

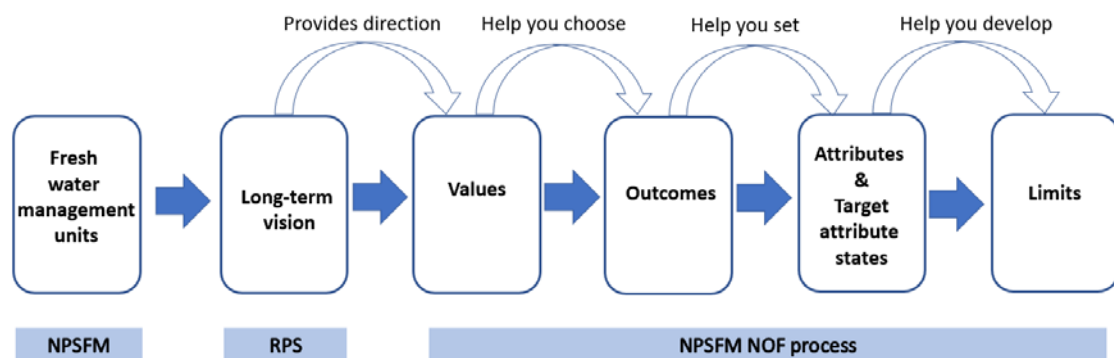
Agenda Item 3: Environmental outcomes

Purpose

1. The purpose of this paper is to provide the Otago Regional Council's (ORC) Environmental Science and Policy (ESP) Committee with an overview of:
 - The process to date for developing environmental outcomes in the draft Land and Water Regional Plan (LWRP);
 - The feedback on the draft environmental outcomes received during community engagement and the pre-notification consultation under Clause 3 of the First Schedule of the Resource Management Act 1991 (RMA); and
 - Amendments made to the draft environmental outcomes as a result of the Clause 3 feedback, and the changes to the Freshwater Visions in the Regional Policy Statement for Otago (ORPS) by the Council's Decisions on this instrument.

Executive summary

2. The National Policy Statement for Freshwater Management 2020 (NPSFM) requires regional councils to identify environmental outcomes for every value that applies to an FMU or part of an FMU and to include these as objectives, in regional plans. The diagram below shows the relationship between long-term visions, environmental outcomes and how they inform the limits in the Plan.



3. ORC staff, working in partnership with Iwi, developed draft environmental outcomes for the LWRP and consulted on these over three stages of community engagement (as detailed below), and through pre-notification consultation under Clause 3 of the First Schedule of the RMA.
4. As a result of the Clause 3 feedback and the changes to the long-term visions in the pORPS, further amendments are now suggested to the draft environmental outcomes.

National direction

5. The NPSFM currently defines “Environmental Outcome” as follows: *“in relation to a value that applies to an FMU or part of an FMU, a desired outcome that a regional council identifies and then includes as an objective in its regional plan”*¹.
6. The NPSFM is prescriptive about how environmental outcomes are set, both in terms of the process and the content of them (see clause 3.9 of the NPSFM for more information). The next section of this paper explains how the process in the NPSFM was applied in Otago.

Process for developing environmental outcomes in the draft LWRP

7. The draft environmental outcomes for the LWRP were developed over three stages of community engagement.
8. The first stage of community engagement (Stage 1) took place from November 2021 to March 2022. It was aimed at identifying relevant community values related to freshwater for each FMU and rohe, as well as communities’ aspirations for the future state of these values.
9. At the completion of Stage 1, ORC staff, working closely with Iwi, developed a first draft of the environmental outcomes, based on the following inputs:
 - i. The Iwi aspirations and community feedback received during Stage 1;
 - ii. The freshwater visions in the notified pORPS; and
 - iii. The direction set by the NPSFM, including the objective (hierarchy of obligations) and policies in Part 2 of the NPSFM and other relevant clauses (e.g. Clause 3.9).
10. During Stage 2 of LWRP engagement, which was undertaken from October to December 2022, communities and stakeholders were asked to provide feedback on the first draft of the environmental outcomes, and management interventions² for achieving them.
11. Following the completion of Stage 2, the draft environmental outcomes were reviewed by staff and amended to address the feedback received. A second draft of the environmental outcomes was then consulted on during the third stage of community engagement (Stage 3) which took place over the period September to November 2023.

Overview of community and stakeholder feedback

Community engagement

12. Feedback received during Stage 2 indicated that most of the respondents generally agreed with the draft environmental outcomes presented to them. Although some provided feedback that

¹ Clause 3.9, NPSFM

² Interventions included actions that could be included as conditions in rules such as setbacks from water bodies, sediment and erosion control measures and phasing out wastewater discharges from reticulated systems to water. Others were more suited to non-regulatory methods such as encouraging riparian planting, good management practice for fertiliser use, and enhancing, maintain and constructing wetlands.

was specific to particular catchments or water bodies, most respondents supported the goal of having clean water that is safe for people to be in and that is available for a variety of uses.

13. Key issues raised with respect to the environmental outcomes during Stage 2 are the following:
 - i. More clarity is needed on how draft environmental outcomes will be achieved;
 - ii. The draft environmental outcomes need to be clear and achievable;
 - iii. Social and economic considerations need to be considered;
 - iv. The timeframes for achieving the environmental outcomes need to allow sufficient time for change and transition;
 - v. Consideration needs to be given to climate change;
 - vi. Impacts on flood control need to be taken into consideration;
 - vii. The draft environmental outcome for hydro-electric generation was met with mixed responses, with some supporting it and others opposing it.
14. Fewer respondents provided feedback on the environmental outcomes during Stage 3. The feedback received was generally in support of the draft environmental outcomes, although some considered them not ambitious enough, while others thought that they were overly ambitious and unachievable.
15. Some of the more specific feedback on the environmental outcomes received during Stage 3 includes the following:
 - i. Specific environmental outcomes must be set for the pristine water bodies in the Upper Lakes rohe (including taking into consideration the Kawarau Water Conservation Order);
 - ii. The environmental outcome for ecosystem health needs to ensure that all five aspects of ecosystem health are considered;
 - iii. The environmental outcomes for Hydro-electric generation and commercial and industrial use need to be in all FMU and rohe.

Clause 3 pre-notification consultation

16. Nine parties provided feedback on the environmental outcomes through the Clause 3 consultation. Most of the feedback was focused on individual environmental outcomes. Generally, the feedback was in support of the Environmental outcomes, either in full or with amendments suggested. The feedback in opposition offered amendments to environmental outcomes that staff did not consider aligned with Council direction. Key themes arising from the feedback included:
 - i. The environmental outcomes do not provide a balance for people to provide for their social, economic and cultural well-being, and for their health and safety, whilst sustainably managing the use, development and protection of natural and physical resources.

- ii. The environmental outcome for commercial and industrial use is supported, and should be included in other FMUs, not just Dunedin and Coast.
- iii. The environmental outcome for hydro-electricity generation is supported and should be included in other FMUs and include new as well as existing schemes.
- iv. The environmental outcome for irrigation, cultivation, and production of food is supported with amendments proposed by various parties.

Changes to the long-term visions in the Regional Policy Statement

- 17. The draft environmental outcomes have been informed by and developed to give effect to the long-term visions in the pORPS. Therefore, changes to the long-term visions as a result of Council's decisions on the pORPS will influence the environmental outcomes.
- 18. Key changes to the long-term visions as a result of the Council's Decisions on the pORPS include:
 - i. A region-wide vision has been developed that captures the common aspects of all FMU visions;
 - ii. Strengthened the practicability test for achieving natural character, form and function outcomes (to reflect the modified nature of many of Otago's water bodies);
 - iii. Recognising the importance of human connections with water;
 - iv. Recognising the importance of sustainable land and water management practices to support food and fibre production;
 - v. Extending the Catlins FMU timeframe from 2030 to 2035 and the Lower Clutha rohe timeframe from 2045 to 2050;
 - vi. Ensuring communities are appropriately serviced by three waters infrastructure; and
 - vii. Making provision for new renewable energy generation (REG) in the Clutha Mata-au and Taiari FMUs.

Further amendments to the Environmental outcomes

- 19. Following the analysis of the feedback received from Clause 3 consultation and the changes to the pORPS as a result of Council's Decisions, amendments are now proposed to the draft environmental outcomes. Staff have also been working to ensure that the environmental outcomes are SMART (i.e. specific, measurable, achievable, relevant and time bound). Appendix 3.1 provides detail on how this was done. The amendments proposed are set out in the Table below.

| Environmental outcome | Proposed amendments |
|---|---|
| <p>FMU-O1 – Environmental outcome for ecosystem health</p> <p><i>Freshwater bodies support healthy freshwater ecosystems with thriving habitats for a range of indigenous species, and the life stages of those species, that would be expected to occur naturally.</i></p> | <ul style="list-style-type: none"> • Remove ambiguous and uncertain terms (e.g. thriving, range of) • Better align with RPS visions • Recognise that removal of any modification or impacts is not practical |
| <p>FMU-O2 – Environmental outcome for human health</p> <p><i>Water bodies are clean and safe for human contact activities and support the health of people and their connections with water bodies.</i></p> | <ul style="list-style-type: none"> • No change |
| <p>FMU-O3 – Environmental outcome for threatened species</p> <p><i>The freshwater habitats of threatened species are protected and support the persistence and recovery of threatened species over time.</i></p> | <ul style="list-style-type: none"> • Replace with two environmental outcomes: one that seeks to protect and restore habitat of threatened species to the greatest extent practicable, and one that provides for the recovery of threatened species |
| <p>FMU-O4 – Environmental outcome for mahika kai (condition)</p> <p><i>Mahika kai resources are restored to a condition in which populations of valued mahika kai species are self-sustaining and plentiful enough to support cultural take.</i></p> | <ul style="list-style-type: none"> • Current outcome is a mix between policy and objective. Simplify to reflect a clear objective statement |
| <p>FMU-O5- Environmental outcome for mahika kai (access, harvest, and use)</p> <p><i>Mana whenua are able to safely access, harvest and use mahika kai resources now and in the future.</i></p> | <ul style="list-style-type: none"> • No change |
| <p>FMU-O6 - Environmental outcome for natural form and character</p> <p><i>Freshwater bodies and their riparian margins, and any connected receiving environment including any estuaries and hāpua are able to behave in a way that reflects their natural form and character to the greatest extent practicable, and the natural form and function of unmodified water bodies is protected.</i></p> | <ul style="list-style-type: none"> • Amend to focus on management of freshwater bodies (need to ensure the principle of ki uta ki tai is embedded in the strategic directions) • Minor wording amendment to ensure consistency |
| <p>FMU-O7 - Environmental outcome for drinking water supply (source water)</p> <p><i>Provided the health and wellbeing needs of water bodies and freshwater ecosystems are met, source water from waterbodies (after treatment) is safe and reliable for the drinking water supply needs of the community.</i></p> | <ul style="list-style-type: none"> • No change |
| <p>FMU-O8 - Environmental outcome for drinking water supply (source water)</p> <p><i>Activities do not introduce contaminants, or increase the concentration of contaminants, in water so that, after treatment, it no longer meets drinking water standards.</i></p> | <ul style="list-style-type: none"> • Delete as it is covered by FMU-O7 |

| Environmental outcome | Proposed amendments |
|--|---|
| <p>FMU-O9 - Environmental outcome for wāhi tupuna</p> <p><i>Cultural associations with wāhi tūpuna are maintained, visible, and whānau are able to access, use and relate to wāhi tūpuna now and in the future.</i></p> | <ul style="list-style-type: none"> • No change |
| <p>FMU-O10 - Environmental outcome for fishing</p> <p><i>Fish are safe to eat and, insofar as it is consistent with the protection of indigenous and threatened species, the spawning and juvenile rearing waters for trout and salmon are provided for.</i></p> | <ul style="list-style-type: none"> • No change |
| <p>FMU-O11 - Environmental outcome for irrigation, cultivation, and production of food, beverages</p> <p><i>Provided the health and wellbeing of water bodies and freshwater ecosystems and human health needs are met, the cultivation and production of food, beverages and fibre is enabled.</i></p> | <ul style="list-style-type: none"> • No change to environmental outcome statement • Minor amendment to the title (align with outcome statement) |
| <p>FMU-O12 - Environmental outcome for wetlands</p> <p><i>Wetlands are protected, and their ecosystem health, indigenous biodiversity, and hydrological functioning is restored where degraded.</i></p> | <ul style="list-style-type: none"> • No amendments currently however amendments may be needed to align with approach for implementing the pORPS in relation to wetlands |
| <p>FMU-O13 - Environmental outcome for taoka species</p> <p><i>Habitats for indigenous species are restored and sustained so that they are thriving and connected, and their mauri is intact.</i></p> | <ul style="list-style-type: none"> • Further discussion with Iwi authorities under Clause 4A consultation. |
| <p>FMU-O14 - Environmental outcome for hydro-electricity generation³</p> <p><i>Existing hydro-electric generation schemes are developed, operated, maintained and upgraded in a way that meets the environmental outcomes to the greatest extent practicable.</i></p> | <ul style="list-style-type: none"> • Amend to make reference to the need to contribute to achieving the national target for REG • Amend to apply to all hydro, not just existing • Amend to align with the NPSFM's objective • Apply to all FMUs and rohe |
| <p>FMU4 O14 - Environmental outcome for commercial and industrial use⁴</p> <p><i>Provided the health and wellbeing of water bodies and freshwater ecosystems and human health needs are met, commercial and industrial activities are enabled.</i></p> | <ul style="list-style-type: none"> • Apply to all FMUs and rohe |

³ In the Clause 3 draft of the LWRP this environmental outcome only applies to FMU1 Clutha Mata-au and FMU2 Taiari/Taiari.

⁴ In the Clause 3 draft of the LWRP this environmental outcome only applies to FMU4 Dunedin & Coast

Next steps

20. The next steps are:

- i. To review the target attribute states (including interim target attribute states) in the LWRP to ensure alignment between them and the amended draft environmental outcomes and pORPS long-term visions.
- ii. To consult with Iwi authorities on the amended draft environmental outcomes under Clause 4A of the First Schedule of the RMA.

Appendix 3.1: S.M.A.R.T environmental outcomes

1. The environmental outcomes have been drafted in accordance with S.M.A.R.T principles (*Specific, Measurable, Achievable, Relevant, Time bound*). The following paragraphs will explore each of these matters in more detail and in doing so will address a number of questions with respect to the draft environment outcomes that have been raised throughout the development of the draft LWRP. These questions are the following:
 - Are the *environmental outcomes* **specific** enough to consider the local context?
 - How will ORC **measure** progress toward achieving the *environmental outcomes*?
 - Are the *environmental outcomes* **achievable**?
 - Are the *environmental outcomes* addressing **relevant** matters?
 - What is the timeframe for **achieving** the *environmental outcomes*?

Are the environmental outcomes specific enough to consider the local context?

2. The environmental outcomes as currently drafted are largely consistent across all FMUs and rohe⁵. The NPSFM allows for the setting of environmental outcomes that are specific to individual FMUs and rohe, but does not preclude the approach taken by the draft LWRP.
3. Overall, the approach of having a very high degree of consistency between environmental outcomes that apply to the region's FMUs and rohe is supported by Iwi partners and has been mostly endorsed in feedback received from the wider community. It indicates that the aspirations of tangata whenua and Otago's communities for the environment are largely consistent across different parts of the region.
4. Furthermore, there are (potential) advantages that arise from this approach, which are discussed below.
5. Having different environmental outcomes applying to different FMUs and rohe could create inequity between communities by setting more stringent controls or restrictions (resulting in higher socio-economic or financial costs) in areas with more ambitious environmental outcomes for ecological or instream values, while allowing for more permissive regimes in FMUs and rohe that are subject to less ambitious goals for freshwater health.
6. Applying different Environmental outcomes across different FMUs and rohe could result in increased environmental pressures or increased demand in resource use in those FMUs or rohe with less ambitious environmental outcomes for freshwater health.
7. Many landholdings span the boundaries of different FMUs or rohe. Having activities that span different FMU or rohe boundaries considered under different environmental outcomes (and resulting rule frameworks) could create complexity for landholders in terms of land management across the landholdings or could increase complexity (and cost) of resource consent applications.
8. Finally, various provisions in the LWRP, such as the take limits, environmental flows and levels, target attribute states (TAS), have been set at a finer spatial scale (catchment or smaller) than

⁵ Although, as previously shown in the table included Section 5, a small number of draft environmental outcomes currently do not apply to all FMUs and rohe.

that at which environmental outcomes are typically applied (FMU or rohe). These provisions are developed taking into account local differences and allow for these differences to be considered when carrying out activities or making decisions under the Plan.

Measuring progress towards achieving the Environmental outcomes

9. Clause 3.9 of the NPSFM states that an environmental outcome must be included in a regional plan as an objective, or multiple objectives. Good practice guidance for plan writing stipulates that an objective must be specific and written in such a way that it is assessable (i.e. people implementing and monitoring the plan will know when the objective has been met).⁶
10. The use of clear and precise language and quantifiable concepts has been a particular concern when drafting the environmental outcomes and some of the amendments that are being suggested by staff are directly informed by these principles.
11. To ensure that progress towards achieving the environmental outcomes can be measured, Clause 3.10 of the NPSFM requires the identification of attributes,⁷ which must be specific and, where practicable, be able to be assessed in numeric terms.⁸ Where attributes cannot be identified, or if attributes are insufficient to assess a value, alternative criteria must be identified to assess whether the Environmental Outcome of the value is being achieved.⁹

Are the environmental outcomes achievable?

12. The draft environmental outcomes play a key role in ensuring the LWRP gives effect to current national direction for managing freshwater. This direction was introduced in 2020, as part of a broader package of reforms called Essential Freshwater.
13. The reforms were designed to achieve immediate improvements to freshwater health and reversing past damage by bringing freshwater resources and ecosystems to a healthy state within a generation. The aspirational nature of the reforms becomes evident in the NPSFM's clauses for developing long-term visions, which state that these "*must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible)*".¹⁰ The draft LWRP's environmental outcomes reflect the ambitious nature of these goals, and the engagement feedback shows broad support for this approach within large parts of the community.
14. Modelling undertaken by ORC's science team suggests that the controls and restrictions on a range of activities managed by the LWRP, as well as some of the activities enabled by the plan's provisions are likely to be insufficient to meet the TAS for achieving the environmental outcomes within the timeframes set in the LWRP.
15. Therefore, achieving the plan's environmental outcomes will need to be supported by a range of tools, other than the controls and actions enabled in the LWRP. These additional tools include the development and implementation of Freshwater Farm Plans and Action Plans prepared under Clause 3.15 of the NPSFM.

⁶ <https://www.qualityplanning.org.nz/>

⁷ These attributes are the attributes that are shown in the TAS tables in the FMU chapters of the draft LWRP.

⁸ Clause 3.10(1) and (2) of the NPSFM

⁹ Clause 3.10(1)(d) of the NPSFM

¹⁰ Clause 3.3 (2)(b) of the NPSFM

16. As the degree of change that can be expected from implementing Freshwater Farm Plans and Action Plans is currently unknown, ORC will be required to regularly monitor its progress towards achievement of these outcomes and review the need for interventions through an adaptive planning approach.

Are the Environmental outcomes addressing relevant matters?

17. Clause 3.9(3) requires that regional councils identify environmental outcomes for every value that applies to an FMU or part of an FMU.
18. Values that have been included in the draft LWRP and for which environmental outcomes have been drafted are the four of *compulsory values* included in Appendix 1A of the NPSFM and any other values, including those in Appendix 1B of the NPSFM, that have been identified by communities as being relevant to their FMU or rohe.

Timeframes for achieving the environmental outcomes

19. Clause 3.9(5)(b) of the NPSFM states that the environmental outcomes, when achieved, must fulfil the relevant long-term visions developed under the National Policy Statement and included in a Regional Policy Statement. Consequently, it follows that the environmental outcomes must be achieved within the timeframes that apply to these long-term visions.
20. While the draft environmental outcomes themselves do not state the timeframe within these need to be achieved, the TAS in the LWRP, set to achieve the Plan's environmental outcomes, state the timeframe by which these must be met.¹¹

¹¹ Clause 3.11 of the NPSFM. Clause 3.11 (5)(a) further states that if the target attribute state has already been achieved, it must state a specified from which it will be maintained.