

**SUMMARY OF EVIDENCE OF MAGGIE ROSE BURNS – PROPOSED OTAGO REGIONAL POLICY
STATEMENT (PORPS): FRESHWATER PLANNING INSTRUMENT**

1. Tena koutou. Ko Maggie Burns ahau. I was asked to provide rebuttal planning evidence on this matter on behalf of Forest and Bird. I take my statement of evidence as read but would like to reiterate and summarise some key points.

BIODIVERSITY OFFSETTING AND ENVIRONMENTAL COMPENSATION

2. In paragraphs 16-26 I respond to evidence from Ms Mcleod (on behalf of Transpower) and Ms Hunter (on behalf of Oceana Gold) regarding the concerns with the use of the ecosystem chapter effects management hierarchy, and relevant offsetting and compensation principles, rather than those in the National Policy Statement for Freshwater Management (NPS-FM). I agree with the recommendation of Ms Boyd to manage aquatic biodiversity under a more stringent hierarchy, particularly given the high threat status of many of Otago's freshwater species which is noted in the evidence of Dr Dunn.
3. There is nothing preventing a local authority from adopting more stringent measures than required by the NPS-FM.
4. I acknowledge further supplementary evidence which, insofar as it is relevant to the freshwater provisions being considered, discusses the implication of the introduction of the National Policy Statement for Indigenous Biodiversity (NPS-IB). I support the recommendations of Ms Boyd on this matter in their 42A report (dated 2 June 2023), specifically that it is not appropriate to manage aquatic biodiversity less stringently, particularly in the Otago context.
5. My opinion regarding the practicability of offsetting and compensation principles applying across terrestrial and freshwater environments in paragraphs 24-25 of my evidence continues to be relevant here. My reading of the NPS-IB is that it applies to terrestrial biodiversity, and while there are some allowances for natural inland wetlands, this protection is not comprehensive.
6. This is relevant to my evidence for Policy LF-FW-P9, paragraphs 48-49.

OBJECTIVE LF-WAI-O1A – REGION WIDE OBJECTIVE FOR FRESHWATER – NEW OBJECTIVE

7. I respond to the primary evidence of Ms Hunter in paragraphs 27-34 of my evidence regarding Objective LF-WAI-O1 about the outcomes specified in this new objective.
8. I respond to amendments to qualifying statements, including ‘appropriate provision’ rather than ‘as possible’ for passage of migratory fish and the use of ‘to the greatest extent practicable’ as a reflection of the required prioritisation of these matters.

OBJECTIVE LF-WAI-O1 – TE MANA O TE WAI

9. I disagree with Ms Hunter’s analysis that giving effect to Te mana o Te Wai requires ‘balancing’ of priorities in the NPS-FM for Objective LF-WAI-O1. In my opinion, the priority suggests a systematic approach to relative importance and if all three are prioritised, none are prioritised.

OBJECTIVE LF-FW-O9 - NATURAL WETLANDS

10. With regard to Objective LF-FW-O9 and the evidence of Ms Mcleod, I discuss the structure of relevant objectives, policies and methods, and why I do not consider it necessary to include an additional qualifier to this objective. I also note that the NPS-FM Clause 3.22 requires specifically a *policy* that provides pathways in certain circumstances, and this does not need to also be reflected in this objective.

POLICY LF-FW-P7A –WATER ALLOCATION

11. I discuss the suggested removal of ‘to the extent possible within limits’ from Ms Hunter to Policy LF-FW-P7A and recommend this is retained, and that explicit reference to limits within this policy minimises potential misinterpretation and ensures effective implementation of the NPS-FM, in particular Policy 11.

POLICY LF-FW-P10

12. In my rebuttal I respond to the evidence of Ms Hunter (on behalf of Oceana Gold) with regard to the use of ‘to the greatest extent practicable’ and ‘where possible’ in Policy LF-FW-P10 for restoring natural wetlands.

13. On reflection and further considering the primary evidence of Ms McIntyre (paragraphs 77 (a) and (b)), I think that 'where possible' may be more appropriate in this context.
14. The difference between 'where possible' and 'to the greatest extent practicable' may seem minimal, it is but important. 'Practicability' potentially limits the consideration to costs, rather than a more fulsome assessment of all relevant matters. Economic consideration may be appropriate in some contexts, however, given the loss that has occurred in relation to wetlands in the Otago Region and the aspirational objectives and mana whenua expressions of Te Mana o te Wai, I consider 'where possible' would reflect the local priority and context in order to give effect to the NPS-FM.
15. It is acknowledged that the policy is more stringent than the NPS-FM as the directive in Policy 6 for restoration is to 'promote'. This is true if either qualifying statement is used. As I discuss in reference to offsetting and compensation, there is nothing preventing a local authority from adopting more stringent measures than required by the NPS-FM and given the local context, I consider this appropriate.

METHOD LF-FW-M7

16. I respond to the evidence of Ms Craw (on behalf of Waka Kotahi) and Ms Mcleod regarding the concern that Method LF-FW-M7 does not direct district plans to provide flexibility for nationally and regionally significant infrastructure.
17. I acknowledge that Ms Craw has responded to this part of my evidence in her speaking notes for this hearing. I remain concerned that the proposed qualifiers may potentially overlook the protection requirements in Section 6(c). I continue to be of the opinion that a 'balanced approach' does not acknowledge the prioritisation elements of the NPS-FM and Te Mana o te Wai.
18. Thank you for the opportunity to speak. I am now happy to respond to any questions.