

# **Section 32 Evaluation Report for the Proposed Otago Land and Water Regional Plan**

## **Chapter 20: Wetlands**

Draft

**This Section 32 Evaluation Report should be read together with the Proposed  
Otago Land and Water Regional Plan**



**Otago  
Regional  
Council**

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## Abbreviations

CMA	Coastal marine area
FMU	Freshwater Management Unit
NES	National Environmental Standard
NESF	National Environmental Standards for Freshwater 2020
NOF	National Objectives Framework
NPS	National Policy Statement
NPSFM	National Policy Statement for Freshwater Management 2020
NZCPS	New Zealand Coastal Policy Statement 2010
ORPS	Otago Regional Policy Statement 2019
pORPS	Proposed Otago Regional Policy Statement 2021
pLWRP	Proposed Otago Land and Water Regional Plan 2024
RPS	Regional Policy Statement
RPW	Regional Plan: Water
RMA	Resource Management Act 1991

## Wetlands [WET] - Assessment of provisions

### 1. Introduction

1. Wetlands are defined under the RMA as including permanently or intermittently wet areas, shallow water, and land margins that support a natural ecosystem of plants and animals that are adapted to wet conditions. Wetlands are some of the most valuable ecosystems in Otago, recognised for their ecological, cultural, social and economic values. They provide a diverse set of landscape elements such as string bogs, high altitude blanket bogs, saline areas, swamp forest remnants, shallow lake complexes, estuarine saltmarshes and valley floor swamps.
2. Wetlands perform a range of beneficial functions, including retaining water, preventing and alleviating flooding, enhancing water quality (including by filtering and removing pollutants and contaminants), and providing habitat for many species. Otago contains many significant wetlands, including the Upper Taiari Scroll Plain and the Waipōuri/Waiholā wetland complex.
3. A range of activities can adversely affect wetland values including stock grazing, cultivation, earthworks, river engineering, spraying, drainage, discharging contaminants to wetland areas, and other modification of wetland areas.
4. Wetlands are currently managed under various national direction instruments, including the NPSFM, NESF, NPSIB, and Stock Exclusion Regulations. The scope of these instruments varies in terms of the types of wetlands managed and the direction for activities within and adjacent to these water bodies. The Regional Plan - Water for Otago provisions also manage some activities in and around a subset of natural wetlands identified as regionally significant wetlands.
5. This section of the report evaluates the provisions proposed in the WET – Wetlands chapter of the pLWRP. The chapter manages the following:
  - a. Restoration and protection of natural inland wetlands
  - b. Protection of other natural wetlands not classified as natural inland wetlands
  - c. Construction, use and maintenance of constructed wetlands
  - d. Grazing in natural inland wetlands
  - e. Use of land within other natural wetlands.

### 2. Issues

6. This section outlines the resource management issues that the WET chapter seeks to address. These issues are:
  - a. The potential adverse effects of certain activities on wetland extent and values
  - b. Matters of significance for Kāi Tahu.

7. Additional policy issues with the status quo policy context that the WET chapter seeks to address are outlined in this section (particularly in relation to the decisions on the pORPS) and in section 3.22 of this chapter.

## **2.20. The potential adverse effects of certain activities on wetland extent and values**

8. The Otago region has lost nearly 84,000 hectares of wetlands. Only 24% of the original wetland area remains, excluding smaller wetlands. Various activities can have adverse environmental effects on the remaining extent and values of wetlands in Otago if they are not managed appropriately, including:
  - a. Heavy stock grazing which can lead to damage from excretion, pugging and vegetation loss.
  - b. River engineering works which can restrict water quantity and water movement within wetlands.
  - c. Modification and drainage of wetland areas for activities such as farming, forestry and urban development.
  - d. Spraying of toxic chemicals within and adjacent to wetlands which can negatively affect water quality and ecosystems
  - e. Earthworks and land disturbance which can contribute to sedimentation
  - f. Discharging contaminants which can contribute to a water quality decline.

## **2.21. Matters of significance for Kāi Tahu**

9. Wetlands are highly valued by Kāi Tahu for a variety of reasons, such as cultural and spiritual beliefs, values and uses. Wetlands can also contain a diverse variety of mahika kai species. Some key concerns for Kāi Tahu include the drainage of wetlands, stock entering waterways, vegetation clearance and afforestation that can affect the water retention capacity of land, lack of proper riparian management throughout an entire catchment, and sedimentation from land use and development (Kāi Tahu ki Otago, 2005, p. 60).
10. Direction from Kāi Tahu includes to oppose all draining of wetlands and for wetlands to be protected. Policy direction in the Kāi Tahu Ki Otago Natural Resource Management Plan seeks to protect and enhance existing wetlands, support their reinstatement, and promote assistance for landowners for fencing-off wetlands. Kā Papatipu Rūnaka believe the loss of wetlands, springs, side braids and backwaters affect mahika kai, and encourage the use of buffer zones to protect the side braids of riparian wetlands (Kāi Tahu ki Otago, 2005, p. 60).
11. The pORPS sets out the resource management issues of significance to iwi in the region. All of these issues are relevant to activities in the wetlands; however, the effects of these particular activities are emphasised in the following places:
  - a. RMIA-WAI-I1 – The loss and degradation of water resources through drainage, abstraction, pollution and damming has resulted in material and cultural deprivation for Kāi Tahu ki Otago.
  - b. The explanation of this issue describes how the drainage of wetlands, water abstraction, water quality, barriers to fish passage and the changes to flow as a result of damming

have had significant negative impacts on Kāi Tahu. It describes how the activities degrade the mauri of the water and the habitats and species it supports.

- c. RMIA-WAI-I2 – Current water management does not adequately address Kāi Tahu cultural values and interests.
- d. The explanation of this issue describes how the mana of mana whenua and of the water is not recognised because water quality and quantity have been allowed to be degraded.
- e. RMIA-WAI-I3 – The effects of land and water use activities on freshwater habitats have resulted in adverse effects on the diversity and abundance of mahika kai resources and harvesting activity.
- f. The explanation of this issue describes how the loss of mahika kai species and places of procurement amounts to a loss of Kāi Tahu culture and affects the intergenerational transfer of mātauraka and tikanga.
- g. Under RMIA-WAI-I5, the pORPS notes that the concerns across all issues identified are interrelated. A specific concern relevant to this topic is deterioration in water quality resulting from poor land management practices.

## 2.22. Proposed Otago Regional Policy Statement

- 12. The recent decisions on the pORPS adjusted the expectations for protection of wetlands, comparatively late in the pLWRP options and analysis process. The decision on the pORPS objective LF-FW-O9 widens the objective to apply to all wetlands, and seeks to protect all wetlands from inappropriate subdivision, use, and development, and where degraded, promote their restoration. This elevates the requirement to protect or restore natural wetlands, to a requirement to protect wetlands and if degraded to promote their restoration.
- 13. Further, the decision version requires all wetlands (and not just natural inland wetlands) to be managed by applying clause 3.22(1) to (3) of the NPSFM (new Policy LF-FW-P10A). This means that the loss of extent of any wetland must be avoided except where the loss of extent or values arises from specified activities or where the Council is satisfied of certain matters as set out in clause 3.22(1) of the NPSFM. It also means that the effects management hierarchy in the NPSFM will apply to any activity that will result in the loss of extent and values in any type of wetland.
- 14. The decisions version of LF-FW-P10A(3) also requires that all wetlands are managed to improve the ecosystem health, hydrological function, and extent of wetlands that have been degraded or lost by promoting:
  - a. An increase in the extent and condition of habitat for indigenous species;
  - b. The restoration of hydrological processes;
  - c. Control of pest species and vegetation clearance; and
  - d. The exclusion of stock, except where stock grazing is used to enhance wetland values.
- 15. There is also no differentiation of the Taiari Scroll Plain wetlands, high or low slope wetlands, constructed wetlands, or wetlands on Crown pastoral lease land. This is notably more restrictive than the Stock Exclusion Regulations and the draft LWRP.



### 3. Status quo policy context (including operative provisions)

16. The status quo for wetlands is a little different to many other chapters of the pLWRP, as there is a significant body of regulations in the NES-F and policy direction in the NPSFM. While the application of this body of national direction has changed from time to time, including during the preparation of the WET chapter of the pLWRP, the national direction is more comprehensive than for most other chapters of the pLWRP. Accordingly, the status quo begins with an assessment of the national direction, overlaid with the provisions of the RWP.

#### 3.20. National direction

17. National direction for managing wetlands is complex. It includes provisions in the NPSFM, NESF, Stock Exclusion Regulations, and more recently the NPSIB. Relevant direction in these documents is outlined below.

##### 3.20.1. NPSFM

18. The NPSFM manages wetlands through a framework that seeks to avoid any further loss or degradation of 'natural inland wetlands', requires the mapping and monitoring of existing natural inland wetlands, and encourages their restoration. The term 'natural inland wetland' has a narrower scope than the RMA's definition of wetland and means:

*...a wetland (as defined in the Act) that is not:*

- a. *in the coastal marine area; or*
- b. *a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural inland wetland; or*
- c. *a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or*
- d. *a geothermal wetland; or*
  - i. *a wetland that:  
is within an area of pasture used for grazing; and*
  - ii. *has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless*
  - iii. *the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply.*

19. Policy 6 of the NPSFM requires that there is no further loss of the extent of natural inland wetlands, their values are protected, and their restoration is promoted. To give effect to this policy, the NPSFM requires ORC to include provisions in its regional plan that prevent the

granting of consent for activities that may contravene Policy 6, except in limited circumstances<sup>1</sup>. ORC must give effect to these requirements in its RPS and regional plan.

20. Clause 3.22 requires the following policy (or words to the same effect) to be inserted into all regional plans:
21. The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:

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

- i. the customary harvest of food or resources undertaken in accordance with tikanga Māori*
- ii. wetland maintenance, restoration, or biosecurity (as defined in the National Policy Statement for Freshwater Management)*
- iii. scientific research*
- iv. the sustainable harvest of sphagnum moss*
- v. the construction or maintenance of wetland utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)*
- vi. the maintenance or operation of specified infrastructure, or other infrastructure (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)*
- vii. natural hazard works (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020); or*

*(b) the regional council is satisfied that:*

- i. the activity is necessary for the purpose of the construction or upgrade of specified infrastructure; and*
- ii. the specified infrastructure will provide significant national or regional benefits; and*
- iii. there is a functional need for the specified infrastructure in that location; and*
- iv. the effects of the activity are managed through applying the effects management hierarchy; or*

*(c) the regional council is satisfied that:*

- i. the activity is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development); and*

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<sup>1</sup> Clauses 3.21 and 3.22(3) of the NPSFM include an effects management hierarchy for these limited activities.

- ii. *the urban development will provide significant national, regional or district benefits; and*
- iii. *the activity occurs on land identified for urban development in operative provisions of a regional or district plan; and*
- iv. *the activity does not occur on land that is zoned in a district plan as general rural, rural production, or rural lifestyle; and*
- v. *there is either no practicable alternative location for the activity within the area of the development, or every other practicable location in the area of the development would have equal or greater adverse effects on a natural inland wetland; and*
- vi. *the effects of the activity will be managed through applying the effects management hierarchy; or*

*(d) the regional council is satisfied that:*

- i. *the extraction of the aggregate will provide significant national or regional benefits; and*
- ii. *the activity is necessary for the purpose of quarrying activities; and*
- iii. *there is a functional need for the activity to be done in that location; and*
- iv. *the effects of the activity will be managed through applying the effects management hierarchy; or*

*(e) the regional council is satisfied that:*

i. *the activity is necessary for the purpose of:*

- A. *the extraction of minerals (other than coal) and ancillary activities; or*
- B. *the extraction of coal and ancillary activities as part of the operation or extension of an existing coal mine; and*

- ii. *the extraction of the mineral will provide significant national or regional benefits; and*
- iii. *there is a functional need for the activity to be done in that location; and*
- iv. *the effects of the activity will be managed through applying the effects management hierarchy; or*

*(f) the regional council is satisfied that:*

- i. *the activity is necessary for the purpose of constructing or operating a new or existing landfill or cleanfill area; and*
- ii. *the landfill or cleanfill area:*
  - A. *will provide significant national or regional benefits; or*

- B. is required to support urban development as referred to in paragraph (c); or*
    - C. is required to support the extraction of aggregates as referred to in paragraph (d); or*
    - D. is required to support the extraction of minerals as referred to in paragraph (e); and*
  - iii. there is either no practicable alternative location in the region, or every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland wetland; and*
  - iv. the effects of the activity will be managed through applying the effects management hierarchy.*
22. A key component of the mandatory policy above is the application of the effects management hierarchy. This is an approach to managing the adverse effects of an activity on the extent and values of a natural inland wetland, requiring that:
- a. adverse effects are avoided where practicable; then
  - b. where adverse effects cannot be avoided, they are minimised where practicable; then
  - c. where adverse effects cannot be minimised, they are remedied where practicable; then
  - d. where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; then
  - e. if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; then
  - f. if aquatic compensation is not appropriate, the activity itself is avoided.
23. Principles for aquatic offsetting and aquatic compensation are contained within appendices 6 and 7 of the NPSFM.
24. Clause 3.23 sets out requirements for mapping and monitoring natural inland wetlands. It requires ORC to identify and map every natural inland wetland in Otago that is 1) 0.05 hectares or greater in extent, or 2) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral wetland) and known to contain threatened species. This mapping must be completed by 2030.

### **3.20.2. NESF**

25. The NESF includes regulations for activities with the potential to adversely affect natural inland wetlands. These regulations are essentially rules and must not be duplicated in regional plans. The NESF provides consent pathways for certain activities in or near natural inland wetlands, as well as more streamlined rules regarding discharges in or near these wetlands.
26. Examples of activities include vegetation clearance, earthworks, wetland drainage or the taking, use, damming, diversion or discharge of water. Different controls apply to the following activities, depending on their purpose.

- a. Permitted activity pathways are provided for these activities where they are associated with restoration, wetland maintenance and biosecurity of natural inland wetlands, scientific research, maintenance of wetland utility structures, natural hazard works, maintenance and operation of specified infrastructure and other infrastructure, existing sphagnum moss harvesting, arable and horticulture land use, and any other activities not specifically captured. If permitted conditions cannot be met, these activities generally require a resource consent as a restricted discretionary activity.
  - b. Other activities requiring resource consent in relation to natural inland wetlands under the NESF include the construction of specified infrastructure, quarrying activities, landfills and cleanfills, urban development, extraction of minerals and ancillary activities, new sphagnum moss harvesting, and drainage of natural inland wetlands (where these activities are set back from natural inland wetlands). The activity status for these activities ranges from discretionary to prohibited.
27. Regulation 6(1) provides for regional rules to be more stringent than the NESF.<sup>2</sup>

### 3.20.3. NPSIB

- 28. The NPSIB provides direction relevant to natural inland wetlands including restoration and increasing indigenous vegetation cover.
- 29. Clause 3.21 directs local authorities to include objectives, policies and methods in their policy statements and plans to promote the restoration of indigenous biodiversity. These objectives, policies and methods must prioritise, amongst other areas, natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna.
- 30. Clause 3.22 requires regional councils to assess the percentage of indigenous vegetation cover in urban and non-urban environments. Targets and provisions must then be included in policy statements and plans for increasing vegetation cover. This clause also applies to natural inland wetlands.
- 31. Clause 1.4(3) states that if there is a conflict between the provisions of the NPSIB and the NPSFM or NESF, the latter prevail.

### 3.20.4. NZCPS

- 32. The New Zealand Coastal Policy Statement includes specific policy direction to avoid effects on specific coastal environments in Policy 11(a). This is likely to include a number of coastal wetlands. Further, Policy 11(b) requires the avoidance of significant adverse effects on a range of ecosystem types, including estuaries and coastal wetlands. The NZCPS is not constrained by the narrower definition of natural inland wetlands in the NPSFM.

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<sup>2</sup> Regulation 19, Stock Exclusion Regulations.

### 3.20.5. Stock Exclusion Regulations

33. The Stock Exclusion Regulations manage the access of stock to water bodies<sup>3</sup>. Under these regulations, the term 'stock' includes beef cattle, dairy cattle, dairy support cattle, deer and pigs. With regard to wetlands, stock must be excluded from any natural wetlands that:
  - a. are identified in an RPS or a district or regional plan that was operative on 3 September 2020, or<sup>4</sup>
  - b. support a population of threatened species as described in the compulsory value for threatened species in the NPSFM, or<sup>5</sup>
  - c. have an area of 0.05 hectares or more and are located on low slope land.<sup>6</sup>
34. The definition of 'natural wetland' under the Stock Exclusion Regulations is the same as a natural inland wetland under the NPSFM, except that the exclusion of wetlands in the CMA does not apply.
35. Stock must be excluded within the following timeframes:
36. By 3 September 2020 for any natural wetland on a newly developed farm.
  - a. By 1 July 2023 for any natural wetland identified in a district or regional plan.
  - b. By 1 July 2025 for any natural wetland that is the habitat of threatened species or on low-slope land.
37. Within the Upper Taieri Scroll Plain, the exclusion of all stock from natural wetlands and non-intensively grazed beef cattle and deer from lakes and wide rivers on low slope land does not apply. This exemption is due to the size and complexity of these wetlands and the practical challenges with excluding stock. In addition, while preventing stock grazing can protect native species growing in wetlands, beneficial grazing can also result in the spread of pest species such as weeds. This exemption has been provided on the basis that ORC implements suitable provisions in its regional plan for managing grazing within the wetlands, as soon as reasonably practicable and no later than 1 July 2025. A map of the Upper Taieri Scroll Plain is linked within the Stock Exclusion Regulations.
38. The Stock Exclusion Regulations do not address how regional plans can or cannot manage stock exclusion. This means that a regional plan can include rules or be more restrictive than the Stock Exclusion Regulations.

### 3.21. The Water Plan

39. Wetlands are addressed throughout the Water Plan in relation to a number of activities. However, the primary chapters managing wetlands are as follows:
40. Chapter 10 contains objectives and policies for protecting Regionally Significant Wetlands.

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<sup>3</sup> Noting that there is a Bill before parliament to delete some of these regulations.

<sup>4</sup> Regulation 16, Stock Exclusion Regulations.

<sup>5</sup> Regulation 17, Stock Exclusion Regulations.

<sup>6</sup> Regulation 18, Stock Exclusion Regulations.

- a. Chapter 13 contains rules for land use on Regionally Significant Wetlands. This includes provisions relevant to the use, extension, alteration, placement, replacement reconstruction, demolition, or removal of particular structures, and the extraction of alluvium in Regionally Significant Wetlands.
  - b. Chapter 15 promotes methods other than rules that are used to achieve the objectives of the plan. Wetlands are noted and recognised within this chapter in a number of methods.
41. The Water Plan primarily focuses on the protection and management of Regionally Significant Wetlands. Policy 10.4.1 lists values associated with Regionally Significant Wetlands including:
42. Habitat for nationally or internationally rare or threatened species or communities
- a. Critical habitat for the life cycles of indigenous fauna which are dependent on wetlands
  - b. High diversity of wetland habitat types
  - c. High degree of naturalness
  - d. Wetland scarce in Otago in terms of its ecological or physical character
  - e. Wetland which is highly valued by Kai Tahu for cultural and spiritual beliefs, values and uses, including waahi taoka and mahika kai
  - f. High diversity of indigenous flora and fauna
  - g. Regionally significant wetland habitat of waterfowl
  - h. Significant hydrological values including maintaining water quality or low flows, or reducing flood flows
  - i. Any wetland over 800 metres above sea level (alpine wetlands).
43. Regionally Significant Wetlands are either mapped and specifically listed or within a wetland management area in Schedule 9 of the Plan, or are identified as those higher than 800 metres above sea level.

### **3.22. Issues with the status quo**

44. There are several issues with the status quo approach for managing wetlands in Otago, which can be categorised as:
- a. Limited recognition of wetlands other than Regionally Significant Wetlands in the Water Plan.
  - b. Gaps identified in the NESF and the NPSFM for managing wetlands that are not classified as a “natural inland wetland”.
  - c. Not all stock types with the potential to damage wetlands are required to be excluded from these water bodies under national direction.
  - d. Needing to recognise the exclusion of the Upper Taiari Scroll Plain wetland complex from the Stock Exclusion Regulations.
  - e. Misalignment with the direction provided in the pORPS.

### **3.22.1. Limited recognition of wetlands other than Regionally Significant Wetlands in the Water Plan**

45. The Water Plan focuses primarily on managing 'Regionally Significant Wetlands' as opposed to other wetland types which makes this considerably more permissive than the requirements in the NPSFM and NESF for all natural inland wetlands.
46. Local community and mana whenua aspirations, including those expressed in the long-term visions for Otago<sup>7</sup>, seek the protection or restoration of a broader range of wetland types beyond Regionally Significant Wetlands.

### **3.22.2. Gaps identified in the NESF and NPSFM for managing wetlands that are not classified as a "natural inland wetland"**

47. The definition of 'wetland' in the RMA is broad and captures wetlands with fresh water, coastal water, or both fresh and coastal water, while the term 'natural inland wetland' used in the NESF and NPSFM refers only to a specific subset of wetlands.
48. With the exclusion of some wetlands from the definition of natural inland wetland due to the dominance of pasture species, there is an increased risk of loss of these wetlands if ORC was to rely solely on implementing national direction, particularly ahead of the mapping and assessment required by the NPSFM. In this interim period prior to the completion of mapping, there is considerable uncertainty as to whether or not a wetland is a 'natural inland wetland' and subject to the NESF and Stock Exclusion Regulations. Several activities such as cultivation, drainage, earthworks or land disturbance, and spraying are likely to be particularly damaging to these wetlands if they are not managed appropriately.
49. Relevant national direction for wetlands does not consider constructed wetlands, which are encouraged in Otago due to their potential to reduce contaminant concentrations, provide flood management and buffer flows, and habitat for native species. It is important for these wetlands to be enabled while also managing any potential adverse effects from their construction, use and maintenance.
50. The NESF allows regional rules to be more stringent than the NES<sup>8</sup>. If a regional plan does impose a greater prohibition or restriction on an activity to which an NES applies, the section 32 evaluation report for the plan must examine whether that prohibition or restriction is justified in the circumstances of the relevant region<sup>9</sup>.

### **3.22.3. Not all stock types with the potential to damage wetlands are required to be excluded from wetlands under national direction**

51. The Stock Exclusion Regulations only restrict the access of cattle, pigs and deer to natural wetlands. Other livestock, including goats and horses, can also adversely affect wetland extent and values, including by damaging riparian vegetation and aquatic species, and degrading water quality. Grazing from heavy livestock, such as horses, are likely to pose the largest threat to wetlands given they can cause significant pugging in wetland areas,

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<sup>7</sup> LF-FW – Fresh water Chapter of the pORPS.

<sup>8</sup> Regulation (6)(1), NESF

<sup>9</sup> Section 32(4), RMA



resulting in overland flow, and runoff of nutrients and sediments. Goats are known to preferentially browse non-pasture species.

52. Further restrictions for additional stock types may be required to protect the extent and values of natural wetlands in the region. Feedback from the community on the need to restrict additional stock types from wetlands is mixed, with some considering that management under Freshwater Farm Plans would be more suitable than additional rules and consenting under the regional plan. Particular concerns have been raised regarding unintended consequences for landowners from going beyond the Stock Exclusion Regulations, particularly regarding the exclusion of sheep and the associated costs of fencing or other exclusion methods.

#### **3.22.4. Needing to align with the exclusion of the Upper Taiari Scroll Plain wetland complex from the Stock Exclusion Regulations**

53. The exclusion of all stock from natural wetlands and non-intensively grazed beef cattle and deer from lakes and wide rivers on low slope land under the Stock Exclusion Regulations does not apply within the Upper Taiari Scroll Plain. Any provisions relating to stock exclusion from wetlands in the pLWRP may also need to recognise this exemption.

#### **3.22.5. Misalignment with the direction provide in the pORPS**

54. The decisions on the pORPS have significantly shifted expectations for the protection of wetlands, particularly those that are not 'natural inland wetlands'. Acknowledging that several of those pORPS decisions have been appealed, it still sets a substantially different direction to the status quo of the RPW and the NESF. The policy direction in the pORPS requires consideration of regulatory and non-regulatory approaches and requires a co-ordinated approach to improving wetland health, of which the pLWRP provisions are one part.

## **4. Objectives**

55. Section 32(1)(b) requires an examination of whether the provisions in a proposal are the most appropriate way to achieve the objectives. The objective most relevant for this topic is:
- a. All of the objectives in the IM – Integrated management chapter, and
  - b. All of the environmental outcomes included as objectives in chapters FMU1 to FMU5 (including chapters CAT1 to CAT5); and
  - c. WET-01 – Protecting wetlands.

## **5. Options: Managing wetlands**

### **5.20. Discounted options**

56. Prior to the decisions on the pORPS being released, three reasonably practicable options were identified to achieve the objectives. These options are now not considered to appropriately recognise the policy direction of the decisions version of the pORPS and are no longer considered reasonably practicable options:

- a. **Option 1:** Implement national direction under the NESF, NPSFM and Stock Exclusion Regulations to manage activities within and adjacent to natural inland wetlands (no additional stringency).
- b. **Option 2:** Implement national direction under the NESF, NPSFM and Stock Exclusion Regulations to manage activities within and adjacent to natural inland wetlands + include a consenting pathway for constructed wetlands.
- c. **Option 3:** Implement national direction under the NESF, NPSFM and Stock Exclusion Regulations to manage activities within and adjacent to natural inland wetlands + include additional controls for a wider range of wetland types and exclude other heavy livestock and goats (additional stringency)

#### **5.20.1. Option 1: Implement national direction under the NESF, NPSFM and Stock Exclusion Regulations to manage activities within and adjacent to natural inland wetlands**

- 57. This option adopts the mandatory policies from the NPSFM and relies on implementing the restrictions in the NESF and Stock Exclusion Regulations for managing natural inland wetlands without any duplication or additional stringency in the regional plan. Implementing the national direction imposes additional restrictions from the status quo under the Water Plan. A key part of this option is the use of the effects management hierarchy in the NPSFM. This requires adverse effects on natural inland wetlands to be avoided, minimised, remedied, offset, or compensated for, in order to avoid the loss of extent or values.
- 58. Under this option, the pLWRP would contain some limited policy direction to protect natural inland wetlands and encourage their restoration (as required by the NPSFM) and rely on the regulations set out in the NESF to manage a range of activities within or near natural inland wetlands including wetland maintenance, restoration, and biosecurity.

#### **5.20.2. Option 2: Implement national direction under the NESF, NPSFM and Stock Exclusion Regulations to manage activities within and adjacent to natural inland wetlands + include a consenting pathway for constructed wetlands**

- 59. Similar to Option 1, Option 2 largely relies on implementing existing national direction to manage activities within and adjacent to natural inland wetlands, and providing some limited policy direction to encourage restoration of natural inland wetlands. However, Option 2 includes an additional definition, policy and rules to enable the construction, use and maintenance of constructed wetlands.
- 60. By including an enabling policy for constructed wetlands, the benefits of this type of wetland are acknowledged. Option 2 proposes to enable the construction and ongoing use of these wetlands, subject to conditions that will allow compliance action, should there be any issues. Option 2 also acknowledges previous direction during the development of options that supports the management and retention of other wetland types rather than just natural inland wetlands.

**5.20.3. Option 3: Implement national direction under the NESF, NPSFM and Stock Exclusion Regulations to manage activities within and adjacent to natural inland wetlands + include additional recognition and controls for a wider range of wetland types and exclude other heavy livestock and goats**

61. Option 3 goes beyond Options 1 and 2, by including further controls for natural wetlands and stock exclusion. This is intended to further protect the health and well-being of these water bodies and avoid further loss of wetlands' values and extent.
62. As stated, the NESF and NPSFM only provide direction for managing natural inland wetlands. A wider range of wetlands are managed in Option 3. As well as a permitted activity pathway being introduced for constructed wetlands, natural wetlands have also been acknowledged within the policies and rules. The proposed provisions in Option 3 are described below.
  - a. *Grazing in natural inland wetlands*
63. Option 3 permits the use of land for grazing within a natural inland wetland (excluding the Upper Taiari Scroll Plain area) until 30 June 2025, providing the conditions are met:
  - a. The grazing complies with the Stock Exclusion Regulations,
  - b. The grazing does not occur within a drinking water protection zone.
64. The proposed definition of livestock includes any farmed animal. Therefore, this option is more restrictive than the Stock Exclusion Regulations as it captures other stock types, such as sheep. This stringency is justified by the need to protect drinking water supplies. As evident in the outbreak of gastroenteritis in Havelock North in August 2016, it is important to manage the access of other stock types, such as sheep, to protect drinking water protection zones.<sup>10</sup>
65. Option 3 also permits the use of land for grazing within a natural inland wetland (excluding the Upper Taiari Scroll Plain area) after 1 July 2025, providing the conditions are met. The conditions require the following:
  - a. The grazing complies with the Stock Exclusion Regulations,
  - b. The grazing does not occur within a drinking water protection zone,
  - c. The livestock is not heavy livestock (such as cattle, buffalo, pigs, deer, horses or like species,
  - d. The grazing does not occur within the habitat of threatened species,
  - e. The grazing is not on low slope land, or if on low slope land, the natural inland wetland is less than 0.05 hectares in area.
66. If the activities do not comply with the permitted activity conditions above, a resource consent is required as a discretionary activity.
67. The additional stringency for capturing all livestock in the permitted activity pathway is necessary to protect drinking water supplies, habitats of threatened species and natural inland wetlands on low slope lands from potentially damaging grazing activities. Protection of these areas are all key objectives of the pLWRP and respond to direction from mana

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<sup>10</sup> Sheep faeces were the likely source of the campylobacter in the outbreak of gastroenteritis in Havelock North in 2016 (Government Inquiry into Havelock North Drinking Water, 2017).

whenua and local communities. Requiring resource consent for heavy livestock is necessary to ensure that these higher risk activities are appropriately managed.

#### 5.20.3.1. Use of land within natural wetlands

68. Option 3 permits the use of land within a natural wetland that has not been classified as a natural inland provided the activity does not include the following:
- a. Cultivation,
  - b. Installing new sub-surface or open drains in the wetland, or
  - c. Earthworks or land disturbance, other than for the installation of a fence or utility lines and pipes, or
  - d. Herbicide spraying, unless undertaken using targeted ground application methods.
69. The definition of natural wetland reads:
- means a wetland (as defined in the RMA) that is not:*
- a. *a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland; or*
  - b. *a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body.*
70. If the activity does not comply with the permitted activity conditions, a resource consent is required as a discretionary activity.
71. Requiring resource consent for the above activities is considered appropriate to avoid the loss of extent and condition of wetlands, acknowledge their vulnerability in the interim period before mapping of wetlands is completed, utilise their potential for wetland restoration, and acknowledge their values to mana whenua and local communities in Otago.

#### 5.20.3.2. Constructed wetlands

72. Option 3 provides a permitted activity pathway for the construction, use and maintenance of a constructed wetland, including the associated take, use, or diversion of water, and discharge of excess or overflow water from the constructed wetland into surface water, provided the conditions are met. These conditions include information being provided to ORC prior to the activity commencing.

### 5.21. Reasonably practicable options

73. Following the decisions being released on the pORPS, and the release of the Resource Management (Freshwater and Other Matters) Amendment Bill 2024, the preceding options were considered unlikely to appropriately take into account the new policy direction in the pORPS and two further options were identified:
- a. **Option 4:** Option 3 with strengthening of protections for coastal wetlands, a stand-alone stock exclusion framework, and a future framework to protect a wider range of wetlands (preferred option).

- b. **Option 5:** Immediate implementation of protections on all wetland types, including stock exclusion (including sheep) and equivalent controls to the NESF on all natural wetlands (not just 'natural inland wetlands')

**5.21.1. Option 4: Option 3 with strengthening of protections for coastal wetlands, a stand-alone stock exclusion framework, and a future framework to protect a wider range of wetlands (preferred option)**

- 74. Option 4 implements the decisions version of the pORPS with a staged implementation approach. The staged approach will allow time for:
- 75. The High Court and Environment Court appeals on the relevant pORPS provisions to be resolved or narrowed; and
  - a. Potential amendments to national directions, including the signalled changes to the NPSFM, NESF and stock exclusion regulations, to come into effect; and
  - b. Non-regulatory approaches related to wetlands to be implemented; and
  - c. ORC's mapping of wetlands to be completed.
- 76. The staged approach takes guidance from the language used in the relevant pORPS provisions, which suggest that ORC does not need to take a fully regulatory approach to managing wetlands, providing some flexibility for the pLWRP provisions.
- 77. Option 4 would include a staged framework that:
  - a. Protects natural inland wetlands in a manner similar to Option 3; and
  - b. Increases protection for coastal wetlands, where those wetlands extend landward of the coastal marine area; and
  - c. Protects other natural wetlands from particularly adverse effects or activities, including those that are likely to result in the permanent destruction of natural wetlands. Compared to Option 3, this could result in a broader approach than just stock exclusion, capturing other aspects such as hydrological functioning, extent of wetland, and weed and pest management, as all of these matters need to be considered and work in tandem to improve wetland health; and
  - d. Expands the enabling provisions included in Option 3, to provide for the creation of new wetlands, and the restoration of degraded wetlands, such that there are fewer barriers to these activities, and more support for positive actions.
  - e. Includes a regulatory 'backstop' which would kick in, in 2030, to fully implement the pORPS.
- 78. For the regulatory 'backstop', the following changes will be required to Option 3:
  - a. Expand the scope of the policies and rules to apply to all wetlands, not only natural wetlands or natural inland wetlands; and
  - b. Strengthen rules for all wetlands, to ensure that the loss of extent of any wetland is avoided. This strengthening would align with the Option 3 restrictions for natural inland wetlands. Under Option 4, permitted activities are likely to be very limited, and new infrastructure is unlikely to be a permitted activity. A key change from Option 3 is the

likely need to exclude all stock from natural inland wetlands, and only allowing grazing of other wetlands where it will enhance wetland values; and

- c. Include specific additional restrictions for wetlands in the coastal environment.

79. Under Option 4, the WET provisions in the pLWRP would need to be updated via a variation or plan change in the future, if the pORPS policy settings for wetlands change through the appeals process, or if there is new or amended national direction (unless these changes occurred, and were able to be implemented through the pLWRP hearing process). A plan change or variation to the pLWRP is already planned to incorporate the results of the existing wetland mapping work programme, with any additional amendments able to be included as part of that plan change or variation. At the time of the variation or plan change, ORC could use the mapping information to allow for a more tailored and responsive managed approach for wetland to be taken in the LWRP. In the interim, the 'regulatory backstop' would provide clear direction for the future, if the current situation is continued, and give time for non-regulatory methods to develop.

#### **5.21.2. Option 5: Immediate implementation of protections on all wetland types, including stock exclusion (including sheep) and equivalent controls to the NES-F on all natural wetlands (not just 'natural inland wetlands')**

80. Option 5 amends Option 3 to give full effect to the decisions version of the pORPS. Option 5 will immediately implement all aspects of Option 4, including the regulatory 'backstop'.
81. Option 5 would be a considerable shift from Option 3 in terms of the nature and extent of wetlands managed, and the level to which they are required to be managed.
82. Option 4 would likely result in significant implementation issues. For example, the requirement to exclude all stock from natural inland wetlands is unlikely to align with expectations of some communities, and all come at a significant cost in terms of fencing and loss of productive land. Another example would be the strong direction for all infrastructure to be located outside of wetlands, which would have significant impacts for resource consent processes.

### **5.22. Clause 3 consultation feedback**

83. Feedback was provided through clause 3 consultation, with the provisions that were circulated to clause 3 parties being most closely aligned with Option 3. The feedback provided was largely split between:
- a. Those parties who consider the provisions in the WET chapter are unnecessary, and that the Council should rely on the NESF and Stock Exclusion Regulations; and
  - b. Those parties that consider the provisions in the WET chapter are not restrictive enough to prevent the further loss of wetlands, and that the provisions of both the pLWRP and NESF should be extended to protect all wetlands.
84. In addition to these general feedback summaries, specific feedback was also received on vehicle access to wetlands and the mapping of wetlands, being:
- a. There is a gap in the protection of natural inland wetlands from damage through vehicle access, as it is not covered by the NESF, or current pLWRP provisions; and

- b. There is uncertainty on the ground about whether a wetland might be a 'natural wetland', or a 'natural inland wetland'.
85. Feedback was received from iwi authorities seeking that:
- a. The objective and policies address the maintenance and improvement of water quality in wetlands, and additional clarity is provided regarding habitat outcomes.
  - b. The objective considers resilience as well as health, not instead of it.
  - c. Drafting is included to ensure that broader objectives and policies in the pLWRP, including strategic provisions, are considered during decision-making on resource consents, rather than just the mandatory policy direction required by the NPSFM.
  - d. Changes are made to strengthen the policies to be more consistent with WET-O1.
  - e. Provisions are amended to clarify the approach to managing grazing in the Upper Taiari Scroll Plain ahead of development of a management plan.
  - f. Additional restrictions are included for intensive grazing on sloping land adjoining wetlands due to the high risk to water quality.
  - g. Irrigation and erection of structures in natural wetlands should require consent due to the potential effects on wetland values identified in WET-O1.
  - h. Rules should be reviewed for consistency with the rules and general conditions for activities near natural inland wetlands in the NESF and to ensure that the rules are not interpreted as being more lenient.
  - i. For constructed wetlands, exclusions should be included for wetlands constructed for the purpose of wastewater treatment and those constructed close to rock art sites. Considerations should be made in respect to mana whenua values associated with specific sites.
86. Significant changes were made to the WET chapter following clause 3 consultation, mainly in response to the decisions version of the pORPS. Despite the primary reasoning for the changes, the amendments addressed a range of feedback from clause 3 parties, including Aukaha, particularly where they related to providing additional restrictions to protect a broader range of wetland types. Amendments included:
- a. Adding a new policy that explains the time-staged approach to implementing the pORPS decisions.
  - b. Applying the policies to all natural wetlands, rather than the smaller group of natural inland wetlands.
  - c. Providing additional protections to coastal wetlands, including their landward extent.
  - d. Maintaining the approach to requiring fencing of natural inland wetlands, with a new requirement to fence a larger range of wetlands from 2030.
  - e. Adding goats to the livestock to be excluded from wetlands.
  - f. Applying the controls in the NES to all natural wetlands from 2030.
87. Other changes related to including restrictions on vehicle access and resulting damage to natural inland wetlands and expanding the constructed wetland rule to be more permissive.



### 5.23. Clause 4A consultation feedback

88. No specific clause 4A feedback was received on the provisions in the WET chapter.

### 5.24. Effectiveness and efficiency assessment

89. Table 2 below identifies and assesses the environmental, cultural, social, and economic benefits and costs anticipated from implementing the provisions proposed in Options 4 and 5 above.
90. It is difficult to assess the extent to which each option below may provide for or reduce opportunities for economic growth and employment, particularly prior to the mapping of wetlands. At a high-level, options which restrict activities within wetlands are likely to have negative impacts on economic growth and employment, due to the constraints associated with undertaking activities within or near natural wetlands. Prior to the mapping of wetlands, there options are likely to increase uncertainty in relation to the management of all potential wetland areas.

Table 1: Benefits and costs for wetlands

	BENEFITS	COSTS
<b>Option 4 (preferred option)</b>	<ul style="list-style-type: none"> <li>A permitted activity pathway for constructed wetlands will incentivise the benefits of these wetlands and provide greater certainty regarding their construction, maintenance and use. This will provide greater certainty to individuals.</li> <li>Clear provisions for stock exclusion, aligning with national direction, with additions for heavy stock and goats, will reduce the risk of stock entering the wetland areas. Additional restrictions for livestock in drinking water protection zones and heavy livestock and goats in natural inland wetlands will ensure these areas are protected for communities, now and into the future.</li> <li>In the longer term (post 2030) the benefits of protecting a wider range of wetland types will increase benefits to future generations, and improve the health and well-being of waterbodies and freshwater ecosystems.</li> <li>The two-stage approach allows non-regulatory actions, such as pest control and hydraulic connections to be better managed over time, to align with the</li> </ul>	<ul style="list-style-type: none"> <li>More new activities are likely to require resource consent compared to the status quo, which will create additional costs for resource consent applicants and Council. Non-notified and limited-notified consent application deposits are \$3,000, while publicly notified application deposits are \$25,000. These costs do not include the cost to prepare a consent application, nor any processing costs that may be incurred over and above the deposit. Additional consents will also increase the monitoring and compliance required to be undertaken of Council staff.</li> <li>Fencing (or other exclusion methods) may be required to meet increased stringency in stock exclusion. This will present a cost to some landowners and may result in future costs in relation to weed and pest management within setbacks. As stock exclusion costs are required by the existing national regulations, the additional categories of stock to be excluded are likely to create only</li> </ul>



	BENEFITS	COSTS
	<p>mapping outcomes and higher level of post 2030 protections.</p> <ul style="list-style-type: none"> <li>Improving the health of natural inland and natural wetlands (and connected water bodies) will overtime contribute to strengthening the Kāi Tahu economy by improving their role as a source of mahika kai.</li> </ul>	<p>minimal additional fencing costs. The exception to this is for goats, which will require more substantial fencing. However, as there are only around 2000 farmed goats in Otago, this cost is expected to be low.</p> <ul style="list-style-type: none"> <li>The longer-term (post 2030) costs of stock exclusion and other protections of a much wider array of wetlands will come at very considerable (at least tens of millions) costs to landowners and urban authorities. Initial mapping has shown that there are many thousands of natural wetlands in Otago, which in the long-term will require complete stock exclusion and other protections.</li> </ul>
<b>Option 5</b>	<ul style="list-style-type: none"> <li>A permitted activity pathway for constructed wetlands will incentivise the benefits of these wetlands and provide greater certainty regarding their construction, maintenance and use. This will provide greater certainty to individuals.</li> <li>The benefits of protecting a wider range of wetland types will increase benefits to future generations, and improve the health and well-being of waterbodies and freshwater ecosystems.</li> <li>Protection of a wide range of wetlands will improve the health and well-being of waterbodies and freshwater ecosystems.</li> <li>Improved freshwater quality and quantity in wetlands (and connected water bodies) will enhance mauri and provide for Kāi Tahu cultural and spiritual beliefs, values, and uses, and broader social values within communities.</li> <li>Improving the health of wetlands will have positive impacts for the Kāi Tahu</li> </ul>	<ul style="list-style-type: none"> <li>More new activities are likely to require resource consent compared to the status quo, which will create additional costs for resource consent applicants and Council. Non-notified and limited-notified consent application deposits are \$3,000, while publicly notified application deposits are \$25,000. These costs do not include the cost to prepare a consent application, nor any processing costs that may be incurred over and above the deposit. Additional consents will also increase the monitoring and compliance required to be undertaken of Council staff.</li> <li>For activities that are currently consented, there will be a cost to reconsenting under the new policy direction, which is generally more directive and restrictive than the Water Plan. As such, more detailed assessments may be required.</li> <li>Costs of stock exclusion and other protections of a much wider array of wetlands will come at very considerable (at least tens of</li> </ul>

	BENEFITS	COSTS
	economy by improving the role of wetlands as a source of mahika kai.	<p>millions) costs to landowners and urban authorities. Initial mapping has shown that there are many thousands of natural wetlands in Otago, which will require complete stock exclusion and other protections.</p> <ul style="list-style-type: none"> <li>▪ The immediate nature of the protections and stock exclusion will cause compliance difficulties for many landowners, remove extensive areas of productive land, and will not be aligned with other protection mechanisms, such as pest management.</li> <li>▪ Uncertainty created by a lack of mapping will increase costs and stress to individuals and the Council, as it will be less clear where the wetlands are located.</li> <li>▪ The previously signalled approach to the Taiari Scroll Plain wetlands, and the work the Council is undertaking with the community, will be wasted and will cause a loss of goodwill and cease positive actions occurring.</li> </ul>

91. Table 3 below assesses the effectiveness and efficiency of Options 4 and 5 in achieving the objectives.

Table 2: Effectiveness and efficiency assessment for wetlands

Effectiveness	
<b>Option 4 (preferred option)</b>	<ul style="list-style-type: none"> <li>▪ Option 4, in providing an initial level of protection for a wider range of wetlands, establishing a 'backstop' if the Stock Exclusion Regulations are removed for wetlands, and providing a future framework for once appeals are settled on the pORPS and the mapping is completed is an effective option. This option resolves the known issues with the status quo, and provides a clear pathway to applying the policy direction in the pORPS.</li> </ul>
<b>Option 5</b>	<ul style="list-style-type: none"> <li>▪ Option 5, the immediate implementation of all facets of Option 4 is also an effective option, particularly in view of the policy direction in the pORPS which is implemented by the objectives in the pLWRP.</li> </ul>
Efficiency	

<b>Option 4 (preferred option)</b>	<ul style="list-style-type: none"> <li>Option 4 is an efficient option. The short-to medium term benefits outweigh the costs, particularly due to the wide range of environmental benefits provided to local communities through the protection of natural wetlands. In the longer term (after 2030) the costs increase significantly, due to the need to undertake wide ranging wetland protection and stock exclusion.</li> <li>The policies in Option 4 seek to direct decision-making in wetland management to ensure that the objectives of relevant to the WET chapter which implement the new policy direction in the pORPS are met, both in the short and long-term. Option 4 is likely to require additional resource consents and increased costs for resource users and Council (due to consenting and compliance requirements), particularly after 2030. This option will likely limit the growth of some new activities and constrain some existing activities. However, the improvement of wetlands throughout the region is likely to achieve the highest net benefit to communities.</li> <li>Providing permitted activity pathways for desirable activities, such as constructing and maintaining wetlands will reduce initial costs to people wanting to construct a wetland, and will provide longer term certainty for these activities and environmental improvements.</li> </ul>
<b>Option 5</b>	<ul style="list-style-type: none"> <li>Option 5 is a less efficient option, in that there will be significantly increased costs due to the need to undertake wide ranging wetland protection and stock exclusion in the short-term, when compared to Option 4. Option 5 is likely to require additional resource consents and increased costs for resource users and the Council (due to consenting and compliance requirements). This option will likely limit the growth of some new activities and constrain some existing activities.</li> <li>Providing permitted activity pathways for desirable activities, such as constructing and maintaining wetlands will reduce initial costs to people wanting to construct a wetland, and will provide longer term certainty for these activities and environmental improvements.</li> </ul>

## 5.25. Stringency

92. Section 32(4) of the RMA requires specific assessment of provisions that are more stringent than a NES:

*(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.*

93. The NESF enables a rule in a regional plan to be more stringent than the NESF (Regulation 6(1).

94. The preferred option, Option 4, imposes a greater restriction on an activity to which the NESF applies. The stringency assessment is summarised in the following table:

Table 3: Stringency assessment

Summary of relevant rules	NESF regulations	Summary of additional stringency	Justification
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Rules applying to a wider range of wetlands than natural inland wetlands	Regulations apply only to natural inland wetlands	<p>Rule WET-R2 is more stringent as it seeks to manage vehicle access to natural inland wetlands – an activity not managed by the NESF.</p> <p>Rule WET-R3 is more stringent as it seeks to (until 2030) restrict some potentially destructive activities in a wider range of wetlands than the natural inland wetlands managed under the NESF.</p> <p>Rule WET-R4 seeks to apply all NESF provisions to the full range of natural wetlands from 2030. This is more stringent as it applies to a wider range of wetlands than the natural inland wetlands managed under the NESF.</p>	<p>The additional stringency is considered to be justified in the circumstances of the Otago Region as the decisions on the proposed ORPS have specific and directive objectives and policies regarding <u>all</u> wetlands. In particular, the pORPS requires the application of NPSFM Policy 3.22 to a wide range of wetlands.</p> <p>As the mapping required by Policy 3.23 of the NPSFM has not been completed for Otago, and as some of the pORPS wetland provisions are subject to appeal, the staged approach in Rules WET-R3 and WET-R4 is preferred.</p>
Rules applying all NESF protections to all natural wetlands after 2030			

## 5.26. Risk of acting or not acting

95. Section 32(2)(c) of the RMA requires ORC to take into account the risk of acting or not acting if there is uncertain or insufficient information. There is limited information about the nature and extent of some activities affecting wetlands in the Otago region, particularly for activities permitted under the RPW and where wetlands have not yet been mapped. As such, there is a level of uncertainty regarding the full impacts of implementing Option 4. There is further uncertainty given the appeals on the pORPS decisions and the progress of the RMA Amendment Bill, which may remove much of the national-level wetland stock exclusion requirements. However, there is sufficient information about the current issues with wetland management under the status quo and the associated environmental, social and cultural impacts in Otago. The deficiencies of the RPW for managing wetlands and activities surrounding are well understood. This warrants the implementation of a more restrictive regime with a staged approach toward the more costly and intrusive controls. Overall, the information supporting Option 4 is suitably certain and sufficient that there is a minimal risk of acting compared to the status quo.

## 5.27. Conclusion

96. The effectiveness and efficiency assessments have indicated that overall, the proposed amendments under option 4 are more efficient than the status quo and are effective at achieving the objectives of the pLWRP. The pLWRP is required to give effect to the pORPS, and national policy statements including the NPSFM. The proposed provisions under option 4 fulfil the requirements of the NPS-FM and are more stringent than the NESF and Stock

Exclusion Regulations to manage a variety of wetlands, land use within these wetland areas, and additional stock to be excluded from natural inland wetlands, particularly to adopt the direction in the pORPS, over time. Given the efficiency and effectiveness of this option, and the cost-benefit analysis undertaken, option 4 is regarded as the most appropriate way to achieve the objectives of the pLWRP.

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