

This summary table provides members of the ORC’s Environmental Science and Policy Committee (ESP) with an overview of the matters that will be discussed during a 2nd workshop on the Land & Water Regional Plan (LWRP) taking place on 27 March 2024.

Please note that:

- This summary table is an updated version of the summary table that was distributed to the ESP Committee members on 18 March 2024.
- Any topics that were discussed during the first LWRP workshop on 19 March 2024 have been removed from this updated table.
- Where text in the tables below has changed from the text included in the version of the summary table distributed on 18 March changes are shown in Track Changes (~~strikethrough~~/underlining).

1: MW-Mana whenua/ IM- Integrated Management/ LF- Land and Water

Topic	Summary of feedback received. (* feedback received though internal reviews)	Comments / analysis	Staff position/recommendation OR Options presented (<i>Blue Italics</i>)
Renewable electricity generation (REG)	<ul style="list-style-type: none"> • General support for the plan’s approach to managing REG. • Some specific comments have been received: <ul style="list-style-type: none"> - It is not clear that the provisions enabling non-consumptive takes apply to REG. - Some provisions could be amended to better provide for small scale REG. - There should be a clearer, more straightforward consenting pathway for ongoing maintenance for Otago’s nationally and regionally significant schemes (e.g., Clutha, Waipōuri) and greater recognition of the national significance of Clutha Hydro scheme through inclusion of bespoke provisions. 	<ul style="list-style-type: none"> • The comments received are primarily focused on how the policy direction has been expressed through the plan’s provisions. Staff agree that more clarity is needed and are working on amendments to achieve this. 	<ul style="list-style-type: none"> • Amend the plan to include a controlled activity rule for maintenance works on the Clutha, Waipōuri, Deep Stream, and Paerau/Patearoa schemes, excluding the overall taking, use, damming, and discharge of water.

Table 2: EFL- Environmental Flows, Levels and Take Limits

Topic	Summary of feedback received (* feedback received through internal reviews)	Comments / analysis	Staff position/recommendation OR Options presented (<i>Blue Italics</i>)
EFL-P12 and EFL-P18 Phasing out over-allocation	<ul style="list-style-type: none"> • Many are supportive of the general approach. • Some parties consider that the rules are too permissive, and it should be a prohibited activity to grant consents if the allocation limit is exceeded in all cases. • Some parties suggest that over-allocation should be phased out sooner, others seek longer phase-out times. • The process for phasing out over-allocation needs to be clearer. • The requirement to phase out over-allocation is unreasonable in light of the changes signalled by the government. 	<ul style="list-style-type: none"> • The LWRP needs to give effect to the RPS. Timeframes for phasing out over-allocation are determined by the timeframes for achieving the FMU-specific long-term visions in the RPS. • The LWRP needs to give effect to the NPS-FM 2020 and the direction set by any potential future changes to the NPS-FM is not known. The policy framework provides communities/consent holders with flexibility to develop catchment-specific transition pathways to phase out over-allocation. • New takes in over-allocated catchments are a prohibited activity, but replacement consents are provided for as a non-complying activity to allow for phasing out of over-allocation. • 	<ul style="list-style-type: none"> • No change to overall approach and timeframes.
EFL-P3 – EFL-P11. Environmental flows and take limits.	<ul style="list-style-type: none"> • Some parties oppose take limits where they are based on consented allocation. • Some parties oppose default take limits and flows for catchments where catchment-specific information is not available– some parties consider them to be too conservative and others state they are not effects-based. • Some parties oppose ability to set alternative minimum flows, site specific (residual) flows 	<ul style="list-style-type: none"> • Setting bespoke limits for all water bodies in Otago within budgets and timeframes available is not achievable. • Where take limits are set based on consented allocation this is only intended as a transitional take limit until catchment-specific studies have been undertaken to inform the setting of a bespoke take limit. 	<ul style="list-style-type: none"> • No change to overall approach.

	<p>and take limits through the consent process, should be set in the plan.</p>	<ul style="list-style-type: none"> • The default methods for setting take limits and environmental flows are aligned with best practice applied elsewhere in New Zealand and overseas and are consistent with the draft proposed NES for ecological flows and water levels. • In general, the economic impacts on existing water users of applying environmental flows and take limits based on the default method are not considered to be significant as environmental flows and take limits based on the default method are only used in catchments that are not considered to be over-allocated and where there is no high demand for water. • Minimum flows are typically set at the bottom of the catchment and may not be effective in providing for specific values in tributaries. Therefore, there is a need to allow for the setting of additional minimum flows or residual flows through the consenting process. • The setting of management flows (staged reduction in takes as the river flow drops towards the minimum flow) allows for the prioritisation of certain takes or uses of water when the minimum flow is not breached but restrictions are in place. 	
<p>EFL-P4 B Block (supplementary) flows and take limits</p>	<ul style="list-style-type: none"> • Internal feedback provided that the formula to calculate B Block flows and take limits is complex for applicants to work out. Because it 	<ul style="list-style-type: none"> • B Block flows and take limits are based on the 7DMALF. • Technical advice is that the recorded 7DMALF for rivers in the region does not change significantly each year, and therefore B Block 	<ul style="list-style-type: none"> • No change to the policy. • To implement the policy, for all rivers with a flow recorder, it is recommended that the B-

	<p>is based on 7DMALF¹ which changes each year, it could result in different limits each year, and different supplementary flow and take limits for consents in the same catchment. To create greater certainty for plan users and plan administrators, the B-block environmental flows and B-block take limits should be included in the plan as an absolute limit, not a formula.</p>	<p>flow and take limits based on 7DMALF would not vary much over the life of the LWRP.</p> <ul style="list-style-type: none"> • For rivers with flow recorders, the information would be reliable enough to calculate B Block flows and take limits and include them in the plan. • The policy allows flexibility to propose alternative B Block flows and take limits during the consent process. 	<p>block environmental flows and B-block take limits are calculated and included in the plan as an absolute limit (with the ability to propose alternative flows and limits through the consent process).</p>
EFL-R1 – EFL-R7 Permitted activity rules	<p>Reasonable domestic use and animal drinking water:</p> <ul style="list-style-type: none"> • Several parties consider the rules to be too strict. • Concern about animal welfare given that minimum flow restrictions apply and takes are not permitted in over-allocated zones. • Permitted volumes are insufficient for stock. • Concern that domestic supplies are not enabled at all times (minimum flow restrictions apply, and takes not permitted in over-allocated zones) • Conversely, some parties note that domestic and stock takes can amount to substantial amounts, and they support the proposed rules. <p>Other permitted activity rules:</p> <ul style="list-style-type: none"> • Some parties request that the permitted activity rules are extended to cover all purposes, rather than for limited purposes. e.g. small takes for horticultural root stock or 	<ul style="list-style-type: none"> • The volumes for domestic and animal drinking water applied in the efficient and reasonable use guidelines in the LWRP are in line with current consent practice at ORC and elsewhere in New Zealand. • The framework for permitted takes (i.e. making these subject to environmental flow requirements) gives effect to the hierarchy of obligations and is consistent with the requirements of RMA14(3)(b). • The permitted activity rules are intentionally narrow in scope to ensure that adverse effects on waterbodies are managed, and to ensure that the accounting requirements of the NPSFM can be met. • Various rules providing for permitted takes in the operative Regional Plan: Water for Otago (RPW) currently require adherence to a minimum flow. 	<ul style="list-style-type: none"> • No change to overall approach.

¹ 7DMALF is the 7-day mean annual low flow. It is calculated as the average, for a minimum of 5 years of the lowest average flow over seven consecutive days in each year.

	biosecurity purposes and longer-term infrastructure activities.		
EFL-P13 Efficiency	<ul style="list-style-type: none"> • Consider efficiency at a wider scale. • Consider economic, technical, and dynamic efficiency. • Unintended consequences of efficiency provisions. • Concern that there will be insufficient water for dry years if efficiency gains result in reduced allocation to a consent. 	<ul style="list-style-type: none"> • The mandate to consider efficiency comes from the NPSFM and is a well-established practice under the operative RPW (and throughout NZ). • The resource consent process only enables efficiency to be considered at the scale of each individual consent. • The policies do enable communities to manage water at a larger scale, such as irrigation scheme or catchment scale. In these cases, efficiency could be considered at a wider scale. The policies and associated appendices could be amended to make this clearer. • The provisions take into account technical and dynamic efficiency, for example through guidelines on reasonable and efficient use, providing for collective management and transfer provisions. • The method for determining actual use is calculated over a 10-year period which should be sufficient to capture climate variability. • Unintended consequences do not remove the mandate to consider efficiency under the NPSFM. 	<ul style="list-style-type: none"> • Minor changes will be made to the policy framework for efficiency.
EFL-P3 and APP[flows, levels and limits]	<ul style="list-style-type: none"> • Some parties do not support the proposed bespoke flows, levels and take limits in App [flows, levels and limits for rivers and aquifers. • The feedback received stated that they have not been provided sufficient background material to provide a full assessment of 	<ul style="list-style-type: none"> • Relevant technical information to be provided when available. 	<ul style="list-style-type: none"> • No change to overall approach.

	bespoke limits recommended and the rationale behind the recommendations.		
Environmental flow for the Clutha Mata-au main stem	<ul style="list-style-type: none"> Practical issues of enforceability of conditions i.e minimum flow that is a combination of different inflows into the catchment's main stem and Lake Hawea.* 	<ul style="list-style-type: none"> Issues with enforcing and implementing of Clutha mata-au mainstem minimum flow conditions as drafted given that it is a mix of river in flows and Hawea lake level. Practical issues given flow monitoring sites are managed by NIWA not ORC. However, to meet the requirements for setting environmental flows and levels the condition is required and no alternative solutions have been identified as of today. 	<ul style="list-style-type: none"> No change to overall approach.
Bespoke minimum lake levels for controlled lakes	<ul style="list-style-type: none"> Some parties state the provisions are impracticable as drafted given purpose of controlled lakes and it may interfere with necessary maintenance of damming infrastructure, existing renewable electricity generation. 	<ul style="list-style-type: none"> Feedback received stated that setting minimum levels may have unintended consequences for the purpose and operation of controlled lakes. To meet the NPSFM requirements for setting environmental levels the condition is required 	<ul style="list-style-type: none"> No change to overall approach, but amendments will be made to provide for maintenance of existing regionally significant infrastructure associated with controlled lakes when these are at or below the recommended minimum lake level.

<p>Environmental flow and take limit for the Waikouaiti River</p>	<p>Mixed feedback:</p> <p>(a) Some parties support the recommended flows and take limits and expressing some concern on the health of the Waikouaiti river.</p> <p>(b) Some consent holders are in opposition to the proposed change highlighting that:</p> <ul style="list-style-type: none"> - The proposed changes and limits are unworkable, unrealistic, and unjustified and make their current operation not financially viable. - The proposed changes would significantly impact DCC's ability to meet its drinking water supply obligations (reducing reliability significantly) - Requiring sufficient time to implement changes and built appropriate storage. - The river is considered to be in largely in a healthy condition with land use change and other mitigation contributing to improving the health of the river over time including riparian planting and FWFPs. 	<ul style="list-style-type: none"> • The recommended water quantity limits were based on default method for setting water quantity limits, which is not inappropriate in this instance given the limitations of this method for catchments with a higher degree of hydrological modification. • The minimum flow has the potential to interact with habitat and/or water quality in the Waikouaiti Estuary. However, addressing habitat and/or water quality issues in the Waikouaiti Estuary requires an integrated approach that manages sediment loads as well as water quantity. • The minimum flow by itself is considered to have a limited impact on conditions in the Waikouaiti Estuary. • The residual flow condition on existing consents is 150 L/s from November to April and 350 L/s from May to October. This condition acts as a minimum flow. While the summer residual flow condition is set at what is considered a low proportion of 7DMALF (60%), this was assessed as resulting in unimpacted hydrology relative to naturalized flows. In addition, habitat retention is considered high for most indigenous fish species habitat and sports fish habitat under current setting. 	<p>Proposed change to approach:</p> <ul style="list-style-type: none"> • set take limit based on actual use. • set a minimum flow based on the current residual flow conditions (150 L/s from November to April and 350 L/s from May to October).
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Table 3: DAM – Damming and Diversion

Topic	Summary of feedback received (* feedback received though internal reviews)	Comments / analysis	Staff position/recommendation OR Options presented (<i>Blue Italics</i>)
New in-stream damming	<p>Diverging views:</p> <ul style="list-style-type: none"> • Several parties consider that the policy approach for new in-stream dams and weirs is too restrictive i.e., only allowing for new in-stream dams and weirs where they: <ul style="list-style-type: none"> - are temporary, or - are REG facilities that connect with the local distribution network or national grid, or - are for the primary purpose of protecting, restoring, or enhancing the ecosystem health, indigenous biodiversity, or hydrological functioning, or - have no material adverse effects on water bodies and freshwater ecosystems. • Some consider that “for the primary purpose” should be removed so that dams for other purposes (e.g., irrigation) could be allowed provided they also protect, restore or enhance ecosystem health, indigenous biodiversity or hydrological functioning. • Other parties consider that this approach is too lenient, and seek that it is tightened further e.g., by removing the pathway for REG. 	<ul style="list-style-type: none"> • Strong direction in the NPS-FM to avoid the loss of river extent and values to the extent practicable. This direction is included in the LF chapter. • The policy framework in the draft LWRP for new in-stream damming was developed in response to previous direction provided by ORC’s Strategy and Planning Committee in 2022 i.e., encourage off-stream storage, discourage new in-stream. • The placement of new in-stream dams is a significant issue for mana whenua. • Recognition of REG seeks to give effect to the NPS-REG and implement objectives in the IM and LF chapters. • New in-stream dams that are not temporary or placed in areas where damming is prohibited (e.g., in accordance with a Water Conservation Order) will generally require a resource consent as a discretionary activity. As part of the assessment, all relevant policy direction, including but not limited to LF-P3, LF-P4 and DAM-P3 will be considered. • Replacement of existing in-stream dams is provided for under DAM-P4. 	<ul style="list-style-type: none"> • No change.

		<ul style="list-style-type: none"> Acknowledge that DAM-P3 currently provides specific direction for the types of new in-stream damming that are supported. 	
Recognition of REG	<ul style="list-style-type: none"> Several parties consider that the policies and rules should be more enabling of, or include bespoke provisions for, renewable energy generation activities to better give effect to the NPS-REG. (Note that similar feedback has been raised with respect to draft provisions in several other chapters of the draft LWRP). There should be a clearer, more straightforward consenting pathway for ongoing maintenance on the Clutha scheme and greater recognition of the national significance of Clutha Hydro Scheme through inclusion of bespoke provisions. 	<ul style="list-style-type: none"> The draft LWRP seeks to give effect to the NPS-REG through strategic provisions in the IM and LF chapters, and within other relevant chapters, including EFL, BED and DAM. DAM-P3 currently provides recognition of REG facilities with regard to new in-stream damming activities. Acknowledge that while the draft LWRP does provide for REG activities, there are opportunities to make this more explicit. 	<ul style="list-style-type: none"> Include a new bespoke controlled activity rule for the maintenance of the Clutha Hydro Scheme in FMU1 (not including the take, use or damming of water) to recognise its' national importance, subject to conditions.
Flood protection and drainage infrastructure <u>Refer to discussion for feedback on BED-chapter during the 19 March 2024 ESP Committee workshop</u>	<ul style="list-style-type: none"> Internal feedback seeks several amendments to better provide for the management of Council owned assets and enable BAU in respect to river management activities including by:* <ul style="list-style-type: none"> Amending the definitions in the dLWRP (e.g., dam, damming, diversion) to exclude specific assets (e.g., stopbanks, flood ponding areas). Amending or adding new policies and rules to better provide for Council activities associated with flood protection and drainage infrastructure. (Note that similar feedback has been raised for the BED chapter.) 	<ul style="list-style-type: none"> Flood protection and drainage works are subject to conflicting legislation, do not always align with the direction in the NPS-FM. Currently, no specific direction for flood protection and drainage works in the DAM chapter except for providing for new in-stream dams and weirs where they are for the primary purpose of protecting, restoring or enhancing. Acknowledge that flood protection and drainage works cover a wide range of assets and activities, including works in and out of the bed and some damming and diversion. 	<ul style="list-style-type: none"> Provide more specific policy direction to recognise and provide for flood protection and drainage works and associated damming and diversion activities. Bring all flood protection and drainage works policies and rules into a standalone FLOOD chapter, including relevant BED and DAM provisions, with cross-references as required. If not adopted, these provisions would sit in the BED and DAM chapters as relevant.

<p>Taking of water into in-stream dams</p>	<ul style="list-style-type: none"> Some parties question whether the outcomes and costs of requiring existing in-stream dam owners to measure or model the impoundment volume and dam inflows and outflows to inform freshwater accounting by 1 July 2028 (under DAM-P6 and DAM-R6) is practicable or reasonable. 	<ul style="list-style-type: none"> DAM-P6 and DAM-R6 sought to give effect to direction in clause 3.17 of the NPS-FM and to resolve current freshwater accounting challenges. 	<ul style="list-style-type: none"> Staff are investigating options to simplify and streamline these requirements in order to achieve the same outcome.
<p>Fish spawning and taoka species</p> <p><u>Refer to discussion for feedback on BED-chapter during the 19 March 2024 ESP Committee workshop.</u></p>	<ul style="list-style-type: none"> Need greater recognition of fish spawning in policy and rules, to avoid works during indigenous and salmonid spawning seasons. Additional references to taoka species in policies are required to protect these species. Note that this is also an issue raised with regard to the BED chapter. 	<ul style="list-style-type: none"> NPS-FM requires protection of habitats of indigenous and Several of the permitted DAM rules include a date exclusion to capture salmonids and some indigenous species (galaxiids). General date range likely not feasible for all indigenous species, as species spawn at different times throughout the year. 	<ul style="list-style-type: none"> Stronger policy direction plus either: <ul style="list-style-type: none"> Retain current dates; or Narrative permitted activity condition to avoid disturbance of spawning habitats; or Link to NIWA fish spawning calendar or similar, with map or information to show which species are where. Option chosen will depend on information available.

Objective for DAM	<ul style="list-style-type: none"> • Need an objective within the DAM chapter to clearly link with the policies and rules. 	<ul style="list-style-type: none"> • The DAM chapter currently relies on objectives in other chapters of the draft LWRP, including IM, LF and BED. These chapters include relevant outcomes related to the natural character, form and function of water bodies, fish passage and habitats, and renewable energy generation etc. • Acknowledge that there are benefits associated with including a standalone objective to ensure a clear line of sight with the policies and rules in the DAM chapter. 	<ul style="list-style-type: none"> • Following confirmation of the overall policy approach for new in-stream damming (see above), staff will review whether any gaps exist and the need for a standalone objective in the DAM chapter.
Activity status for “drop-out” rules	<ul style="list-style-type: none"> • Where permitted activities are unable to be met, the “drop-out” rules should be more lenient than discretionary to reflect the Council’s desire to encourage certain activities i.e., maintenance of dams, construction of new off-stream dams or temporary in-stream dams etc. 	<ul style="list-style-type: none"> • Given the range of activities managed under these rules (i.e., damming, diversion, discharges, works in the beds of lakes and rivers) there are a range of adverse effects that require consideration. As such, the list of matters for a consent processing officer to consider are broad in scope and warrant a discretionary activity status. 	<ul style="list-style-type: none"> • No change.
Diversions	<ul style="list-style-type: none"> • Seek clarification on what effects are being managed by the diversion rules and their purpose. • Amendments to conditions needed to control the scale, timing, and all relevant potential adverse effects of diversions. 	<ul style="list-style-type: none"> • Acknowledge there are opportunities to clarify the intent of these provisions and to ensure that all relevant potential adverse effects are considered in the permitted activity conditions. 	<ul style="list-style-type: none"> • Staff will review the conditions to ensure they are clear for plan users and manage all potential adverse effects.

Table 4: FMU and rohe provisions

Topic	Summary of feedback received (* feedback received through internal reviews)	Comments / analysis	Staff position/recommendation OR Options presented (<i>Blue Italics</i>)
Environmental outcomes	<ul style="list-style-type: none"> • General support for the environmental outcomes • Some parties request reordering of the environmental outcomes • Some parties request the inclusion of new objectives, such as an environmental outcome for domestic food production or an environmental outcome for industrial and commercial activities for the Catlins FMU. amendments to the wording • Some parties request an amendment to the wording of existing environmental outcomes. 	<ul style="list-style-type: none"> • There is a need to address the issue of climate change and erosion of closed landfills/contaminated land, for example in Dunedin. • Contaminated land provisions are spread across multiple chapters in the plan making it overly complicated. A contaminated land chapter would make it more straight forward for the management of activities on these sites. 	<ul style="list-style-type: none"> • No change to approach, with some, mostly minor amendments.
Policies	<ul style="list-style-type: none"> • Concern about the FMU specific policies for the North Otago FMU 	<ul style="list-style-type: none"> • The policies seem to ensure that any decision-making with respect to the management of the tributaries of Waitaki River or with respect to activities that can impact the health of this river allow for consideration of the effects on the wider catchment. 	<ul style="list-style-type: none"> • No change to approach, with some potential minor amendments.
FMU and rohe specific rules	<ul style="list-style-type: none"> • Concern about the consent requirement for dairy • Concern about the limitations for dairy support 	<ul style="list-style-type: none"> • Refer to discussion in Table 6. 	<ul style="list-style-type: none"> • No change to approach

<p><u>Refer to discussion for feedback on PP-chapter during the 19 March 2024 ESP Committee workshop</u></p>			
<p>Setting limits for groundwater</p>	<ul style="list-style-type: none"> • Some have requested the setting of limits for groundwater 	<ul style="list-style-type: none"> • The setting of for groundwater is constrained by the availability of groundwater monitoring data. 	<ul style="list-style-type: none"> • No change to approach
<p>Target attribute states</p>	<ul style="list-style-type: none"> • Some for support TAS for specific values in specific locations • Some parties consider that the TAS are too low and not ambitious enough for specific FMUs, rohe or areas. • Some parties have requested TAS for more monitoring locations, specific values and water body types (e.g., wetlands) • There is a disconnect between the values and TAS/alternative criteria identified for this value. The TAS and/alternative criteria do not allow for comprehensive monitoring of all relevant aspects of a value. • Some request more monitoring sites 	<ul style="list-style-type: none"> • The setting TAS is constrained by the availability of monitoring data and long-term monitoring sites. • Setting more ambitious TAS may result in the need to set more stringent controls in the LWRP. 	<ul style="list-style-type: none"> • No change to approach, some potential minor amendments.