higher running costs

With an effective combination of a financial subsidy, targeted education and compliance, meeting Otago's air quality objectives within 10 years is a realistic goal.

The 10-year implementation costs excluding the subsidy would be 48% higher than in Option 1, with the highest discrepancy between 2020-2021 and 2022-2023 (see Table 2): this will require to either increase funding on air quality on those years, or to re-allocate budgets between activities in favour of air quality.

The amount committed to the subsidy is expected to exacerbate the cost difference between the two options significantly. The costs associated with the financial subsidy will be dependent on the eligibility criteria, the form of the subsidy (e.g. grant or loan) and the amount of each grant/loan. Should option 2 be adopted, those parameters will be defined in the first quarter of 2019. As a reference, if ORC decided to grant \$7,000 to replace 1,100¹ inefficient burners over 10 years, it would incur \$7.95 Million for council.

Partnerships opportunities and the issues and needs highlighted by community engagement may require budgets to be revisited. The proposed timeframe for the full Air Plan review in Option 2 should align well with the review of the NES for Air Quality commenced by the Ministry for the Environment.

5.3 Option 3: Earlier implementation with primary focus on full review of the Air Plan

In Option 3, ORC commences the full review of the Air Plan this financial year and develops the suite of non-regulatory methods in local air quality programs as part of this review. This option changes the status and focus of local air quality programs and is likely to result in 2-staged programs as follows:

- *Stage 1 (before completion of the Air Plan review): Focus on raising awareness on air quality issues; and on promoting good burning practices with burners compliant with current rules; and*
- *Stage 2 (after completion of the Air Plan review): Focus on achieving compliance with new rules. This is likely to include a financial subsidy programme, assuming that the Air Plan will require transition towards ultra-low emission heating.*

Assuming that the Air Plan will be completed in 2023 and provides for a 10-year transition towards low impact heating, air quality objectives can be expected to be achieved by 2033 under this scenario.

Option 3 would ensure the alignment between the Regional Plan: Air and ORC's non-statutory activities. However, this option:

- *Would require significant resources in the short term;*
- *Is likely to put additional pressure on ORC's Policy team, who would undertake two major plan reviews at the same time (Air Plan and Water Plan)*
- *May have a detrimental effect on council's ability to harness the community's energy and partner with the community, because of the regulatory focus of community engagement.*

¹ There is an estimated 2,510 inefficient burners across Mosgiel, Arrowtown, Milton, and Alexandra – Estimates based on *Alexandra, Arrowtown, Mosgiel and Milton Air Emission Inventory – 2016*, prepared by Emily Wilton for Otago Regional Council

Option 3 also has some risk as the Air Plan review would potentially precede the Ministry for the Environment's review of the NES for Air Quality. Public consultation on the NES is expected in 2019, after being deferred from 2016.

▪ *Summary options comparison*

As outlined in the table below, out of the three options, Option 2 is likely to deliver air quality outcomes the fastest, and to enhance the relationship between ORC and Otago's local communities.

Table 1: Options' costs and benefits

	Benefits	Costs
Option 1	<ul style="list-style-type: none"> Reflects LTP decisions and does not require a re-allocation of resources 	<ul style="list-style-type: none"> Unlikely to achieve air quality objectives before 2036 The delayed implementation raises reputation risks and may result in missed partnership opportunities
Option 2	<ul style="list-style-type: none"> Expected to achieve air quality outcomes by 2028-2029 Promotes community ownership of the issue and its solutions Greater emphasis on potential partnerships and on building relationships with community 	<ul style="list-style-type: none"> Higher costs: will require either additional funding or a reallocation of resources from year 2019-2020 Effectiveness likely to require a substantial financial subsidy
Option 3	<ul style="list-style-type: none"> Ensures alignment between ORC's regulatory and non-regulatory projects 	<ul style="list-style-type: none"> Unlikely to achieve air quality objectives before 2033 High cost in the short term, requiring a reallocation of resource or additional funding especially for year 2019-2020 Timing issue with the review of the NES for air quality. Emphasis on regulation in community engagement not conducive to community ownership of the problem.

Table 2: Estimated implementation costs (excl. financial subsidy) (in ,000 NZD)

	Option 1	Option 2	Option 3
2018-2019	208	278	331
2019-2020	394	471	867
2020-2021	408	951	934
2021-2022	175	846	864
2022-2023	232	816	731
2023-2024	535	576	369
2024-2025	460	289	314
2025-2026	330	259	294
2026-2027	334	259	259
2027-2028	298	259	259
TOTAL	3,373	5,000	5,218

The costs in Table 2 exclude the costs associated to a financial subsidy programme. The effectiveness of Option 2 would rely on the reactivation and re-design of ORC's clean heat clean air programme, from 2019-2020. It is assumed that ORC would reactivate the programme under Option 3 as well, after the release of Council decision on the Plan (June 2022).

Table 3 illustrates the cost difference this could entail over the next 10 years, under a scenario where ORC would grant full replacement costs of solid fuel burners to 1,100 households over 10 years. As mentioned above, pending a fuller review of the parameters of the programme, no reliable cost estimate of the programme can be produced.

Table 3: Implementation costs incl. financial subsidy (in ,000 NZD) – A scenario

	Option 1	Option 2	Option 3
2018-2019	308	478	331
2019-2020	497	771	867
2020-2021	513	1,351	934
2021-2022	282	1,396	864
2022-2023	342	1,516	931
2023-2024	647	1,476	669
2024-2025	574	1,289	714
2025-2026	448	1,459	844
2026-2027	454	1,559	958
2027-2028	421	1,659	1,159
TOTAL	4,484	12,950	5,218
Number of burner replaced by June 2028 (full replacement costs)	159	1,100	435

Endorsed by: Tanya Winter
Director Policy, Planning & Resource Management

Attachments

1. Air Quality Strategy Implementation Plan - Appendix to Committee Paper **[10.1.1]**

10.2. Deemed Permits Process

Prepared for: Policy Committee
Report No. PPRM1852
Activity: Deemed Permit Process
Author: Charles Horrell, Senior Consents Officer and Kylie M. Galbraith, Acting Manager Consents
Endorser: Tanya Winter, Director of Policy, Planning and Resource Management
Date: 8 November 2018

PURPOSE

- (1) This report outlines a high-level summary of the current process for the replacement of Deemed Permits into Water Permits under the Resource Management Act 1991 (the Act). It is in response to concerns raised by Council about the replacement process, including when those permits are in a fully allocated catchment, while continuing to provide for the Deemed Permit authorised take, and also having regard to the National Policy Statement for Freshwater Management 2014 (amended in 2017) (NPS-FM).

EXECUTIVE SUMMARY

- (2) The replacement Deemed Permits into Water Permits will ensure that water is taken and used efficiently, as well as provide restriction where necessary through residual and/or minimum flows under the current provisions of the Regional Plan: Water for Otago (RPW).
- (3) Replacement Water Permits cannot consider 'overallocation' until the Regional Plan: Water for Otago (RPW) has been amended to give full effect to the NPS-FM. Once the RPW has been amended, all Water Permits can be reviewed and adjusted in accordance with Sections 128 and 129 of the Act.

STAFF RECOMMENDATION

That the Council:

- a) *Receives this report.*

BACKGROUND

- (4) During the gold rush of the late 19th to the early 20th century, a number of mining privileges were issued under the Mining Act 1926 or earlier legislation. Over time, these mining privileges were passed down through generations and the use gradually changed, primarily to irrigation. At the time that the Act came into effect, there were still over 750 of these mining privileges in Otago that were lawful and in use. Due to the complexities relating to the historical nature of them, Section 413 of the Act deemed all these mining privileges to be water permits for 30 years from the date of the Act's commencement (ending 1 October 2021). In addition to the take and use component of these Deemed Permits, Section 413 also authorises any associated discharge as well as easement right for the infrastructure (water races). These Deemed Permits are protected from cancellation under Section 126 of the Act. Therefore, unless surrendered, the Deemed Permits that have not been used, cannot lapse until their expiry. In most cases, there are no conditions on these Deemed Permits other than the volume of water authorised to be taken.

(5) A number of consent holders applied for replacement permits on the expiry of their original mining privilege between 1991 and the early 2000's. Given Section 413 authorises them until 2021, they were reissued into the modern format, but with the 2021 expiry date. These replacement permits do not contain any additional conditions to what was originally authorised by the Mining Privilege; however, they do specify if the permit is subject to a priority system. The priority system is typically set at a sub catchment level and provides some permits priority to operate over others.

(6) At the inception of the Act, there were around 754 Deemed Permits active in Otago. Presently 357 Deemed Permits are current and possibly being exercised. This figure includes:

- Deemed Permits that are likely to be replaced;
- Deemed Permits that are not likely to be replaced; and
- Deemed Permits that have obtained a replacement permit but have not yet surrendered their permit. If the Deemed Permit is not expired, it will remain current until 1 October 2021.

It is estimated that approximately two thirds (i.e. approx. 230) of the current Deemed Permits will be replaced. The last remaining third are unlikely to be replaced and will expire in 2021 (Deemed Permits that are not exercised).

(7) The process for the replacement of Deemed Permits is outlined below.

(8) In addition to obtaining a replacement Water Permit for their Deemed Permits, permit holders will also need to retain their legal access to their water race. Presently a Deemed Permit gives the permit holder the right to convey water over their own, as well as other people's, property to where the water is used. From the 1 October 2021, the right to convey that water will expire. Therefore, before that date, the Deemed Permit holder will need to apply for the ongoing easement right past 2021 in accordance with Section 417 the Act. If evidence is provided that the consent holder does have authorisation to convey water over the land, Council will issue a Section 417 Certificate. This certificate is then lodged with Land Information New Zealand who in turn update the necessary Certificates of Title to reflect this easement right.

(9) If a certificate is not obtained and registered on the land title/s prior to 2021, there will be no authorisation for the water conveyance infrastructure (water races) to occupy this land, and the permit holder will have to negotiate private easements with land owners.

DEEMED PERMIT REPLACEMENT PROCESS

1. Information to be Provided in Replacement Application

(10) Applicants are required to provide an application in accordance with Section 88 and Schedule 4 of the Act. The Council may request further information in accordance with Section 92 of the Act. The information that may be requested is as follows:

- Water use information and an assessment of actual use in accordance with Policy 6.4.2A of the RPW;
- An assessment of the flows and whether a residual flow is required;
- A fish survey; and
- Details of where water is to be used and the irrigation methods (if any).

2. Assessment of the Application against the Regional Plan: Water for Otago

2.1 Allocation

- (11) Determination of whether the application forms part of primary allocation is currently assessed against Policy 6.4.2 of the RPW. This policy sets primary allocation as being the greater of either:
- a. the limit that has been specified or calculated under Schedule 2A; or
 - b. the full rate of take that has been lawfully consented.
- (12) Deemed Permits are 'deemed' to be lawful takes under the Act and form a consented rate of take in accordance with (b) above and therefore are considered as part of primary allocation. Provided the replacement consent does not exceed the rate of take that was originally authorised, the replacement applications are considered as water permits to take primary allocation in accordance with Rule 12.1.4.4 or 12.1.4.5. This is a Restricted Discretionary activity under the RPW.
- (13) Currently the RPW does not provide for a 'phasing out' strategy of over-allocation, nor define what over-allocation is. The RPW is yet to give full effect to Objective B21 of the NPS-FM. Given over-allocation is not defined, when assessing the replacement applications there is no evidence to suggest that it is inconsistent with the NPS-FM.
- (14) Until such time as the RPW is amended to give full effect to the NPS-FM and Objective B2, it is considered that Water Permit replacements of Deemed Permits (and all other Water Permits) are consistent with the provisions of the RPW and not inconsistent with the provisions of the NPS-FM, assuming the Deemed Permit holder does not propose to take more water than what was authorised.

2.2 Water efficiency

- (15) Water efficiency is assessed against two Policies of the RPW – Policies 6.4.2A and 6.4.0A.

2.2.1 Water take efficiency – Policy 6.4.2A

- (16) The efficient 'take' of water is assessed against Policy 6.4.2A. This policy states that no more water than what has been taken under the previous permit shall be granted on a replacement consent. In assessing this, the applicant should provide Council with 5 years of water use records. Given the water measuring regulations² came into effect in 2010, there should be no reason why this cannot be achieved.
- (17) The purpose of this policy is to ensure that un-utilised water is not re-consented and that volumes no greater than the maximum monthly and seasonal volumes that have been used will be granted. To assess this, the Council prepares a statistical report which outlines the maximum volumes and instantaneous rate of take that has been used while discounting any non-compliances. In regard to the rate of take, the report provides the 90th, 95th and 100th percentile of the water that has been used. The Consent Officer will determine the appropriate percentile that should be used by considering the method of taking and whether there is storage. Granting the 90th or 95th percentile ensures that water that is either unutilised or

¹ Objective B2 is "To avoid any further over-allocation of fresh water and phase out existing over-allocation".

² Resource Management (Measurement and Reporting of Water Takes) Regulations 2010

very rarely utilised is not consented. In some cases, due to the hydrological characteristics of the watercourse, the applicant's method of taking is very much opportunistic (take as much as they can when there is water to take). When this is the case, the applicant will also be storing water within a reservoir to use at a later stage. Where this method is used, it is considered appropriate to grant the full 100 percent of what has been used given it is an efficient method of taking (only taking full rate during high flows). In all other cases, either the 90th or 95th percentile are applied.

- (18) Some Deemed Permits are subject to a priority system. This system restricts some consent holders to ensure that other consent holders can fully exercise their consents. Typically, those with greater priority are those who obtained their mining rights first. This priority system will not continue with the new water permits. By implementing Policy 6.4.2A, consent holders will be given what they have had access to which will reflect such systems and ensure equity.

2.2.2 Water use efficiency – Policy 6.4.0A

- (19) Policy 6.4.0A looks at the use of the water. This policy states that no more water than what is required for the particular crop/use (while taking into account climate and soil) should be granted. To implement this policy, the Consent Officer will assess the amount of water that has been sought against the recommendation made in a water efficiency report prepared by Aqualinc for irrigation, and the ANZECC guidelines for stockwater/domestic use.
- (20) The Aqualinc report provides guidance on the water requirements for various crops throughout the Otago region based on industry best standard irrigation methods. Where water sought exceeds the recommendation of the Aqualinc report, the volumes granted will be reduced accordingly to the recommended amount.
- (21) The ANZECC guidelines provide guidance on the water requirements for stock and domestic use (these volumes are very small in comparison to irrigation). Where a replacement application has sought water for these uses, the volumes will be granted according to these guidelines.

2.3 Notification process

- (22) Council is precluded from publicly notifying any Deemed Permit or Water Permit replacement applications in accordance with Rule 12.1.4.8 of the RPW where either:
- a minimum flow has been set and the take is from the mainstem; or
 - where a residual flow is not required.
- (23) If a residual flow is required, Council would determine if public notification is required under Sections 95A and 95D of the Act. The replacement of a Deemed Permit is not considered a 'special circumstance' therefore the main reason to publicly notify would be due to the adverse effects on the environment being more than minor. This assessment does not consider the provisions of the RPW and therefore it is primarily looking at the actual and potential adverse effects on the environment as a result of the activity.
- (24) Generally speaking, Deemed Permit replacements applied for have a no more than minor adverse effect on the environment. This is because applications are typically applied for individually or in small groups, therefore the proportionate adverse effect of the activity is small e.g. 30 l/s take out of the Manuherikia is nearly immeasurable. It is noted that the

proposed mitigation is considered, which typically would include a residual flow. The existing environment in most cases is also highly modified (these are not pristine environments). The Deemed Permit that is being replaced does not form part of this existing environment; however, all other consented activities within this catchment do.

- (25) In assessing the adverse effects on an ecosystem or the ecological health of the relevant water body, advice is sought from Council's Resource Science Unit. All other values (human use values for example) are considered by the Consent Officer.
- (26) Assuming the application is non or limited notified, affected parties may be identified in accordance with Section 95E of the Act. Affected parties are a person who may incur a minor or more than minor adverse effect from the proposed activity.
- (27) If the application is for a take on the mainstem of the catchment where a minimum flow has been set, no parties are considered affected. This is due to the minimum flow already being set at a level that accounts for all natural and human use values, therefore effects on any party is considered to be less than minor.
- (28) If the application is for a take on a tributary or on a mainstem where no minimum flow has been set in the RPW, affected parties may include iwi, Department of Conservation, Fish and Game, and other water users.

2.4 Implications of the NPS-FM

- (29) The NPS-FM must be considered in all resource consent decisions in accordance with Section 104 of the Act. Section 104 sets out the requirements for the decision on a resource consent. Subclause (1) states:

“(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—

- (a) any actual and potential effects on the environment of allowing the activity; and
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
- (b) any relevant provisions of—
 - (i) a national environmental standard:
 - (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.”

- (30) As discussed above, it is considered that replacement water permits are not inconsistent with the NPS-FM. Until such time as the RPW has been amended to give full effect to the NPS-FM the primary focus is to ensure that there is no increase to allocation in catchments, appropriate flows are maintained, and water is taken/used efficiently.

2.5 Conditions of Consent

2.5.1 Minimum Flows

- (31) All water permits that are granted within a catchment subject to a minimum flow set under the RPW will have the following condition imposed:

“No abstraction, other than for reasonable domestic and stock drinking water purposes DELETE IF NOT USED FOR DOMESTIC OR STOCK USE, shall occur when flows in the ##### Creek/Stream/River are less than the minimum flow of ### litres per second at the ##### flow monitoring site (located at map reference NZTM 2000:###-###.) When flows in the ##### Creek/Stream/River are less than the minimum flow of ### litres per second at the ##### flow monitoring site (located at map reference NZTM 2000:###-###). The consent holder shall use communication methods to advise water users that water use must be restricted to stock and domestic consumption only. Water may not be used for other uses such as domestic irrigation, car washing or filling spa/swimming pools.”

2.5.2 Residual Flows

- (32) A residual flow in accordance with Policy 6.4.7 of the RPW may be required in addition to a minimum flow where a take is from a tributary or the mainstem where the flow regime has different flow characteristics where the minimum flow is recorded. A residual flow may also be required where a minimum flow is yet to be set for a river to ensure that the life supporting capacity or natural character is maintained. This residual flow requires the water user to leave the specified flow at or downstream of their point of take.

- (33) The residual flow condition depends on the flow required. Any flow set that is less than 20 L/s is essentially immeasurable and therefore a visual wetted area condition is imposed rather than a specific number as follows:

“The consent holder shall maintain a connected visual surface water flow XX metres downstream of the point of take at all times.”

- (34) If the residual flow is greater than 20 L/s, the following conditions would be imposed:

- “1. The consent holder shall maintain a residual flow of no less than 25 litres per second at the point of take at all times.
2. The consent holder shall install a flow measuring device with an error accuracy range of +/-10% to record the residual flow”

- (35) The residual flow that is set is either proposed by the applicant or recommended by Council's Resource Science Unit. The residual flow is typically set based on the flow required to maintain the existing and potential downstream values.

2.5.3 Review Clauses

- (36) Each Water Permit contains two review clauses that allows Council the right to review conditions of consent at a later stage in accordance with Sections 128 and 129 of the Act.
- (37) The first is in relation to revising or implementing a minimum flow, where Council has a right to undertake the review irrespective if the condition is included in the consent or not:
- (38) “The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the

conditions of this consent for the purpose of [imposing] /[revising] the minimum flow restriction, if and when an operative regional plan sets a minimum flow for the catchment.”

- (39) The second review clause provides a wider scope to review the water permit for the purpose of adjusting conditions including the volumes authorised as well as for the purpose of ensuring consistency with any relevant planning provisions (including allocation):

“The Consent Authority may, in accordance with Sections 128(a) and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within 3 months of each anniversary of the commencement of this consent for the purpose of:

- a. Adjusting the consented rate or volume of water under Condition #, should monitoring under Condition # or future changes in water use indicate that the consented rate or volume is not being used or able to be fully utilised; or
- b. Determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
- c. Ensuring the conditions of this consent are consistent with any National Environmental Standards, Regulations and/or relevant regional plans; or
- d. Adjusting or altering the method of water take data recording and transmission.”

The Council has a right to undertake the review under (c) above irrespective if the condition is included in the consent or not.

2.5.4 Term of Consent

- (40) The duration of consent is determined in accordance with Policy 6.4.19 of the RPW and the actual and potential adverse effects on the environment. Policy 6.4.19 allows for a longer term of consent (up to 35 years) if the value of investment is demonstrated, all other things being equal.
- (41) Typically, Water Permit replacement applications can demonstrate a significant investment with the new infrastructure required to meet water efficiency requirements. The longer term provides them with security of this investment into the future (which they require to justify investments). In regard to the effects assessment, the adverse effects are typically considered to be no more than minor at the time the consent is granted, and the minimum flow and/or residual flow is considered to avoid and mitigate adverse effects throughout the term of the consent.
- (42) Currently the main reasons to reduce the term of the consent is are where:
- a. the adverse effects are considered more than minor;
 - b. value of investment is not provided (and the applicant has inefficient irrigation infrastructure); or
 - c. where no or limited water records have been provided to determine historic use (adverse effects are unknown).

IMPLICATIONS FOR COUNCIL

- (43) Replacing Deemed Permits with Water Permits and Giving Effect to the NPS-FM

- (44) Dealing with replacements of the Deemed Permits is an internal resourcing matter for the Council. The replacement Water Permits will reduce the volumes of water to what has been used and what is efficient. Water Permits will also be subject to restrictions in the form of residual and/or minimum flows.
- (45) Allocation and the revising/setting of minimum flows may affect the volume of water authorised by water permits and require the minimum flow restriction to be placed or revised. As this cannot be accounted for until the RPW has been amended, Council will need to account for this via a review of all water permits under Sections 128 and 129 of the Act at this later date.
- (46) Although minimum flows are not set for all catchments in Otago, the current provisions of the RPW do not impede on the replacement process of Deemed Permits or any other Water Permits.

Resourcing for Reviewing Water Permits

- (47) The review of all Water Permits (not just Deemed Permit replacements) in accordance with Sections 128 and 129 will need to be undertaken should the RPW be amended to change allocation and minimum flows. Undertaking this review will require internal resourcing. Until the full scope of this review can be determined, it is not known what resourcing will be required. The resourcing matter will be scoped out during the development of the next Long-term Plan.

APPENDICES

- (40) Appendices 1A-1C provide an example of a typical transition from a Deemed Permit through to a Water Permit. The Appendices are:
 - 1A The Original Mining Privilege that authorises the take of 6 'heads' of water. A head of water is a cubic foot or 27.8 litres per second (L/s) therefore this Mining Privilege would authorise up to 166.7 L/s.
 - 1B The Reissued Deemed Permit which has split the take in half, now authorising 3 heads of water (300,000 litres per hour or 83.3 L/s).
 - 1C The replacement Water Permit authorising the take and use of up to 42 L/s.

Appendix 1A: Original Mining Privilege/Deemed Permit

4767 N

HASEBY LICENCE
No. 4767
Dated 6th October 1926
10/129
Under the Mining Act 1926

WARDEN
TO

**LICENCE
FOR A
WATER RACE**

Registered at the office of
the Mining Registrar, Haseby
at 10 a.m. on the 15th day
of October 1926 as No. 4767
W. J. Blackler
Mining Registrar

CERTIFIED TRUE COPY.
Mining Registrar, Cromwell
13/12/65
A duplicate of the within Licence was issued
hereunto a duplicate No. 349/65 and that
behalf this 1st day of February 1966.
Mining Registrar

Discharge Mortgage No. 089 W
Perpetual Trustees Estate & Agency Co of NZ Ltd
to
James Lawrence Falconer
James Charles Falconer
Keith Alexander Falconer
Notice received at the office of the Otago Regional
Water Board, Dunedin, on 15 November 1982
and recorded as No. 627 W.
Brendan R. Mooney
PP Secretary

Assignment of 1/4
Melvin Mathieson Keen
to
David Alexander Keen
Notice received at the office of the Otago Regional
Water Board, Dunedin, on 17 November 1983
and recorded as No. 659 W.
Brendan R. Mooney
PP Secretary

Assignment of 1/2
Eoin James Gent
Doreen Margaret Gent
Roger Norman Macassey
to
Russell Norman Burns Speight
Jean Margaret Speight
Notice received at the office of the Otago Regional
Water Board, Dunedin, on 25 January 1990
and recorded as No. 886 W.
Brendan R. Mooney
PP Secretary

Assignment 1/2
Melvin Mathieson Keen
and
David Alexander Keen
to
Peter Leonard Kirk
Suzanne Mary Kirk
Notice received at the office of the Otago Regional
Water Board, Dunedin, on 6 March 1990
and recorded as No. 889 W.
Brendan R. Mooney
PP Secretary

Assignment 1/2
Peter Leonard Kirk
and
Suzanne Mary Kirk
to
Edward James Mulholland
and
John Edward Mulholland
Notice received at the office of the Otago Regional
Water Board, Dunedin, on 6 March 1990
and recorded as No. 890 W.
Brendan R. Mooney
PP Secretary

Assignment 1/2
Russell Norman Speight and
Jean Margaret Speight
to
John Henry Menzies Haykin Trust
Privately and Incorporated Trustee
Company Limited being a Trust of the SH&RS
Mining
Otago Regional Council
Noted Permit Transfer
No. 14767
On 1/1/1991
By 1/1/1991

Renewed for 21 years from 8th October 1949
THIS 1st DAY OF February
1966 PURSUANT TO APPLICATION NO. 148/65 IN THAT BEHALF.

WARDEN'S COURT
J. D. MURRAY WARDEN
Renewed at the office of the Mining Registrar, Otago, at 11 A.M. on 10 FEB 1966, as No. 10230

OTAGO MINING DISTRICT

Renewed for 21 years from 8th October 1970
THIS 6th DAY OF OCTOBER
1970 PURSUANT TO APPLICATION NO. 176/70 IN THAT BEHALF.

WARDEN'S COURT
J. D. MURRAY WARDEN
Renewed at the office of the Mining Registrar, Otago, at 11:00am on 23 OCT 1970, as No. 11328

OTAGO MINING DISTRICT

Transmission
estate of Charles Augustus Brown
to
Charles Smith Brown
REGISTERED at the office of the Mining Registrar, Otago, at 2 P.M. on 14 JUL 1966, as No. 10320

Assignment of Share
Edward Thomas Clouston
to
Melvin Mathison
with permission of Warden
REGISTERED at the office of the Mining Registrar, Otago, at 12:15 P.M. on 11 NOV 1968, as No. 10878

Assignment
Charles Smith Brown
to
James Lawrence Falconer and
James Charles Falconer and
Keith Alexander Falconer
Notice received at the office of the Otago Regional Water Board, Dunedin, on 30th October 1973
and recorded as No. 048 W.
B. R. Mooney
PP Secretary

Amendment to Description
Pursuant to application received on 31st August 1973, the description of the race is amended as follows:
"Commencing at a point in the Idaburn in section 23 Block XV Blackstone Survey District at map reference S.134:542708, and running thence south-westerly through sections 23, 18 and 17 Block XV, crossing Auripo Road at map reference S.134:525611, and continuing through sections 3, 3 and 6 Block XV, and terminating in section 6; as shown on the attached sketch plan"
Accepted by the Otago Regional Water Board, Dunedin, on 17th November 1973
and recorded as No. 057 W.
B. R. Mooney
PP Secretary

Mortgage
James Lawrence Falconer
and James Charles Falconer
and Keith Alexander Falconer
to
Perpetual Trustees Estate Agency Co. of N.Z. Ltd.
Notice received at the office of the Otago Regional Water Board, Dunedin, on 21st June 1974
and recorded as No. 089 W.
B. R. Mooney
PP Secretary

NASEBY APPLICATION No. 27/1928
Precise time of marking out: 17.7.28 at 11 a.m.
Precise time of filing application: 21.7.28 at 10 a.m.
Solicitor: W.A. Harlow

Mining Court
Form 31 (Reg. 33)

Under the Mining Act 1926

LICENCE FOR A WATER RACE

PURSUANT to the Mining Act 1926 I, the undersigned.....

HENRY JAMES DIXON

....., a Warden of the

STAGO

Mining District, do hereby grant to

(1) Full name,
residence, and
occupation.

.....
this licence for a water race, as specified in the First Schedule hereto.

This licence is granted for a term of 21 years, commencing on the date hereof, subject to the terms, conditions, reservations, and provisions set out in the aforesaid Act, and the regulations thereunder, and also to such additional terms, conditions, reservations, and provisions as are specified in the Second Schedule hereto.

In witness whereof I have hereunto subscribed my name, and affixed the seal of the Warden's Court at NASEBY this 3th day of October 1928

H. J. Dixon
Warden.

(L.S.)

FIRST SCHEDULE

- (2) Out of the Idaburn Creek commencing in Section 23
Block XV Blackstone District thence in a South Westerly
direction through said Block XV to the terminal point
in Section 6 Block XV. (Later amended by N° 057W q.v.)
Length and intended course of race: 2 miles South Westerly
Points of intake: One Out of Idaburn Creek Sec. 23 Blk XV
Estimated time and cost of construction: One month £100
Mean depth and breadth: Depth 9 inches Width 1 foot 6 inches
Number of heads to be diverted: Six
Purpose for which water is to be used: Irrigation

(3) Set out locality of race and nature of the proposed work as set forth in application, modified however, so as to accord with the grant, adding such other particulars as are necessary, including plan of land, if surveyed, number of heads authorised to be diverted, and purpose for which water is to be used.

A duplicate of the within licence was issued pursuant to Application No. 139/68 in that behalf this 19th day of November 1968.

Mining Registrar

SECOND SCHEDULE

(*) Set out additional terms, etc., if any.

(³) THIS LICENCE IS GRANTED SUBJECT TO THE FOLLOWING CONDITION
That if and whenever the water to be diverted under the licence
hereby granted is required for public use the Crown shall have
the right to acquire the Licence upon demand and without payment
of compensation and a deed embodying this condition shall be
entered into between the parties and registered against this
licence before the same issues out of the Court.

(L.S.)

H. J. Dixon

L,000/3/92-51065 W

Warden.

DEED OF COVENANT

Charles Augustus Brown and
 Alfred Vincent Arthur
 with
 His Majesty the Queen

Registered at the Office of the
 Mining Registrar Naseby at 10am
 on 15 October 1928 as No.4768.
 W.J. Blackler
 Mining Registrar

TRANSFER

Charles Augustus Brown and
 Alfred Vincent Arthur
 to
 Charles Augustus Brown and
 Edward Thomas Clouston
 Registered at the office of the
 Mining Registrar, Naseby at 10am
 on 5 July 1929 as No.4820.
 W.J. Blackler
 Mining Registrar.

Assignment

James Laurence Falconer
 and
 James Charles Falconer
 and
 Keith Alexander Falconer
 to
 Eoin James Gent
 and
 Dorcen Margaret Gent
 and
 Roger Norman Macassey

Notice received at the office of the Otago Regional
 Water Board, Dunedin, on 10th August 1977
 and recorded as No. 310 W.

Robert R. Macassey
 Secretary

22 AUGUST 2008

SUBSTITUTED BY 3925A

AND 3925B

NO MORE ENTRIES

Appendix 1B: Reissued Deemed Permit

Our Reference: [REDACTED]

Consent No: [REDACTED]

DEEMED PERMIT

This is a Deemed Permit pursuant to Sections 413-417 of the Resource Management Act 1991.

Name: [REDACTED]

Address: [REDACTED] transferred 25 August 2014

Name: [REDACTED]

Address: [REDACTED]

To take 108,000,000 litres of water per month, at a maximum rate of 300,000 litres per hour from the Idaburn.

For the purpose of irrigation

For a term expiring 1 October 2021

Location: Idaburn, Auripua, Ida Valley

Legal description of land at consent location: Section 23 Block XV Blackstone SD

Map Reference: NZMS 260 H41:585-683

This document is a deemed permit within the meaning of Section 413-417 of the Resource Management Act 1991. It is a renewal of permit 2499A which was granted in substitution of water race licence WR4767N, which was granted in The Wardens Court at Naseby and has a priority date of 8 October 1928.

Conditions

1. That the total quantity taken under this permit and permit number 3925A shall not exceed 300,000 litres per hour
2. That this permit shall be exercised in co-operation with the exercise of permit 3925A



Notes

1. Priorities:

Permits downstream which can exercise priority over this permit:

Licence No. (Deemed Permit No.)	Priority Date	Volume Litres per hour	Source	Registered Holder
WR415B	28.09.1905	300,000	Manuherikia River	DR & DM Wilson
WR9115CI	29.09.1914	10,000,000	Manuherikia River	Manuherikia Irrigation Co- operative Society limited

Permits over which this permit can exercise priority:

Nil

Note: This may not be a full list of priorities for the catchment

2. Appended is a schedule of provisions from the former Water and Soil Conservation Amendment Act 1971 that may apply to this deemed permit.
3. Also appended is a diagram of the relative locations of the permits.
4. All single domestic and stock water users have right to water before any other user, including mining privilege holders.

This permit was first issued incorrectly as a water permit on 20th January 1992.

Re-issued at Dunedin this 19th Day of February 2002.

Reissued at Dunedin this 1st day of September 2014 to reflect a transfer of holder from



Appendix 1C: Replacement Water Permit

COUNTERPART



Our Reference: [REDACTED]

Consent No. [REDACTED]

WATER PERMIT

Pursuant to Section 104C of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: [REDACTED]
[REDACTED]
[REDACTED]

Address: [REDACTED]

To take and use water from the Ida Burn for the purpose of water harvesting and subsequent irrigation for the purpose of irrigation

For a term expiring 15 April 2040

Location of Point of Abstraction:
Idaburn, approximately 2 kilometres north west of the intersection of Auripo Road and Ida Valley-Omakau Road, Ida Valley

Legal Description of land at point of abstraction:
Sec 17 Blk XV Blackstone SD

Legal Description of land (s) where water is to be used: Sec 2-3, 6-10, 13, 27 Block XV Blackstone SD and other land as advised in writing to the Consent Authority

Map Reference at point of abstraction:
NZTM 2000 E1346934 N5005762

Conditions

Specific

1. This permit shall not commence until Deemed Permit [REDACTED] has been surrendered or expired.
2. If this consent is not given effect to within a period of two years from the date of commencement of this consent, this consent shall lapse under Section 125 of the Resource Management Act 1991.
3. The rate of abstraction shall not exceed:
 - (a) 42 litres per second;
 - (b) 108,000 cubic metres per month;
 - (c) A total of 956,680 cubic metres between 1 July in a year and 30 June in the following year, in combination with Water Permit [REDACTED].



4. The intake shall be screened so as to prevent the ingress of small fish and elvers. The screen should have a minimum mesh size of 3 mm and design characteristics (approach velocity, sweep velocity) should be consistent with best practice guidelines as outlined in Jamieson et al. 2007.
5. This permit shall be exercised or suspended in accordance with any Council approved rationing regime that applies to the Manuherikia catchment.
6. A residual flow of no less than 30 litres per second shall be maintained in the Ida Burn immediately downstream of the point of take for this permit.

Performance Monitoring

7. (a) The consent holder shall install a water measuring station, consisting of a water measuring device, telemetry compatible datalogger with at least 24 months data storage and telemetry unit, and shall maintain a continuous record of the rate of take and the date and time this water was taken. Flow rate shall be recorded at a minimum of 15 minute time increments to an accuracy of +/- 10% while the take is being exercised.
- (b) Data shall be provided once daily to the Consent Authority by means of telemetry. The consent holder shall ensure data compatibility with the Consent Authority's time-series database.
- (c) The water measuring station shall be installed as close as is practicable to the point of take.
- (d) The consent holder shall ensure the full operation of the water measuring station at all times during the exercise of this consent. All malfunctions of the water measuring station during the exercise of this consent shall be reported to the Consent Authority within 5 working days of observation and appropriate repairs shall be performed within 5 working days. Once the malfunction has been remedied, an Open Channel Water Measuring Device Verification Form completed with photographic evidence must be submitted to the Consent Authority within 5 working days of the completion of repairs.
- (e) The installation of the water measuring station shall be completed to full and accurate operation prior to the exercise of the consent. The consent holder shall obtain and complete the Open Channel Water Measuring Device and Datalogger Installation form and Open Channel Water Measuring Device Verification forms and submit them to the Consent Authority within 5 working days of the completion of installation and verification of the water measuring device and data logger.
- (f) The water measuring station shall be calibrated by a suitably qualified operator applying International Standards methodology at least annually. Calibration documents shall be supplied to the Consent Authority by 31 July each year and upon request.

Note: The water measuring station, datalogger and telemetry unit should be safely accessible by the Consent Authority and its contractors at all times.



8. Within five years from the commencement of this consent, the consent holder shall submit to the Consent Authority a plan that shows, but is not limited to the following:
 - (a) The irrigation area at the commencement of the consent with total hectares specified;
 - (b) The expanded irrigation area since the commencement of the consent with additional hectares specified;
 - (c) The location of new irrigation infrastructure and storage since the commencement of consent.

General

9. The consent holder shall take all practicable steps to ensure that:
 - (a) there is no leakage from pipes and structures;
 - (b) the use of water is confined to targeted areas,
 - (c) there is no run off of irrigation water in irrigated areas either on site or off site.

Review

10. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent for the purpose of revising the minimum flow restriction, if and when an operative regional plan sets a minimum flow for the catchment.
11. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within 3 months of each anniversary of the commencement of this consent for the purpose of:
 - (a) adjusting the consented rate or volume of water under condition 3, should monitoring under condition 7 or future changes in water use indicate that the consented rate or volume is not able to be fully utilised; or
 - (b) determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - (c) ensuring the conditions of this consent are consistent with any National Environmental Standards, Regulations, relevant plans and/or the Otago Regional Policy Statement; or
 - (d) adjusting or altering the method of water take data recording and transmission.
 - (e) Reviewing this consent if new sources of water from future water storage projects become available within the Ida Valley. Any such review shall be informed and conducted in accordance with Policies 6.4.0B and 6.6.0 of the Regional Plan: Water for Otago or any other policy relating to the integrated management of water as set in an operative Regional Plan.

Notes to Consent Holder

1. *The Consent Holder shall be responsible for obtaining any relevant information on minimum flows in the Manuherikia River to ensure compliance with conditions*
2. *If you require a replacement water permit upon the expiry date of this water permit, any new application should be lodged at least 6 months prior to the expiry date of this water permit. Applying at least 6 months before the expiry date may enable you to continue to exercise this permit until a decision is made on the replacement application. Failure to apply at least 3 months in advance of the expiry date may result in any primary allocation status being lost. A late application may result in the application being treated as supplementary allocation if any such allocation is available.*
3. *The consent holder must note that Plan Change 6A of the Regional Plan Water requires the control of farm contaminants in runoff and leaching of nutrients to groundwater. If such discharges are managed such that the thresholds in schedule 16A are not met by 1 April 2020 then consent will be required for the discharge of contaminants. Information about on farm nutrients must also be kept as of May 2014 for providing inputs to OVERSEER version 6 which models leaching of nutrients to groundwater. For other information about obligations under Plan Change 6A refer to the ORC website.*
4. *Notice of Exemption WEX0246 applies to this Water Permit.*

Issued at Dunedin this 17th day of April 2015.

Reissued at Dunedin on the 6th day of June 2017 to correct condition number and to add Note 4.

[REDACTED]

10.3. Final regional swimming targets

Prepared for: Policy Committee
Report No. PPRM1843
Activity: Governance Report
Prepared by: Rachael Brown, Senior Policy Analyst
Date: 6 November 2018

1. Précis

This report seeks the Committee's approval of final Otago regional swimming targets for publication, as required by the National Policy Statement for Freshwater Management 2014 (NPSFM).¹ The targets will contribute to central government's national swimming targets that 80 percent of specified rivers and lakes² will be swimmable by 2030, and 90 percent by 2040).

2. Recommendation

That the Council:

- a) *Publish the following final regional swimming targets for Otago on the Council website by 31 December 2018:*
- *90 percent of rivers and 98 percent of lakes are swimmable by 2030; and*
 - *95 percent of rivers and 100 percent of lakes are swimmable by 2040.*

3. Background

3.1 Regional swimming targets in the NPSFM

The 2017 amendments to the NPSFM include several provisions to improve the quality of water in rivers and lakes so that it is suitable for primary contact (e.g. swimming) more often (see Appendix 1). The changes work as a package and reflect a strong public desire for swimmable waterways.

Policy A6 of the NPSFM directs all regional councils and unitary authorities to set regional targets to improve the bacterial quality of rivers and lakes so they are suitable for primary contact more often. "Primary contact" includes swimming and means people's contact with fresh water that involves immersion. For more waterways to be suitable for primary contact more often, a reduction in faecal bacteria in lakes and rivers (as indicated by *E. coli* counts) and algal blooms (i.e. cyanobacteria) in lakes and lake-fed rivers is required.

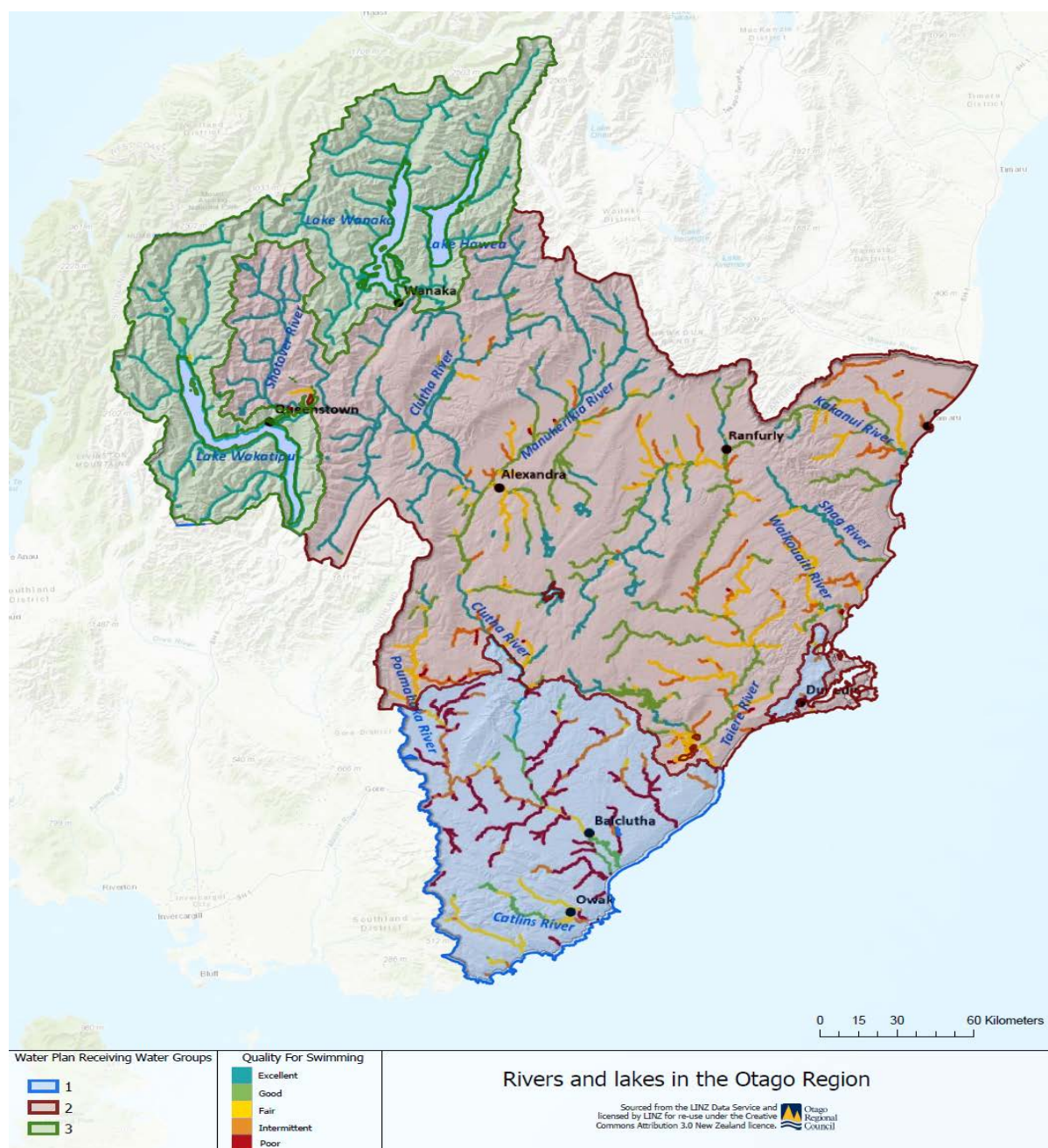
¹ NPS-FM: <https://www.mfe.govt.nz/publications/fresh-water/national-policy-statement-freshwater-management-2014-amended-2017> accessed 31 October 2018.

² Specified rivers and lakes includes rivers of fourth order or above and lakes with a perimeter of 1.5 km or greater. For further explanation see Appendix 6 of the NPSFM.

3.2 Current recreational water quality of Otago's rivers and lakes

Currently, 82 percent of specified waterways in Otago are considered suitable for primary contact under the NPSFM: 79 percent of specified rivers by length and 97 percent of specified lakes. This compares to 72 percent of specified waterways nationally that are swimmable. The Government's national target is that 80 percent of specified waterways are swimmable by 2030, and 90 percent by 2040.

Figure 1. Current NPSFM swimming categories for rivers and lakes in Otago by Receiving Water Group⁷



⁷ Source of original figure (without Receiving Water Groups) : <http://www.mfe.govt.nz/sites/default/files/media/Otago%20map.jpg> accessed 14/2/18.

Figure 1 shows the current NPSFM gradings of specified water bodies in Otago and the Receiving Water Groups in the Water Plan. Currently, the majority (82 percent) are suitable for primary contact most of the time. The main exception, where there is a predominance of waterways in the red and orange categories, is in Receiving Water Group 1, particularly the lower Pomahaka and Tokomairiro catchments, tributaries to the lower Clutha River, and in the urban streams around Dunedin.⁸

In rural areas of South Otago, this is believed to be a consequence of insufficient effluent storage and a prevalence of mole and tile drains, which result in very high *E. coli* peaks at high flows and elevated *E. coli* concentrations at low to medium flows.⁹ In urban areas around Dunedin, these results are most likely due to contamination from stormwater and wastewater. Planned upgrades to storm and waste water infrastructure in Dunedin will help to address water quality issues in Dunedin's urban streams and the harbour.

3.3 Work underway to improve water quality in Otago

3.3.1 Improvements due to reduction in point source discharges

NIWA has modelled the predicted improvement in bacterial water quality based on work to reduce point source discharges that is already underway or planned in the Otago region. This modelling predicts that an additional 3.5 percent of rivers in Otago (i.e. 82.5 percent in total) should be swimmable by 2030. The total annual cost of committed work in rural areas of Otago is expected to be \$13.03 million. These costs are split across the dairy (7%), dairy grazing (5%) sheep and beef (71%), deer (2%) and lifestyle sectors (15%).¹⁰ NIWA's assessment is based on work committed to by landowners and territorial authorities and does not take into account the Council's work programme.

In addition to the work above and ongoing work relating to engagement, information sharing, and ongoing compliance and enforcement, the Council has the following projects underway that aim to improve water quality in Otago.

3.3.2 The Good Water Project (6A LMP)

The Good Water Project involves undertaking environmental risk assessments on all rural properties (greater than two hectares) in Otago. The project aims to help:

- people in rural areas understand their risk in terms of impacting water quality and breaching rules in the Water Plan; and
- the Council understand how people in rural areas are addressing their impacts on water quality.

A pilot was initiated in the Shag River catchment earlier this year with reports presented to Council in September 2018. The Stakeholder Engagement team is now writing to people who took part in the on-site assessments with a summary of the findings. The team will go back to participants early in 2019 with options to address any issues found.

⁸ Freshwater Management Units are referred to as Receiving Water Groups in the Water Plan.

⁹ Directors report on Progress to the Technical Committee: 13 September 2018 (Item 2).

¹⁰ Regional information for setting draft targets for swimmable lakes and rivers: A report on work underway to improve water quality in terms of effects on human health. Ministry for the Environment (2018). <http://www.mfe.govt.nz/node/24109/>

3.3.3 Catchment groups

The Council is working with catchment groups in the lower Pomahaka, North Otago, Upper Taieri, Manuherekia and Bannockburn with the primary objective of improving water quality to meet Water Plan (Schedule 15) limits. These programmes are focused on fine-scale monitoring of water quality to identify hotspots of poor water quality and working with farmers based on the monitoring results. Further, improvements are expected as irrigation moves to more efficient methods over time. In the drier areas of Otago this is likely to be expediated by measures to reduce over allocation of water.

3.3.4 Urban water quality

The Council has now an Urban Water Quality Strategy, which it now needs to be implement. Implementation includes an urban water quality risk assessment and review of stormwater and wastewater provisions in the Water and Coast Plans. This work will help to reduce bacterial contamination in urban catchments, including around Dunedin.

3.3.5 At-risk catchments

At the request of central government, the Council has identified three at-risk catchments due to water quality:

- the Pomahaka in Clutha District
- Lake Hayes in Queenstown Lakes District
- Kaikorai stream in Dunedin.

The Council also identified work planned, or in progress, to address water quality in each catchment within current regulatory frameworks. Water quality for primary contact is also poor in these catchments (i.e. graded orange or red under the NPSFM). The Ministry for the Environment (MfE) has indicated its intention to work with councils to ensure that degraded water quality in at-risk catchments is improved.

3.3.6 Review of the surface water quality monitoring

Council has reviewed its surface water quality monitoring programme and cyanobacteria has been added to the lakes monitoring programme as required by the NPSFM. A proposal to include monthly periphyton monitoring will also be considered early in the new year. These improvements will help better understand the state of Otago fresh water, inform national reports and assist Council to better manage water quality.

3.4 Limits for swimming in the Water Plan

The Water Plan has recreational water quality (along with ecosystem health) as a key objective. Schedule 15 limits in the Water Plan are intended to provide for primary contact in all waterways across the region, with plan rules intended to achieve the Schedule 15 limits.

The *E. coli* limits in the NPSFM are comparable to those in the Water Plan, with one key difference. The Water Plan limits only apply at less than median flows, while the NPSFM limits apply at all flows. Measurement at less than median flows allows for seasonal differences in flows and the likelihood of people going swimming. (Flows are generally higher in winter and after heavy rain events, when people are less likely to swim, with lower flows in summer when people are more likely to swim.) The inclusion of measurement at all flows in the NPSFM to assess the suitability of waterways for primary contact, means that in wetter catchments (i.e. within Receiving Water Group1) the NPSFM limits are likely to be more stringent than those in the Water Plan.

Cyanobacteria, a toxic algal bloom related to elevated nutrient levels in waterways, is not currently included in the Water Plan, however it has recently been added to the lakes monitoring programme.

3.5 Draft regional swimming targets

In March 2018, this Committee decided on draft regional swimming targets for Otago that:

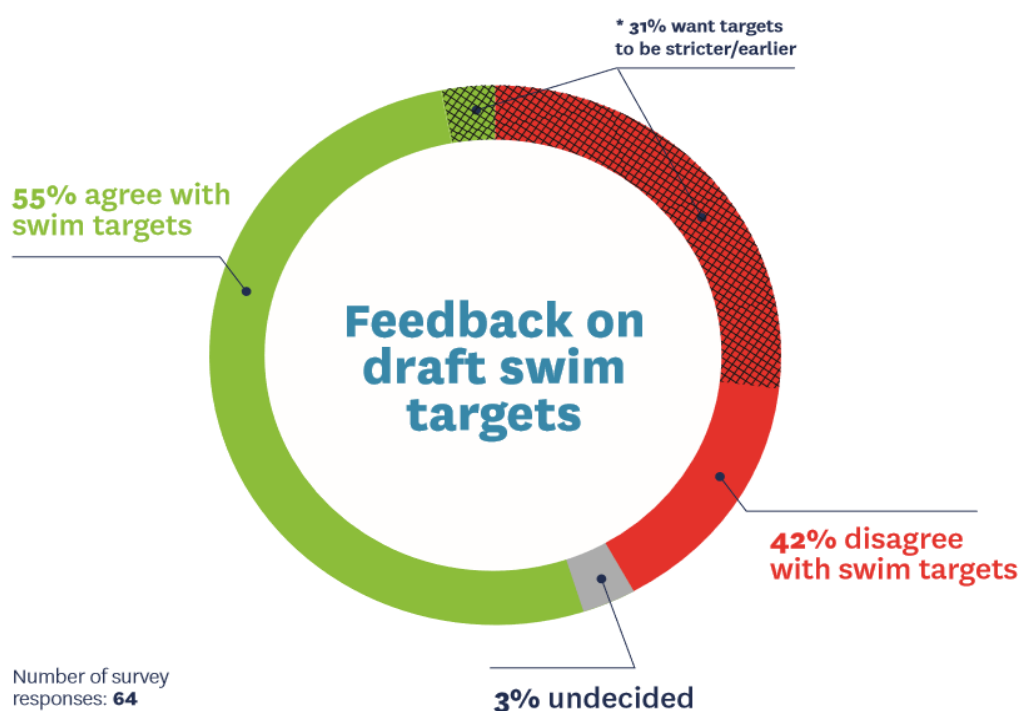
- 95 percent of specified rivers and 100 percent of specified lakes are swimmable by 2030; and
- 100 percent of specified river and lakes are swimmable by 2040.

These targets were published on the Council's website at the end of March 2018 as required by the NPSFM.

3.5.1 Consultation on the draft targets

Due to prioritisation of the minimum flows plan change in 2018, a comprehensive consultation on the draft regional swim targets was not undertaken as had originally been planned. However, the Council did run an online survey on the draft regional swim targets on Your Say from 17 September to 15 October 2018. 64 people responded to this survey. Most respondents agreed with the draft swim targets for Otago and about a third thought that the targets should be stricter or aimed for earlier than 2030/2040. These survey results are summarised in Figure 2.

Figure 2: Feedback on draft swim targets



4. Proposal

We recommend final regional targets for Otago that:

- 85 percent of rivers and 98 percent of lakes are swimmable by 2030; and
- 90 percent of rivers and 98 percent of lakes are swimmable by 2040.

These targets can only be achieved with changes to poor effluent management practices on some farms and to improve stormwater and wastewater infrastructure and management in urban areas.

Changes in current land use may also be required in some areas. Such changes take time and money and are likely to have social and economic implications for people in Otago. They are however, generally aligned with central government's recent *Essential Water*¹¹ announcements proposing further changes in national direction to expedite improvements in freshwater quality and allocation.

The recommended targets are based on what staff have determined is achievable and practicable by 2030 and 2040, assuming that:

- monitoring of *E. coli* in rivers would take place at all flows (compared to at less than median flows in the Water Plan)
- council rates would remain comparable; and
- current land use would continue over these timeframes.

Table 1 shows a comparison of national and regional current state and targets for swimmability.

Table 1. Comparison of current swimmability and targets nationally and for Otago

National	Percent of waterways swimmable under NPSFM	
Current state	72%	
2030 / 2040 MfE targets	80 / 90%	
Otago Region	Specified rivers by length (4th order or greater)	Specified lakes (perimeter 1.5 km or more)
Current state	79	97
2030 / 2040 Draft targets	90 / 100	100 / 100
<i>2030 / 2040 Staff recommendation for final targets</i>	<i>90 / 95</i>	<i>98 / 100</i>

While Council's draft targets are more aspirational, and the limited feedback received was supportive of these targets, there is a risk of raising community expectations of swimmability, which are not achievable under the current NPSFM and Water Plan frameworks. In particular, the measurement of *E. coli* levels in waterways *at all flows* is problematic in the wetter areas of Otago due to spikes in *E. coli* after heavy rain events, when it would be inadvisable to swim anyway.

If the Committee does want to set higher targets then this can be done, however, achieving higher targets is likely to require increased investment in compliance and monitoring and in community liaison and engagement. Changes to current Water Plan rules in relation to effluent management in rural areas, and stormwater and wastewater in urban areas are also likely to be required. Plan rules will be reviewed as part of a review of the Water Plan and the Progressive Implementation Programme for the NPSFM, with any consequential changes to the plan to be notified by 2025. Water quality improvements as a result of Water Plan changes are therefore unlikely before 2030.

In setting final regional targets the Committee should be aware that in some areas even with best management practice in place, targets of 100 percent swimmability by 2040 may only be achievable through changes in current land use.

¹¹ *Essential Freshwater: Healthy Water, Fairly Allocated.*

<https://www.mfe.govt.nz/fresh-water/essential-freshwater-agenda> accessed 6 November 2018.

Endorsed by: Tanya Winter
Director Policy, Planning & Resource Management

Attachments

1. Appendix 1 final swim targets **[10.3.1]**

10.4. Options for Resolution on Priority Catchments Minimum Flow

Prepared for: Policy Committee
Report No. PPRM1846
Activity: Governance Report
Prepared by: Lisa Hawkins, Senior Policy Analyst; and Anita Dawe, Acting Policy and Planning Manager
Date: 14 November 2018

1. Précis

This report has been prepared to inform Council of the options available to implement Council's resolution from the September Policy Committee meeting with regard to setting objectives and limits for the three priority catchments – the Manuherikia, Cardrona and Arrow.

2. Recommendation

That Council:

- a) *Note the report;*
- b) *Identify a preferred option; and*
- c) (i) *Either commence work on the preferred option; or*
(ii) *Undertake a targeted community consultation meeting on the preferred option.*

3. Background

The following resolution was ratified at the Council's meeting on 26 September 2018, following the Policy Committee on 12 September 2018.

Notice of Motion:

For the purposes of ensuring both constructive policy-making and good faith communications with those most likely to be adversely affected by any proposed plan change relating to imposing minimum flows upon the Arrow, Cardrona and Manuherikia catchments:

Resolution

That any proposed minimum flow change follows the full process outlined in the National Policy Statement for Freshwater Management. This to include identifying appropriate Freshwater Management Units (FMUs), catchment management objectives, environmental flows and allocation limits.

- 1. *That water allocation limits for the above catchments also be included in any proposed plan change.*

The full National Policy Statement for Freshwater Management (NPSFM) process referred to in the resolution reflects the implementation of a full Policy CA1 – CA4 process for the three catchments.

Council, on 31 October, approved and adopted a Progressive Implementation Programme (P.I.P) setting out, at a high level, the process for fully implementing the NPSFM. As a result of this, it is important to understand how the September resolution fits into the broader picture of giving effect to the NPSFM across the whole region and how this may impact on the approach for the three catchments identified.

The P.I.P provides a framework for which options to implement the resolution from the September meeting can be considered. These options are explored in the next section of the report.

4. Proposal

4.1. Policy approach options

The following sets out the options available to Council with regard to implementing the resolution from the September meeting as it relates to updating the existing policy framework in Council's Regional Plan: Water for Otago (RPW).

<p>Option 1: Freshwater Management Unit (FMU) and high-level objective and policy setting starts at a region wide scale, then progresses to objective and limit setting for the three priority catchments, with necessary changes to the RPW as part of a full water plan review.</p> <p>This option starts with the assessment and development of a FMU framework, supported by high level objectives and policies across all of Otago as the first step.</p> <p>This will result in the three priority catchments being identified either as an FMU in their own right or within a larger FMU(s) which contains a number of smaller catchments, within the broader framework applying across Otago.</p> <p>Changes to the RPW as a result of the values, objectives and limit setting discussion will occur as part of a full water plan review, not as an individual plan change specific to the three catchments.</p>			
NPSFM compliant and alignment with P.I.P	Community and key stakeholders input	Disadvantages	Advantages
<p>This process will incorporate a full NPSFM process, across the whole region.</p> <p>It will clearly implement the process set out in policies CA1 – CA4.</p> <p>This approach is consistent with the process set out in the P.I.P.</p>	<p>Input from the community and stakeholders is a key element of this process and will take a consistent approach across all of Otago.</p> <p>Discussions with the community and stakeholders of the three priority catchments can begin as soon as the FMU process has been completed and an assessment on available information undertaken.</p>	<p>Changes to the RPW affecting these catchments are unlikely to occur prior to Deemed Permit replacements in 2021.</p> <p>An updated policy framework with regard to objectives and limits for the three catchments is unlikely to be in place prior to 2025.</p>	<p>FMUs are set at a regional level, which provides a holistic and strategic approach to setting FMUs across Otago.</p> <p>Discussion with the community and stakeholders of these three priority catchments can progress in 2019.</p> <p>Consistency with a broader policy framework around limit setting will be achieved. This will mean that any</p>

	This will focus on objective and limit setting.		limits set for the catchments will also have regard to the overall policy framework i.e. on issues such as allocation and overallocation. This reduces the risk of limits for catchments needing to be revisited to ensure consistency with the overarching framework and giving effect to the NPSFM. Resource efficiency for Council, the community and stakeholders as only one plan review process is undertaken.
--	---	--	---

Indicative Timing:

The timing of any changes to the RPW, as they relate to the three priority catchments will be in line with the full plan review. This is likely to be notified in December 2025.

18	19	19	20	20	21	21	22	22	23	23	24	24	25	25

Legend:

Region wide FMU setting	
Three priority catchment technical work	
Three priority catchment discussions with community to set values, objectives, limits	
Full P.I.P / Water Plan Review process	
Notification of full P.I.P / Water Plan Review	

Option 2:

FMU setting at a region wide scale, then progressing to objective and limit setting for the three priority catchments. Changes to the RPW then progressed as a separate plan change for the three priority catchments and associated FMUs ahead of the other FMU's.

This option starts with the assessment of and development of an FMU framework across all of Otago.

This will result in the three priority catchments being identified either as an FMU in their own right or within a larger FMU(s) which contains a number of smaller catchments within the broader framework applying across Otago.

The priority catchments would go through the full CA1- CA4 process, and then a plan change would be notified, ahead of the full review of the RPW, and the other FMU's.

NPSFM compliant and alignment with P.I.P	Inputs from the community and key stakeholders	Disadvantages	Advantages
<p>This process will incorporate a full NPSFM process, across the whole region.</p> <p>It enables the process set out in policies CA1 – CA to be implemented.</p> <p>This approach is consistent with the process set out in the P.I.P as it applies to setting FMUs.</p> <p>Undertaking a separate plan change for these catchments is a staged approach to the P.I.P but does not conflict with the approach.</p>	<p>Input from the community and stakeholders is a key element of this process.</p> <p>Discussions with the community regarding objective and limit setting can begin as soon as the FMU process has been completed.</p> <p>A separate plan change process will also begin the formal submissions process sooner rather than later.</p>	<p>More than one plan change process will occur – 1) as it applies only to limit setting for the three priority catchments and 2) the wider water plan review process.</p> <p>Objectives and limits set as part of a separate plan change for the three catchments may require review upon the full water plan review to ensure consistency within the wider policy framework.</p> <p>Undertaking a separate plan change ahead of a full water plan review may result in inefficiencies for Council, public and submitter resources. This includes the communities from the priority catchments potentially being involved in two processes – their</p>	<p>Changes to the RPW as they relate to these three catchments can progress ahead of the full water plan review.</p> <p>Updated policies relating to objectives and limits could potentially be notified in late 2020 provided the appropriate level of resourcing was available. This time frame is noticeably shorter than other community values conversations that have occurred around the country. Notified rules would then have legal effect and policies would have some weight prior to Deemed Permit replacement in 2021.</p>

		<p>FMU and limit setting process, and the full Water Plan review.</p> <p>It would require a separate team focussed on doing this plan change, while wider work is underway on giving effect to the NPSFM across the rest of the region. So, it would be resource intensive. The community will also need to commit to a shorter, more intensive engagement period.</p>	
--	--	--	--

Indicative timing:

Following the setting of the FMU framework, discussions to inform the objective and limit setting can begin, bearing in mind technical work is still being completed for these three catchments. Objectives and limit inclusions into the RPW are likely to be notified in late 2020, ahead of Deemed Permit replacement. Notified rules would have legal effect and policies would have some weight prior to Deemed Permit replacement in 2021 but neither is likely to be operative. The remainder of Otago will continue to progress through the limit setting process, with the aim to notify by 2025.

18	19	19	20	20	21	21	22	22	23	23	24	24	25	25

Legend:

Region wide FMU setting	
Three priority catchment technical work	
Three priority catchment discussions with community to set values, objectives,	

limits			
Three priority catchment plan review / change process			
Full P.I.P / Water Plan Review process			
Notification of three priority catchment plan change			
Notification of full P.I.P / Water Plan Review			
<p>Option 3: Assume the three priority catchments are an FMU in their own right and progress a separate plan change to set objectives and limits.</p> <p>This option assumes that the three priority catchments form FMU(s) in their own right prior to commencing a review of all of Otago and setting FMU's across the region.</p> <p>In this option the three priority catchments may be three individual FMUs or grouped together or grouped as one FMU with three different catchments.</p> <p>This option would see the other FMU's started once substantial progress is made on the three priority catchments.</p>			
NPSFM compliant and alignment with P.I.P	Inputs from the community and key stakeholders	Disadvantages	Advantages
<p>This process will meet the NPSFM process as the process of setting FMUs is not prescriptive within the guidance document.</p> <p>However, in making the assumption that the three priority catchments should be FMUs without first undertaking a region wide review, Council must be satisfied that the spatial scale is appropriate. There also needs to be some consideration of whether the catchments are different enough, or whether in future, other</p>	<p>Input from the community and stakeholders is a key element of this process.</p> <p>Discussions with the community around values, objectives and limit setting can begin once technical work has been completed.</p> <p>A separate plan change process will also begin the formal submissions process sooner rather than later.</p>	<p>More than one plan change process will occur – 1) as it applies only to limit setting for the three priority catchments and 2) the wider water plan review process.</p> <p>Objectives and limits set as part of a separate plan change for the three priority catchments may require review upon the full water plan review to ensure consistency in policy framework.</p> <p>Undertaking a separate plan change</p>	<p>Changes to the RPW as they relate to these three priority catchments can progress ahead of the full water plan review.</p> <p>Updated policies relating to objectives and limits could be notified potentially in late 2020 but with the same caveats as Option 2 above. Notified policies will have legal effect prior to Deemed Permit replacement in 2021 but are unlikely to be operative.</p>

<p>parts of Otago may be merged with these three priority catchments.</p> <p>This approach is not consistent with the P.I.P, which advocates for setting FMU's across the whole region to ensure a consistent approach to delineating catchments.</p>		<p>ahead of a full water plan review / plan change may result inefficiencies for Council resources.</p> <p>Iwi partner offence.</p>	
---	--	---	--

Indicative timing:

Upon completion of the technical work, discussions with the community and stakeholders to inform the objective and limit setting can begin. Objectives and limit inclusions into the RPW are likely to be notified during 2020, ahead of Deemed Permit replacement. Notified rules would have legal effect and policies would have some weight prior to Deemed Permit replacement in 2021 but are unlikely to be operative.

18	19	19	20	20	21	21	22	22	23	23	24	24	25	25

Legend:

Three priority catchment technical work	
Three priority catchment discussions with community to set values, objectives, limits	
Three priority catchment plan review / change process	
Full P.I.P / Water Plan Review process	
Notification of three priority catchment plan change	
Notification of full P.I.P / Water Plan Review Plan Change	

4.2 Summary and comparison of options

The main considerations between the options can be summarised as:

- Option 2 and 3 will see changes to the RPW relating to objective and limit setting for the three priority catchments occur prior to the completion of a full P.I.P process and Water Plan Review.
- No benefit from a timing perspective is likely to be achieved through option 3 over option 2 – i.e. assuming the three priority catchments are FMUs in their own right before setting a region wide framework. Hence there are benefits in progressing option 2 over option 3, as this will enable a consistent approach to setting FMUs region wide and reduce the risk of the assumptions made for the three priority catchments creating an inconsistent framework in the RPW upon completion of the P.I.P process and full Water Plan Review.
- Option 1 reduces the risk of having to revisit the objectives and limits set for the three priority catchments as any implication of the broader P.I.P process and Water Plan Review on these catchments can be considered prior to finalisation and notification of a plan change.
- No option is likely to have objectives and limits operative for the three priority catchments prior to the expiry of Deemed Permits in October 2021. However, options 2 and 3 would see rules introduced with legal effect, albeit these will be likely to change through the submission and hearing process.

4.3 Implications of policy approach for the three priority catchments on the Deemed Permit process:

As identified above, all the policy options will result in different time lines and will not have new operative provisions in the RPW prior to the expiry of Deemed Permits in October 2021. The implications of this and the process for Deemed Permit replacement as would apply under the current policy framework has been set out in detail in the report presented to Council's Policy Committee on 28 November 2018.

4.4 Next Steps

It will be important that the preferred option is socialised with the community, and it is recommended that this starts with a meeting of stakeholders and industry reps as detailed in Appendix 1. This meeting could also include updates on the adoption of the Progressive Implementation Programme, and the decision to commence a full review of the Water Plan. In addition to this stakeholder meeting a Communications Plan will be brought to the December Council meeting. The focus of the communications plan is on rolling out the P.I.P, and the full Water Plan review.

In addition to this, as part of the community engagement, it will be critical to ensure that the resolution the community was seeking for the three priority catchments will be addressed through the PIP.

4.5 Implications

4.5.1 Financial Implications

Irrespective of which option is preferred, embarking on a full review of the Water Plan, and a programme to fully give effect to the NPSFM, will have financial implications. There are currently several existing work programmes in the fresh water space, such as the urban water quality programme, and a series of Plan Changes, that already have funding allocated in the

Long Term Plan. This funding is intended to be reallocated to the revised work programme, once it has been developed.

The work programme will be developed as a collaborative approach across Science, Policy, Monitoring and with input from other departments as required, and brought back to Council for approval.

4.5.2 Existing Work Programmes

There are a number of existing work programmes under way, such as the Swimmability programme, the urban water quality work and background work on the Clutha, as well as work continuing with the CHES model for the Manuherikia. All these work programmes will be incorporated into the larger Water Plan review work programme, and these work programmes will be considered when prioritising those catchments that will have an NPSFM programme first.

Implications for other work streams, such as monitoring will also need to be understood once FMU's are set. This is because each FMU is required to have representative monitoring site(s) and catchment accounting is also a critical part of the NPSFM.

4.5.3 Staffing Implications

No matter which option is chosen there are resourcing implications across Council that will need to be addressed. For example, there will be particular skillsets required to complete a bespoke catchment solution for each FMU across Otago, including project management, communication and facilitation.

It is anticipated that additional resources in Policy, Science and Stakeholder Engagement will be required, and it is likely additional resources in other departments may also be needed. Anecdotally around the country, teams of Council staff to support each FMU generally comprise two policy staff, and two science staff as well as compliance, consents, monitoring, GIS, and stakeholder engagement.

Exactly what resources are required and where will depend on what option Council decides to take and some future decisions around FMU setting. The aim is to present a comprehensive project plan to Council in early 2019 that outlines approach and budget/resourcing implications.

Endorsed by: Tanya Winter
Director Policy, Planning & Resource Management

Attachments

Nil

11. MATTERS FOR NOTING

11.1. Director's Report on Progress

Prepared for:	Policy Committee
Report No.	PPRM1844
Activity:	Governance Report
Author:	Anita Dawe, Acting Manager Policy
Endorser:	Tanya Winter, Director Policy Planning and Resource Management
Date:	9 November 2018

1. Summary

This is a new format for the Director's report to Policy Committee. Emphasis is on emerging issues and these are presented at the front of the report. Some issues raised will be at an early stage, such as central government legislative changes that are signalled, and some will be a policy/planning project update that doesn't yet warrant a separate report. The information provided in previous reports is included as an appendix. Staff are interested in elected member feedback on this new format.

This report contributes toward the following Strategic Priorities from the Long-Term Plan 2018 -2028:

- Maintain and enhance the natural environment
- Resilient communities that are engaged and connected to the Otago Regional Council
- Future focused – readiness for change, proactive approach and risk focused.

2. Recommendation

- a) *That this report be noted.*

3. Emerging issues

3.1 Update on urban water quality data assessment

An assessment of the monitoring conditions for discharges of wastewater and stormwater is being carried out. It will inform a wider review of ORC's data on urban water quality and on discharges of wastewater and stormwater, which will make recommendations to improve the coherence and integration of the data ORC collects on those matters. Chris Arbuckle, from Aspiring Environmental, is leading this work.

The final report of this review is due before the end of December 2018.

The scope and project plan on the stormwater and wastewater review is being reconsidered in light of the Progressive Implementation Programme. An update will be sent to city and district councils, Kai Tahu, Public Health South, and all participants to workshops, before Christmas.

3.2 Responses to external policies, plans etc

Council has a cost centre for time spent on submissions to central government and providing input and feedback to ensure District Plans' properly give effect to the RPS, and proposed RPS. This is a heads up to Council that this budget is currently overspent, and this trend is likely to continue for the remainder of the financial year. The staff time against this project is in line with anticipated budget forecasts however we have had to engage consultants to assist on particularly complex projects including appeals to the Queenstown Lakes District Plan (currently underway) and on the DCC 2GP analysis of decisions.

Preliminary information from MfE also suggests that external central government consultations will continue to increase.

All of these factors combine to result in the current over expenditure.

3.3 Dunedin City Council District Plan Review (2GP) Decisions

DCC have released the hearing panel's decisions on the plan review. For ORC, these decisions also encompass recommendations on its Notices of Requirement for designating ORC's flood protection management assets within the Dunedin district.

ORC staff are being supported by Opus Consultants to prepare both an assessment of the plan review decisions, and the recommendations on ORC's designations.

The analysis of the plan review may inform any appeals by ORC on the plan review if it's considered the decisions do not give effect to the Regional Policy Statement. These must be lodged with the Environment Court by 19 December. Following the close of appeals, all submitters will also can become party to any appeals (referred to under the RMA as 'section 274 parties'). The period for joining appeals under s274 closes toward the end of January 2019.

ORC staff will prepare a summary of any appeals it makes, or joins, for Council early in the new year.

The designations follow a slightly different process. Under the Act, ORC as a 'requiring authority' will consider the recommendations of the DCC's decision panel and make a decision to accept or reject them. A recommendation report to assist Council to make this decision will be provided in time for its final meeting of the year on 12 December. The decision must be made by 19 December 2018, after which any submitters, or the DCC, may appeal that decision.

The recommendations by the DCC hearings panel are consistent with what ORC applied for in its notices of requirement.

3.4 Proposed Regional Policy Statement

The interim decision from the Court in relation to the Port provisions has been appealed to the High Court by the Environmental Defence Society. The appeal notice questions the application of the King Salmon interpretation of the use of 'avoid' as referenced in the NZCPS. The ORC has joined as a party, and late last week, counsel for Marlborough District Council (MDC) has sought to join the High Court appeal. Port Otago has opposed MDC's application to join the appeal, and the issue will be resolved based on written submissions from those two parties.

The appeal is now set down for hearing (two days are allowed) in the High Court at Dunedin on 5 and 6 June 2019.

3.5 Freshwater Planning

With the adoption of the Progressive Implementation Programme last month, several strands of work are now underway as follows:

- The final swimmability targets, under Policy A6(b) of the NPSFM, are being considered by the Policy Committee today;
- Work is underway to set up an internal working group to begin looking at establishing Freshwater Management Units;
- The urban water quality work stream is preparing a project plan to establish how and when the work can align with the full water plan review; and
- A public notice advising of the adoption of the Progressive Implementation Programme will be notified in December, and a Communications Plan will be brought to Council in December that outlines how this information will be shared with the community.

3.6 Regional Plan: Waste

Recent media attention prompted a brief review of the Waste Plan, its history and its value to Otago. The following is noted:

- No formal review of the Waste Plan, under RMA s35 has been prepared by ORC, despite the requirement to do so ten years after its adoption, on 11 April 1997;
- Previous staff had considered the Waste Plan of value, despite several issues with provisions. Rules that are of continuing value and practical use (such as discharges at landfill sites) have to sit in a formal RMA plan;
- It is useful to have regional rules expressly allowing activities that have no more than minor adverse effect as permitted activity rules in a regional plan. Otherwise, under RMA s15(1)(c) and (d), discharges of a contaminant from an industrial operation to land that cannot reach water require consenting. Those that reach water, air or the coast can be permitted in or consented under their relevant regional plan;
- The recent RPS review picks up much of the effect of the Waste Plan's objectives and policies and those provisions are now effectively operative as they are not affected by the remaining appeal litigation;
- The Waste Plan has had no plan change to update it despite the regulatory framework moving on, with contaminated site work in particular. The Plan has issues including gaps and redundancies. Cleanfill and landfill technical definitions and guidelines are evolving, and there are concerns about toxic waste in farm landfills, waste oil of roads. Furthermore, district plans can pick up some of its provisions, under the RPS;
- A formal review that contemplates deletion of the Waste Plan would be appropriate, especially given that the RPS has taken over much of the objective and policy direction as regards efforts such as waste minimisation; and
- A full report has been drafted and is intended to be presented to the next Policy Committee meeting.

3.7 Environment Court Hearing Plan Change 5A (Lindis: Integrated Water Management)

As notified, Plan Change 5A (PC5A) proposed a primary allocation limit (PAL) of 1,000 l/s with a summer minimum flow of 750 l/s at the Ardgour Rd flow site. The ORC's decision on submissions set the PAL at 1,200 l/s and the summer minimum flow at 900 l/s.

The Lindis Catchment Group ("LCG") appealed the decision, seeking a PAL of 1,900 l/s with a summer minimum flow of 450 l/s. Fifteen parties joined the appeal under RMA s274. During mediation, LCG and ORC reached agreement on a PAL of 1,650 l/s with a summer minimum flow of 550 l/s at the Ardgour Road flow site subject to:

- The closure of three race intakes: the Tarras, Ardgour and Begg- Stacpoole races;
- The replacement of the race intakes by downstream gallery takes; and
- LCG providing flows of 1,000 l/s if the flow at Ardgour Rd site is less than 700 l/s for 14 consecutive days.

Subsequently LCG has applied for resource consents for the gallery scheme. Those applications have been directly referred to the Court and are being heard concurrently with the PC5A appeal. A further 12 parties joined the proceedings as submitters on the consent applications, although some parties (Federated Farmers, Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, and Te Rūnanga o Ōtākou) have since withdrawn from the Court process.

The exchange of expert evidence took place from June to October 2018. Expert conferencing also took place late October 2018, resulting in the signing of Joint Witness Statements on hydrology, ecology, landscape, economics and planning, which were submitted to the Court prior to the start of the hearing process.

The Environment Court hearing commenced on 7 November 2018. Over the next 7 days Judge J.R. Jackson and Commissioners K. Edmonds and Dr R. Bartlett heard evidence on hydrology and ecology. The Court adjourned on 15 November 2018 but will reconvene in January 2019 to hear further evidence on social and recreational impacts and planning matters.

On 15 November 2018 the Court also issued an order in which it has directed ORC to consult with the parties to the proceedings and all persons who hold rights to take water from the Lindis River by the Tarras, Ardgour, the Point and Beggs-Stacpoole Races on additional changes to PC5A. These additional changes seek to ensure that the environmental outcomes envisaged under the galleries scheme combined with a minimum flow of 550 l/s and a PAL of 1,639 l/s are achieved by prohibiting any take and use of water from Lindis by these four races upon the expiry of the water permits that authorise the taking of water via these races.

The parties consulted on these additional changes have been asked to provide feedback to ORC by 30 November 2018. By 14 December 2018 ORC must serve on the parties consulted, a statement as to whether it supports the addition of rules as proposed or some variant of them. Any party, or affected landowner, may lodge a submission with the Court either opposing the proposal, supporting it, or suggesting amendments to it, by 18 January 2019

Endorsed by: Tanya Winter
Director Policy, Planning and Resource Management

Attachments: Attachment 1 - Regulatory Responses (Directors Report) [11.1.1]

11.2. Summary of Reports – Regions Implementing NPSFM

Prepared for:	Policy Committee
Report No.	PPRM1845
Activity:	Governance Report
Prepared by:	Julia Briggs, Policy Analyst and Emma Spalding, Senior Policy Analyst
Date:	14 November 2018

1. Précis

This report contains summaries of four recent research papers that the Ministry for the Environment has funded for other regions to support their implementation of the National Policy Statement for Freshwater Management (NPSFM). The purpose of this report is to inform the Council of the work other regions are undertaking, as it may be useful for ORC as we embark on full implementation of the NPSFM.

2. Recommendation

That the Committee:

a) *Notes this report.*

3. Background

This report will summarise the following four reports:

- *“TANK plan change: Barriers and risks to the adoption of proposed mechanisms to coordinate management action”, a report for Hawke’s Bay Regional Council by Justin Connolly, Director, Deliberate, June 2018;*
- *“Waitohi and Waikawa Streams Characterisation Study”, a report for Marlborough District Council facilitated by Te Atiawa Manawhenua Ki Te Tau Ihu Trust, May 2018;*
- *“Water Quality in the Waitohi and Waikawa catchments”, a report for Marlborough District Council by Steffi Henkel, Environmental Scientist – Water Quality, Environmental Science & Monitoring Group, May 2018; and*
- *“Water Management Groups – preliminary guidance”, a report prepared by Cawthron for MfE by Jim Sinner and Mark Newton, July 2018.*

4. Proposal

The following report summaries are intended to inform Council of work that other regional councils are undertaking in order to implement the NPSFM:

4.1 TANK plan change: Barriers and risks to the adoption of proposed mechanisms to coordinate management action

Report for Hawke’s Bay Regional Council by Justin Connolly, Director, Deliberate, June 2018

Hawkes Bay Regional Council have prepared a draft proposed plan change to provide an integrated approach to managing both water quality and quantity in the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments (known as the TANK Plan Change). This plan change requires farmers, growers and foresters to agree to work (with Council) that is required on their properties through one of the following mechanisms:

1. An individual farm plan;
2. An industry programme; or

3. A catchment collective (a self-organising group through which collective environmental action can be taken, and the action agreed by the group is the means by which the members of the group are held accountable to council).

The catchment collective mechanism is one of the first instances of self-organising and collective approaches for dealing with water **quality** issues in the country – therefore this research is expected to be of interest to many Councils in NZ.

The research paper was commissioned by the Hawke's Bay Regional Council (HBRC) for use in the implementation of the TANK plan change. It acknowledges that success of the plan change in the longer term is heavily dependent on successful adoption of the three mechanisms proposed.

A key aim of the research was to identify perceived barriers to farmers' support for, and involvement with, the mechanisms; and barriers related to the implementation of any of the three mechanisms proposed in the plan change. The report also makes recommendations which are intended to assist with the successful uptake of whatever mechanism an individual may choose.

Many barriers were identified, as were a number of risks to the success of the mechanisms, which in the future may become barriers themselves. The barriers have been grouped into five categories:

- the need for mechanisms to be objective-focused and simple,
- ensuring appropriate expectations (everyone is on the same page to begin),
- ensuring access to the right support,
- interpersonal risks (catchment collectives only), and
- transparency of accountability (catchment collectives only).

A total of 43 recommendations have been made across these five groupings. More than half of the recommendations (23) applied to all mechanisms. Additionally, one was identified specifically for Industry Programmes, while the remainder (19) were found to specifically apply to Catchment Collectives.

As an example, one of the main barriers to all mechanisms was a perception that the mechanisms would not actually achieve the desired outcome of improving water quality. Respondents were concerned that the plan change may become more focused on ensuring everyone was undertaking action of some kind, rather than focusing appropriate action in appropriate areas. The report's recommendation for this barrier was to develop a clear risk assessment to identify appropriate action in response to relevant freshwater quality objectives at a catchment level.

An example of a barrier specific to Catchment Collectives was the perceived potential for personal conflict between individuals within the collectives. The recommendation to address this barrier seeks to ensure appropriate conflict resolution expertise is utilised when developing a set of prescribed processes for dealing with internal conflict for Catchment Collectives.

The report notes that many of the recommendations deal with actions that will improve perceptions or relationships between parties involved, and some of them recommend action

that will not be perceived as direct activity 'on the ground', yet these are considered important enablers for the success of any activity that will occur.

The research also recognises that the burden for delivering on the recommendations falls predominantly with Council, rather than the primary producers. This highlights the complex inter-related nature of factors that will enable such plans to be a success, and the need for Council to ensure that the 'groundwork' is laid for successful implementation of the plan. It is also noted that many of the recommendations will already be on the Council's radar, but the report highlights some of the barriers and ranks the recommendations, in order to reinforce their importance. The report also notes that it is extremely important to foster the existing goodwill of the community if the plan change is to be a success.

4.2 Waitohi and Waikawa Streams Characterisation Study **Report for Marlborough District Council facilitated by Te Atiawa Manawhenua Ki Te Tau Ihu Trust, May 2018**

The study looks at the history of the Waitohi and Waikawa Streams and describes how both of the catchments are significant to local iwi, Te Atiawa.

The report describes the history and cultural values associated with these two streams. It is enriched with details such as how the waters of the sacred Waitohi stream was used in ritual Tohi rites for warriors before battle and how Maori women used the scented moss from the southern side of Te Maunga Piripiri, the mountain from which the stream is fed.

The report then considers how the environments in these catchments have changed in the last 150 years including; straightening of the naturally braided lower Waikawa to allow more land development and the Waikawa Marina which significantly changed the Waikawa stream delta. The Waitohi too has had its banks developed and been polluted by urban and industry activities.

Te Atiawa requested a water quality assessment on these two catchments to allow the iwi to understand the current health or mauri of these streams. This will provide a benchmark for improvement.

4.3 Water Quality in the Waitohi and Waikawa catchments **Report for Marlborough District Council by Steffi Henkel, Environmental Scientist – Water Quality, Environmental Science & Monitoring Group, May 2018**

This is an interim report into the current state of water quality in the two waterways. The catchments are 1,818km² – Waitohi and 1,028km² – Waikawa – not very large. Approximately 90% of both catchments are covered in native vegetation, and the main potential water quality issues come from the urban areas present. Sampling was carried out on 15 sites over 6 months from October 2017 – March 2018. Each site was sampled a total of 8 times. A few sites largely located in urban areas, were located upstream, to assess influences from native vegetation. The samples were tested for 13 parameters including Nitrogen, phosphorus, E. Coli, pH, turbidity and copper.

The report analysed the results of each parameter, looked at where in the catchment higher and lower concentrations were found, explained the implications for river health and hypothesised the sources of contamination. The need for further work was identified in some

areas, as the source of contamination could not be determined with sufficient certainty. A fish survey was also carried out to gain a better understanding of the ecological health of the streams.

Highly variable water quality was observed during rainfall, which is not unusual. Generally, the first flush of rain will bring the highest concentration of contaminants, then later turbidity and other pollutants is caused by sediment as a result of erosion. Parameters were measured against Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC) - supported by MfE. In general water quality limits were exceeded as the sampling moved downstream.

Based on the results of the initial work and because a wet summer meant some monitoring could not occur, there were questions that could not be answered. The report recommends future work to investigate the sources of contaminants.

4.4 Water Management Groups – preliminary guidance

Report prepared by Cawthron for MfE by Jim Sinner and Mark Newton, July 2018

This report looks at how Water Management Groups (WMGs) can help manage diffuse discharges and identified they could also assist with managing allocation limits, and provide some guidance on what a group could look like. It is not about collaborative limit setting, it is about how to implement limits through collective management and responsibility.

The issue with diffuse discharges is that when an effect is caused by cumulative actions it is difficult for an individual to see how their practices contribute. Individual limits can be set; however, accuracy can be an issue. Another approach is for users to adopt good management practices, however the outcomes for the environment can be uncertain. This report explores the advantages of water management groups, which are:

- Members are accountable to each other;
- Groups can achieve the limits together – allows flexibility, innovation and a local approach; and
- Collective funds and effort achieves better results.

What a WMG needs to consider:

- Goals to enable the group to meet the limits Council sets;
- What are the current land uses and how flexible are these;
- Mitigation actions;
- Monitoring and reporting;
- Review and consequences for non-achievement; and
- How to involve Iwi and interest groups such as Fish and Game, DoC.

The report also considers how WMGs could work in an urban setting. While the focus was on rural diffuse discharges, there is potentially great benefit in educating urban dwellers on the implications of their actions. This could see issues such as storm water, while within a territorial authorities' jurisdiction, addressed in a similar and successful manner.

The current Regional Plan: Water for Otago establishes two options for water users to use to manage water takes as a community: Water Allocation Committees can be established by ORC upon request under 6.4.12 or a community can ask ORC to sign off a Water Management Group under 6.4.12A. Both are voluntary and at this time it appears neither option has been

taken up in Otago. A number of groups do however follow the general principles of these groups.

The report ends by advising that WMGs can offer a solution to the limitations of regulation aimed at individuals, however, the approach must be deliberate and well-structured to ensure the combined actions of WMGs meet the obligations of the NPSFM.

5. Financial implications

As this report is for noting only, there are no financial implications.

6. Legal compliance and risk assessment

There are no legal implications.

7. Significance and engagement

Not applicable.

8. Communication

Not applicable.

9. Summary

This report provides a snapshot of other council's approaches to water management and implementation of the NPSFM and may be of interest to Otago Regional Council.

Endorsed by: Tanya Winter
Director Policy, Planning & Resource Management

Attachments

1. TANK barriers report [11.2.1]
2. Waitohi and Waikawa Streams Characterisation study [11.2.2]
3. Water management groups-preliminary guidance [11.2.3]

11.3. Implications of NPSFM Announcement

Prepared for: Policy Committee
Report No. PPRM1847
Activity: Governance Report
Prepared by: Lisa Hawkins, Emma Spalding, Julia Briggs.
Date: 12 November 2018

PURPOSE

- 1) At the Policy Committee meeting on 17 October 2018, the Chief Executive presented a report that outlined the Government's new "Essential Freshwater" policy framework, which was announced on 8 October 2018. As a result, Council passed a resolution to request that a further report on the implications of these announcements for ORC be brought back to Committee.
- 2) This report provides the requested analysis.

EXECUTIVE SUMMARY

- 3) Central Government has identified six key actions under "Essential Water: Healthy Water, Fairly Allocated". The current implications for Council are minimal, as Council's Progressive Implementation Programme (PIP) broadly aligns with the Government's timetable.

STAFF RECOMMENDATION

That the Committee:

- a) *Notes the report.*
- b) *Adopt the staff recommendation to continue with the Proposed Implementation Programme, and ensure it remains consistent with Government direction as further announcements come from Central Government.*

BACKGROUND

- 6) On 8 October 2018, the Government announced a new freshwater policy framework for New Zealand called "Essential Freshwater" that aims to show improvements in water quality by 2023. This is earlier than the National Policy Statement for Freshwater Management 2014 (amended 2017) (NPSFM) which requires that new frameworks are in place by 2025 (but doesn't necessarily require actual improvement by 2025).
- 7) The "Essential Freshwater" framework has three key objectives, which are:
 - Stopping further degradation and loss (including making immediate improvements)
 - Reversing past damage (using a new NPS for Freshwater Management and other legal instruments)
 - Addressing water allocation issues (efficient and fair allocation of freshwater and nutrient discharges)
- 8) The report identifies six key actions to achieve these objectives:
 - Targeted action and investment in at-risk catchments, from now
 - Amendments to the Resource Management Act, introduced later this year

- A new National Policy Statement for Freshwater Management, in force by 2020
- A new National Environmental Standard for Freshwater Management, in force by 2020
- Wide engagement in developing options for allocating water resources, starting with allocation of discharges to water in 2019
- Ongoing future policy framework development

9) This report discusses the implications of the six key actions for Otago.

ISSUE

10) The Council is about to embark on a work programme to implement the existing NPSFM through the recently adopted, and soon to be notified PIP. This includes a review of the Regional Plan Water. It is therefore important to consider the implications of the new announcement on this work programme going forward.

DISCUSSION

11) The Government has identified six key actions to achieve the objectives set out above. The proposed timeframe for implementing the key actions broadly aligns with Council's PIP. However, there are two areas for Council to keep a watching brief on. Council will need to ensure our revised water management framework remains consistent with the Government's direction, particularly in regard to implementation of plan change 6A (Rural water quality) and Council's water quality strategy in general. Another key area is the absence of a Land Plan for the Otago region to control land use for good water quality and efficient allocation.

12) A summary of the six actions is provided in the table below, along with potential implications for Council.

Work Programme Action	Proposed details and timing	Potential Implications for Council
Targeted action and investment in at-risk catchments	<p>Proposal:</p> <ul style="list-style-type: none"> • Reflects the Land and Water Forum (LAWF) recommendation to ensure plans are in place for at-risk catchments, to stop further degradation and start reversing damage. • Focussed on addressing water quality and ecosystem health (particularly nitrogen and sediment). • This involves assessing what can be achieved within the current rules in each catchment, where new regulation may be needed, and where any new investment could be targeted. <p>Timing:</p> <ul style="list-style-type: none"> • Work with stakeholders to identify the at-risk catchments and prepare a report to Government by the end 2018. • Develop tools / interventions. Ongoing, complete early 2020. 	<ul style="list-style-type: none"> • ORC have already advised MfE of our at-risk catchments: <ul style="list-style-type: none"> • Lake Hayes • Kaikorai Stream • Pomahaka River • This work requires continued engagement with MfE around assessment and identification of any solutions. • ORC will then need to monitor progress and work with Central Government to implement appropriate solutions to the issues in at-risk catchments. • ORC has attended a workshop with MfE and other regional councils in November to work through this.
Amendments to the RMA	<p>Proposal:</p> <ul style="list-style-type: none"> • Short term amendments to improve certainty, public participation and reduce complexity by: <ul style="list-style-type: none"> ○ Better enabling regional councils to review consents. ○ Allow Councils to implement water quality and quantity limits more quickly. ○ Strengthening enforcement tools for environmental compliance. • A longer-term reform is also mentioned, but no 	<ul style="list-style-type: none"> • Short term amendments that will strengthen the ability for council to review consents is likely to be of assistance in the Deemed Permit replacement process – i.e. if Deemed Permits are replaced prior to limits in the plan being set a review condition will need to be set to ensure policy updates can be reflected in consents. • The Government is also looking to repeal many of the recent amendments to the notification provisions which removed the presumption for notification. The

	<p>indication on the detail to be considered.</p> <p>Timing:</p> <ul style="list-style-type: none"> • Amendment Bill to be introduced to Parliament 4th quarter 2018 or 1st quarter 2019. • Development on the second phase of amendments starting 2nd quarter 2019. 	<p>reason is that they believe the changes have unfairly removed some parties from participating in resource consent processes.</p>
An updated NPSFM	<p>Proposal:</p> <ul style="list-style-type: none"> • An updated NSPFM will be based on the Sheppard principles¹ – focusing on ensuring all aspects of ecosystem health are managed and will provide additional direction on how to proceed where there is uncertainty. • Under consideration: <ul style="list-style-type: none"> ○ Adjustment of timeframes for implementation ○ Greater direction on how to set limits for resource use ○ Provide better protection for wetlands and estuaries. <p>Timing:</p> <ul style="list-style-type: none"> • Work has already begun with discussions underway with freshwater scientists, LAWF and input from other interested parties. This work will continue over the next 6 months. • Public consultation on a new NPSFM will begin in the 2nd quarter of 2019. • Updated NPSFM expected to come into force in 1st / 2nd quarter of 2020. 	<ul style="list-style-type: none"> • ORC is about embark on a work programme to implement the 2017 NPSFM. The intention of the current announcements appears to build on the existing NSPFM, rather than change tack completely. If anything, stronger direction and requirements to work faster for actual improvement on the ground, will come from Central Government. In particular it is clear that a catchment by catchment approach which supports integrated water management (quality and quantity) is a key focus of the changes. • The timing of our proposed PIP aligns well with the public consultation of a new NPSFM being in the second quarter of 2019. Proceeding with the PIP will see ORC in a position to implement a Freshwater Management Unit (FMU) framework in the first half of 2019, and hence prior to work beginning on values, objectives and limit setting, we will be aware of the intended direction of government through the consultation draft of the updated NPSFM.
A new National	Proposal:	<ul style="list-style-type: none"> • The focus on linking land use and water management

¹ The Sheppard principles require strong action to stop clean rivers being made dirty and to clean up dirty rivers over a generation. These principles came out of a board of enquiry set up by MfE in 2008 to address damage caused to freshwater by intensification of agriculture.

Environmental Standard (NES) for Freshwater Management	<ul style="list-style-type: none"> • Provision of specific direction on resource use, in particular where rapid action is required in at-risk catchments. • Potential mechanism for prohibiting activities or including rules to restrict activities. • Makes a clear link between land management and effective resource management. Some activities specifically mentioned include intensive winter grazing, hill country cropping and feedlots. • A default regime for ecological flow and levels where none are set, and how minimum flows apply to existing consents will also be considered. <p>Timing:</p> <ul style="list-style-type: none"> • Options being discussed with advisory groups over the next 6 months. • Consultation on draft NES to begin in 2nd quarter 2019. • New NES expecting to come into force in the 1st / 2nd quarter of 2020. 	<p>will highlight the gap ORC has with no Land Plan, and limited rules that focus on land use inputs.</p> <ul style="list-style-type: none"> • As with the NPSFM timing, the proposed timing of the NES fits reasonably well with the approach set out in the PIP. The proposed direction on land use management or flow setting in the NES will be known as Council completes the FMU process and begins discussion on such elements with stakeholders and the community. • Depending on the direction of the 'default regime for ecological and minimum flows' this may also assist in providing direction for Deemed Permit replacement if these limits have not yet been set in the Water Plan.
Develop options for water allocations	<p>Proposal:</p> <ul style="list-style-type: none"> • Acknowledges two main aspects of allocation being discharge of contaminants (water quality) and the authority to take and use water (water quantity). • Discharge of Contaminants <ul style="list-style-type: none"> ○ Continue to approach this on a catchment by catchment basis with the limit set designed to meet the objective for the catchment. This also applies to the setting of a discharge limit. ○ Links land use and future development with potential solutions. ○ Work collaboratively with stakeholders to explore options for a fair and efficient allocation system. 	<ul style="list-style-type: none"> • Discharge of contaminants <ul style="list-style-type: none"> ○ As part of the Water Plan review water quality provisions will be assessed against the current NPSFM requirements. Although we have recently completed a water quality plan change process (6A) this is not entirely consistent with NPSFM requirements and didn't follow the CA1-CA4 process. ○ The Water Plan review will occur concurrently with the Government's review of the NPSFM and NES. ○ Council will need to keep a watching brief on this action and its direction.

	<ul style="list-style-type: none"> ○ Develop options on discharge allocations. • Water take allocation <ul style="list-style-type: none"> ○ Acknowledgement that take and use of water is an important area where a variety of interests must be recognised. ○ Looking to provide more direction on measures that consider economic growth, land development and community and environmental resilience. ○ Work collaboratively with stakeholder to discuss a range of options that could be developed to provide better direction on water take allocation. <p>Timing:</p> <ul style="list-style-type: none"> • Gathering of information and engagement with Kahui Wai Maori, the Freshwater Leaders Group and others – completed by end 2019. • Broader consultation and action identified completed by the 3rd quarter 2020. 	<ul style="list-style-type: none"> • Water take allocation <ul style="list-style-type: none"> ○ Depending on the content of options in this action, this may have an implication on the limit setting work which is likely to commence in the 3rd quarter of 2019 and continue across FMUs for the following few years. ○ Further guidance on addressing overallocation, beyond that of paper allocation would be useful from central government, however it is not clear that this will be picked up in this piece of work.
Develop a programme for ongoing policy framework development	<p>Proposal:</p> <ul style="list-style-type: none"> • The government will begin to engage on and develop elements which cover the following: <ul style="list-style-type: none"> ○ Extending good practice across farms, forests and urban water management ○ Target investment in solutions and tools to support decision making. ○ Improve nationally consistent measurement and monitoring ○ Provide support to councils. <p>Timing:</p> <ul style="list-style-type: none"> • Ongoing work program identified for the next two years. 	<ul style="list-style-type: none"> • At this early stage the implications are known. Council will continue to engage with central government.

OPTIONS

- 13) N/A

CONSIDERATIONS

Policy Considerations

- 14) Council's work programme to implement the NPSFM and review the Water Plan remains consistent with the current policy framework.

Financial Considerations

- 15) As no action is recommended at this stage, there are no budget ramifications at this time. There are existing budgets for Water Quality and these may be diverted to accommodate some of the current freshwater planning work proposed.

Significance and Engagement

- 16) The changes that flow from this announcement are anticipated to be implemented under the Resource Management Act. Engagement will follow the RMA processes. Therefore, Council's significance and engagement policy does not apply.

Legislative Considerations

- 17) Changes in legislation from central government will be made and need to be considered in due course.

NEXT STEPS

- 18) The next steps are to await further announcements and draft documents from MfE.

ATTACHMENTS

1. MfE Essential Freshwater Oct 2018 **[11.3.1]**
2. Policy Committee 17 October 2018 - Item 11.2 Government's New Essential Water Policy Framework **[11.3.2]**
3. Progressive Implementation Programme **[11.3.3]**
4. Board of Inquiry - Proposed NPS Freshwater Management 2010 **[11.3.4]**

11.4. Clutha Natural Character and Recreation

Prepared for: Policy Committee
Report No. PPRM1849
Activity: Governance Report
Prepared by: Tom De Pelsemaeker, Senior Policy Analyst
Date: 10 November 2018

1. Précis

In April 2018 the Otago Regional Council ('ORC') commissioned technical studies to assess the recreational values and the natural character, riverscape and visual amenity values supported by the following water bodies:

- The main stem of the Clutha River/Mata-Au ('Clutha');
- The main stem of the Kawarau River;
- The main stem of the Hawea River;
- Lakes Dunstan, Roxburgh ('the hydro lakes'); and
- Lakes Hawea, Wakatipu; and Wanaka ('the source lakes').

These technical studies are intended to support the development of minimum flows, lake levels and allocation limits for the main stems of the Clutha, Kawarau and Hawea Rivers, the hydro lakes and source lakes. This report summarises the key findings from these studies.

2. Recommendation

- a) That this report is noted.*
- b) That the following reports are made publicly available:*
 - *Clutha River/Mata-au Catchment Recreation Values Assessment (RG&A)*
 - *Natural Character, Riverscape & Visual Amenity Assessment (BM Ltd).*

3. Background

Valued uses of the Clutha River/Mata-Au

The Clutha catchment occupies two thirds of Otago's region and the Clutha is the region's largest river. Two-thirds of the Clutha's water comes from the mountainous catchments of Lakes Wanaka, Hawea and Wakatipu. The water resources of the Clutha, Hawea and Kawarau Rivers and associated lakes play a nationally significant role in renewable energy generation, while also supplying water for agricultural, horticultural and viticultural uses and the townships and tourist centres in the Upper Clutha and Lakes region.

Recent community consultation that was undertaken in the period December 2017 – February 2018 confirms that:

- The water resources of the Clutha, Hawea and Kawarau Rivers, hydro lakes and source lakes support a wide array of recreational uses and tourism activities.
- Residents and visitors have a strong appreciation for the natural beauty and scenic value of the Clutha and Kawarau Rivers, associated lakes and the surrounding landscape.
- There are concerns that changes in the water demand for diverse consumptive and economic uses will eventually generate increased competition between out-of-stream uses (e.g. irrigation and hydro-electricity generation) and non-consumptive uses or values, such as natural character values and recreational opportunities.

Legislative context

The National Policy Statement for Freshwater Management 2017 (updated August 2017) ('NPSFM') requires ORC to set allocation limits and minimum flows/water levels for all freshwater management units in the Otago region.

Currently, the Regional Plan: Water for Otago (Water Plan) does not set minimum flows or minimum lake levels for the main stem of the Clutha, Hawea and Kawarau Rivers, or Lakes Dunstan, Hawea, Roxburgh, Wanaka and Wakatipu. The Clutha and Kawarau Rivers, hydro lakes and source lakes are also exempt from the policy framework in the Water Plan that manages water allocation. As such, these waterbodies do not have an allocation limit.

ORC has commenced a process of collecting technical information that will support the setting tailored allocation limits and minimum flows/water levels for these rivers and lakes in its Water Plan. The information thus collected will support the identification and assessment of the ecological, economic, social and cultural impacts (cost, benefits and risks) of new plan provisions as required under the section 32 of the Resource Management Act (RMA).

Recreational values and natural character, riverscape and visual amenity values together contribute to the economic, environmental, social and cultural wellbeing in the following ways:

- Enhancing the "quality of life" experienced by local community members.
- Creating social cohesion through shared experiences.
- Strengthening local economies by attracting residents, businesses and investment to an area, as well as tourists.

Section 6(a) of the RMA considers the preservation of the natural character of lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development as a matter of national importance, while Section 7(c) requires particular regard be given to the maintenance and enhancement of amenity values, which include recreational attributes, when making decisions around the management of our natural and physical resources.

The unique scenic qualities, natural characteristics and recreational values of large parts of the upper Clutha lakes and river system are also recognised by the Lake Wanaka Preservation Act 1973, which seeks to preserve Lake Wanaka in its natural state, and the Kawarau Water Conservation Order, which seeks to protect the recreational values and the wild or other natural characteristics of Lake Wakatipu and the Kawarau River.

Need for specialist assessments

A good understanding of the significance of natural character and recreational values supported by the subject water bodies and how these may be impacted by changes in flow or lake levels is needed to:

- Meet the evaluation requirements of the RMA;
- Consider the significance attributed to these values by the local and wider community;
- Develop freshwater objectives that guide the management of these water bodies; and
- Ensure that no decision-making by ORC will detract from the status provided to these values in the RMA and other statutes and planning documents.

ORC staff do currently not have the necessary specialist skills and expertise to undertake these assessments. Therefore, suitably qualified and experienced experts, Rob Greenaway and Associates ('RG&A') and Boffa Miskell Ltd ('BM Ltd'), were selected through a tendering process.

4. Study objectives and overall approach

Key objectives of the recreational values assessment included:

- Identify the various water-based recreational uses present within each water body, as well as other recreational uses and tourism activities that rely on the availability or access to the water bodies or the amenities offered by them.
- Evaluate the significance of identified recreational uses and activities, at national and regional level.
- Identify trends in the demand for or participation in these recreational activities.
- Evaluate experiences of the current hydrological regime and identify preferred flow rates and lake level ranges.
- Identify recreational conflicts and other influences on recreation quality.

Key objectives of the natural character, riverscape & visual amenity assessment included:

- Identify the natural character, riverscape and visual amenity values associated with the different river reaches and lakes.
- Evaluate the importance of maintaining river flows/lake levels for maintaining recreational, natural character, riverscape and visual amenity values.
- Assess the vulnerability of these values to changes in flow or lake levels, or flow or lake level variability.

The recreational assessment is primarily based on a review of literature, data provided by various agencies and interviews with stakeholders and industry representatives. The natural character, riverscape & visual amenity assessment, on the other hand, draws heavily on actual observations and a review of available technical information.

5. Study findings

The *Clutha River/Mata-au Catchment Recreation Values Assessment* by RG&A and the *Natural Character, Riverscape & Visual Amenity Assessment* by BM were completed in October 2018 and the study reports are attached as Attachments 1 and 2 to this report.

Key findings from the recreational values assessment are:

- The Clutha, Kawarau and Hawea Rivers and associated lakes provide for a very diverse range of high-quality recreation and tourism opportunities.
- The diversity of recreation opportunities is a reflection of the diversity of the settings (from placid lakes to an artificial whitewater course) and, various other factors including high water quality, good access, protected natural regimes in the most significant areas and a reasonably predictable hydro-electricity generation management regime elsewhere.
- Recreational users of these water bodies have a good understanding of how the management of flows and lake levels for hydro-electricity generation affect recreation.
- There is a level of acceptance of the current management regime for flows and lake levels for hydro-electricity generation, with only several site-specific concerns. These concerns include:
 - How flow affects angling in the upper Clutha below the Hawea confluence, and in the Hawea River;

- The effects of didymo, lake snow, lagarosiphon and other water quality issues (freedom camping a growing concern); and
- The management of conflicts between motorised vessels on Lake Wanaka and the upper Clutha.
- Almost all of the study area is awarded national status for recreation and tourism.
- The significance of Lakes Wakatipu and Wanaka and the upper Clutha for tourism is high and growing.
- Lake Roxburgh remains regionally significant, but the growing popularity of the Clutha Gold Trail (and cycling generally) could increase its significance.
- The lower Clutha is nationally significant for angling and is of regional significance for all other recreational activities.
- The Clutha and Hawea river settings and their values have a significant role for education.
- The study area makes a significant contribution to regional economic wellbeing via national and domestic tourism and local recreation.

Key findings from the natural character, riverscape and visual amenity study are:

- The Clutha, Kawarau and Hawea Rivers and Lakes Dunstan, Roxburgh, Hawea, Wakatipu and Wanaka achieve high visual amenity ratings.
- The level of natural character is generally higher towards the top of the catchment. Lakes Hawea, Wanaka, and Wakatipu, the uppermost reach of the Clutha, and the Kawarau River tend to achieve the highest natural character ratings. Further downstream the natural character values associated with its margins and context are reduced by the prevalence of farming, orchards and other modifications along its shores.
- The extent to which flows and lake levels are managed generally has a considerable impact on natural character.
- The dam structures at Roxburgh, Clyde, and Hawea modify the active bed, margins and surrounding context, reducing natural character and visual amenity. They also impact the naturalness of the riverscape through artificially controlling lake levels and flows.
- Lake Dunstan has the lowest natural character rating for its active bed. While the lake retains a high level of visual amenity, natural patterns and processes within the active bed are reduced considerably due to its artificial construction, flow regulation, and infrastructure along the shoreline.
- The river reach between Clyde and Lake Roxburgh at Alexandra has the lowest natural character rating for its surrounding context due to extent of development close to the margins.
- River flow affects a range of habitat factors including current, water depth, wetted area, substrate, dissolved oxygen levels and water temperature. Indicators of impacts can be a very shallow water depth, a reduction in the wetted area or reduced water movement compared with what might be expected or for longer durations than might be expected. Changes such as these tend to be more noticeable in shallow, braided rivers than in single thread, incised rivers like the Clutha.

6. Next steps

The recreational values and natural character, riverscape and visual amenity assessments will be used in the development of options for setting minimum flows, lake levels and allocation limits for the subject water bodies. Once these minimum flow, lake level and allocation limit options have been developed further technical work may be required to evaluate the impacts

of these options on natural character, riverscape and visual amenity. It is less likely that further work is required to evaluate the impacts of these options on recreational values because the recreational values assessment undertaken by RG&A already discusses recreational user experiences of the current hydrological regime and identifies preferred flow rates and lake level ranges for identified recreational uses and values.

Endorsed by: Tanya Winter
Director Policy, Planning & Resource Management

Attachments

1. Attachment 1 Rob Greenaway & Associates (2018) Clutha River/Mata-Au Catchment Recreation Values Assessment **[11.4.1]**
2. Attachment 2 Boffa Miskell Ltd (2018) Natural Character, Riverscape and Visual Amenity Study Clutha **[11.4.2]**

12. NOTICES OF MOTION

13. CLOSURE