

In the High Court of New Zealand  
Dunedin Registry

I Te Kōti Matua O Aotearoa  
Ōtepoti Rohe

**CIV-**

Under the Resource Management Act 1991

In the matter of an appeal under clause 56 of Schedule 1 of the Resource Management Act 1991

Between **Otago Fish and Game Council**, being a Body Corporate under s 26P of the Conservation Act 1987 having its registered offices at 247 Hanover Streets, Dunedin

First Appellant

And **Central South Island Fish and Game Council**, being a Body Corporate under s 26P of the Conservation Act 1987 having its registered offices at 32 Richard Pearse Drive, Temuka

Second Appellant

And **Otago Regional Council**, being a regional council under Schedule 2 of the Local Government Act 2002

Respondent

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**Notice of Appeal on behalf of Otago Fish and Game Council and Central South Island Fish and Game Council**

22 April 2024

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**Appellants' solicitors:**

Maree Baker-Galloway | Laura McLaughlan  
Anderson Lloyd  
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**anderson  
lloyd.**

**To:** The Registrar of the High Court at Dunedin

**And to:** The Otago Regional Council

**And to:** The submitters and further submitters on the Freshwater Planning Instrument part of the Proposed Otago Regional Policy Statement 2021 listed in Appendix A

**TAKE NOTICE** that Otago Fish and Game Council and Central South Island Fish and Game Council (**Appellants**) appeal part of the decision of the Otago Regional Council (**Respondent**) to accept the report and recommendations of the Freshwater Hearings Panel (**Panel**) on the Freshwater Planning Instrument part of the Proposed Otago Regional Policy Statement 2021 (**PORPS**) (**Decision**) upon the ground that the Decision is erroneous in law.<sup>1</sup>

## **INTRODUCTION**

- 1 This appeal is made under clause 56 of Schedule 1 and s 300 of the Resource Management Act 1991 (**RMA/the Act**).
- 2 The Appellants lodged a comprehensive submission on the PORPS (**Submission**).<sup>2</sup>
- 3 On the Land and Freshwater Visions and Management section (**LF-VM**) of the PORPS, the Appellants sought that there either be an overarching Vision Objective applying to every river, or that each catchment/Freshwater Management Unit (**FMU**) Vision Objective contain the visions detailed in the Appellants' Submission. The Appellants sought the following provisions:

LF-VM-OA2

By no later than 2040, in all Otago catchments

...

(7) the habitat of trout and salmon is protected and restored, and trout and salmon are able to migrate easily within and between catchments, insofar as each goal is consistent with that of indigenous species.

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<sup>1</sup> The Appellants received notice of the Decision on 28 March 2024. The Appellants lodged submissions on the Freshwater Planning Instrument parts of the PORPS.

<sup>2</sup> Submission on the proposed Otago Regional Policy Statement, dated 29 November 2022.

(8) food is available to be harvested from water bodies in abundance and is safe to consume.

(9) people have abundant, quality opportunities to connect with and recreate within or close to a wide range of water bodies.

...

4 In the Respondent's Summary of Decisions Requested the Appellants' submission point on this matter was recorded as submission point FPI037.014.

5 The Appellants' Submission also sought that the general objective in the PORPS in respect of freshwater LF-FW-O8 also reference the habitat of trout and salmon as follows:

In Otago's water bodies and their catchments:

...

(4a) the habitat of trout and salmon, including fish passage, is protected and restored as part of the health, well-being and resilience of water bodies, and

6 This was labelled submission point FPI037.015 in the Summary of Decisions Requested.

7 As the process ran its course, by the time the Appellants had considered the evidence of other parties, including the Respondent's Section 42A Report<sup>3</sup> (**42A Report**), the drafting promoted by the Appellants at the Hearing to implement the relief sought above was as follows (on the basis that the section 42A Report had effectively recommended a merging of LF-VM-OA2 and LF-FW-O8 into LF-FW-O1A):

LF-FW-O1A – Region-wide objective for fresh water

In all FMUs and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VMO2 to LF-VM-O6:

...

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<sup>3</sup> Section 42A Hearing Report. Proposed Otago Regional Policy Statement. Parts Considered to be a Freshwater Planning Instrument under section 80A of the Resources Management Act 1991, 2 June 2023.

(10) food is available to be harvested from water bodies in abundance and is safe to consume,

(11) people have abundant recreation opportunities to access and use water bodies,

(12) subject to LF-FW-O1A (1), healthy populations of trout and salmon are able to move within and between catchments, and have habitats protected in a good state of health and well-being

- 8 The parts of the Decision appealed are:
- (a) the section 3 Visions pages 379 – 391 and section 7.3 LF-VM – Visions and management pages 408 – 421. These parts of the Decision recommend the Decision version drafting for:
    - (i) LF-FW-O1A; and
    - (ii) each catchment specific objective LF-VM-O2 – Clutha Mata-au FMU Vision, LF-VM-O3- North Otago FMU Vision, LF-VM-O4 - Taiari Vision, LF-VM-O5 – Dunedin and Coast FMU vision, LF-VM-O6 – Catlins FMU vision; and
  - (b) the parts of the Decision at 8.2.5 in respect of LF-FW-O8 – Freshwater pages 448 – 449. The Decision recommended most of the content of LF-FW-O8 be moved to LF-FW-O1A.
- 9 None of the Objectives in the Decision listed above include any direct reference to trout and salmon habitat, nor the harvesting of food that is safe to consume from water bodies (beyond reference to mahika kai which is defined as specific to Kāi Tahu).
- 10 The region-wide Objective LF-FW-O1A as decided is:

LF-FW-O1A – Visions set for each FMU and rohe

In each FMU and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VMO2 to LF-VM-O6:

(1) healthy freshwater and estuarine ecosystems support healthy populations of indigenous species (including non-diadromous galaxiids and Canterbury mudfish) and mahika kai that are safe for consumption,

(2) the interconnection of land, freshwater (including springs, groundwater, ephemeral water bodies,

wetlands, rivers, and lakes) and coastal water is recognised,

(3) fish passage within and between catchments is provided for except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats,

(4) the form, function and character of water bodies reflects their natural characteristics and natural behaviours to the extent reasonably practicable,

(5) the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, is sustained,

(6) the health of the water supports the health of people and their connections with water bodies,

(7) sustainable land and water management practices:

(a) support food and fibre production and the continued social, economic, and cultural wellbeing of Otago's people and communities, and

(b) improve the resilience of communities to the effects of climate change, and

(c) ensure communities are appropriately serviced by community water supplies, and other three waters infrastructure,

(8) direct discharges of wastewater to water bodies are phased out to the extent reasonably practicable, and

(9) freshwater is managed as part of New Zealand's integrated response to climate change and renewable electricity generation activities are provided for.

11 The Objective LF-FW-O8 as decided is:

LF-FW-O8 – Fresh water

In Otago's water bodies and their catchments:

(5) The significant and outstanding values of Otago's outstanding water bodies are identified and protected.

## **ERRORS OF LAW AND GROUNDS OF APPEAL**

### **First Error of Law: misapplication of clause 3.3 of the National Policy Statement for Freshwater Management 2020 (NPSFM)**

- 12 The Decision erred in omitting to include either at the region wide level, or at catchment levels, the Vision Objectives (**Vision Objectives**) the Appellants sought relevant to trout and salmon habitat and harvesting food that is safe to consume from water bodies generally.
- 13 In making the above findings the Respondent erred in law by failing to reflect the community aspiration as required by clause 3.3 of the NPSFM. In particular, it erred by failing to:
  - (a) incorporate Vision Objectives relating to trout and salmon habitat and harvesting food that is safe to consume from freshwater that arose from engagement with communities about their long-term wishes for the water bodies and freshwater ecosystems in the Otago region; and
  - (b) incorporate the Vision Objectives relating to trout and salmon habitat and harvesting food that is safe to consume based on the evidence presented at the Hearing on the importance of trout and salmon and sports fishing/harvesting food generally to the Otago community.
- 14 Clause 3.3 of the NPSFM requires regional councils to set 'ambitious but reasonable' long-term visions for the water bodies and freshwater ecosystems in the region. It requires that the long-term visions must be developed through engagement with communities and tangata whenua.
- 15 Given the results of the engagement the Respondent undertook, and the expressions from the community during that engagement and at the hearing, the Respondent erred in not including long-term visions relating to the protection of the habitat of trout and salmon, or the ability to harvest food that is safe for consumption.

### **Second Error of Law: wrong legal test**

- 16 The Respondent applied the wrong legal test in relation to the application of sections 7(c) and 7(h) of the Act. The Respondent failed to have particular regard to sections 7(c) and (h) in omitting to include any reference to trout and salmon habitat and harvesting food at the Objective level in the PORPS.
- 17 In particular:

- (a) The protection of trout and salmon habitat is a matter to be had particular regard to in the RMA.<sup>4</sup> The Decision specifically sets as objectives other matters that fall under section 7, but does not include a limb in the objectives that relates to section 7 (h) and the protection of trout and salmon habitat.
  - (b) The Decision does not reference sections 7(c) or (h) specifically in any of its albeit brief discussions in respect of trout and salmon habitat and recreational fishing/food harvesting, including in the parts of the Decision on the Vision Objectives and LF-FW-O8.
- 18 The PORPS 2021 fails to give effect to these directions as there is no specification in the relevant Objectives in respect of protecting the habitat of trout and salmon.

### **Third Error of Law: misapplication of Policy 10 of the NPSFM**

- 19 The Respondent erred in its application of Policy 10 of the NPSFM, which requires the protection of the habitat of trout and salmon insofar as that protection is consistent with the protection of the habitats of indigenous freshwater species.
- 20 In particular:
- (a) Policies 9 and 10 of the NPS-FM requires the habitat of trout and salmon to be protected, insofar as it is consistent with protection of habitat for indigenous species.
  - (b) The Decision does not reference Policy 10 of the NPSFM in the parts of the Decision on the Vision Objectives and LF-FW-O8. There is a gap at the Objective level that therefore fails to articulate the long-term goal for implementation of Policy 10 of the NPSFM.
  - (c) The PORPS fails to give effect to these directions as there is no specification in the relevant Objectives to protect the habitat of trout and salmon.

### **Fourth Error of Law: failure to take account of relevant information**

- 21 The Respondent erred by failing to take into account relevant information. There is no discussion as to why the relief in respect of trout and salmon

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<sup>4</sup> RMA section 7(h)

habitat or harvesting food that is safe to consume from freshwater was not accepted.

22 In particular:

- (a) The Respondent failed to consider the relief sought by the Appellants, the evidence presented at the Hearing by the Appellants, in support of its relief, and the results of engagement with the community. The Decision does not refer to the evidence presented by the Appellant nor the results of community engagement.
- (b) The parts of the Decision being appealed are silent on the relief sought by the Appellants to have trout and salmon habitat and harvesting food that is safe to consume from freshwater referenced at the Objective level, in either the Vision Objectives, or LF-FW-O8. There is no discussion or reasons provided.
- (c) Appendix 6 to the Decision is the table detailing the Panel's Recommendation and Reason for each individual submission point. The submission point recording the Appellants' relief sought in respect of the region wide Vision Objective is recorded as FPI037.014. The table states that the submission point is accepted in part, and in the "reasons" column states "Elsewhere in this report we recommend amendments that address this submission point". Those parts of the report are not identified.
- (d) The submission point FPI037.015 recording the Appellants' relief in respect of LF-FW-O8, is also recorded as "accepted in part" and under reasons "Elsewhere in this report we recommend amendments that address this submission point".
- (e) However, the Decision does not discuss anywhere else why or how the Appellants' relief seeking reference to trout and salmon at the Objectives level is addressed.
- (f) The 42A Report<sup>5</sup>, in respect of which the Decision explicitly or implicitly accepts some recommendations, discussed the LF-VM Visions and management section of the PORPS in section 8.4, from page 176 onwards.

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<sup>5</sup> Section 42A Hearing Report. Proposed Otago Regional Policy Statement. Parts Considered to be a Freshwater Planning Instrument under section 80A of the Resources Management Act 1991, 2 June 2023



- (g) The 42A Report references the region-wide consultation that led to the development of the Visions, as recorded in the Consultation Report appended to the Section 32 Evaluation Report.<sup>6</sup> The Consultation Report records numerous community aspirations in respect of recreational fishing and trout and salmon. However the 42A Report does not explain or give reasons as to why that feedback from the community was not then identified as a Vision.
- (h) The 42A Report references in general terms the relief sought by the Appellants, but never discusses the Vision Objective in respect of trout and salmon habitat or food harvesting specifically and does not give a reason for not recommending inclusion of those specific Vision Objectives, either at a region wide or catchment specific level.
- (i) Specifically, under the heading 'Response to Concerns of Submitters' at page 181 of the 42A Report the Report does not address the Vision Objective sought by Fish and Game in respect of trout and salmon.
- (j) And, under the heading 'Content of a region-wide objective for fresh water' at page 183 of the 42A Report, the 42A Report does not reference the specific Vision Objectives sought by the Appellants the subject of this Appeal and nor does it give a reason for not including them.
- (k) Similarly with regards to LF-FW-O8, the 42A Report discusses this from page 262 onwards. The 42A Report does not explain why trout and salmon are not referenced at the Objective level, while they are referenced at the Policy level.

#### **Fifth Error of Law: failure to have regard to the Management Plans**

- 23 The Respondent breached section 61 of the Act, by failing to have regard to the Sports Fish and Game Management Plan for Otago Fish and Game Region 2015 – 2025, and the Sports Fish and Game Management Plan for Central South Island Fish and Game Region 2022 – 2032, prepared under the Conservation Act 1987 (**Management Plans**). Section 61 (2) (a) (i) requires that when making or changing a regional policy statement, the regional council shall have regard to management plans prepared under other Acts. The Respondent erred by failing to take into account the

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<sup>6</sup> Section 32 Evaluation Report, Consideration of alternatives, benefits and costs, Proposed Otago Regional Policy Statement 2021, May 2021, Appendix 5

Management Plans in the decisions in respect of the Vision Objectives and FL-FW-O8.

- 24 The Appellants' evidence and legal submissions presented at the Hearing drew the Respondents' attention to the Management Plans, as an additional evidential and legal justification for the relief sought. The Decision makes no mention of giving any attention or thought to the Management Plans.

#### **Sixth Error of Law: decision wrong in law**

- 25 The cumulative effect of these errors above led the Respondent to a conclusion which it could not reasonably have reached. The Respondent unreasonably disregarded and ignored the results of community consultation and evidence presented at the Hearing, and disregarded the direction in the NPSFM and section 7 of the Act.

#### **Other grounds**

- 26 Other relevant grounds for the errors of law identified in this notice will be addressed in submissions to be filed by the Appellants in advance of any hearing of this appeal.

#### **QUESTIONS OF LAW**

- 27 The following questions of law arise from this appeal:
- (a) Did the Respondent err by omitting to include either at the region wide level, or at catchment levels, the Vision Objectives the Appellants sought relevant to trout and salmon habitat and harvesting food that is safe to consume?
  - (b) Did the Respondent err by failing to implement/give effect to clause 3.3 of the NPSFM by not expressing the long-term wishes the community recorded through the engagement/consultation process, in respect of trout and salmon habitat and harvesting food that is safe to consume?
  - (c) Did the Respondent err by failing to implement/give effect to clause 3.3 of the NPSFM by not correctly expressing the community's long-term wishes based on evidence presented at the Hearing on the importance of trout and salmon habitat and harvesting food generally to the Otago community?
  - (d) Did the Respondent err by taking the wrong approach to and/or adopting the wrong legal test for section 7 (c) and 7(h) of the Act?

- (e) Did the Respondent err by failing to have particular regard to sections 7 (c) and (h) of the Resource Management Act 1991, in not referring to trout and salmon habitat in the Vision Objectives or LF-FW-O8?
- (f) Did the Respondent properly apply Policy 10 of the NPSFM when considering the Vision Objectives and LF-FW-O8?
- (g) Did the Respondent err by failing to give effect to Policy 10 of the NPSFM, in not referring to trout and salmon habitat in the Vision Objectives or LF-FW-O8?
- (h) Did the Respondent err by failing to take into account relevant information on the importance of trout and salmon habitat and harvesting food that is safe to consume, presented in evidence at the Hearing?
- (i) Did the Respondent err by failing to have regard to the Management Plans?
- (j) Did the Respondent breach section 61 of the Act by failing to have regard to the Management Plans?
- (k) Did the cumulation of errors lead the Respondent to make a decision which was wrong in law and/or manifestly unreasonable?

## RELIEF SOUGHT

28 The relief sought by the Appellant is that:

- (a) the appeal be allowed;
- (b) this Court make an order:
  - (i) setting aside the part of the Decision being appealed; and
  - (ii) referring the matter back to the Otago Regional Council for reconsideration in light of the findings of this Court; and
- (c) costs of and incidental to this proceeding, including disbursements.

## ATTACHMENTS

29 The following documents are attached:

- (a) **Attachment A** is a list of the parties to be served with a copy of the Appeal;

- (b) **Attachment B** is a copy of the report and recommendations of the Panel on the Freshwater Planning Instrument parts of the PORPS;
- (c) **Attachment C** is a copy of the decision of the Respondent to accept the report and recommendations Panel on the Freshwater Planning Instrument parts of the PORPS.

Dated at Queenstown this 22<sup>nd</sup> day of April 2024

*Maree Baker-Galloway*

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Maree Baker-Galloway/Laura McLaughlan  
Counsel for the Appellants

This Notice of Appeal is filed by MAREE ANNE BAKER-GALLOWAY, solicitor for the Appellant. The address for service of the Appellant is Level 2, 13 Camp Street, Queenstown 9300.

Documents for service on the Appellant may be left at that address for service or may be:

1. Posted to the solicitor at PO Box 201 Queenstown 9300; or
2. Emailed to the solicitor at [maree.baker-galloway@al.nz](mailto:maree.baker-galloway@al.nz)

## Attachment A – list of parties to be served with a copy of the Appeal

Party	Address for service
High Court, Dunedin Registry	dunedin.dc@justice.govt.nz
Otago Regional Council	policy@orc.govt.nz; hearingsadministrator@orc.govt.nz
Ballance Agri-Nutrients Ltd (BAN)	Dominic.Adams@ballance.co.nz
Beef+Lamb New Zealand Ltd and Deer Industry New Zealand	lilly.lawson@beeflambnz.com; cthomsen@fvm.co.nz
Central Otago Winegrowers Association	phil.page@gallowaycookallan.co.nz; simon.peirce@gallowaycookallan.co.nz
Contact Energy Limited	David.allen@buddlefindlay.com; frances.wedde@buddlefindlay.com
Dairy NZ Ltd	Carina.ross@dairynz.co.nz
Director-General of Conservation (Penny Nelson)	mbrass@doc.govt.nz
Dunedin City Council	Paul.Freeland@dcc.govt.nz (please also cc: to sarah.hickey@dcc.govt.nz)
Environment Canterbury	paul.thompson@ecan.govt.nz
Federated Farmers of New Zealand	elinscott@fedfarm.org.nz
Fonterra Co-operative Group Ltd	Ben.Williams@chapmantripp.com; Rachel.Robilliard@chapmantripp.com
Fulton Hogan Ltd	tensor@tonkintaylor.co.nz
Greenpeace	crose@greenpeace.org
Gunn, Wendy	thequince@thequince.co.nz
Hamilton Runs Ltd	renee@maniototoirrigation.co.nz
Highton, John	John.highton@otago.ac.nz
Horticulture New Zealand	Leanne.roberts@hortnz.co.nz

Kai Tahu ki Otago (Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga)	sandra@aukaha.co.nz
Kenderdine, Duncan	kenderdined@gmail.com; ben@cuee.nz
Manawa Energy Ltd	nicola.foran@manawaenergy.co.nz
Manuherikia Catchment Group Incorporated Society	susie@mckconsultancy.co.nz
McArthur Ridge Vineyard Ltd, Strath Clyde Water Ltd, McArthur Ridge Investment Group Ltd and Mount Dunstan Estates Ltd	fiona@astonconsultants.co.nz
Meridian Energy Ltd	andrew.feierabend@meridianenergy.co.nz
Minister for the Environment	freshwater@mfe.govt.nz; Shannon.wallace@mfe.govt.nz
Moutere Station Ltd	harrietjopp@mouterestation.co.nz
New Zealand Defence Force	Lucy.Edwards@nzdf.mil.nz; AGifford@tonkintaylor.co.nz
Ngai Tahu ki Murihiku (Waihopia Runaka, Te Runanga Oraka Aparima, and Te Runanga o Awarua)	service@es.govt.nz
NZSki Ltd	ben@cuee.nz; paul@nzski.com
Oceana Gold (New Zealand) Ltd	NZ.Legal@oceanagold.com
Otago forestry companies (Port Blakely, Calder Stewart, City Forests, Ernslaw One Ltd, and Wenita)	peter.weir@ernslaw.co.nz
Otago Water Resources Users Group Inc (OWRUG)	andrea@landpro.co.nz; bridget.irving@gallowaycookallan.co.nz; kate@landpro.co.nz; phil.page@gallowaycookallan.co.nz
Parcell, Edgar	edgarparcell@xtra.co.nz
PF Olsen	Sarah.orton@pfolsen.com
Queenstown Lakes District Council	10 Gorge Road, Queenstown 9300

Ravensdown Ltd	carmen@planzconsultants.co.nz
Rayonier Matariki Forests	andy.fleming@rayonier.com
Real Group Ltd (Realnz)	fblack@realjourneys.co.nz; ben@cuee.nz
Royal Forest And Bird Protection Society Of New Zealand	c.mcgaw@forestandbird.org.nz
Silver Fern Farms Ltd	steve.tuck@mitchelldaysh.co.nz
Te Runanga O Ngai Tahu	Jessica.riddell@ngaitahu.iwi.nz
The Fuel Companies (Z Energy Ltd, BP Oil NZ Ltd, And Mobil Oil NZ Ltd)	markl@4sight.co.nz
Transpower New Zealand Ltd	ainsley@amconsulting.co.nz
Waka Kotahi NZ Transport Agency	Richard.Shaw@nzta.govt.nz
Waterfall Park Developments Ltd	maddy@brownandcompany.co.nz
Wise Response Society Inc	secretary@wiseresponse.org.nz

**Attachment B - a copy of the report and recommendations of the  
Freshwater Hearings Panel to the Otago Regional Council**



**Attachment C - a copy of the Otago Regional Council's decisions on the Proposed Otago Regional Policy Statement 2021 – Freshwater Planning Instrument Parts**

## Council decisions on the Proposed Otago Regional Policy Statement 2021 – Freshwater Planning Instrument Parts

At its meeting on 27 March 2024 the Otago Regional Council considered the recommendations of the Freshwater Hearings Panel on the Proposed Otago Regional Policy Statement 2021 – Freshwater Planning Instrument Parts and decided as follows:

Attachment: Table of Freshwater Hearing Panel Recommendations

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
1.	General	We recommend that submissions on provisions and matters in the freshwater planning instrument are accepted or rejected wholly or in part as set out in Appendix 6: Freshwater Planning Instrument Hearing Panel Recommendations for decisions on submissions and reasons.	Accept Panel recommendation
2.	Objectives – LW-WAI-O1 & the use of ‘mauri’	Amend LF-WAI-O1 to read:  <del>The mauri of Otago’s water bodies and their health and well-being is</del> <u>are</u> protected, and restored where <del>it is</del> <u>they are</u> degraded, <u>so that the mauri of those water bodies is protected</u> , and the management of land and water recognises and reflects that:  ...	Accept Panel recommendation
3.	Wetland definition	We recommend the definition ‘natural wetland’ is deleted. Deletion of the ‘natural wetland’ definition and related amendments to apply the ‘natural inland wetland’ approach will have consequences for those LF-FW Objectives and Policies we have referred to, and some other provisions, which will need consequential amendment.	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
4.	SRMR-15-Freshwater demand exceeds capacity in places	<p>We recommend that the wording in the PORPS Reply Report version dated 10 October 2023 be adopted for SRMR-15 – Freshwater demand exceeds capacity in some places, with the exception of paragraph 2 of the Context where we recommend the following amendment:</p> <p>However, there continues to be debate in the community about how historical <i>freshwater</i> allocations can be adjusted to <del>achieve a balance of</del> <u>prioritise protection of the health and well-being of <i>water</i> bodies, meet the health needs of people, and provide for economic, environmental, social and cultural needs.</u></p>	Accept Panel recommendation
5.	LF-FW-O1A	<p>Our final recommendation for the region-wide objective is therefore as follows:</p> <p><b>LF-FW-O1A – Visions set for each FMU and rohe</b>  <u>In each FMU and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VM-O2 to LF-VM-O6:</u></p> <ol style="list-style-type: none"> <li>(1) <u>healthy freshwater and estuarine ecosystems support healthy populations of indigenous species (including non-diadromous galaxiids and Canterbury mudfish) and mahika kai that are safe for consumption,</u></li> <li>(2) <u>the interconnection of land, freshwater (including springs, groundwater, ephemeral water bodies, wetlands, rivers, and lakes) and coastal water is recognised,</u></li> <li>(3) <u>fish passage within and between catchments is provided for except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats,</u></li> <li>(4) <u>the form, function and character of water bodies reflects their natural characteristics and natural behaviours to the extent reasonably practicable,</u></li> <li>(5) <u>the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, is sustained,</u></li> <li>(6) <u>the health of the water supports the health of people and their connections with water bodies,</u></li> <li>(7) <u>sustainable land and water management practices:</u> <ol style="list-style-type: none"> <li>(a) <u>support food and fibre production and the continued social, economic, and cultural well-being of Otago’s people and communities, and</u></li> </ol> </li> </ol>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(b) _____ improve the resilience of communities to the effects of climate change, and</p> <p>(c) _____ ensure communities are appropriately serviced by community water supplies, and other three waters infrastructure.</p> <p>(8) _____ direct discharges of wastewater to water bodies are phased out to the extent reasonably practicable, and</p> <p>(9) _____ freshwater is managed as part of New Zealand’s integrated response to climate change and renewable electricity generation activities are provided for.</p>	
6.	Implications for LF-FW objectives	<p>Adopting a region-wide objective has led to the following consequential changes:</p> <p>a. Deleting the following clauses from the freshwater visions as a consequential amendment to introducing LF-FW-O1A:</p> <ul style="list-style-type: none"> <li>i. LF-VM-O2(3), (4), (5), (7)(b)(i) and (ii), (7)(c)(i), (iii) and (iv),</li> <li>ii. LF-VM-O3(2), (4), and (5),</li> <li>iii. LF-VM-O4(2), (6), (7), and (8),</li> <li>iv. LF-VM-O5(2) and (4), and</li> <li>v. LF-VM-O6(2) and (3).</li> </ul> <p>b. Deleting the part of LF-VM-O3(3) that relates to mahika kai and indigenous species,</p> <p>c. Deleting the part of LF-VM-O5(3) that relates to migration of indigenous species,</p> <p>d. Amending LF-FW-O8 to only retain clause (5) as follows:</p> <p style="padding-left: 40px;">The significant and outstanding values of Otago’s <i>outstanding water bodies</i> are identified and protected.</p> <p>e. Retaining LF-FW-O9 but locating it after the suite of freshwater visions, and</p> <p>f. Merging the LF-VM and LF-FW sections into one LF-FW section.</p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
7.	LF-VM-O2 – Clutha Mata-au FMU vision	<p>The Panel’s final recommendation for LF-VM-O2 is as follows:</p> <p><b>LF-VM-O2 – Clutha Mata-au FMU vision</b></p> <p>In the Clutha Mata-au <i>FMU</i>, and in addition to the matters in LF-FW-O1A:</p> <p>(1) management of the <i>FMU</i> recognises that:</p> <p>(a) the Clutha Mata-au is a single connected system ki uta ki tai, and</p> <p>(b) the source of the wai is pure, coming directly from <del>Tawhirimatea</del> <u>Tāwhirimātea</u> to the top of the mauka and into the awa,</p> <p><u>(1A) sustainable abstraction occurs from lakes, river main stems or groundwater in preference to tributaries, to the extent reasonably practicable,</u></p> <p><del>(2) fresh water is managed in accordance with the LF-WAI objectives and policies,</del></p> <p><del>(3) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</del></p> <p><del>(4) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,</del></p> <p><del>(5) indigenous species migrate easily and as naturally as possible along and within the river system</del></p> <p><u>(6) the national significance of the ongoing operation, maintenance and upgrading of the Clutha hydro-electricity generation scheme, including its generation capacity, storage and operational flexibility and its contribution to climate change mitigation, is recognised and protected, and potential further development is provided for within this modified catchment.</u></p> <p><u>(6A) water bodies support a range of outdoor recreation opportunities,</u></p> <p>(7) in addition to (1) to (6) above:</p> <p>(a) in the Upper Lakes rohe, the high quality waters of the lakes and their</p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>tributaries are protected, <u>and if degraded are improved</u>, recognising the significance of the purity of these <i>waters</i> to Kāi Tahu and to the wider community,</p> <p><del>(b) in the Dunstan, Manuherekiā and Roxburgh rohe:</del></p> <p><del>(i) flows in <i>water bodies</i> sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and</del></p> <p><del>(ii) innovative and sustainable <i>land</i> and <i>water</i> management practices support food production in the area and reduce discharges of nutrients and other <i>contaminants</i> to <i>water bodies</i> so that they are safe for human contact, and</del></p> <p><del>(iii) sustainable abstraction occurs from main stems or <i>groundwater</i> in preference to tributaries,</del></p> <p><del>(e7A) in the Lower Clutha rohe,:</del></p> <p><del>(i) there is no further modification of the shape and behaviour of the <i>water bodies</i> and opportunities to restore the natural form and function of <i>water bodies</i> are promoted wherever <u>reasonably practicable possible, and</u></del></p> <p><del>(ii) the ecosystem connections between <i>freshwater, wetlands</i> and the coastal environment are preserved and, wherever possible, restored,</del></p> <p><del>(iii) <i>land</i> management practices reduce discharges of nutrients and other <i>contaminants</i> to <i>water bodies</i> so that they are safe for human contact, and</del></p> <p><del>(iv) there are no direct <i>discharges</i> of <i>wastewater</i> to <i>water bodies</i>, and</del></p> <p>8) the outcomes sought in (7) are to be achieved within the following timeframes:</p>	

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(a) by 2030 in the Upper Lakes rohe,</p> <p>(b) by 2045 in the Dunstan, <u>and</u> Roxburgh <del>and Lower Clutha</del> rohe, and</p> <p>(c) by 2050 in the Manuherekia <u>and Lower Clutha</u> rohe.</p>	
8.	LF-VM-O4 – Taieri FMU vision	<p>The Panel recommends LF-VM-O4 be amended as follows:</p> <p><b>LF-VM-O4 – <del>Taieri</del> <u>Taiari</u> FMU vision</b></p> <p>By 2050 in the <del>Taieri</del> <u>Taiari</u> FMU, and in addition to the matters in LF-FW-O1A:</p> <p>(1) — <del>fresh water</del> is managed in accordance with the LF-WAI objectives and policies,</p> <p>(2) — the ongoing relationship of Kāi Tahu with <del>wāhi tūpuna</del> is sustained,</p> <p>(3) — healthy <del>wetlands</del> are restored in the upper and lower catchment <del>wetland</del> complexes, including the <del>Waipori/Waihola Wetlands</del> <u>Waipōuri/Waihola wetland complex</u>, <del>Tunahuketaka/Lake Taieri, scroll plain, Upper Taieri wetland complex, and connected tussock areas are protected, restored or enhanced where they have been degraded or lost,</del></p> <p>(4) the gravel <del>bed</del> of the lower <del>Taieri</del> <u>Taiari</u> is restored and sedimentation of the <del>Waipori</del> <u>Waipōuri/Waihola wetland</u> complex is reduced,</p> <p><u>4A) the national significance of the Waipōuri hydro-electricity generation scheme, and the regional significance of the Deep Stream and Paerau/Patearoa hydro-electricity generation schemes, is recognised and their operation, maintenance, and upgrading is provided for, while potential further development of these schemes is provided for.</u></p> <p>(5) creative ecological approaches contribute to reduced occurrence of didymo, <del>and</del></p> <p>(6) — <del>water bodies</del> support healthy populations of <del>galaxiid</del> species.,</p> <p>(7) there are no direct <del>discharges of wastewater to water bodies, and</del></p> <p>(8) — <del>innovative and sustainable land and water management practices support food</del></p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		production in the area and improve resilience to the <i>effects of climate change</i> .	
9.	LF-VM-O5 – Dunedin & Coast FMU vision	<p>The Panel recommends LF-VM-O5 be amended as follows:</p> <p><b>LF-VM-O5 - Dunedin &amp; Coast FMU vision</b></p> <p>By 2040 in the Dunedin &amp; Coast <i>FMU</i> and in addition to the matters in LF-FW-O1A:</p> <p>(1) <del>fresh water is managed in accordance with the LF-WAI objectives and policies,</del></p> <p>(2) <del>the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</del></p> <p>(3) healthy riparian <u>margins, wetlands,</u> estuaries, <u>and</u> lagoons <del>and coastal waters</del> support the health of thriving <i>mahika kai</i> and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas,</p> <p>(4) <del>there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever practicable possible., and discharges of contaminants from urban environments are reduced so that water bodies are safe for human contact.</del></p>	Accept Panel recommendation
10.	LF-VM-O6 – Catlins FMU vision	<p>The Panel recommends LF-VM-O6 be amended as follows:</p> <p><b>LF-VM-O6 – Catlins FMU vision</b></p> <p>By <u>2035</u> in the Catlins <i>FMU</i> and in addition to the matters in LF-FW-O1A:</p> <p>(1) <del>fresh water is managed in accordance with the LF-WAI objectives and policies,</del></p> <p>(2) <del>the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</del></p> <p>(3) <del>water bodies support thriving mahika kai and access of Kāi Tahu whānui to mahika kai,</del></p> <p>(4) the high degree of naturalness <u>of the water bodies</u> and ecosystem connections between the forests, <i>freshwater</i> and coastal environment are preserved, <u>and</u></p>	Accept Panel recommendation



#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(5) <del>water bodies and their catchment areas support the health and well-being of coastal water, ecosystems and indigenous species, including downstream kaimoana, and</del></p> <p>(6) <del>healthy, clear and clean water supports opportunities for recreation and sustainable food production for future generations.</del></p>	
11.	<b>Boundary of North Otago and Dunedin &amp; Coast FMUs</b>	On the basis of this agreement, and the reasons for it, the Panel accepts that the new boundary is appropriate and will better support the integrated management of the East Otago Taiāpure area catchment. To avoid any issue about whether there is sufficient scope in the DCC submission as to the map, we rely on clause 49(2)(b) of the first schedule to adopt the map attached to Mr Taylor's evidence.	Accept Panel recommendation
12.	<b>Boundary between Catlins and Clutha Mata-au FMUs</b>	<p>Because there was no submission on the matter, Ms Boyd recommended that we utilise clause 49(2)(b) of Schedule 1 of the RMA to make the change. We agree and recommend the change accordingly.</p> <p>A revised copy of MAP1 was included in the Reply Report version, which we accept.</p>	Accept Panel recommendation
13.	<b>Integrated catchment management</b>	<p>We recommend the following new method be added to the LF-FW section:</p> <p><b><u>LF-FW-M8AA – Integrated catchment management</u></b>  <u>Otago Regional Council may:</u></p> <p>(1) <u>develop and implement an integrated catchment management programme for the region,</u></p> <p>(2) <u>work in partnership with mana whenua and in collaboration with communities to develop catchment action plans that:</u></p> <p>(a) <u>collate and build on existing work in the catchments,</u></p> <p>(b) <u>incorporate science and mātauraka Māori, and</u></p> <p>(c) <u>identify and target effective environmental management actions, and</u></p> <p>(3) <u>encourage and support community initiatives, at varying catchment levels, that help to deliver catchment action plans.</u></p>	Accept Panel recommendation
14.	<b>LF-FW-09</b>	The Panel recommends the following amendments to LF-FW-09:	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p><b><u>LF-FW-09 – Natural Wetlands</u></b></p> <p>Otago's <del>natural</del> wetlands are protected from inappropriate subdivision, use and development and, where degraded, <del>or restored</del> restoration is promoted so that:</p> <ol style="list-style-type: none"> <li>(1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,</li> <li>(2) there is no <u>net decrease, and preferably an increase,</u> in the <del>range</del> <u>extent</u> and diversity of <u>wetland</u> indigenous ecosystem types and habitats <del>in natural wetlands,</del> and</li> <li>(3) there is no reduction <u>and, where degraded, there is an improvement</u> in their <u>wetland</u> ecosystem health, hydrological functioning, amenity values, extent or water quality, <del>and if degraded they are improved, and</del></li> <li>(4) their flood attenuation <u>and water storage</u> capacity is maintained <u>or improved.</u></li> </ol>	
15.	<b>Definition of 'natural wetland'</b>	As a consequential amendment, we recommend deleting the definition of 'natural wetland' from the PORPS. We note that the RMA definition of 'wetland' was included in the notified PORPS and it is appropriate that this remains.	Accept Panel recommendation
16.	<b>Consequential amendments</b>	As a further consequential amendment, we recommend deleting 'natural' from 'natural wetland' or wetlands' in other provisions in the PORPS, specifically LF-FW-M6(7), LF-VM-E2 paragraph 3, LF-FW-AER11, and EIT-INF-P13.	Accept Panel recommendation
17.	<b>LF-FW-P9 and LF-FW-P10</b>	<p>We recommend deleting LF-FW-P9 and LF-FW-P10 as notified and replacing it with the following:</p> <p><b><u>LF-FW-P10A – Managing wetlands</u></b></p> <p><u>Otago's wetlands are managed:</u></p> <ol style="list-style-type: none"> <li>(1) <u>in the coastal environment, in accordance with the NZCPS in addition to (2) and (3) below,</u></li> </ol>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(2) <u>by applying clause 3.22(1) to (3) of the NPSFM to all wetlands, and</u></p> <p>(3) <u>to improve the ecosystem health, hydrological functioning and extent of wetlands that have been degraded or lost by promoting:</u></p> <p>(a) <u>an increase in the extent and condition of habitat for indigenous species,</u></p> <p>(b) <u>the restoration of hydrological processes,</u></p> <p>(c) <u>control of pest species and vegetation clearance, and</u></p> <p>(d) <u>the exclusion of stock, except where stock grazing is used to enhance wetland values.</u></p>	
18.	LF-FW-P7A –Water allocation and use	<p>We recommend the following wording for LF-FW-P7A:</p> <p><b><u>LF-FW-P7A – Water allocation and use</u></b></p> <p><u>Within <i>limits</i> and in accordance with any relevant environmental flows and levels, the benefits of using <i>fresh water</i> are recognised and <i>over-allocation</i> is either phased out or avoided by:</u></p> <p>(1) <u>managing over-allocation as set out in LF-FW-M6,</u></p> <p>(2) <u>allocating <i>fresh water</i> efficiently to support the social, economic, and cultural well-being of people and communities, including for:</u></p> <p>(a) <u>community drinking water supplies,</u></p> <p>(b) <u>maintaining generation output and capacity from existing <i>renewable electricity generation schemes</i>,</u></p> <p>(c) <u><i>mana whenua</i> customary or cultural needs and activities, and</u></p> <p>(d) <u>primary production,</u></p> <p>(3) <u>ensuring that no more <i>fresh water</i> is abstracted than is necessary for its intended use,</u></p> <p>(4) <u>ensuring that the efficiency of <i>freshwater</i> abstraction, storage, and conveyancing <i>infrastructure</i> is improved.</u></p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(5) <u>providing for the harvesting and storage of <i>fresh water</i> to meet increasing demand for <i>water</i>, to manage <i>water</i> scarcity conditions and to provide resilience to the <i>effects of climate change</i>, and</u></p> <p>(6) <u>providing for spatial and temporal sharing of allocated <i>fresh water</i> between uses and users where feasible.</u></p>	
19.	LF-VM-M3	<p>We therefore recommend the following consequential change to LF-VM-M3.</p> <p><b>LF-VM-M3 – Community involvement</b>  Otago Regional Council must work with <u>Kāi Tahu</u> and communities to achieve the objectives and policies in this chapter, including by:</p> <p>(1) <u>engaging with <i>Kāi Tahu</i>, communities and stakeholders to identify values and environmental outcomes for Otago’s FMUs and rohe and the methods to achieve those outcomes,</u></p> <p>(2) <u>encouraging community stewardship of <i>water</i> resources and programmes to address <i>freshwater</i> issues at a local catchment level, including through catchment groups,</u></p> <p>(3) <u>supporting community initiatives, industry-led guidelines, codes of practice and environmental accords that contribute to maintaining or improving the health and well-being of <i>water bodies</i>, and</u></p> <p>(4) <del>supporting industry led guidelines, codes of practice and environmental accords where these would contribute to achieving the objectives of this RPS.</del></p> <p>(4A) <u>education, advocacy and co-ordination to encourage efficient use of <i>freshwater</i>, including water harvesting, use of storage and consideration of alternative water supply.</u></p>	Accept Panel recommendation
20.	LF-FW-M6	<p>We recommend the follow consequential change to LF-FW-M6:</p> <p><b>LF-FW-M6 – Regional plans</b></p> <p>Otago Regional Council must publicly notify a Land and Water <i>Regional Plan</i> <del>no later than 31 December 2023</del> and, after it is made operative, maintain that <i>regional plan</i> to:</p> <p>...</p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(5A) <u>provide for the allocation and use of fresh water in accordance with LF-FW-P7A, including for water harvesting and storage,</u></p> <p>...</p>	
21.	LF-FW-P15	<p>Other than the points discussed above, we adopt the recommendations and reasoning of Ms Boyd. We recommend the following amendments to LF-FW-P15:</p> <p><b>LF-FW-P15 – <del>Stormwater and wastewater discharges</del></b>  Minimise the adverse <i>effects</i> of direct and indirect <i>discharges</i> of <i>stormwater and wastewater</i> to <i>fresh water</i> by:</p> <p>(1) <del>except as required by LF VM O2 and LF VM O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and</del></p> <p>(2) requiring:</p> <p>(a) <del>all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,</del></p> <p>(ab) <u>integrated catchment management plans for management of stormwater in urban areas,</u></p> <p>(b) all <i>stormwater</i> to be discharged into a reticulated system, where one is <u>made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in the same or improved outcomes for fresh water,</u></p> <p>(c) implementation of methods to progressively reduce <u>unintentional stormwater inflows to the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,</u></p> <p>(d) <del>on-site wastewater systems to be designed and operated in accordance with best practice standards,</del></p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(e) <del>that any stormwater and wastewater discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe, and</del></p> <p>(f) <del>the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and</del></p> <p>(3) <del>promoting the reticulation of stormwater and wastewater in urban areas where appropriate, and</del></p> <p>(4) <del>promoting source control as a method for reducing contaminants in discharges and the use of good practice guidelines for managing stormwater.</del></p>	
22.	LF-FW-P16	<p>We recommend the following amendments to new LF-FW-P16 recommended in the Reply Report:</p> <p><b><u>LF-FW-P16 – Discharges containing animal effluent, sewage, greywater and industrial and trade waste</u></b></p> <p><u>Minimise the adverse effects of direct and indirect discharges containing animal effluent, sewage, greywater and industrial and trade waste to fresh water by:</u></p> <p>(1) <u>phasing out existing discharges containing sewage or industrial and trade waste directly to water to the extent practicable,</u></p> <p>(2) <u>requiring:</u></p> <p>(a) <u>new discharges containing sewage or industrial and trade waste to be to land,</u></p> <p>(b) <u>discharges of animal effluent from land-based primary production to be to land,</u></p> <p>(c) <u>that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for fresh water,</u></p>	Accept Panel recommendation

#	Topic	Freshwater Hearing Panel Recommendation	Council decision			
		<p>(d) <u>implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring from reticulated wastewater systems,</u></p> <p>(e) <u>on-site wastewater systems and animal effluent systems to be designed and operated in accordance with best practice standards,</u></p> <p>(f) <u>that any discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe,</u></p> <p>(3) <u>to the greatest extent practicable, requiring the reticulation of wastewater in urban areas, and</u></p> <p>(4) <u>promoting source control as a method for reducing contaminants in discharges.</u></p>				
23.	Consequential amendment	<p>We recommend a consequential change to include the definition of greywater in the Interpretation section as follows:</p> <table border="1" data-bbox="506 815 1709 1038"> <tr> <td data-bbox="506 815 763 1038"><b>Greywater</b></td> <td data-bbox="763 815 1709 1038"> <p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <table border="1" data-bbox="775 895 1552 1031"> <tr> <td data-bbox="775 895 1552 1031"> <p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</p> </td> </tr> </table> </td> </tr> </table>	<b>Greywater</b>	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <table border="1" data-bbox="775 895 1552 1031"> <tr> <td data-bbox="775 895 1552 1031"> <p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</p> </td> </tr> </table>	<p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</p>	Accept Panel recommendation
<b>Greywater</b>	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <table border="1" data-bbox="775 895 1552 1031"> <tr> <td data-bbox="775 895 1552 1031"> <p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</p> </td> </tr> </table>	<p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</p>				
<p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include sewage, or industrial and trade waste.</p>						
24.	LF-FW-M6(8)	<p>We recommend a further consequential change is required to include 'greywater' in LF-FW-M6(8) as follows:</p> <p><b>LF-FW-M6 – Regional plans</b></p> <p>Otago Regional Council must publicly notify a Land and Water <i>Regional Plan</i> <del>no later than 31 December 2023</del> and, after it is made operative, maintain that <i>regional plan</i> to:</p> <p>...</p> <p>(8) manage the adverse <i>effects</i> of <i>stormwater</i> and <del>wastewater</del> <u>discharges</u> containing animal effluent, <u>sewage, greywater or industrial and trade waste</u> in accordance with LF-FW-P15 and LF-FW-P16, and-</p> <p>...</p>	Accept Panel recommendation			

#	Topic	Freshwater Hearing Panel Recommendation	Council decision
25.	8.7 LF-FW-M6 – Regional plans	<p>We recommend the following amendments to LF-FW-M6:</p> <p><b>LF-FW-M6 – Regional plans</b></p> <p>Otago Regional Council must publicly notify a Land and Water <i>Regional Plan</i> no later than <del>31 December 2023</del> 30 June 2024 and, after it is made operative, maintain that <i>regional plan</i> to:</p> <p><u>(1A) implement the required steps in the NOF process in accordance with the NPSFM,</u></p> <p><del>(1) identify the compulsory and, if relevant, other values for each <i>Freshwater Management Unit</i>,</del></p> <p><del>(2) state <i>environmental outcomes</i> as objectives in accordance with clause 3.9 of the NPSFM,</del></p> <p><del>(3) identify <i>water bodies</i> that are <i>over-allocated</i> in terms of either their <i>water quality or quantity</i> and the methods and timeframes for phasing out that <i>over-allocation</i> (including through environmental flows and levels and <i>limits</i>) within the timeframes required to achieve the relevant <i>freshwater</i> vision,</del></p> <p><del>(4) include environmental flow and level regimes for <i>water bodies</i> (including <i>groundwater</i>) that give effect to <i>Te Mana o te Wai</i> and provide for:</del></p> <p><del>(a) the behaviours of the <i>water body</i> including a base flow or level that provides for variability,</del></p> <p><del>(b) healthy and resilient mahika kai,</del></p> <p><del>(c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the <i>water body</i>,</del></p> <p><del>(d) the hydrological connection with other <i>water bodies</i>, estuaries and coastal margins,</del></p> <p><del>(e) the traditional and contemporary relationship of Kāi Tahu to the <i>water body</i>, and</del></p> <p><del>(f) community <i>drinking water</i> supplies, and</del></p> <p><u>(5A) provide for the allocation and use of <i>fresh water</i> in accordance with LF-FW-P7A, including for <i>water</i> harvesting and storage,</u></p> <p><del>(5) include <i>limits on resource use</i> that:</del></p> <p><del>(a) differentiate between types of uses, including <i>drinking water</i>, and social, cultural and economic uses, in order to provide long term certainty in relation to those uses of available <i>water</i>,</del></p> <p><del>(b) for <i>water bodies</i> that have been identified as <i>over-allocated</i>, provide methods and timeframes for phasing out that <i>over-allocation</i>,</del></p>	Accept Panel recommendation



#	Topic	Freshwater Hearing Panel Recommendation	Council decision
		<p>(c) — control the <i>effects</i> of existing and potential future development on the ability of the <i>water body</i> to meet, or continue to meet, <i>environmental outcomes</i>,</p> <p>(d) — manage the adverse <i>effects</i> on <i>water bodies</i> that can arise from the use and development of <i>land</i>, and</p> <p>(6) — provide for the off stream storage of surface <i>water</i> where storage will:</p> <p>(a) — support <i>Te Mana o te Wai</i>,</p> <p>(b) — give effect to the objectives and policies of the LF chapter of this RPS, and</p> <p>(c) — not prevent a surface <i>water body</i> from achieving identified <i>environmental outcomes</i> and remaining within any <i>limits on resource use</i>, and</p> <p>(7) identify and manage <i>natural wetlands</i> in accordance with LF-FW-P7, <del>LF-FW-P8</del> and LF-FW-P9 <u>and LF-FW-P10</u> while recognising that some activities in and around <i>natural wetlands</i> are managed under the NESF <u>and the NESPE</u>, <del>and</del></p> <p>(8) manage the adverse <i>effects</i> of <i>stormwater</i> and <del>wastewater</del> <u>discharges containing animal effluent, sewage, greywater or industrial and trade waste</u> in accordance with LF-FW-P15 <u>and LF-FW-P16</u>, <del>and</del>.</p> <p>(9) <u>recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments.</u></p>	
26.	<p><b>LF- FW-M8A</b></p> <p><b>New method –Identifying and managing species interactions between trout and salmon and indigenous species</b></p>	<p>We recommend that a new LF-FW-M8A be included as a freshwater provision:</p> <p><b><u>LF-FW-M8A – Identifying and managing species interactions between trout and salmon and indigenous species</u></b></p> <p>(1) <u>When making decisions that might affect the interactions between trout and salmon and indigenous species, local authorities will have particular regard to the recommendations of the Department of Conservation, the Fish and Game Council for the relevant area, Kāi Tahu, and the matters set out in LF-FW-M8A(2)(a) to (c), and</u></p> <p>(2) <u>Otago Regional Council will work with the Department of Conservation, the relevant Fish and Game Council and Kāi Tahu to:</u></p> <p>(a) <u>describe the habitats required to provide for the protection of indigenous species for the purposes of (2)(a), (b), and (c).</u></p> <p>(b) <u>identify areas where the protection of the habitat of trout and salmon, including fish passage, will be consistent with the protection of the habitat of indigenous species and areas where it will not be consistent,</u></p>	Accept Panel recommendation

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		<p>(c) for areas identified in (b), develop provisions for any relevant action plans(s) prepared under the NPSFM, including for fish passage, that will at minimum:</p> <p>(i) determine information needs to manage the species,</p> <p>(ii) set short, medium and long-term objectives for the species involved,</p> <p>(iii) identify appropriate management actions that will achieve the objectives determined in (ii), including measures to manage the adverse effects of trout and salmon on indigenous species where appropriate, and</p> <p>(iv) consider the use of a range of tools, including those in the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, as appropriate.</p>	
27.	<p><b>LF-VM-E2 - Explanation and LF-FW-E3 - Explanation</b></p>	<p>We recommend that LF-FW-E3 is incorporated into LF-VM-E2 and that the combined LF-VM-E2 is amended as follows:</p> <p><b>LF-VM-E2 – Explanation</b></p> <p>This section of the LF chapter outlines how the Council will manage <i>fresh water</i> within the region. To give effect to <i>Te Mana o te Wai</i>, the <i>freshwater</i> visions, and the policies set out the actions required in the development of <i>regional plan</i> provisions to implement the NPSFM. <i>[Note to reader: originally LF-FW-E3 para 1]</i></p> <p>Implementing the NPSFM requires Council to identify <i>Freshwater Management Units (FMUs)</i> that include all <i>freshwater bodies</i> within the region. Policy LF-VM-P5 identifies Otago’s five <i>FMUs</i>: Clutha Mata-au <i>FMU</i>, Taieri <i>FMU</i>, North Otago <i>FMU</i>, Dunedin &amp; Coast <i>FMU</i> and Catlins <i>FMU</i>. The Clutha Mata-au <i>FMU</i> is divided into five sub-<i>FMUs</i> known as ‘rohe’. Policy LF-VM-P6 sets out the relationship between <i>FMUs</i> and rohe which, broadly, requires rohe provisions to be no less stringent than the parent <i>FMU</i> provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the <i>FMU</i> to achieve its stated outcomes.</p> <p>The outcomes sought for <i>natural wetlands</i> are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all <i>natural wetlands</i>, rather than only inland natural wetlands (those outside the <i>coastal marine area</i>) as the NPSFM directs. This reflects the views of <del>takata</del> <i>mana whenua</i> and the community that <i>fresh and coastal water</i>, including <i>wetlands</i>, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where <i>natural wetlands</i> have been <i>degraded</i> or</p>	Accept Panel recommendation

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		<p>lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of <i>wetlands</i> in Otago and the indigenous biodiversity and hydrological values of <i>wetland systems</i>. [Note to reader: originally LF-FW-E3 para 2]</p> <p>The policies respond to the NPSFM by identifying a number of <i>outstanding water bodies</i> in Otago that have previously been identified for their significance through other processes. Additional <i>water bodies</i> can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of <i>outstanding water bodies</i> are to be identified and protected from adverse <i>effects</i>. [Note to reader: originally LF-FW-E3 para 3]</p> <p>Preserving the natural character of <i>lakes</i> and <i>rivers</i>, and their <i>beds</i> and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided <i>rivers</i>. Natural character has been reduced or lost in some <i>lakes</i> or <i>rivers</i>, so the policies require promoting actions that will restore or otherwise improve natural character. [Note to reader: originally LF-FW-E3 para 4]</p> <p>The impact of <i>discharges of stormwater</i> and <i>wastewater</i> on <i>freshwater bodies</i> is a significant issue for <i>mana whenua</i> and has contributed to <i>water</i> quality issues in some <i>water bodies</i>. The policies set out a range of actions to be implemented in order to improve the quality of these <i>discharges</i> and reduce their adverse <i>effects</i> on receiving environments.</p>	
28.	<b>LF-VM-PR2 – Principal reasons and LF-FW-PR3 – Principal reasons</b>	<p>We recommend that LF-FW-PR3 is incorporated into LF-VM-PR2 and that the combined LF-VM-PR2 is amended as follows:</p> <p><b>LF-VM-PR2 – Principal reasons</b></p> <p>To support the implementation of the NPSFM, the Council is required to develop long-term visions for <i>fresh water</i> across the Otago region. <i>Fresh water</i> visions for each <i>FMU</i> and <i>rohe</i> have been developed through engagement with Kāi Tahu and communities. They set out the long-term goals for the <i>water bodies</i> (including <i>groundwater</i>) and <i>freshwater</i> ecosystems in the region that reflect the history of, and environmental pressures on, the <i>FMU</i> or <i>rohe</i>. They also establish ambitious but reasonable timeframes for achieving these goals. The Council must assess whether each <i>FMU</i> or <i>rohe</i> can provide for its long-term vision, or whether improvement to the health and well-being of <i>water bodies</i> (including <i>groundwater</i>) and</p>	Accept Panel recommendation

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		<p><i>freshwater</i> ecosystems is required to achieve the visions. The result of that assessment will then inform the development of <i>regional plan</i> provisions in the <i>FMU</i>, including <i>environmental outcomes, attribute states, target attribute states and limits (in relation to freshwater)</i>.</p> <p>Otago's <i>water bodies</i> are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. <u>They support people and communities to provide for their social, economic, and cultural well-being.</u> A growing population combined with increased <i>land</i> use intensification has heightened demand for <i>water</i>, and increasing nutrient and sediment contamination impacts <i>water</i> quality. The legacy of Otago's historical mining privileges, coupled with contemporary <u>urban and rural land</u> uses, contribute to ongoing <i>water</i> quality and quantity issues in some <i>water bodies</i>, with significant cultural effects. [Note to reader: originally LF-FW-PR3 para 1]</p> <p>This section of the LF chapter <del>contains more specific direction on managing fresh water to give effect to Te Mana o te Wai and contributes to achieving the long-term freshwater visions for each FMU and rohe. It also</del> reflects key direction in the NPSFM for managing the health and well-being of <i>fresh water</i>, including <i>wetlands</i> and <i>rivers</i> in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council's <i>regional plans</i> and provide a foundation for implementing the requirements of the NPSFM, including the development of <i>environmental outcomes, attribute states, target attribute states and limits</i>. [Note to reader: originally LF-FW-PR3 para 2]</p>	
29.	Anticipated environmental results: LF-FW-AER4 to LF-FW-AER11	<p>We recommend the following amendments and the addition of a new AER, as follows:</p> <p><b>LF-FW-AER4</b> <i>Fresh water</i> is allocated within limits that contribute to achieving specified <i>environmental outcomes</i> for <i>water bodies</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF-VM section of this chapter.</p> <p><b>LF-FW-AER5</b> <i>Specified rivers and lakes</i> are suitable for primary contact within the timeframes set out in LF-FW-P7.</p> <p><b>LF-FW-AER6</b> <i>Degraded water</i> quality is improved so that it meets specified <i>environmental outcomes</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the <del>LF-VM objectives in the LF-FW</del> section of this chapter.</p> <p><b>LF-FW-AER7</b> <i>Water</i> in Otago's aquifers is suitable for human consumption, unless that <i>water</i> is naturally unsuitable for consumption.</p> <p><b>LF-FW-AER8</b> Where <i>water</i> is not <i>degraded</i>, there is no reduction in <i>water</i> quality.</p> <p><b>LF-FW-AER9</b> <u>Direct discharges of wastewater to water are phased out to the greatest extent practicable and the</u> frequency of <i>wastewater</i> overflows is reduced.</p>	Accept Panel recommendation

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		<p><b>LF-FW-AER10</b> The quality of <i>stormwater discharges</i> from existing <i>urban areas</i> is improved.</p> <p><b>LF-FW-AER11</b> There is <del>no reduction</del> <u>an improvement</u> in the extent <u>and or quality</u> condition of Otago's <del>natural</del> <u>wetlands</u>.</p> <p><b>LF-FW-AER11A</b> <u>The economic, social, and cultural well-being of communities is sustained.</u></p>	
30.	9.3 LF-LS-P18 – Soil erosion	<p>We recommend that LF-LS-P18 be amended as follows:</p> <p><b>LF-LS-P18 – Soil erosion</b></p> <p>Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from <i>land</i> use activities by:</p> <p>(2) maintaining vegetative cover on erosion-prone <i>land</i>, <u>to the extent practicable, and</u></p> <p>(1) implementing <del>effective</del> management practices to <del>retain topsoil in situ and</del> minimise the potential for soil to be <i>discharged to water bodies</i>, including by controlling the timing, duration, scale and location of soil exposure, <u>and</u></p> <p>(3) promoting activities that enhance soil retention.</p>	Accept Panel recommendation
31.	LF-LS-P21 – Land use and fresh water	<p>We recommend that LF-LS-P21 is amended as follows:</p> <p><b>LF-LS-P21 – Land use and fresh water</b></p> <p><del>Achieve the improvement or maintenance of fresh water quantity, or quality</del> <u>The health and well-being of water bodies and freshwater ecosystems is maintained to meet environmental outcomes set for Freshwater Management Units and/or rohe by:</u></p> <p>(1) reducing <del>or otherwise managing the adverse effects of</del> direct and indirect <i>discharges</i> of <i>contaminants</i> to <i>water</i> from the use and development of <i>land</i>, <del>and</del></p> <p>(2) managing <i>land</i> uses that may have adverse <i>effects</i> on the flow of <i>water</i> in surface <i>water bodies</i> or the recharge of <i>groundwater</i>, <u>and</u></p> <p><u>(2A) recognising the drylands nature of some of Otago's catchments and the resulting low water availability, and</u></p> <p><u>(3) maintaining or, where degraded, enhancing the values of riparian margins.</u></p>	Accept Panel recommendation
32.	LF-LS-M11 – Regional plans	<p>We recommend that LF-LS-M11 is amended as follows:</p>	Accept Panel recommendation

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		<p><b>LF-LS-M11 – Regional Plans</b></p> <p>Otago Regional Council must publicly notify a Land and Water Regional Plan <del>no later than 31 December 2023</del> and then, when it is made operative, maintain that <i>regional plan</i> to:</p> <p>(1) manage <i>land</i> uses that may affect the ability of <i>environmental outcomes</i> for water quality to be achieved by requiring:</p> <ul style="list-style-type: none"> <li>(a) the development and implementation of <i>certified freshwater farm plans</i>, <del>as required by the RMA and any regulations,</del></li> <li>(b) the adoption of practices that reduce the <i>risk</i> of sediment and nutrient loss to <i>water</i>, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,</li> <li>(c) effective management of effluent storage and application systems, and</li> <li>(d) <i>earthworks</i> activities to implement effective sediment and erosion control practices and setbacks from <i>water bodies</i> to reduce the <i>risk</i> of sediment loss to <i>water</i>, and</li> </ul> <p>(2) provide for changes in <i>land</i> use that improve the sustainable and efficient <del>allocation</del> <u>and use of <i>fresh water</i> and that reduce water demand where there is existing over-allocation,</u> and</p> <p><u>(2A) enable the <i>discharge of contaminants to land for pest control,</i> and</u></p>	

The report of the Freshwater Hearings Panel, and its addendum are published with these decisions.

Anita Dawe

General Manager Policy and Science