

## Strategy & Planning Committee, 13 May 2020



Meeting will be conducted via electronic audio/visual link and live streamed to YouTube.

### Members:

Hon Marian Hobbs, Chairperson	Cr Carmen Hope
Cr Michael Laws, Deputy Chairperson	Cr Gary Kelliher
Cr Hilary Calvert	Cr Kevin Malcolm
Dr Lyn Carter	Cr Andrew Noone
Cr Michael Deaker	Cr Gretchen Robertson
Mr Edward Ellison	Cr Bryan Scott
Cr Alexa Forbes	Cr Kate Wilson

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Liz Spector, Committee Secretary

13 May 2020 01:00 PM - 04:00 PM

## Agenda Topic

## Page

### 1. APOLOGIES

No apologies have been submitted.

### 2. ATTENDANCE

Staff in attendance will be noted.

### 3. 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.

### 4. 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.

### 5. PUBLIC FORUM

Requests to speak must be made to the Committee Secretary on 0800 474 082 or [liz.spector@orc.govt.nz](mailto:liz.spector@orc.govt.nz) at least 24 hours before the meeting; however, this requirement may be waived by the Chairperson.

### 6. PRESENTATION

Manuherehia Reference Group Chair Alec Neill and Andrew Newman will update the Committee members on the purpose, approach and progress of their work.

### 7. ACTIONS

There are no outstanding actions of the Strategy and Planning Committee.

### 8. Confirmation of Minutes

3

#### 8.1 [Minutes of the 22 January Strategy and Planning Committee](#)

3

9.	MATTERS FOR DECISION	7
9.1	<b>CONSIDER PROPOSED APPROACH FOR DEVELOPMENT OF A NEW LAND AND WATER PLAN</b>	7
	The purpose of this paper is to provide the Otago Regional Council with an outline of the proposed approach for developing the proposed new Land and Water Regional Plan, to be notified by 31 December 2023	
9.1.1	<b>Attachment 1: Draft Architecture</b>	20
9.1.2	<b>Attachment 2: FMU Structure</b>	21
10.	MATTERS FOR NOTING	22
10.1	<b>RESOURCE MANAGEMENT AMENDMENT BILL AND IMPLICATIONS FOR ORC</b>	22
	This report is provided to update the Committee on proposed amendments to the Resource Management Act 1991 (RMA) following select committee deliberations on the Resource Management Amendment Bill.	
10.1.1	<b>Attachment 1: Diagram of differences between standard planning process and proposed freshwater process</b>	27
10.1.2	<b>Attachment 2: ORC submission on Resource Management Bill</b>	28
10.2	<b>MfE RELEASE OF OUR FRESHWATER 2020 AND ITS KEY FINDINGS</b>	38
	To inform Council of the release by the Ministry for the Environment & Stats NZ of the publication titled Our Freshwater 2020, and of its key findings.	
10.2.1	<b>Attachment 1: Issues that affect our freshwater environment</b>	45
10.2.2	<b>Attachment 2: Issues overlap and have cumulative effects on Inanga</b>	46
10.3	<b>THREE WATERS INVESTIGATION</b>	47
	To inform Otago and Southland area councils that work is underway to investigate ways to collaborate in the management of drinking water, storm water and wastewater (three waters) in response to the Government's Three Waters Review.	
11.	CLOSURE	



Minutes of a meeting of the Strategy and Planning Committee  
held in the Council Chamber on Wednesday, 22 January 2020 at  
1:00 pm

**Membership**

Hon Marian Hobbs	<i>(Co-Chair)</i>
Cr Michael Laws	<i>(Co-Chair)</i>
Cr Hilary Calvert	
Cr Michael Deaker	
Cr Alexa Forbes	
Cr Carmen Hope	
Cr Gary Kelliher	
Cr Kevin Malcolm	
Cr Andrew Noone	
Cr Gretchen Robertson	
Cr Bryan Scott	
Cr Kate Wilson	

**Welcome**

Cr Hobbs welcomed Councillors, members of the public and staff to the meeting at 01:11 pm.

*For our future*

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | [www.orc.govt.nz](http://www.orc.govt.nz)

## 1. APOLOGIES

### Resolution

*That the apologies for Edward Ellison be accepted.*

Moved: Cr Kelliher

Seconded: Cr Hope

CARRIED

Cr Scott was attending the meeting remotely via telephone.

Cr Laws joined the meeting at 1:20 p.m.

## 2. ATTENDANCE

Sarah Gardner *(Chief Executive)*

Nick Donnelly *(General Manager Corporate Services and CFO)*

Gavin Palmer *(General Manager Operations)*

Sally Giddens *(General Manager People, Culture and Communications)*

Richard Saunders *(General Manager Regulatory)*

Gwyneth Elsum *(General Manager Policy, Strategy and Science)*

Amanda Vercoe *(Executive Advisor)*

Liz Spector *(Committee Secretary)*

Also in attendance were: Anita Dawe (Acting Manager Policy), Tom de Pelsemaeker (Team Leader Freshwater), Lisa Hawkins (Team Leader RPS, Air and Coast), Joanna Gilroy (Manager Consents), Simon Wilson (Manager Consent Systems and Administration), Ryan Tippet (Media Communications Lead), Eleanor Ross (Manager Communications Channels) and Andrea Howard (Manager Good Water Programme). Neale Hudson, Manager Freshwater & Estuaries NIWA was also present.

## 3. CONFIRMATION OF AGENDA

The agenda was confirmed as circulated.

## 4. CONFLICT OF INTEREST

No conflicts of interest were advised.

## 5. PUBLIC FORUM

No public forum was held.

## 6. CONFIRMATION OF MINUTES

### Resolution

*That the public portion of the minutes of the Strategy and Planning Committee meeting held on 27 November 2019 be received and confirmed as a true and accurate record.*

Moved: Cr Hope

Seconded: Cr Noone

CARRIED

## Resolution

*That the public-excluded portion of the minutes of the Strategy and Planning Committee meeting held on 27 November 2019 be received and confirmed as a true and accurate record.*

Moved: Cr Deaker  
Seconded: Cr Hope  
CARRIED

## 7. ACTIONS

### Status report on the resolutions of the Strategy and Planning Committee

There are no outstanding actions.

## 8. MATTERS FOR NOTING

### 8.1. Manuherehia River Resource Assessment report

Gwyneth Elsum (GM Strategy, Policy and Science), Julie Everett-Hinks (Manager Science), Rachel Ozanne (Environmental Resource Scientist) and Dr Neale Hudson (NIWA Manager Freshwater and Estuaries) were present to answer questions about the Manuherehia River Resource Assessment staff report and NIWA water quality review. Cr Hobbs noted the report had been presented to Council as part of a previous agenda but was withdrawn prior to consideration due to some concerns over possible errors in the report. Mr Hudson said the errors were not scientific in nature and involved transposing two columns of information in a table in the report. He noted the errors had been corrected and the study resubmitted to the ORC.

Cr Laws noted elevated levels of *e. coli* reported at some of the sites and asked what was going to be done with the results of the study. Chief Executive Sarah Gardner said when dealing with catchments that provide drinking water, ORC would respond immediately to work with the community to find the source of the contamination. She noted in this particular case, the *e. coli* contamination is taking place over time. She said assumptions as to the source of the contamination can be made based on the activities occurring in particular catchments, notably animal effluent and birds. Cr Laws said if a particular issue had been identified, ORC should determine remedial actions to be taken on clear breaches of consent conditions. Cr Malcolm said the ORC should have a consistent approach to consent breaches and continue discussions with the community to inform and educate. Cr Hobbs moved the report be accepted.

## Resolution

*That the Council:*

1) **Notes** this report.

Moved: Cr Hobbs  
Seconded: Cr Robertson  
CARRIED

## 8.2. Regional Policy Statement Review - Programme for 2020

Gwyneth Elsum (GM Strategy, Policy and Science) and Anita Dawe (Acting Manager Policy) were present to answer questions about the proposed RPS Review Programme for 2020. After a general discussion, the Councillors noted the Communications and Engagement Plan was comprehensive and workable but requested staff to include information in newspapers other than the Dunedin papers to reach more of the wider Otago community. Cr Forbes stressed that a full range of communications channels be used, including print, online consultation, and in person. After further discussions, Cr Hobbs made a motion.

### Resolution

*That the Council:*

- 1) **Receives** this report.
- 2) **Notes** the attached work programme for 2020.
- 3) **Notes** the attached Communications and Engagement Plan.

Moved: Cr Hobbs  
Seconded: Cr Forbes  
CARRIED

Cr Laws moved a secondary motion.

### Resolution

*That the Council:*

- 1) **Requests** staff to present a revised communications and engagement plan to the 29 January 2020 Council Meeting for approval.

Moved: Cr Laws  
Seconded: Cr Kelliher  
CARRIED

## 9. CLOSURE

There was no further business and Cr Hobbs declared the meeting closed at 02:53 pm.

---

Chairperson

---

Date

### 9.1. Proposed approach for developing a new Land and Water Regional Plan

<b>Prepared for:</b>	Strategy and Planning Committee
<b>Report No.</b>	P&S1845
<b>Activity:</b>	Governance Report
<b>Author:</b>	Tom De Pelsemaeker, Team Leader Freshwater and Land
<b>Endorsed by:</b>	Gwyneth Elsum, General Manager Strategy, Policy and Science
<b>Date:</b>	13 May 2020

---

#### PURPOSE

- [1] The purpose of this paper is to provide the Otago Regional Council with an outline of the proposed approach for developing the proposed new Land and Water Regional Plan, to be notified by 31 December 2023.

#### EXECUTIVE SUMMARY

- [2] The Otago Regional Council is embarking on a full review of the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago, to contribute to a new Land and Water Regional Plan by 31 December 2023.
- [3] The proposed new Land and Water Regional Plan must give full effect to higher order planning documents including the Resource Management Act 1991 and any relevant national policy statements and ORC's new proposed RPS (to be notified by November 2020), while also taking into account relevant iwi planning documents.
- [4] A structure for the proposed new Land and Water Regional Plan, which follows the mandatory format pre-scribed by the National Planning Standards, has been drafted and a number of high-level principles are proposed that will guide the development of the region-wide and area-based provisions of the new Land and Water Regional Plan.
- [5] Staff have developed a proposal for a tiered governance structure, with clearly defined roles and responsibilities. This structure, which has been discussed with iwi partners, looks to ensure the efficient and timely delivery of the new Land and Water Regional Plan and its FMU specific provisions.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Adopts** the proposed approach for developing a new Land and Water Regional Plan

#### BACKGROUND

- [6] On 31 October 2018, Otago Regional Council (ORC) adopted a Progressive Implementation Programme (PIP), which outlines the staged implementation of actions
-

that the ORC will undertake to implement the National Policy Statement for Freshwater Management 2014 (amended 2017) (NPSFM). As part of this implementation process ORC committed to undertake a full review of its operative Regional Plan: Water for Otago (Water Plan) under Section 79 of the Resource Management Act 1991 (RMA) and develop a new Land and Water Regional Plan (LWRP) to be notified by 31 December 2025.

- [7] In May 2019 the Minister for the Environment, David Parker, engaged Honorary Professor Peter Skelton to undertake a review of ORC's functions and planning framework under Section 24A of the RMA. The focus of this review was to investigate whether ORC:
- is on track to adequately perform its functions under the RMA, in relation to freshwater management and allocation of freshwater; and
  - has an appropriate planning framework in place that gives effect to the relevant NPSFM in time to consider all applications for new water permits before deemed permits expire. (At the time of the investigation, the relevant NPSFM was the NPSFM 2014 (amended 2017).
- [8] The Minister concluded from the Skelton Report that the ORC's current framework for managing freshwater resources within the Otago region is not fit for purpose and not in line with current national directions, including the NPSFM. Consequently, he made recommendations for a work programme, that was adopted by Council, to include the following:
- Review, by November 2020, the current Regional Policy Statement (RPS) that is partially operative, with the intention that it be made fully operative before the review of the LWRP.
  - Notify by 31 December 2023, a new LWRP for Otago that includes region-wide objectives, strategic policies, region-wide activity policies, and provisions for each of the Freshwater Management Units, covering all the catchments within the region.

## ISSUE

- [9] Undertaking a full review of the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago under Section 79 of the RMA and developing a proposed new LWRP by 31 December 2023 requires planning, co-ordination and control of a large number of complex and diverse activities across different internal stakeholders (ORC governance, executive leadership, staff from various teams), ORC's iwi partners and external stakeholders (consultants and contractors, relevant industry sector and community groups, and the wider public).
- [10] For this programme to be delivered in an efficient and timely manner it is important that clarity is provided around the following matters:
- The purpose and scope of the programme
  - The output of the programme
  - High level principles for delivering the region-wide and area-based provisions
  - The programme's governance structure
  - The FMU delivery process



## DISCUSSION

### Purpose and scope of the programme

- [11] The overall purpose of the programme is to complete the development of a new LWRP to be ready for notification by 31 December 2023.
- [12] The proposed new LWRP will be a key instrument for ORC to carry out some of its key functions under Section 30 of the RMA in an effective and efficient manner. The new LWRP will seek to achieve this by ensuring policy direction to enable the sustainable and integrated management of land and water resources is clear and consistent with all national regulations and frameworks, with appropriate limits and control, and opportunities for resource use.
- [13] To deliver this, the following three key tasks needed to be completed:
- a full review of the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago under Section 79 of the RMA by January 2021<sup>1</sup>;
  - the development of a regionwide framework for managing land and freshwater including regionwide objectives, policies and both regulatory and non-regulatory methods between January 2021 and December 2023; and
  - staged delivery of separate FMU and Rohe chapters between December 2020 and December 2023.

### Objectives of the new Land and Water Regional Plan

- [14] The proposed new LWRP must:
- give full effect to higher order planning documents including the RMA and any relevant national policy statements;
  - give effect to the ORC's new proposed RPS (to be notified by November 2020);
  - take into account relevant iwi planning documents (the Ngāi Tahu Freshwater Policy 1991, Kāi Tahu ki Otago Natural Resources Management Plan 2005, Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 - Te Tangi a Taurā, and Waitaki Iwi Management Plan 2019); and
  - be prepared in accordance with the National Planning Standards.
- [15] While meeting these legal requirements is a critical prerequisite for the development of a new LWRP that is fit for purpose, the new plan must also be futureproof and effective in responding to community aspirations, provided these are consistent with the ORC's responsibilities under relevant resource management legalisation and national instruments (e.g. RMA, NPSFM) and envisaged by our iwi partners.<sup>2</sup> It is therefore important that the proposed LWRP:
- Responds to the diverse and unique resource management challenges in the Otago region (including managing competing demands for water, determining

---

<sup>1</sup> Note: it is proposed that ORC no longer has a Regional Plan: Waste and that it is subsumed by the regional policy statement and the new LWRP.

<sup>2</sup> The partnership agreement between ORC and rūnaka anticipates that iwi will be fully involved with ORC in development of the new plan.

where overallocation is occurring and outlining methods and timeframes for phasing out overallocation);

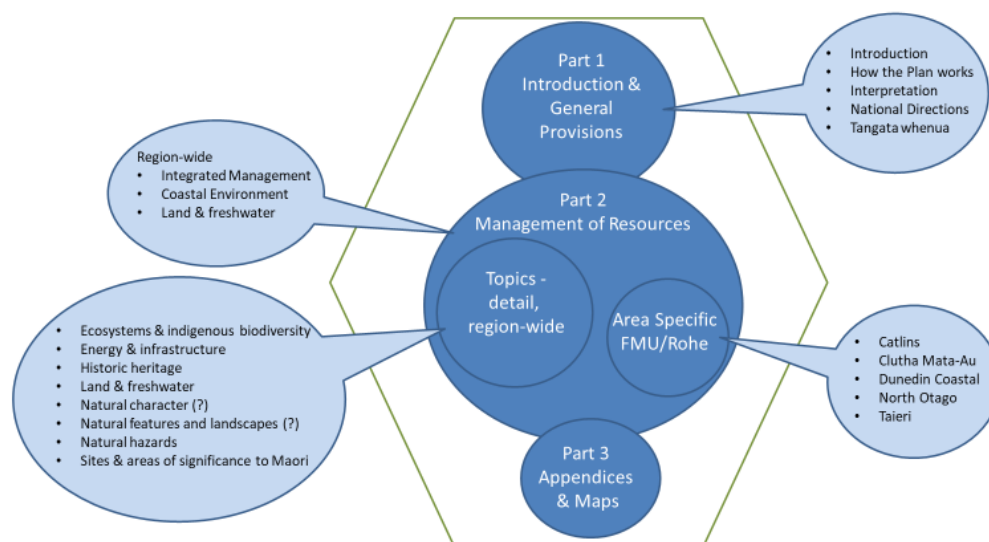
- Provides a pathway for actualising environmental outcomes imposed under National Direction Instruments and iwi and wider community goals and aspirations, articulated in the plan as unambiguous and measurable outcomes;
- Can respond to resource management challenges that are likely to emerge in the foreseeable future (e.g. climate change, demographic change, land use change), while also capitalising on emerging opportunities (e.g. technological advances, market opportunities); and
- Can be easily implemented by plan users and ORC staff (particularly in the consents, compliance, communications and rural liaison teams) by setting clear standards and allowing for practicable solutions.

### High level principles for delivering the region-wide and area-based provisions

[16] Staff have been working on a draft structure for the proposed new LWRP. The draft structure, which follows the mandatory format pre-scribed by the National Planning Standards, will have the new LWRP structured into three separate Parts.

[17] Part 1 of the new LWRP will contain sections that outline how the plan works and should be interpreted. It will also provide an overview of various relevant National Direction Instruments and includes a Tangata Whenua section providing an overview of mana whenua values, rights and interests. Part 2 will include a section on the integrated management of resources, as well as several sections on the regionwide and area specific (FMU and Rohe) provisions, while separate schedules, appendices and maps will be included in Part 3.

[18] A more comprehensive overview of the draft architecture of the proposed new LWRP is shown in Figure 1 below and attached to this report as Attachment 1.

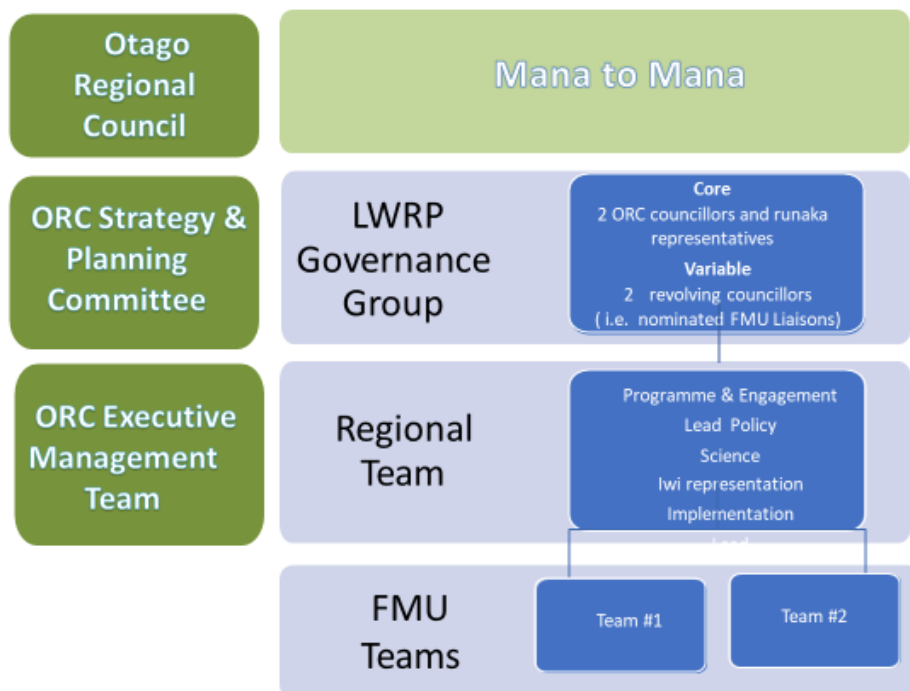


**Figure 1: Proposed draft architecture for the Land and Water Regional Plan**

- [19] The high-level principles for developing the region-wide and area-based provisions of the new LWRP are:
- Identifying key issues and outcomes and developing robust provisions through:
    - Working in partnership with iwi
    - Community and stakeholder consultation;
    - Use of information collected during the development of the new RPS;
    - Use of knowledge held by technical staff;
    - Learning from past experience, including experience that exists outside the region (e.g. utilise the expertise and experience of external experts; adopt approaches successfully applied by other regional councils and adapt these to a local context etc.)
  - Utilise, where appropriate and practicable, the content of the operative Water and Waste plans (subject to updating language, structure of provisions and outcomes where necessary).
  - Regionwide provisions provide direction to FMU sections by giving effect to higher order planning instruments (NPSFM, RPS), particularly in respect of region-wide outcomes to be achieved and methods for achieving these.
  - Provisions for sustainably managing the natural and physical resources of the region are included by default in the region-wide sections, with provisions included in FMU or Rohe specific chapters on a 'by exception' principle. Although they will contain specific provisions, the FMU and Rohe chapters must remain consistent with the regionwide direction.
- [20] The development the region-wide provisions of the new LWRP is a process that will occur in parallel with the delivery of separate FMU and Rohe chapters and area-based provisions. Consequently, the process for developing these region-wide provisions will be an iterative one, whereby these provisions will be reviewed regularly and amended if needed as these FMU and Rohe chapters being developed (for example, provisions that occur in large number of FMU and Rohe chapters may be 'uplifted' to the region wide provisions). Similarly, the progressive development of the region-wide provisions will require review of those FMU and Rohe chapters that were completed early on to ensure consistency with approach and outcomes promoted in the region-wide provisions.

### **Overview of the proposed programme governance structure**

- [21] A tiered governance structure is proposed for the development of the new LWRP. The proposed governance structure has been discussed with iwi partners and an overview of the structure, reflecting the outcome of that discussion, is shown in Figure 2 below. It is important to note that the proposed governance structure does not alter the current role of Council in the plan development and adoption process and that the established protocols around the approval of plan proposals by Council will continue to apply.



**Figure 2: Proposed governance structure for the Land and Water Regional Plan**

- [22] The *Mana to Mana* forum, which involves both rūnaka chairs and managers and ORC’s chair, CEO and appointed councillors, will provide critical guidance in the development of strategic directions for the LWRP. *Mana to Mana* will also be utilised as per its terms of reference during the development of the new LWRP on culturally (iwi) specific issues should the need arise.
- [23] The *LWRP Governance Group*, which will consist of 4 ORC councillors (2 permanent and 2 revolving councillors based on FMU) and rūnaka representatives, will ensure a strong link with ORC’s governing body through the ORC’S Strategy and Policy Committee, which in turn will provide policy guidance. Key roles and responsibilities for the *LWRP Governance Group* include:
- Championing the development of the LWRP project;
  - Ongoing monitoring of consistent alignment with policy guidance provided by the *Strategy and Policy Committee* and the *Mana to Mana* forum throughout the different stages of the project;
  - Championing the development of the strategic approach to addressing key freshwater and land use management issues in the region;
  - Liaising with Council on the various components of the programme (as required);
  - Ensuring Iwi aspirations are clearly expressed and considered; and
  - Contributing to thinking and general content of the proposed new LWRP.

- [24] Further down the governance structure sits the *Regional Team*, which will be made up of a Programme and Engagement Lead, an Implementation Lead, staff members from ORC's Policy and Science teams as well as an iwi representative. Key roles and responsibilities for this group include:
- Identification of issues at region-wide level and development of the regional management framework to address these;
  - Incorporating iwi aspirations within the LWRP framework;
  - Overseeing the development of strategic approach to addressing key freshwater and land use management issues in the region; and
  - Overall responsibility for the style format and content of the LWRP, the drafting of provisions and the Section 32 Evaluation Report.
- [25] Guidance and oversight over the day to day functioning of this *Regional Team* will be provided by the ORC's Executive Leadership Team, which comprises the Chief Executive and General Managers.
- [26] The final tier comprises the individual *FMU teams*. Each of these FMU teams will be focussed on a specific FMU or on one or more specific Rohe (a map showing the different FMUs and Rohe is attached to this report as Attachment 2). Individual FMU teams are proposed for each of the following Rohe and FMUs (or parts thereof)<sup>3</sup>:
- Upper Clutha Rohe
  - Dunstan, Roxburgh and Lower Clutha Rohe
  - Taieri FMU
  - Dunedin Coastal FMU
  - Catlins FMU
  - North Otago FMU
  - Clutha Mata-Au main stem
- [27] Each FMU team will be comprised of technical leads from ORC's Policy and Science teams, a Good Water Lead and Data Lead. Each FMU team will also include an Iwi Lead.
- [28] Key responsibilities of each FMU team include:
- Develop a community and stakeholder model appropriate to the FMU
  - Establish community values specific for that FMU/Rohe;
  - Identification of issues at FMU, Rohe or local scale;
  - Developing an FMU/Rohe specific management framework consisting of both regulatory and non-regulatory responses to address these issues;
  - Realising iwi aspirations within each specific FMU/Rohe management framework;
  - Ensuring local knowledge is taken into account when developing FMU/Rohe specific solutions and planning provisions; and

---

<sup>3</sup> Note: Work on the Arrow and Cardona catchments and the Manuherekia Rohe is well under way and it will be reviewed as to whether adoption of the new proposed governance approach is adopted for these catchments, in part or whole, is appropriate.

---

- Providing input into the drafting of FMU specific chapters and relevant Section 32 Evaluation report chapters.

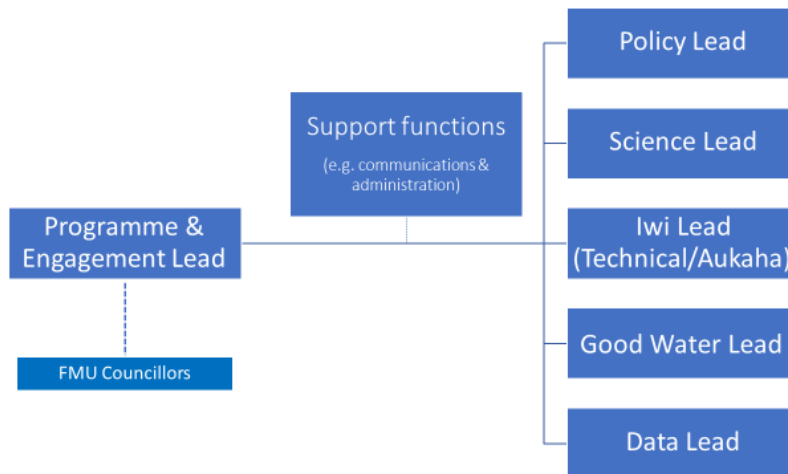
[29] The activities of these eight FMU teams will be coordinated and overseen by the Programme and Engagement Lead, who will also ensure close connection with the work undertaken by the Regional Team and enable ongoing and meaningful involvement of individual councillors involved in specific FMU processes.

[30] It is proposed that the involvement of individual councillors at the scale of the individual FMU processes is focussed on:

- Facilitating local liaison and community engagement;
- Providing guidance or governance direction on "local" issues;
- Sponsor their FMU on the Governance Group (rotating role); and
- Champion their FMU at the Council table.

[31] Logistical support for the FMU teams will be provided by communications and administration staff.

[32] An overview of the proposed FMU team structure is shown in Figure 3 below. It should be noted that ORC staff and iwi representatives can be part of different FMU teams at the same time.



**Figure 3: Overview of the FMU team structure**

**Overview of the proposed FMU delivery process**

[33] It is proposed to undertake a standardised process for delivering individual FMU chapters, consisting of five, largely sequential phases.

[34] The first phase in this process focuses on:

- The collection of historic and current quantitative (“raw”) data (including flow data, water take information, ecological/biodiversity survey data, land use data, water quality data, cultural values information, demographics, socio-economic and productivity information) as well as qualitative data (local stories, historic accounts);
  - Aggregation and development of raw data to enable hydrological modelling;
  - Identification of trends (e.g. socio-economic, health of the resource, climate change, water needs); and
  - Stakeholder mapping/identification.
- [35] The first of two consultation stages, occurs during the second phase of the FMU delivery process. During this phase consultation is undertaken with key stakeholders, local communities and the wider public to identify community values and get a better understanding of community aspirations. In addition, this consultation can play an important role as it allows for information gaps to be filled or existing data to be complemented with or tested against local knowledge, anecdotal or experiential information or data collected by stakeholders.
- [36] This phase starts with the development of an engagement model that is specific to the situation (i.e. complexity of issues, community/stakeholder make-up) within each FMU/Rohe.
- [37] The third phase focuses on the analysis of the information collected during the previous two phases to:
- Develop Freshwater Objectives (outcomes) for the FMU or Rohe;
  - Develop scenario options (futures); and
  - Assess the impacts of each of these scenario options on identified values, including ecological, cultural, economic, social, recreational (optional) and landscape/natural character (optional) values.
- [38] A second consultation stage, whereby key stakeholders, local communities and the wider public are consulted on the freshwater objectives and different scenario options and their impacts on identified values, occurs during the fourth phase. The draft region-wide provisions would also be shared at this stage.
- [39] After this second consultation stage a preferred scenario will be developed into:
- a series of draft FMU or Rohe specific provisions to be included into the draft LWRP; and
  - proposed non-regulatory responses.
- [40] The five different phases are not discrete and overlapping or iterative processes between these phases can occur. For example, it is possible for one phase (e.g. consultation on values) to commence prior to the previous phase (e.g. knowledge building) being fully completed. Similarly, the output generated during one phase may be used to complement or fine-tune the information generated during earlier phases. An overview of this proposed FMU delivery process is shown in Figure 4 below.

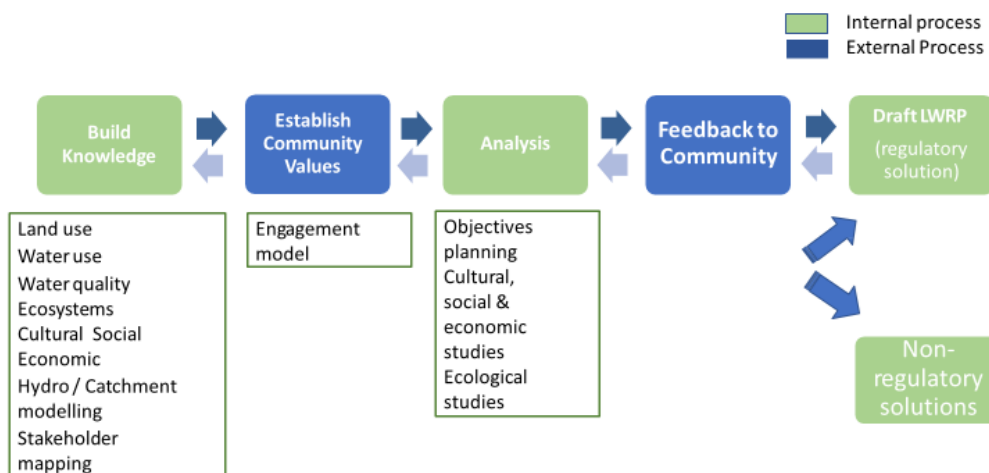


Figure 4: Overview of the FMU delivery process

## CONSIDERATIONS

### Policy Considerations

[41] Monitoring information collected and feedback received from staff as well as external stakeholders shows that the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago are outdated, and now do not manage the adverse impacts of activities on our natural resources as well as they should. There are known management gaps within these plans and they no longer give effect to more recent higher order planning documents. Key examples of this include:

- The management framework in the Regional Plan: Water for Otago for managing point source discharges from urban activities, human sewage and stormwater, industrial and trade premises has not been updated since the plan became operative. The need for a comprehensive review and overhaul has been emphasised since 2010 (Otago Regional Council Urban Water Quality Strategy, 2010);
- The management framework in the Regional Plan: Water for Otago for managing water quantity does not establish a method for determining where overallocation occurs nor does it provide a method and timeframes for phasing out overallocation (the current framework in the plan that provides for clawing back on allocation in catchments where the consented allocation exceeds the allocation limit, predominantly focusses on clawing back on “unused” or paper allocation only).
- The National Objectives Framework set out in Section CA of the NPSFM 2014 (amended 2017) requires that a nationally consistent approach is followed to establishing freshwater objectives for national values, and any other values and limit setting that also recognises regional and local circumstances. This process is then prescribed through policies CA1 to CA4 of the NPSFM. The



current objectives in the Regional Plan: Water for Otago for managing freshwater have not been established in accordance with the National Objectives Framework.

- [42] While ORC has commenced a programme for fixing some of the management gaps within the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago (proposed plan changes 6AA, 7, and 8 to the Regional Plan: Water for Otago and proposed plan change 1 to the Regional Plan: Waste for Otago), these plan changes are only intended to better manage the impacts of a limited number of high risk activities and land uses. A more comprehensive review of the Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago and the amalgamation of these plans into one new plan that also addresses land use will allow for a more holistic and integrated approach to the management of the region's natural resources.

### **Financial Considerations**

- [43] The full review of the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago and development of a proposed new LWRP will be funded from the existing Water Plan budgets across science, environmental monitoring and policy. The costs for undertaking these will be largely staff time and planning consultant work associated with:
- Reviews of the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago.
  - Engagement with internal stakeholders (e.g. councillors, executive team, staff involved in consents administration and plan implementation) and external stakeholders (industry and sector groups, government agencies, environmental groups and local communities).
  - Development and implementation of a technical work and monitoring program to collect and analyse all the technical data (hydrology, land use, ecology, economic, cultural) supporting the FMU delivery processes.
  - Development of a new LWRP in accordance with the First Schedule of the RMA through which affected or interested parties can participate in the submissions and hearing process.

### **Significance and Engagement**

- [44] Development of a new LWRP will trigger ORC's Significance and Engagement Policy (SEP) as this project is likely to have potentially significant impacts on industry and sector groups, agencies, environmental groups and local communities across the Otago region and beyond. Because the LWRP will go through full public notification, it will satisfy the requirements of the SEP and no additional consultation will be required.
- [45] Key messaging around the process and timing for developing a new LWRP and delivery of individual FMU processes will be released via our website, social media and as a press-releases.
- [46] A comprehensive communications and engagement plan will be developed in due course to ensure consistency with the Significance and Engagement Policy.

### Legislative Considerations

- [47] Section 79 of the RMA requires that councils review their RMA plans every ten years. The Regional Plan: Water for Otago was made operative on 1 January 2004, while the Regional Plan: Waste for Otago was made operative in April 1997. Hence, a review of these plans is well overdue.
- [48] Policy E1 of the NPSFM 2014 (amended 2017) requires that the NPSFM be fully implemented no later than 31 December 2025 (or 31 December 2030 in certain circumstances). Under the draft NPSFM released in 2019 as part of Central Government's Essential Freshwater package it is now proposed to bring the date by which NPSFM compliant plans must be notified forward to 31 December 2023.

### Risk Considerations

- [49] There are three key risks associated with the completion of the programme. These risks are:

**Risk 1: Being able to collect and develop robust technical information and suitable and effective management responses within the timeframes provided.**

In general, this risk is likely to differ for different FMUs or Rohe, with it becoming greater as the high degree of hydrological and land use modification, ecological degradation, or hydrological complexity within an FMU or Rohe increases.

Following consultation with ORC staff over January and February 2020, external experts (consultants) are currently developing a proposal for undertaking the technical work supporting the delivery of the FMU processes. This proposal, which is expected to be completed in July 2020, will provide more clarity around the feasibility of different approaches for collecting robust technical information for Otago's FMUs and Rohe within the set timeframes. This will provide a more accurate indication of how this risk will impact the different FMUs. It is proposed that staff defer the development of a risk management response that specifically addresses this risk until the report is received.

**Risk 2: Coordinating the efforts between many staff across different departments and consultants over extended period towards the delivery of a new LWRP.**

Undertaking a full review of the operative Regional Plans Water and Waste Plans and developing a proposed new LWRP is a complex process requiring a well-planned, co-ordinated and managed programme. Having a clear and agreed governance structure in place that sets out roles and responsibilities is a first important step towards reducing the risk of the programme failing to be completed by the set deadline or not achieving its objectives.

A second step towards reducing this risk is the development of a more detailed project management plan for carrying out the different components of the programme. Staff are currently working on the development of this project plan for some programme components and the full project plan will be finalised once the proposal for undertaking the technical work supporting the delivery of the FMU processes is completed in July 2020.

**Risk 3: Ensuring alignment between the management approach promoted in the region-wide provisions on one hand and the plan provisions, including limits and targets set at the individual FMU-level.**

To address this risk an iterative process for developing the region-wide provision chapters and FMU specific chapters is proposed whereby the provisions within these chapters will be reviewed regularly and amended if needed to ensure alignment and internal consistency. In addition, the development of some area-specific (FMU or rohe) provisions well ahead of the new LWRP being notified in December 2023 may lead to the need a high level review of some FMUs ahead of the final drafting of the LWRP to ensure that the context in which the provisions were drafted have not materially changed.

**NEXT STEPS**

[50] The next steps are:

- Development of the Terms of Reference (ToR) for the *LWRP Governance Group*;
- Initiation of the reviews of the operative Regional Plan: Water for Otago and operative Regional Plan: Waste for Otago in July 2020;
- Completion a proposal for undertaking the technical work supporting the delivery of the FMU processes. (This proposal is being developed by external consultants, following consultation with ORC staff over the months January and February 2020, and is expected to be completed in July 2020);
- Development of a comprehensive project plan, including risk management plan; and
- Review whether adoption of the governance approach, in part or whole, for the Arrow Cardona and the Manuherekia Rohe is appropriate.

**ATTACHMENTS**

1. Attachment 1 Draft architecture [9.1.1 - 1 page]
2. Attachment 2 Proposed FMU structure [9.1.2 - 1 page]

## **Attachment 1:**

### **Proposed Land and Water Regional Plan for Otago – Draft Architecture**

#### **PART 1 – Introduction & General Provisions**

- Introduction
- How the Plan works
- Interpretation
- National Direction Instruments
- Tangata whenua

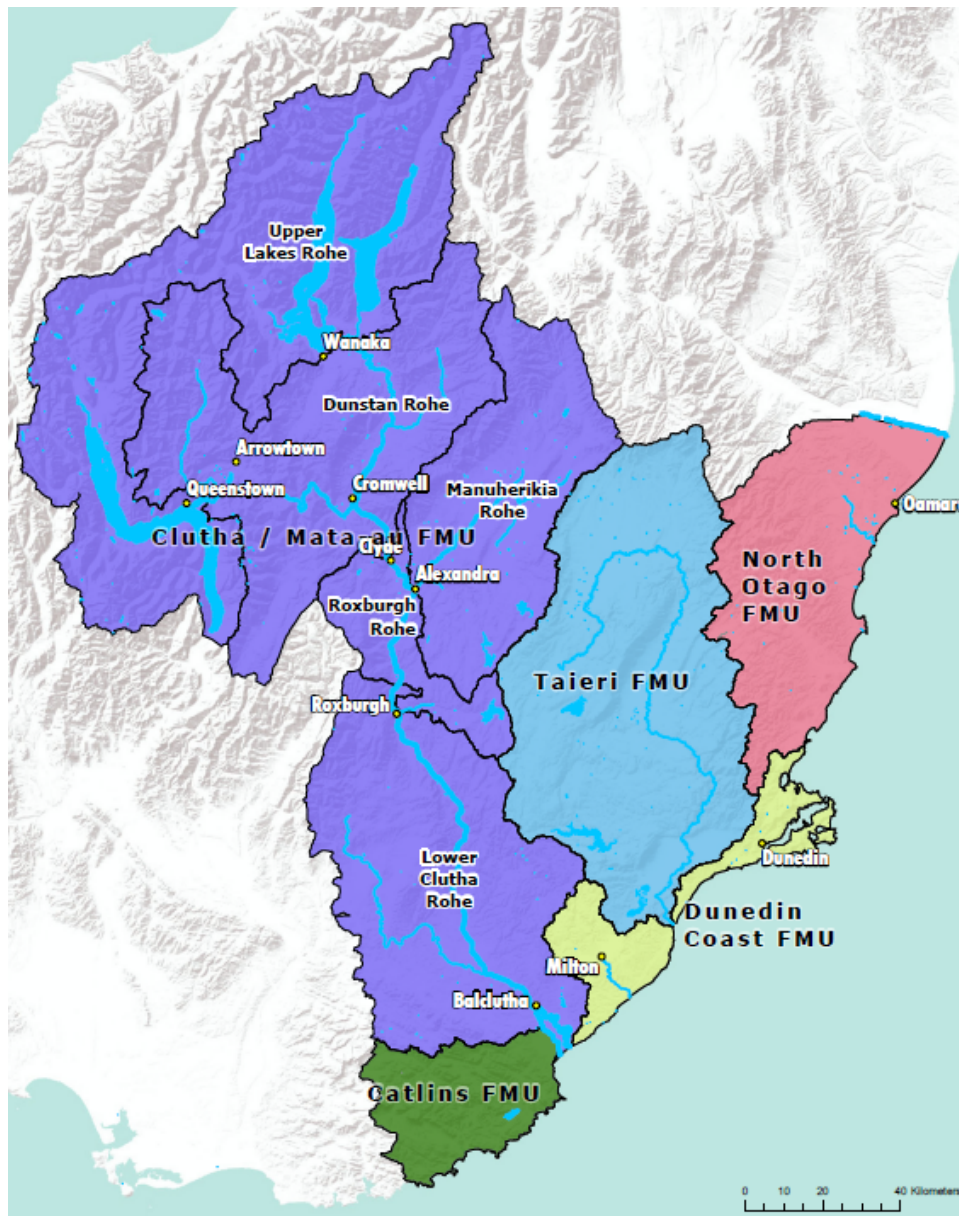
#### **PART 2 – Management of Resources**

- Integrated Management
- Coastal Environment – region-wide, multi-topic
- Land & freshwater – region-wide, multi-topic
- Topics – detail, region-wide
  - Ecosystems & indigenous biodiversity
  - Energy & infrastructure
  - Historic heritage
  - Land & freshwater
  - Natural character (?)
  - Natural features and landscapes (?)
  - Natural hazards
  - Sites & areas of significance to Maori
- Area Specific - FMU
  - Catlins
  - Clutha Mata-Au
  - Dunedin Coastal
  - North Otago
  - Taieri

#### **PART 3**

- Appendices
- Maps

**Attachment 2:**  
**Proposed Land and Water Regional Plan for Otago –**  
**FMU structure**



### 10.1. Resource Management Amendment Bill and implications for ORC

<b>Prepared for:</b>	Strategy and Planning Committee
<b>Report No.</b>	P&S1839
<b>Activity:</b>	Governance Report
<b>Author:</b>	Rachael Brown, Senior Analyst, Water and Land
<b>Endorsed by:</b>	Gwyneth Elsum, General Manager Strategy, Policy and Science
<b>Date:</b>	13 May 2020

---

#### PURPOSE

- [1] This report updates the committee on proposed amendments to the Resource Management Act 1991 (RMA) following select committee deliberations on the Resource Management Amendment Bill.

#### EXECUTIVE SUMMARY

- [2] This report updates the committee on the Government's proposed changes to the RMA through the Resource Management Amendment Bill. The bill proposes amendments to the RMA to reduce complexity and increase certainty in decision-making processes and to improve freshwater management and enforcement.
- [3] Proposed changes to the freshwater planning process, whereby Freshwater Hearings Panels (FHPs) would hear freshwater provisions in regional plans and policy statements, would have implications for decision-making on ORC's Regional Policy Statement (RPS) and Land and Water Regional Plan. Councils would be required to fund costs associated with the five-member FHPs.
- [4] There are likely to be challenges in achieving integrated management through the RPS, if the freshwater provisions of the RPS are considered by an FHP, while other RPS provisions are subject to the standard planning process.
- [5] The Environment Select Committee has reported back its recommended amendments to the Resource Management Amendment Bill. Its recommendations retain the substance of the Bill, with some technical refinements to enable more effective implementation. The Select Committee has also recommended new provisions that would require councils to consider climate change mitigation in their RMA decision-making from the end of 2021.
- [6] ORC staff made a submission on the bill in November 2019. The report back on the bill has partially addressed issues raised in this submission, however the Select Committee did not address the fundamental issue of how integrated management within an RPS would be achieved through two separate planning processes, with potentially vastly different timeframes, for the freshwater provisions and other provisions.

## RECOMMENDATION

*That the Council:*

- 1) **Notes** this report.

## BACKGROUND

- [7] In September 2019, the Minister for the Environment introduced the Resource Management Amendment Bill 2019 (the bill) into the House. 385 submissions on the bill were made to the Environment Select Committee, which has reported back with its recommended changes.<sup>1</sup>
- [8] The bill seeks changes to the RMA that would:
- reduce complexity in existing processes, increase certainty for participants and restore previous opportunities for public participation;
  - introduce a new freshwater planning process, whereby Freshwater Hearings Panels (FHPs) would be convened to hear freshwater provisions in regional plans and policy statements; and
  - address issues with enforcement and Environment Court provisions, including enabling the EPA to take enforcement action.
- [9] To reduce complexity and increase certainty the bill proposes to reverse changes made to the RMA in 2017, including
- reducing the powers of the Minister for the Environment to prohibit or overturn local plan rules,
  - enhancing the ability for the public to submit on certain types of resource consent applications,
  - removing restrictions on the ability for submitters to appeal against resource consent decisions,
  - providing better options for fast-tracking the resource consent process, and
  - reinstating the use of financial contributions.

## ISSUE

- [10] Council should note that the bill has implications for hearings on ORC's Regional Policy Statement (RPS) and Land and Water Regional Plan (LWRP). The RPS is to be notified in November this year and the LWRP by 31 December 2023. Government is aiming to get the bill through the House before this year's general elections, which means that hearings on all of the LWRP and parts of the RPS would go through the new FHP process.
- [11] This has implications for ORC relating to:
- how it will achieve integrated management within the RPS if parts of it are subject to the current Schedule 1 planning process (and delays associated with appeals and Environment Court processes) and parts are within the jurisdiction of FHPs; and
  - funding for FHPs, which will need to be included in annual and long-term plans.

---

<sup>1</sup> Resource Management Amendment Bill (2019) Government Bill as reported from the Environment Committee (accessed 29 April 2020).

[https://www.parliament.nz/resource/en-NZ/SCR\\_96439/40a17936019812cd667f8dc16ee1e2b915ef4fea](https://www.parliament.nz/resource/en-NZ/SCR_96439/40a17936019812cd667f8dc16ee1e2b915ef4fea)

## DISCUSSION

### *Proposal for a new freshwater planning process*

- [12] The most notable proposal in the bill for regional councils is that FHPs would hear submissions and make recommendations to councils on provisions in regional policy statements and plans that give effect to the National Policy Statement for Freshwater Management (NPSFM).
- [13] Regional (and unitary) councils are required to give effect to the NPSFM in their statutory planning documents by 31 December 2025. Government has concerns that the current RMA planning process would hinder councils meeting this requirement due to the tendency for appeals to the Environment Court to delay final decisions on regional plans and policy statements. Under the new freshwater planning process, councils would be required to notify freshwater provisions in regional policy statements and plans by 31 December 2023 and notify decisions by 31 December 2025.
- [14] FHPs would consist of two Minister appointed freshwater commissioners, two council appointed commissioners and an iwi representative. Panels would have up to two years to make recommendations to councils. Appeals on council decisions could be made on points of law only, unless the council had rejected an FHP recommendation, in which case merit appeals would also be allowed. A diagram summarising the differences between the current and proposed process for freshwater planning is in **Attachment 1**.<sup>2</sup>

### *ORC's submission on the bill*

- [15] ORC staff submitted on the bill in November 2019 (**Attachment 2**),<sup>3</sup> generally supporting the proposed changes, but suggesting that:
- more clarity was required on how the new freshwater planning process would be implemented and resourced, particularly whether all the costs of FHP process were to be met by councils or whether central government would also contribute;
  - the proposed process presented a barrier to integrated planning across domains (e.g. freshwater, urban development, coast and land) in regional policy statements, due to a lack of clarity regarding how and when freshwater and other provisions would be integrated across two separate planning processes; and
  - there was likely to be great demand on a very limited pool of skilled people, that would create a risk of councils not being able to meet proposed timeframes.

### *Report back from the Environment Committee*

- [16] As reported back from the Environment Committee, the bill retains its original intent and proposals. The committee has also recommended:

---

<sup>2</sup> [https://www.mfe.govt.nz/sites/default/files/media/RMA/cab-paper-b-appendix-1-diagram-differences-standard-planning-process-and-proposed-freshwater-process\\_0.pdf](https://www.mfe.govt.nz/sites/default/files/media/RMA/cab-paper-b-appendix-1-diagram-differences-standard-planning-process-and-proposed-freshwater-process_0.pdf)

<sup>3</sup> Note this was during the Local Government election period.



- a number of technical changes to support implementation of existing proposals, particularly the proposed freshwater planning process and EPA enforcement provisions;
- that regulation-making power for stock exclusion from water bodies be extended to include the margins of water bodies;
- some new provisions, including amendments to enable local decision-makers to consider climate change mitigation under the RMA;
- amendments to iwi participation arrangements to better enable Mana Whakahono a Rohe, an alternative iwi and local authority relationship arrangement, that can be initiated by iwi, and has a broader scope that includes consenting and monitoring.

[17] Climate change is in scope for Government's wider review of the resource management system currently underway. However, a significant number of submissions raised the issue that the RMA is currently in conflict with Climate Change Response (Zero Carbon) Amendment Act 2019. The Environment Committee has recommended amendments to the bill to address this conflict, including that councils should:

- consider climate change when making and amending policy statements and plans, and
- be able to consider climate change when making decisions under the RMA.

The Environment Committee noted that national direction on these changes would be required to enable nationally consistent and effective implementation, therefore the proposed date for them to come into effect is 31 December 2021.

[18] Mana Whakahono a Rohe participation arrangements, were introduced in the 2017 amendments to the RMA to facilitate mana whenua involvement in RMA decision making. Changes recommended by the Environment Committee seek to better enable mana whenua participation by clarifying their purpose and the principles that must guide local authorities when initiating, developing, and implementing Mana Whakahono a Rohe.

[19] Issues raised in ORC's submission on the bill were partially addressed by the Environment Committee's suggested amendments, which clarify that the costs associated with FHPs would be borne by regional councils. However, the scope of the FHP process in relation to what parts of regional policy statements would be included in the freshwater planning process, remains somewhat murky.

## **OPTIONS**

[20] There are no options that require consideration for this noting paper.

## **CONSIDERATIONS**

### **Policy Considerations**

[21] If the climate change amendments are passed into law, ORC will need to have regard to climate change mitigation in its RPS, LWRP and resource consent decisions.

### **Financial Considerations**

[22] This paper does not have any particular financial considerations.

### **Significance and Engagement**

[23] This is not relevant to the noting paper.

### **Legislative Considerations**

[24] Once the bill becomes law, ORC will be required to give effect to the amendments to the RMA.

### **Risk Considerations**

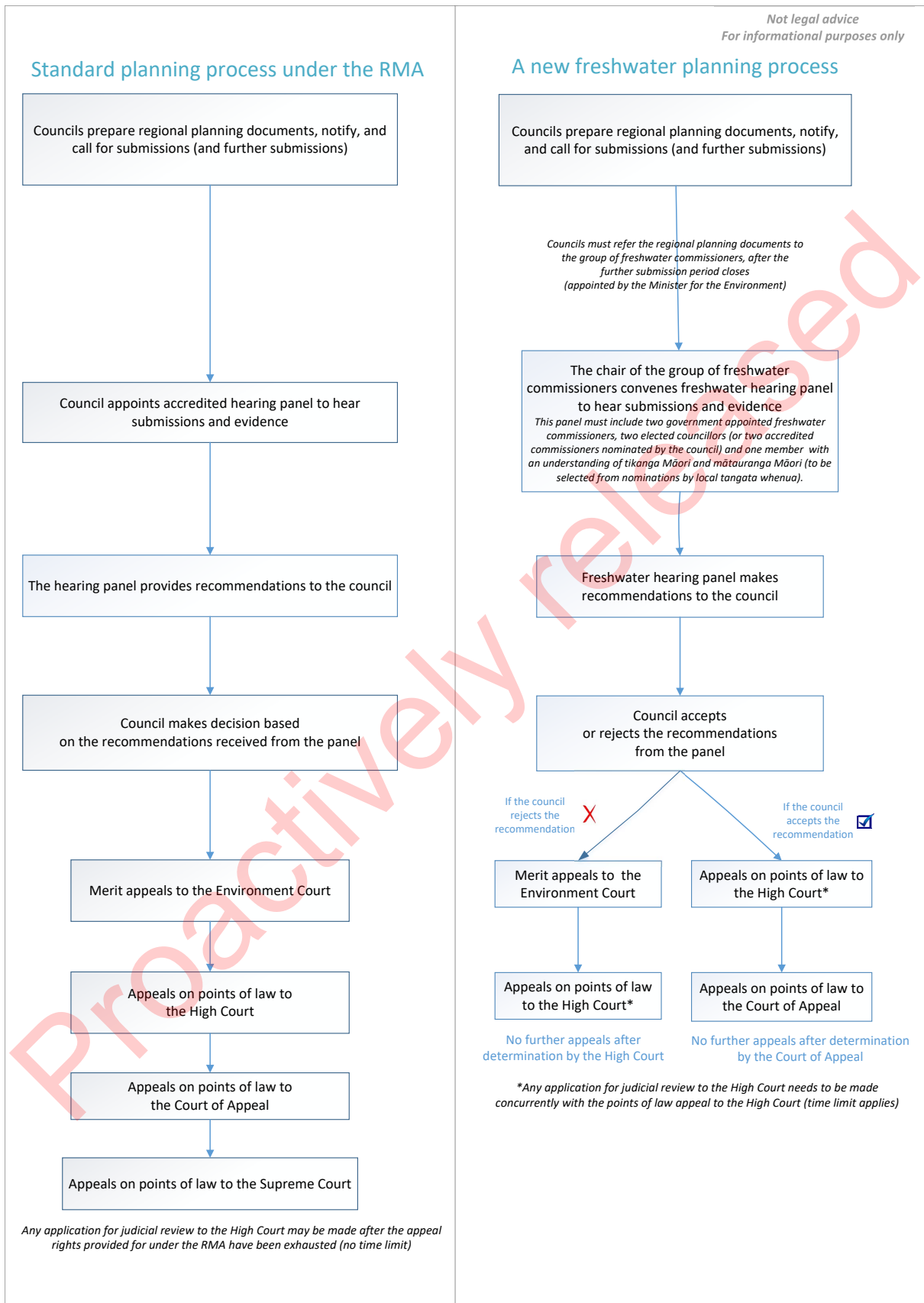
[25] This is not relevant for the noting paper.

### **NEXT STEPS**

[26] The next step is for the Environment Committee's recommendations to be debated by the New Zealand House of Representatives in a second reading debate.

### **ATTACHMENTS**

1. cab-paper-b-appendix-1-diagram-differences-standard-planning-process-and-proposed-freshwater-process [10.1.1 - 1 page]
2. ORC submission on Resource Management Amendment Bill [10.1.2 - 10 pages]



27nkxwv06 2019-07-03 10:46:40



Our Reference: A1290979

7 November 2019

Committee Secretariat  
Environment Committee  
Parliament Buildings  
Wellington

[en@parliament.govt.nz](mailto:en@parliament.govt.nz)

Dear Sir/Madam

**Otago Regional Council (ORC) submission on Resource Management Amendment Bill (2019)**

1. ORC thanks the Environment Committee for considering its submission.
2. In a period of greater focus on New Zealand's planning framework and instruments, ORC welcomes amendments to the Resource Management Act 1991 (RMA) ensuring it remains a robust, efficient and effective planning framework for local authorities to deliver positive outcomes for its communities.
3. As a cornerstone legislation which directs many local government functions, the RMA must not only support these functions but also remain relevant, inclusive and fair in how it impacts how New Zealanders can live, work and play in an environment we can all be proud of.
4. ORC submitted on the Resource Legislation Amendment Bill 2015. It supported a number of amendments but opposed others out of concern they were regressive- in particular provisional changes that could negatively impact local democracy and natural justice.
5. Therefore, ORC is pleased to see amendments that, overall, restore provisions supporting natural justice for people involved in resource management processes, specifically the consenting process.
6. ORC recognises the importance of amendments to support a new framework for freshwater management.
7. In our submission, ORC supports the proposed suite of regulations under the '*Action for healthy waterways*' consultation document. Concerns raised by ORC in the submission relate to detail of some proposed, in that the Ministry needs to ensure they are fair, clear, and effective.



8. Similarly, the details of provisions in the proposed freshwater planning process will be key to ensuring a supportive framework that delivers on the purpose of improving freshwater management and outcomes. ORC holds some concerns in respect to the implementation of the freshwater hearing process, and addresses these, and possible solutions, in the following table.
9. Due to the timing of this consultation, and recent local government elections, ORC's submission was not considered by council and is therefore a staff submission.
10. ORC's submission is set out in the order of the proposed Bill in the attached table.
11. If possible, ORC would welcome being able to speak to its submission.

Yours sincerely

A handwritten signature in black ink that reads "Sarah Gardner".

Sarah Gardner  
**Chief Executive**  
Encl



Bill Clause	RMA Provision	Matter	ORC Submission
6	11	Subdivision	<b>ORC supports</b> subdivision being a <i>restricted discretionary</i> activity by default unless provided for otherwise in an NES and/or plan rule/proposed rule. ORC's position is that a restricted discretionary activity will allow for appropriate development, will clear matters for consideration. However, where development is not appropriate, or can be more straightforward, plans can specifically provide for that on a case by case basis. This approach will allow national direction to be implemented with some flexibility.
9	42C	Functions of EPA	<p>The amendment does not provide any clarification on implementing secretarial and support services for the freshwater hearing process. ORC notes Auckland Council's submission point of their experience that administrative resourcing across multiple hearings panels is substantial. Under the freshwater hearing process as proposed, these administrative costs should not be borne by any council.</p> <p><b>ORC seeks</b> that the amendment provide clarification on how the secretariat services will be administered and what costs will be borne by the Ministry.</p>



Bill Clause	RMA Provision	Matter	ORC Submission
13	Subpart 4 of Part 5 (including Schedule 1 amendments)	Freshwater Planning Process	<p><b>ORC supports</b>, in principle, a focused approach that will assist regional councils in making planning instruments that will promote better freshwater management.</p> <p><b>ORC has concerns</b>, however about how the planning process will be successfully implemented. Freshwater management is often integrated with the management of other domains, be those in the provisions for land, water or coast in a plan or policy statement. Developing a plan to manage these in an integrated manner (a cornerstone of the RMA) needs to be able to holistically consider all issues and understand the interconnections of these issues, determine appropriate outcomes and the provisions that will achieve those outcomes.</p> <p>To isolate the development of freshwater planning (the hearing of submissions on proposed instruments) is contrary to good, integrated plan making and resource management.</p> <p>This isolation may also lead to inefficiencies of process. A panel hearing all aspects of a proposed plan or policy statement, other than the freshwater components, will need to wait on a freshwater panel's recommendations before finalising deciding how its provisions will integrate with freshwater management provisions. Equally, a panel hearing freshwater management proposals will be deprived of the ability to consider those in a wider (and appropriate) environmental context.</p> <p>Similar to our concerns around secretariat costs, ORC is concerned by the uncertainty of the process, and more particularly the cost of a Ministry appointed hearing panel. A five (or more) member panel set by the Ministry will be more expensive than a panel set under the ORC's hearing panel selection process. The provisions in the amendment do not give any guidance or clarity to what costs the Ministry will meet, nor if panel member charges will be capped. There is also no flexibility for a small or minor plan change, where having a five-person panel might be overly onerous and not</p>



Bill Clause	RMA Provision	Matter	ORC Submission
			<p>efficient. This can have an undesirable impact on ratepayers and will be a matter to be considered in Annual Plan and Long Term Plan processes.</p> <p>Capacity constraints are also of significant concern to ORC. Considering the number of panel members proposed to make up a freshwater hearing panel, implementing the necessary changes for all 16 regional authorities by 2025 will put significant pressure on the pool of qualified panel candidates. ORC agrees with the Auckland Council's submission on this matter, particularly the concern highlighting questions on the availability of enough professionals in New Zealand with the necessary expertise.</p> <p><b>ORC requests</b> that the Ministry consider solutions provided by other submitters on this amendment clause. As possible options, ORC staff suggest:</p> <ul style="list-style-type: none"> <li>• Reassessing the make-up/number on a freshwater hearing panel, the potential number of panel members as proposed is quite high. It may be more practical to reduce the council and government appointees to one member each. This would help reduce capacity constraints.</li> <li>• Running two parallel processes that would enable freshwater hearing panels to consider (and make recommendations on) all submissions on a proposed plan. This would ensure a more efficient integrated process can be achieved and promote a more inclusive, and robust process.</li> </ul> <p>ORC also suggests that to support the hearing panels, they are given a strict timeframe in which decisions must be made, including the necessary regulatory provisions so they can remedy possible abuses of process. This would also ensure the pool of professionals required are able to better manage their availability for confirming future hearing panel commitments.</p>





Bill Clause	RMA Provision	Matter	ORC Submission
72	Part 4 of Schedule 1 - Subpart 1 (clause48(2)(b))	Freshwater Hearings Panel	<p><b>ORC agrees</b> with sector concerns about this section as drafted enabling a panel to have a wide, undefined scope on what matters it may make recommendations on. This could be a positive if it found during a hearing, that some information relied on is incorrect, but no person submitted on it. It would make it easy for the panel to acknowledge that error and take this in account making their decision.</p> <p>However, it also risks a panel making changes to the proposed instrument without full regional context that could lead to adverse economic or social impacts. Furthermore, as drafted, a person's right of appeal under section 54 (subpart 3) can only relate to a matter addressed in their submission meaning natural justice is not followed if the panel makes a recommendation based on a matter no person had the opportunity to consider and speak to in a freshwater hearing.</p> <p><b>ORC opposes</b> clause48(2)(b) as drafted and <b>seeks</b>:</p> <ul style="list-style-type: none"> <li>• It is redrafted so it does not interfere with the natural justice a submitter is entitled to <b>OR</b>;</li> <li>• clause54(1) is amended to allow a submitter the ability to appeal recommendations made by a panel under clause48(2)(b).</li> </ul>
54	Part 4 of Schedule 1 – Subpart 2 (clause54)	Freshwater Hearings Panel - Appeals	<b>ORC submits</b> , as discussed above, this section restricts submitters in Freshwater hearings from appealing recommendations on matters they may not have been aware of at the time of lodging their submission, impacting natural justice.
13	80A(2) and (3)	Freshwater Planning Process (references to regional documents)	<b>ORC submits</b> that it is important that freshwater planning provisions are consistent with the National Planning Standards' requirements so that integrating freshwater planning in to regional planning documents can be easily achieved.
15	87AAC(1)	Meaning of Fast-Track application	<b>ORC supports</b> restricting Fast-Track applications to <i>controlled</i> activities only. Activities of any more restrictive classification are typically more complex and should not be expected to be able to be dealt within a 10-day working day period.



Bill Clause	RMA Provision	Matter	ORC Submission
19	88H	Excluded time periods relating to non-payment of administrative charges	<p><b>ORC supports</b> excluding time periods between which payments become due and the date the payment is settled. This allows it to fairly focus on applicants who fully engage in the process and ensures there is no undue burden on rate payers. This change allows the user to fully meet the costs associated with doing business.</p> <p><b>ORC requests</b> clarity on how this provision is to be applied in instances where applicants contest costs under section 357B of the RMA.</p>
23	91D	Applicant may have processing of non-notified application suspended	<p><b>ORC supports</b> this amendment as a means to reduce the need for timeframe extensions and be helpful for council and applicants. This will be particularly useful allowing time for situations where applicants need time to consider further information or options without the pressure of timeframes.</p> <p><b>ORC seeks</b> clarity as to whether there will be any restrictions to the number of times this section might be used.</p>
24	95A	Public notification of consent applications	<p><b>ORC supports</b> removing the preclusion of subdivision of land for residential activities.</p> <p>ORC has been concerned since previous RMA amendments that this allowed for a process where access to natural justice of genuinely affected persons was eroded, and the ability of regional authorities to ensure important matters (such as Natural Hazards) are being considered in the consenting process was removed. This amendment will address this concern.</p>
26	120(1A)	Right to appeal	<p><b>ORC supports</b> the amendment to reinstate a person's (as per section 120(1)) right of appeal to decisions on subdivisions and residential activities - regardless of the respective activity classification.</p> <p>It stands that if a person, including the applicant, had such an interest in initiating, or taking a genuine position on the process then that involvement should extend to also being enabled to challenge a decision.</p>



Bill Clause	RMA Provision	Matter	ORC Submission
			<p>However, at the local government level, it remains important to retain the full scope of natural justice for parties involved in such processes to challenge decisions that may feature unique and complex issues.</p> <p>ORC is however concerned about enabling submitters to appeal on matters outside their submission. This contradicts new Schedule 1 Part 4 Subpart 2 – Appeals s54(1)(a) where an appeal must be related to a provision or matter that a person addressed in a submission.</p> <p>This approach may impact natural justice in providing no certainty to a local authority or applicant that it can make a reasonable effort to address all concerns and issues raised at a hearing, trying to avoid further time and cost to all parties via an appeal process – which are likely with this proposed amendment.</p> <p><b>ORC seeks</b> deletion of proposed section 120(1B)</p>
27(1) - 28	128	Circumstances when consent conditions can be reviewed	<p><b>ORC supports</b> these amendments. In Otago’s case it will very helpful where long term consents and water permits have been granted but do not have a minimum flow condition imposed yet. At present ORC would have to review these consents one by one. All of the costs of a review are borne by the Council so the amendment will make this process much more efficient.</p> <p>As an alternative approach, ORC would like to suggest the following:</p> <p>Where a plan has been through a public process and the provisions are settled and have been operative for not less than 6 months, and where those provisions establish any one or more of the following, then all current resource consents are deemed to have either (a) been amended to reflect the new limit, or (b) deemed to include a condition or conditions that reflect the new limit.</p> <p>The matters subject to this automatic amendment/review are:</p>



Bill Clause	RMA Provision	Matter	ORC Submission
			<ul style="list-style-type: none"> <li>The maximum instantaneous rate of abstraction</li> <li>The timing of the abstraction</li> <li>Minimum flows at which abstraction is to be reduced</li> <li>Minimum flows at which abstraction is to cease</li> <li>Applicable residual flows</li> </ul> <p>Applicable flow measurement reference sites (the flow recorder that the consent conditions are tied to).</p>
59	330B(3)	Emergency works under CDEM Act 2002	<p><b>ORC supports</b> amending the days required to apply for any necessary resource consents from “...within 20 days...” to “...within 60 days...”. This better reflects the time and management priorities required in a civil defence event, particularly a large one where such an application may take time to resource.</p> <p><b>ORC seeks</b> that the Ministry consider applying an increase to 60 days to non-Civil Defence emergency works to reflect that similarly, with large complex incidents, additional time might be required to compile all necessary information for an application.</p>
66	Part 12A, s343G	Intervention by EPA	<p>Enforcement action can be time sensitive, particularly where further or significant environmental degradation is possible. An action may be time sensitive and not be able to be ‘held’ while an intervention process is begun.</p> <p><b>ORC seeks</b> the Ministry redraft the intervention section to include clear criteria on how the intervention process will work in practice (including where an in-progress enforcement cannot wait for EPA’s takeover), and confirm the EPA’s responsibility for assuming all enforcement process costs once it gives notice of an intervention.</p>
66	Part 12A, s343G	Intervention by EPA	<p>Given the wording ‘intervening’ and ‘takes over’ are used in the provision, it would be more appropriate that a local authority ‘suspends’ any enforcement, rather than ‘cease’ it – cease has a rather finality to it.</p>



Bill Clause	RMA Provision	Matter	ORC Submission
			<p>This makes it clearer the same process continues in the handover of the enforcement action between the local authority and EPA and particularly if the EPA hand back the authority to finish the enforcement action.</p> <p><b>ORC seeks</b> the word 'cease' is replaced in section 343G with the word 'suspends' where it relates to enforcement action of a local authority being handed over to the EPA.</p>
71	360D	Regulations that prohibit or remove certain rules	<p><b>ORC supports</b> this amendment. In previous amendments, ORC was concerned that the ability of the Minister to made wide changes to plans, potentially without the full context of their status, posed a risk to local democracy.</p>
72	Part 4 of Schedule 1 - Subpart 1 (clause 43(6))	Conference of Experts	<p><b>ORC submits</b> that the presumption in this proposed clause is wrong. Where the council employs or engages the services of an appropriate expert, that expert should be treated the same as all other experts at the hearing and should have the right to attend expert conferencing. To not enable this will be to restrict the knowledge base of the conference and therefore reduce its effectiveness in assisting the hearing panel.</p> <p><b>ORC seeks</b> deletion of Clause 43(6).</p>

## 10.2. MfE Freshwater 2020

<b>Prepared for:</b>	Strategy and Planning Committee
<b>Report No.</b>	PPRM1910
<b>Activity:</b>	Governance Report
<b>Author:</b>	Peter Constantine (Acting Principal Planner)
<b>Endorsed by:</b>	Gwyneth Elsum, General Manager Strategy, Policy and Science
<b>Date:</b>	29 April 2020

---

### PURPOSE

- [1] To inform Council of the release by the Ministry for the Environment & Stats NZ of the publication titled *Our Freshwater 2020*, and of its key findings.

### EXECUTIVE SUMMARY

- [2] In April 2020, the Ministry for the Environment & Stats NZ released the latest publication in its series of environmental reports. This publication is titled *Our Freshwater 2020* and is available in full on the Ministry for the Environment website.<sup>1</sup>
- [3] The publication builds on information that has been presented in previous reports, adding some new and updated data and more analysis to explore the most significant issues affecting freshwater today.
- [4] One of the purposes of the publication is to assist with understanding how the way we live affects our freshwater. The publication provides a starting point for conversations to be had, enabling decisions to be made regarding where to make changes in respect of how we use and manage freshwater resources.
- [5] In essence, this publication achieves a number of things:
- It reinforces the diversity that exists across New Zealand in respect of the geography of catchments;
  - It reinforces the need for comprehensive and integrated thinking across multiple factors when considering how best to manage the freshwater resource; and
  - It shows that our knowledge of freshwater systems is variable and incomplete, and that this is holding back our ability to plan for and manage the resource.

### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Notes** that the publication *Our Freshwater 2020* will form part of the suite of publications that informs policy development and plan making, particularly in respect of the revised *Regional Policy Statement* and the proposed *Land and Water Regional Plan*

---

<sup>1</sup> <https://www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/our-freshwater-2020.pdf>

---

## **BACKGROUND**

- [6] Under the Environmental Reporting Act 2015 (the Act), the Secretary for the Environment and the Government Statistician are required to produce regular reports on the state of the New Zealand environment. Under the Act, a report on a domain (marine, freshwater, land, air, and atmosphere and climate) must be produced every six months and a whole-of environment (or synthesis) report every three years.
- [7] Each domain report has now been published once, apart from the marine domain which has been published in 2016 and 2019.
- [8] The most recent synthesis report, Environment Aotearoa 2019, was published in April 2019. The previous freshwater report was Our fresh water 2017.
- [9] Freshwater 2020 provides more in-depth information about how the issues highlighted in Environment Aotearoa 2019 relate to freshwater, and it presents new data and insights. Fresh water is a whole interconnected system but for clarity, this publication explores the most significant pressures on the freshwater environment through four priority issues. Each issue explores the critical components and variables in our water catchments and how they relate to what we have, what we are at risk of losing, and where we can make change.

## **ISSUE**

- [10] The key issue addressed in this publication is that our activities, and climate change, are putting pressure on our freshwater ecosystems.

## **DISCUSSION**

- [11] There are a number of themes that emerge from this publication but probably the most profound, but definitely not new, in terms of Council's current planning work programme, is that freshwater is connected. The variety of natural and human-made factors that influence different catchments make it challenging to understand how freshwater will respond to change. Throughout this publication the interconnectedness of freshwater with its host environment, the various components of that environment and the consequences of actions within that environment is emphasised by the discussion. This is condensed in the publication by frequent use of the phrase 'cumulative effects'.
- [12] The publication makes it clear that the variety of natural and human-made factors that influence different catchments make it challenging to understand how freshwater will respond to change. Activities in a catchment often interact and have compounding or cumulative effects on freshwater. Given this complexity, and the lack of long-term data, the publication concludes that the nature of cumulative effects is difficult to predict. While noting that data from field monitoring helps to build a picture of cause and effect, the variability and changeable nature of complex processes can make it virtually impossible to match a cause to any one activity or action.
- [13] By way of example, activities that happen in a large part of a catchment can add up to a substantial pressure, even if each occurrence seems to have a small effect on its own. Abstracting water within a catchment is one example where the overall effect of many small water takes can be large, particularly where many takes occur close together. The

publication notes that in parts of Otago, Canterbury, and Hawke's Bay in 2017/18, computer models of the total volume of water takes (allowed by resource consent but excluding hydroelectricity generation) from many catchments was greater than the estimated natural median flow of the rivers in those catchments.

- [14] The publication goes on to record that different pressures can compound and have cumulative and unexpected effects. By way of example, a habitat can be affected by several different pressures at the same time - sediment, excess nutrients, warmer water, and reduced flows. Individually, each of these pressures has a harmful effect on a stream community, but when they occur simultaneously, the effects are compounded – the damaging effect of sedimentation is stronger when water flows are low or when water temperatures are higher.
- [15] The method of reporting used in this publication follows the requirements of the Environmental Reporting Act 2015. In that Act 'state', 'pressure', and 'impact' are used to report on the environment. The logic of the framework is that pressures cause changes to the state of the environment, and these changes have impacts. Impacts to ecological integrity, public health, economy, te ao Māori, culture, and recreation are all relevant to the evaluation and are reported on, albeit at a rather high level.
- [16] The predecessor to this current publication, Environment Aotearoa 2019, took a whole system approach and in doing so identified nine priority environmental issues facing New Zealand. Four criteria were established to help describe the sense of significance and urgency of an issue:
- Spatial extent and scale – how much of New Zealand is affected by the issue?
  - Magnitude of change – is the issue increasing in scale and/or distribution, or accelerating?
  - Irreversibility and lasting effects of change – how hard is it to fix?
  - Scale of effect on culture, recreation, health, and economy – how much does it affect the things we value
- [17] In Freshwater 2020 the focus is on four of those nine priority environmental issues:
- Issue 1: Our native freshwater species and ecosystems are under threat
  - Issue 2: Water is polluted in urban, farming, and forestry areas
  - Issue 3: Changing water flows affect our freshwater
  - Issue 4: Climate change is affecting freshwater in Aotearoa New Zealand
- [18] Within each of these priority environmental issues the discussion is arranged in seven sections. Following introductory comments regarding what we do not know about an issue and the connections to other issues, the commentary focusses on five key questions:
- Why does the issue matter?
  - What is the current state of the issue and what has changed?
  - What has contributed to the issue?
  - What are the consequences of the issue?
  - Where are the gaps in our knowledge about the issue?
- [19] With regard to the state of freshwater species and ecosystems, many of the freshwater habitats that our native species rely on have been reduced or damaged – sometimes



entire ecosystems have been degraded. This has made some species particularly vulnerable to extinction.

- [20] The publication notes that assessing the health of an ecosystem is a complex process. Although information about ecosystem health is presented in the publication, the conclusion drawn is that the information is not comprehensive enough to provide an overall assessment.
- [21] When it comes to a spatial analysis the publication employs a dominant land cover method for assigning spatial areas to a class. The four classes used are urban, pastoral, exotic forest and native.
- [22] Regarding urban freshwater ecosystems, our overall understanding of freshwater pollution (Issue 2) is limited in some areas. The types and sources of pollution in our cities and towns are complex, and their cumulative effects are not well understood. The publication notes, however, that most of the rivers in catchments in the urban land-cover class are polluted with nutrients and suspended sediment, and many are polluted with pathogens and heavy metals.
- [23] The publication notes that the water quality in catchments in the exotic forest landcover class is generally better than in catchments in the urban and pastoral land-cover classes. However, most rivers in catchments in the exotic forest land-cover class are polluted with nutrients and many are polluted with suspended sediment.
- [24] Importantly for ORC's current work programme, the publication records that understanding the causes of water quality trends is difficult because of the complexity of freshwater systems. River catchments contain a range of interconnected water reservoirs (including groundwater), and water moves between them at different rates. This results in varying times before changes in water quality are apparent (lag times). Catchments also contain a mixture of land cover, land uses, and land management practices, which contribute to trends.
- [25] In addition, seasonal and longer-term variations in weather and climate can have a significant influence on water quality trends, particularly when these are measured over shorter periods of time. Variability is likely to increase as our climate changes, but more research is needed to improve our understanding of how climate variability influences water quality trends.
- [26] The most obvious contributors to these trends are identified in the publication as being wastewater and stormwater infrastructure, clearing and converting land and draining wetlands, felling and replanting forests, and the changing nature of what is farmed.
- [27] Issue 3 - Changing water flows affect our freshwater, is particularly apposite to Council's current policy and planning work. The publication notes that we know how much water is consented for use, but we don't know how much water is actually taken from the freshwater system, how much we have, or the full effects of taking too much water on river habitats and water quality. We also have a large number of permitted activity rules, and no clear understanding of how much water is taken as permitted activities.
- [28] The reasons this issue matters are succinctly recorded in the publication:

- Taking water for irrigation occurs nationwide but at a larger scale in Canterbury and Otago.
  - Many waterways have been significantly modified by channelling their flow. In some catchments the water allowed to be taken for other uses is greater than the expected river flow.
  - It is difficult to reverse over-allocation because farming is important for our economy and often requires irrigation. Hydro dams are important for renewable electricity generation and reduce our use of fossil fuels.
  - Using water and modifying waterways can affect ecosystems and our cultural uses, beliefs, and practices, and limit our access to freshwater.
- [29] The publication identifies three main contributors to this situation: demand for water for irrigation has increased, demand for water is growing as our population increases, and rainfall reduces.
- [30] The significance of this is brought home in the publication in a single statement: “The quantity of water taken from all our rivers, lakes, and groundwater is not known – and neither is the amount of water available. This makes it difficult to know if our freshwater resources are over-exploited and how long they will continue to meet our needs. Given our economic reliance on agriculture, especially dairy farming, this is a significant management issue”. In resource management terms, this situation demands the adoption of a precautionary approach to the allocation of freshwater resources.
- [31] The importance of the relationship between climate change and freshwater (Issue 4) in the publication, can best be summarised by quoting the publication where it notes the links between this issue and the three other issues reported on:
- Issue 1: Our native freshwater species and ecosystems are under threat – climate change is expected to have far-reaching consequences for the health and distribution of species and ecosystems.
  - Issue 2: Water is polluted in urban, farming, and forestry areas – extreme weather events are likely to increase pollution, erosion, and sedimentation in our waterways.
  - Issue 3: Changing water flows affect our freshwater – more frequent and intense droughts are likely to increase the demand for water to irrigate land and increase competition for this resource.
- [32] It needs to be noted that the issues discussed in this publication are not the only ones that affect freshwater. Some activities have an impact but are not featured in this publication because they do not rank as highly against the four assessment criteria (see above) as other issues.
- [33] Within the commentary on each of the four issues addressed in this publication, the story of īnanga (*Galaxias maculatus*) is used to illustrate some of the interactions between different issues that result in cumulative effects on our native freshwater species and their environment. īnanga are a taonga species and the most common and smallest of the native fish caught as whitebait. They move between freshwater and the sea during their life cycle, and lay eggs in vegetation beside streams and rivers where fresh and saltwater meet. Each of the four priority issues discussed in this publication touches īnanga in some way, and together cause cumulative effects on this species and its habitats.

- [34] Finally, the Manuherekia Catchment is referenced within the discussion on Issue 3: Changing water flows affect our freshwater. The discussion is at a very high level and tends to utilise rather dated information and is not reflective of the current work that is going on within the catchment to establish community values and, ultimately, water quality and water quantity outcomes. It does, however, point to the complexity of managing water in the Manuherekia catchment, and the fragility of the river.
- [35] Our Freshwater 2020 is a useful addition to the library of publications on the state of New Zealand's freshwater environment. It achieves this usefulness because it clearly identifies that freshwater is connected and the effects are cumulative – both spatially and temporally. It also highlights that our knowledge of the freshwater resource and these cumulative effects is limited – something that has also been highlighted by the Parliamentary Commissioner for the Environment and is all too familiar to Council.
- [36] As Council progresses its planning framework work programme, the themes identified and commented on in this publication will be regularly revisited. While we are endeavouring to rectify the situation, our own lack of information will at times impact on the planning work programme. What this publication does not suggest, however, is that development of freshwater management regimes should be halted until more perfect knowledge is available. Many of the cause and effect relationships are already well known; the severity of many of the effects is known; continuing degradation means there is not time to wait for more complete or perfect knowledge. All of this is best illustrated in the attached Infographics taken from the Summary Report.

## **CONSIDERATIONS**

### **Policy Considerations**

- [37] As noted previously, this publication is part of a suite of publications that inform policy development. As Council embarks on its planning work programme the issues identified and reported on in this publication will form part of the conversation regarding the 'future' that the residents of Otago wish for themselves and for future generations.

### **Financial Considerations**

- [38] There are no financial considerations arising from noting this publication.

### **Significance and Engagement**

- [39] Noting this publication does not bring into play Council's Significance and Engagement policies.

### **Legislative Considerations**

- [40] There are no legislative considerations arising from noting this publication.

### **Risk Considerations**

- [41] There are no risks to Council arising from noting this publication.

**NEXT STEPS**

[42] For the findings set out in this publication to inform discussion on freshwater management within Otago during the preparation of both the revised Regional Policy Statement and the proposed Land and Water Regional Plan.

**ATTACHMENTS**

1. Infographic (1) Issues that affect our freshwater environment. (2) Issues overlap and have cumulative effects on inanga [10.2.1 - 2 pages]

## ► Issues that affect our freshwater environment

Our activities and climate change are putting our freshwater ecosystems under pressure.



ISSUE 1

**Our native freshwater species and ecosystems are under threat**



**76%**

of our native freshwater fish were classified as threatened with or at risk of extinction in 2017.



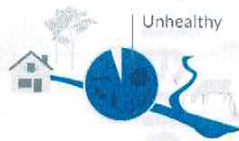
**90%**

of freshwater wetlands, particularly swamps, have been drained since pre-human settlement.



ISSUE 2

**Water is polluted in urban, farming, and forestry areas**



**95–99%**

of river length in urban, pastoral, and exotic forest areas exceeds water quality guidelines (according to computer models).



**67–77%**

of lakes in urban, pastoral, and forestry areas are in poor ecological health (according to computer models).



ISSUE 3

**Changing water flows affect our freshwater**



**58%**

of water allocated for consumption (excluding hydroelectricity) was for irrigation – our highest allocated use.



**About 100**

large dams are used to generate electricity. Others are used for irrigation, flood control, water supply, or a combination.



ISSUE 4

**Climate change is affecting freshwater in Aotearoa New Zealand**



**¼**

of monitoring sites around New Zealand have soils that are drier since 1972/73.



**25%**

of the ice in our glaciers is estimated to have been lost from 1977 to 2016.

Issues interact and have cumulative effects on our freshwater environment



## ► Issues overlap and have cumulative effects on īnanga

Our native fish known as īnanga shows how the issues highlighted in this report overlap and have cumulative effects. All its life stages are affected.

### ISSUES

**1. Habitat changes**

Changes in habitats, spawning areas, and populations

**2. Pollution**

Water quality reduced

**3. Use of water**

Changes in flow and in-stream barriers affect habitats

**4. Climate change**

Temperature and rainfall changes, and more variable water flows



Follow the īnanga story through the issues in the report.

**CULTURAL IMPACT**

Fewer īnanga decreases the mauri of a waterway and take away opportunities to express kaitiakitanga, provide mahinga kai, and share intergenerational knowledge.



**Making Aotearoa New Zealand**  
the most livable place in the world

Published by the Ministry for the Environment and Stats NZ April 2020

Cover photo: Hutt River, Kaitoke Regional Park. Photo: Ministry for the Environment

INFO 932

### 10.3. Otago-Southland Three Waters Investigation: Information for Councils

<b>Prepared for:</b>	Strategy & Planning Committee
<b>Report No.</b>	P&S1846
<b>Activity:</b>	Governance Report
<b>Author:</b>	Anne Duncan, Manager Strategy
<b>Endorsed by:</b>	Gwyneth Elsum, General Manager Strategy, Policy and Science
<b>Date:</b>	13 May 2020

---

#### PURPOSE

- [1] Otago and Southland territorial authorities are investigating ways to collaborate in the management of drinking water, storm water and wastewater (three waters). This work is at an early stage and responds to issues raised through the Government's Three Waters Review.
- [2] This paper ensures that all Councils in Otago and Southland are aware that this work is underway, with further engagement to follow.

#### RECOMMENDATION

*That the Council:*

- 1) **Notes** that Chief Executives from Otago and Southland councils have applied for Crown funding to investigate the current state of water services in Otago and Southland and whether a collaborative approach to water services delivery could benefit Otago and Southland communities and the environment;
- 2) **Notes** that the Otago Regional Council's contribution to the investigation is estimated to be \$18,750;
- 3) **Notes** that the proposed investigation is in the form of an Indicative Business Case; and
- 4) **Notes** that once the Indicative Business Case is completed, it will be brought back to Councils for information and to consider potential next steps.

#### BACKGROUND

##### Three Waters Review

- [3] Central Government is reviewing the regulation and supply arrangements for three waters across New Zealand. The review acknowledges several challenges facing the sector, including funding pressures, rising environmental standards, climate change, seasonal pressure from tourism, and the recommendations of the Havelock North water supply contamination incident in 2016.
  - [4] The regulatory components of this work are well progressed. In December 2019, the Government introduced Taumata Arowai - the Water Services Regulator Bill, which establishes a new water regulator called Taumata Arowai as a Crown agent and outlines its objectives, functions, operating principles and governance arrangements. A separate
-

bill will implement new regulations affecting drinking water, wastewater and storm water networks.

- [5] Bill Bayfield has been appointed as Establishment Chief Executive of the Taumata Arowai Establishment Unit, commencing this position in May 2020. Taumata Arowai will become a legal entity following enactment of the Taumata Arowai – Water Services Regulator Bill, which is anticipated to be by end of July 2020. Taumata Arowai will become fully operational following enactment of the Water Services Bill, expected to be in mid-2021.
- [6] Alongside the proposed regulatory changes, and with the input of local government and the wider water sector, the Three Waters Review Team at the Department of Internal Affairs (DIA) is considering ways to respond to affordability and capability challenges facing the three waters sector. This includes encouraging regional groups of councils to investigate collaborative approaches to water service delivery.
- [7] To support such investigations, the Government has agreed to provide financial assistance on a case-by-case basis. Funding is available for regional investigations of service delivery arrangements that address current weaknesses in the delivery of three waters services and align with the wider objectives of the Three Waters Review.
- [8] A Cabinet paper from January 2020, since publicly released, confirms the Government’s commitment to this process. In the paper, Cabinet agrees to continue to support local government to make voluntary changes to service delivery arrangements, and also sets a one-year deadline, beginning in 2020, “by which the local government sector needs to demonstrate that it has made progress with voluntary reform”.

#### **Otago and Southland Workshops**

- [9] Like many in the local government sector, senior council officials in Otago and Southland have had various discussions with DIA and others about the Three Waters Review and related issues since 2016.
- [10] In November 2019, DIA senior officials visited Dunedin to discuss these issues with the Otago Chief Executives Forum and Otago Mayoral Forum. At the invitation of their Chief Executives, Infrastructure General/Executive Managers from Otago local authorities convened a series of workshops to take a first look at the current state of water services in Otago region and what collaboration could look like. At this point Southland local authorities were invited to join the discussion.
- [11] Three workshops have now taken place with good attendance from all Otago and Southland senior council officials. The working group (primarily made up of Infrastructure General/Executive Managers, water managers and those in similar roles) has identified a need for more detailed information, which the Government’s financial assistance makes possible.
- [12] Gwyneth Elsum, General Manager Strategy, Policy & Science is the Otago Regional Council’s representative on this working group.



## **PROPOSED INVESTIGATION**

- [13] Chief Executives from Otago and Southland councils have applied for Crown funding to investigate the current state of water services in Otago and Southland and whether a collaborative approach to water services delivery could benefit Otago and Southland communities and the environment.
- [14] While the Three Waters Review is an initiative of Central government, there are clear incentives for local authorities to design and lead their own investigations into the issues raised. Water services vary significantly by region – key parameters include size and distances between population centres, geographic features, existing asset condition, contractual arrangements, volumetric charging or its absence, and councils’ debt positions.
- [15] This investigation allows Otago and Southland to develop and understand the water service arrangements that best meet local objectives and respond to local circumstances. Conversely, there is a risk that – without action – central Government may develop a one-size-fits-all model that does not respond to these specific circumstances, leaving Otago and Southland worse off.
- [16] The working group has developed the content of the proposed investigation. The investigation will determine key principles and objectives, document the current state of water services in participating districts, and establish the most pressing issues for Otago and Southland. It will then examine various collaborative models of operation to determine whether they could benefit Otago and Southland communities and the environment.
- [17] At their initial workshops, the working group identified a longlist of options for delivering three waters services. This includes the status quo, shared contracts or services, a shared services agreement, an alliance, a “virtual” council-controlled organisation (CCO), a non-asset-owning CCO and an asset-owning CCO. The proposed investigation will explore each of these options at sub-regional and regional level, as well as for both regions together, through an Indicative Business Case using the Better Business Cases methodology<sup>1</sup>.
- [18] It is a condition of the funding that public ownership of existing assets is retained. Mana whenua will also be involved throughout the process.

## **CONSIDERATIONS**

### **Policy Considerations**

- [19] The proposed investigation is for information purposes. Any policy issues raised will be considered at its conclusion.

### **Financial Considerations**

- [20] Applications for Government funding may seek a 50% contribution to investigation costs on a co-investment basis. Councils’ contributions can include staff costs in-kind (for

---

<sup>1</sup><https://treasury.govt.nz/information-and-services/state-sector-leadership/investment-management/better-business-cases-bbc>

example, to cover a programme coordinator), with the remaining costs to be shared among participating councils.

- [21] The Indicative Business Case has been costed at \$375,000. Otago and Southland Chief Executives have proposed that the councils' share of the investigation be shared using a population-based model, with the two regional councils contributing \$18,750 each.

#### **Significance and Engagement**

- [22] Completing an Indicative Business Case is unlikely to trigger Significance and Engagement Policies as adopted by councils to comply with section 76AA of the Local Government Act 2002.
- [23] Any future work on Three Waters collaboration will be evaluated for significance and engagement if and when it is commissioned.

#### **Legislative Considerations**

- [24] The proposed investigation is for information purposes; there are no legislative considerations.

#### **Risk Considerations**

<b>Risk</b>	<b>Response</b>
Public perception that change is inevitable as a result of this investigation.	Water services are a core function of local authorities, and the proposed investigation may generate concern and uncertainty. It is therefore essential that the investigation is approached without prejudice. The first stage – an Indicative Business Case – is designed to inform the discussion and does not in itself constitute a decision to change how water is managed in Otago and Southland.
Public perception that the investigation process is not independent.	The Government's Three Waters Review will continue alongside the proposed Otago and Southland investigation. The Otago and Southland working group is committed to an independent process, taking account of further analysis and/or policy changes arising from the Three Waters Review.

#### **NEXT STEPS**

- [25] Council Chief Executives have been advised that funding decisions will be communicated by the Minister for Local Government in April and May 2020.
- [26] If Otago and Southland's application is successful, a procurement process will commence to appoint a suitable business case provider. The Indicative Business Case is expected to take approximately eight months, to be completed by December 2020.

- [27] Once the business case is completed, it will be brought back to Councils for information and to consider potential next steps. Funding for any future work will be considered as part of 2021 Long Term Plan processes.
- [28] If the funding application is not successful, Otago and Southland councils remain committed to exploring avenues for collaborating on Three Waters services. Alternatives to the Government-funded process will be progressed if required.

**Attachments**

Nil