

Section 32 Evaluation Report for the Proposed Otago Land and Water Regional Plan

Chapter 4: Development and Engagement

**This Section 32 Evaluation Report should be read together with the Proposed
Otago Land and Water Regional Plan**



**Otago
Regional
Council**

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Abbreviations

FMU	Freshwater Management Unit
LCG	Lindis Catchment Group
MRG	Manuharekia Reference Group
NOF	National Objectives Framework
NPS	National Policy Statement
NPSFM	National Policy Statement for Freshwater Management 2020
ORC	Otago Regional Council
pORPS	Proposed Otago Regional Policy Statement 2021
pLWRP	Proposed Otago Land and Water Regional Plan 2024
RPS	Regional Policy Statement
RPW	Regional Plan: Water
RPWaste	Regional Plan: Waste
RMA	Resource Management Act 1991
TAG	Technical Advisory Group

Development and Engagement

1. Introduction

1. The development of the pLWRP has occurred over a number of years and included significant amounts of technical work, including science and economics, as well as multiple forms of engagement with mana whenua and the wider community. This section provides an overview of the following:
 - a. Background to the development of the pLWRP, including the reviews of the Water and Waste Plans;
 - b. Science work programme;
 - c. Economic work programme;
 - d. Mana whenua involvement;
 - e. Community engagement; and
 - f. RMA pre-notification consultation.

2. Background

2. ORC formally committed to a review of the Regional Plan: Water for Otago (RPW) at its meeting on 31 October 2018 (Hawkins & Dawe, 2018). On that date, Council adopted ORC's Progressive Implementation Programme (PIP), a document that outlined the steps it was proposing to take to give effect to the relevant NPSFM at the time, the National Policy Statement for Freshwater Management 2014 (amended 2017). The PIP was publicly notified in December 2018. The process steps for the review of the RPW and associated timeframes set out in the PIP were eventually superseded by the work programme that was agreed between ORC and the previous Minister for the Environment, Hon. David Parker, in December 2019 (Constantine, 2019), following the outcomes of Professor Peter Skelton's review into ORC's functions.
3. The adoption of the PIP marked the start of the Water Plan review process, which would culminate in the development of the pLWRP. The first actions included in the PIP were the establishment of Freshwater Management Units and an internal review of the Water Plan. The scope of this review was later widened to include a review of the Waste Plan. The process for undertaking these two plan reviews and their outcomes was discussed previously in section 1.1 of Chapter 3 of this report.
4. Since this time the requirements for developing new regional plans under the NPSFM have continued to evolve. The NPSFM 2014 (amended 2017) was reviewed as part of an ongoing three-yearly ongoing review process and replaced in 2020 with a new NPSFM. While the NPSFM 2014 established the National Objectives Framework (NOF) process and introduced the concept of Te Mana o te Wai (which was further developed as part of the 2017 amendments), the NPSFM 2020 contains specific direction for regional councils on how to:
 - a. Implement Te Mana o te Wai; and
 - b. Identify values and outcomes for its freshwater bodies under the NOF process.
5. Using the NOF outlined in Subpart 2, Part 3 of the NPSFM, regional councils are required to:

- a. Identify FMUs in the region;
 - b. Identify values for each FMU;
 - c. Set environmental outcomes for each value and include them as objectives in regional plans;
 - d. Identify attributes for each value and set baseline states for those attributes;
 - e. Set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes; and
 - f. Set limits as rules and prepare action plans to achieve environmental outcomes.
6. Regional councils must also engage with communities and tangata whenua at each step of the NOF process.¹
 7. Section 5 below describes how tangata whenua have been involved in the development of the pLWRP, while Section 6 outlines how ORC has engaged with communities on the different steps in the NOF process.

3. Science Work Programme

3.1. Water Quantity

8. In late 2020, ORC approved an approach to developing the science work programme needed to inform the pLWRP.²

3.1.1. Surface water

9. The surface water quantity programme informed the setting of environmental flows, levels and take limits in the pLWRP. The program included a regional hydrological model for most catchments and bespoke modelling for some catchments depending on the level of existing allocation pressure and data availability (Ravenscroft & Stewart, 2023). The programme and its key findings were summarised in the water quantity programme summary memo (Augspurger, Olsen, & Dyer, 2024).
10. The regional hydrological model used naturalised flow statistics to compare the existing allocation to precautionary environmental flows and limits for the majority of rivers in Otago (Hayes, Booker, Singh, & Franklin, 2021) (Friedel, Stewart, Lu, Stevenson, & Dyer, 2023). This comparison highlighted that the majority of Otago's catchments have low allocation levels and are able to comply with water quantity management regimes set in accordance with the precautionary guidance (Ravenscroft & Stewart, 2023).
11. However, in several catchments the existing allocation exceeds the precautionary flows and limits and bespoke modelling was undertaken in these catchments. The modelling indicates existing flow regimes in some catchments pose a medium or high risk to ecological values. These catchments include the Manuherekia (Allibone, 2021) (Dyer, 2023), Cardrona (Ravenscroft, Lu, Mohssen, Augspurger, & Olsen, 2017), Kākaunui (Olsen D. , 2023a), Low

¹ CI3.7(1), NPSFM

² <https://www.orc.govt.nz/media/9293/agenda-strategy-planning-20201112.pdf>

burn (Olsen D. , 2023b), Waianakarua (Olsen D. , 2024a), Shag/ Waihemo (Olsen D. , 2024b), Luggate Creek (Olsen D. , 2024c) and the Waikouaiti River (Olsen D. , 2023d).

3.1.2. Groundwater

12. The groundwater quantity programme included modelling of the Hawea groundwater basin (Dumont, Rekker, & Etheridge, 2023) (Levy, Yeo, & Ettema, 2023a), the Earnsclough groundwater basin (Pattle Delamore Partners Ltd, 2023a), and trend analyses of groundwater levels in Otago’s aquifers (Hughes & Fraser, 2024).
13. The groundwater modelling informed the setting of bespoke groundwater allocation regime for the Hawea groundwater basin in the pLWRP. Trend analysis on groundwater levels for all other aquifers where there was sufficient data showed no observable long-term increasing or decreasing trend. This analysis has informed the future work programme to improve the bore monitoring network and undertake additional bespoke groundwater modelling of aquifers after the notification of the pLWRP for the purpose of setting additional bespoke groundwater levels and limits.

3.2. Water quality

14. ORC has developed a suite of reports to inform the pLWRP. These reports provide information for setting baseline, and target attribute states (Neverman & Smith, 2023) (Neverman & Hugh, 2022) (Snelder & Fraser, 2021) (Snelder & Fraser, 2023) (Whitehead, 2018); (Augspurger J. , 2024a); (Augspurger J. , 2024b). This suite of reports also provides information on current state of the water quality in water bodies in Otago (Ozanne, Levy, & Borges, 2023).
15. Current state was represented by using NOF bands for sites and across the river network through regional modelling (Ozanne, Levy, & Borges, 2023) (Augspurger J. , 2024a). To add further context, both 10- and 20- year trends were also assessed for sites (Ozanne, Levy, & Borges, 2023), river classes and the region (Snelder T. , 2024). Reference state, which in the context of this report can be understood as the state that gives the best estimate of “natural state”, was taken from published literature (McDowell, Snelder, Cox, Booker, & Wilcock, 2013) (Augspurger J. , 2024a) and prior ecological threshold work where available.
16. A range of management scenarios to improve water quality across the Otago region was also developed. Previously published pastoral mitigation packages (McDowell, et al., 2020) (Monaghan, et al., 2021) (Srinivasan, et al., 2021) were refined (Mackey, 2022) (Sise, Glennie, McCall, & Wilson, 2022), and their nutrient reductions were applied across the region by linking them to typologies (landscape characteristics combined with land use activities). (Srinivasan, et al., 2021) (Couldrey, 2022). The scenario modelling informs the magnitude of change that may be possible through good management practice (GMP) type scenarios on pastoral land uses (Neverman & Hugh, 2022) (Neverman & Smith, 2023) (Sise, Glennie, McCall, & Wilson, 2022) (Augspurger J. , 2024b) (Augspurger J. , 2024c) and provides context for setting target attribute states to give effect to the NPSFM.
17. To inform the NOF process, the science programme broadly sought to quantify baseline and current state, natural or reference state, and how far identified change scenarios would shift current state towards the reference state (Augspurger, Levy, Ozanne, & Ravenscroft, 2020). The purpose of the scenarios was to provide a decision envelope, and indication of effort

needed, for target attribute discussions. The purpose of the change scenarios and comparison to reference state was not to suggest targets should be set at natural state.

3.3. Wetlands

18. To give effect to the NPSFM, ORC has developed an Otago wetland mapping and monitoring programme, comprising of two components: 1) mapping, and 2) monitoring of natural wetlands.
19. The mapping programme consists of three phases.
 - a. Phase one involves mapping and delineating natural inland wetlands in the Upper Taieri Scroll Plains,
 - b. Phase two consists of visiting and revising maps of the Regionally Significant Wetlands³; and
 - c. Phase three includes mapping every natural wetland in the region (inland and coastal) that is 0.05 hectares or greater in extent; or of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral wetland) and known to contain threatened species.
20. Phase one and Phase two mapping of natural wetlands have been completed and an inventory has been developed. Phase three of the programme represents a significant body of work that may take several years to complete, as the Otago region contains large areas of dissected hill country and upland landforms that will include many thousands of smaller wetlands. Mapping of natural wetlands under Phase three has been prioritised as follow:
 - a. Phase 3.1- Dunedin Coast FMU and Upper Lakes rohe (2022-23)
 - b. Phase 3.2- North Otago FMU, Lower Clutha rohe and Catlins FMU (2023-24)
 - c. Phase 3.3- Taiari FMU, Manuherikia rohe, Dunstan rohe and Roxburgh rohe (2024-26)
21. Phases 3.1 and 3.2 mapping have been completed and these maps are currently being checked for accuracy and precision and upon completion will be uploaded to a regional inventory.
22. The second component of the Wetland Programme is to develop and undertake a wetland monitoring plan that 1) monitors the condition of natural wetlands, and 2) contains sufficient information to enable the council to assess whether the policies, rules, and methods in the pLWRP are ensuring no loss of extent or values of those wetlands.
23. ORC has developed protocols to prioritise a framework for selecting representative wetland sites for monitoring and define methods for monitoring the wetland condition and extent.
24. Prior to these protocols being developed, ORC monitored wetlands in Upper Taieri Scroll Plains in 2022-2023 using the Wetland Condition Index. In 2023-2024 the wetland

³ The term “regionally significant wetland” is a term currently used in the operative Regional Plan: Water for Otago and, within the context of this plan, refers to is any wetland that is either:

- (a) Listed in Schedule 9 of the operative Regional Plan: Water for Otago and mapped in maps F1-F63 of the operative Regional Plan: Water for Otago maps; or
- (b) Within a wetland management area listed in Schedule 9 of the operative Regional Plan: Water for Otago and mapped in maps F1-F63 of the operative Regional Plan: Water for Otago maps; or
- (c) Higher than 800 metres above sea level.

monitoring was extended by adding four more Regionally Significant Wetlands to the monitoring network (Fortification Creek Wetland Complex, Lake Tuakitoto Wetlands and Tahakopa Marsh Complex). In 2024-2025 ORC are trialling a three-tiered framework for monitoring for reporting on extent and condition at an FMU scale.

4. Economic Work Programme

25. Freshwater management is largely about managing how our activities affect the natural environment, and particularly how these impact the health of the region's freshwater resources. Changes in how these activities can occur often has impacts as people and communities adjust or transition to a new planning approach (e.g., the updating of a regional plan). Therefore, it is important to understand the activities being managed in the development of such an approach.
26. In mid-2021 ORC scoped economic work needed to support the development of the pLWRP. The scope recognised that while our activities occur across the landscape, they tend to be centred on developed land (77% of the region's land area), although with varying levels of intensity or concentration. For example, farming and growing land use activities in Otago cover around 85 per cent of developed land but the level of activity on a high-country sheep and beef station is markedly different to that in downtown Dunedin or Queenstown. The scope also recognised that some choices had to be made in the focus of the research, given time and budget constraints. For example, reticulated wastewater was excluded.
27. The scope was used to initiate the Council's Economic Work Programme, which ran from October 2021 to July 2023. The main outputs of this initiative were a series of five reports that as a set characterise the Otago Economy, particularly in relation to land and water as resources (Moran, 2022) (Moran, 2023) (Reilly, 2023) (Timms-Dean, McIntyre, Duncan, & Moran, 2024). The completed reports, along with a series of socio-economic 'snapshots' for specific localities, are available on ORC's website: <https://orc.govt.nz/plans-policies-reports/regional-plans-and-policies/regional-economics>
28. A central component of ORC's Economic Work Programme was engagement with those with expert knowledge of their activities and how they occur in Otago to improve understanding. This engagement began with Otago Regional Council's Industry Advisory Group, which was established to undertake in-depth economic research into farming and growing in the region. This group consisted of representatives from the following industry groups: Beef + Lamb New Zealand, Deer Industry New Zealand, Foundation for Arable Research, DairyNZ, Horticulture New Zealand, and Central Otago Winegrowers Association. It was supported by the Ministry for Primary Industries. The Industry Advisory Group's main outputs were two in-depth reports for the region: *Farmers and Growers in Otago* (Moran, 2022) and *Otago's rural businesses and environmental actions for fresh water* (Moran, 2023).
29. In addition, most (if not all) catchment groups that existed across Otago in 2022 were invited to participate in interview-based research. This research aimed to build a better picture of what local communities are already doing to manage land and water across the region, along with the challenges that they are facing. Most (if not all) of Otago's catchment groups were invited to be involved and Figure 1 indicates the catchments where this opportunity was taken up. A list of the participating catchment groups is available in the appendix of the Catchment Stories Summary Report (Reilly, 2023). Some of the groups involved were set up

as far back as the 1990s, while others established more recently, often as a response to increasing regulatory pressures and uncertainty.

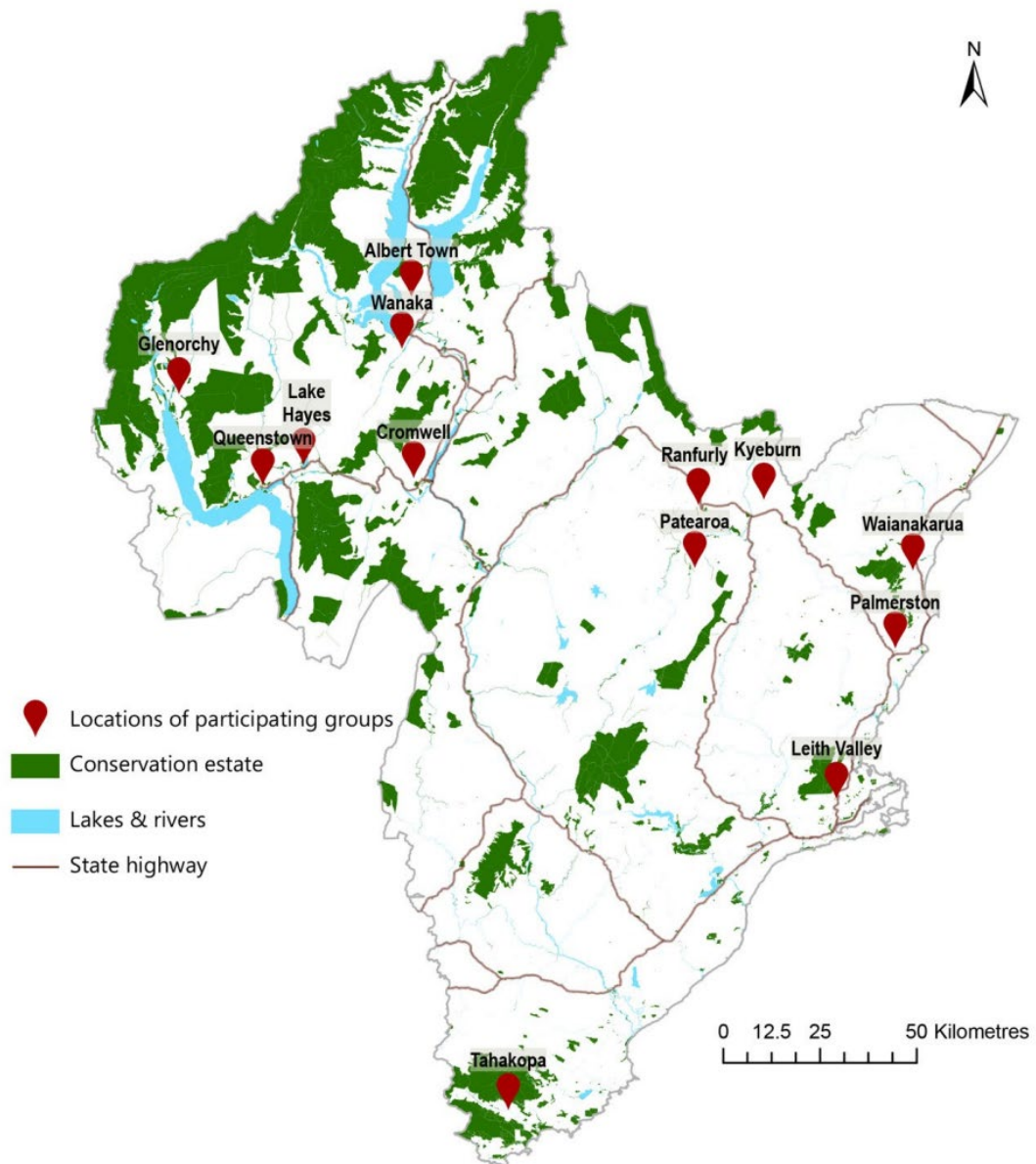


Figure 1: Catchments covered by interviews for the Catchment Stories Report (source Reilly, 2022)

30. Finally, the Council supported Aukaha between 2022 and 2024 to undertake research into the Kai Tahu economy in Otago. The main output from this research, *The Kāi Tahu Economy of Otago* (Timms-Dean, McIntyre, Duncan, & Moran, 2024), used case studies based on interviews and is discussed in section 3 in Chapter 7. This report was prepared by Aukaha on behalf of the seven papatipu rūnaka of Kāi Tahu with shared authority in Otago (Timms-Dean, McIntyre, Duncan, & Moran, 2024).
31. Importantly, the Economic Work Programme ran ahead of the pLWRP so as to improve understanding of economic activities and freshwater management in Otago. In this way the outputs were available to the Council to help inform the policy development process

alongside the science, rather than being undertaken afterwards, once an approach had already been developed.

5. Iwi involvement

32. Clause 3.4 of the NPSFM requires that regional council actively involves tangata whenua (to the extent they wish to be involved) in freshwater management (including decision-making processes), including in all the following:
- a. identifying the local approach to giving effect to Te Mana o te Wai;
 - b. making (or changing) regional policy statements and regional plans so far as they relate to freshwater management;
 - c. implementing the National Objectives Framework; and
 - d. developing and implementing mātauranga Māori and other monitoring.
33. ORC has committed to working closely with mana whenua in its work, including the development of the pORPS and now the pLWRP. In Otago, Kāi Tahu are mana whenua. Te Rūnanga o Ngāi Tahu is the tribal representative body of Ngāi Tahu Whānui, a body corporate established on 24 April 1996. The takiwā (area) of Ngāi Tahu Whānui includes the entire area of Otago Region, as set out in section 5 of the Te Rūnanga o Ngāi Tahu Act 1996. There are four Kāi Tahu ki Otago Rūnaka, being:
- a. Te Rūnaka Moeraki;
 - b. Kati Huirapa Rūnaka ki Puketeraki;
 - c. Te Rūnaka o Ōtākou; and
 - d. Hokonui Rūnaka.
34. There are three Ngāi Tahu ki Murihiku rūnanga with interests in parts of the region, particularly South Otago, the Mata-au Clutha River, and the inland lakes and mountains. They are:
- a. Awarua Rūnanga
 - b. Waihopai Rūnanga
 - c. Ōraka-Aparima Rūnanga
35. ORC has established various processes and initiatives that give effect to the principles and requirements set out in the NPSFM 2020, as well as in other relevant national legislation, the RMA and the Local Government Act 2002 (LGA). These processes and initiatives facilitate participation and building of capacity of Kāi Tahu Papatipu Rūnaka with respect to the development of the pLWRP. They include:
- a. **Mana to Mana:** Kāi Tahu ki Otago Rūnaka Chairs and Councillors meet regularly to discuss governance related issues of interest to either side. The purposes of this process include the following:
 - i. To provide a forum for relationship strengthening between ORC and Mana whenua and collaboration on developing responses for improving environmental sustainability; and

To ensure awareness and providing clarity of understanding of and responsiveness to Mana whenua values, aspirations and priorities in respect to the environment; and

To ensure Te Mana o te Wai is understood and given effect to.

- b. **Iwi representation on the ORC Environmental Science and Policy (ESP) Committee:** Two iwi representatives from Kāi Tahu ki Otago are members of the ESP Committee. The role of the ESP Committee with respect to the development of the LWRP is:
 - i. To provide guidance in the development of the strategic approach to addressing key freshwater and land use management issues in the region; and

To ensure consistency with other Council strategies.
 - c. **Memorandum of Understanding and Protocol (2003) between Otago Regional Council, Te Rūnanga Ngāi Tahu and Kāi Tahu ki Otago:** This memorandum provides for Effective Consultation and Liaison.
 - d. **Charter of Understanding (2016) signed with Te Ao Marama Inc. and Southland Rūnanga:** The Charter of Understanding is the relationship document with Council and Ngāi Tahu ki Murihiku Rūnaka with a common goal to sustainably manage the region's environment for the social, cultural economic and environmental wellbeing of the community for now and into the future.
 - e. **Iwi representation on the Land and Water Regional Plan Governance Group:** Two permanently appointed Kāi Tahu ki Ōtākou rūnaka representatives and one permanently appointed Ngāi Tahu ki Murihiku representative are members of the Governance Group, a Council established working group. Their role is to:
 - i. Safeguard the integration of the fundamental concept Te Mana o Te Wai and its articulation in the NPSFM and the objectives, policies and FMU/rohe visions in the pORPS, and

Oversee the project management-related aspects of the development of the LWRP.
 - f. **Partnership approach with iwi, Aukaha and Te Ao Marama in policy development:** The partnership approach is to ensure that iwi views are being incorporated in plan and policy development. The Papatipu Rūnaka consultancy services, Aukaha, representing Otago Rūnaka, and Te Ao Marama Inc., representing the Southland Rūnaka, provide a first point of contact and facilitate engagement in plan development processes. Aukaha and Te Ao Marama staff have been involved in the development of the LWRP through their participation in weekly project control meetings and development and review of draft provisions.
 - g. **Partnership funding to support Aukaha and Te Ao Marama:** The partnership funding is to support Aukaha to deliver and participate in Council processes.
36. A report on how Aukaha has engaged with mana whenua on freshwater outcomes for development of the Otago Land and Water Regional Plan is included as Appendix 3.

6. Community engagement

37. Community engagement on the development of the pLWRP (and the other aspects of the NOF upon which the LWRP is built) occurred over four different stages that were rolled out between October 2020 and November 2023. Sections .1 to .5 below outline how each of these stages addressed one or more of the NOF process steps described in clause 3.7(2) of the NPSFM. However, a different community engagement process occurred in the Manuhereki rohe and the Arrow and Cardrona catchments, which both form part of the Dunstan rohe. The specific process applied to these catchments and rohe is outlined in section 6.6 of this chapter.

6.1. FMUs and long-term visions for Otago (October and November 2020)

38. Regional councils are required to identify FMUs for the region at an appropriate spatial scale for freshwater management.⁴ Each FMU must reflect the unique circumstances of an area, as they will dictate what freshwater objectives and limits will be set within the FMU. To set FMUs for Otago, a multidisciplinary team consisting of two iwi representatives and Council staff from across the organisation (including scientists, policy analysts and consents officers) was formed to develop draft FMUs for the Otago region. The criteria and principles and process that undertaken to develop FMUs for the Otago region is described in greater detail in section 3.2 of chapter 21 of this report.

39. Regional councils are required to set long-term visions for freshwater in each region at the FMU, part FMU or catchment level, and included as objectives in the relevant RPS.⁵ Those visions must set goals that are ambitious and reasonable and identify a timeframe to achieve those goals that is ambitious and reasonable.⁶ Visions are to be developed through engagement with communities and tangata whenua, be informed by an understanding of the history of and environmental pressures on the water, and express what communities and tangata whenua want the water to be like in the future.⁷

40. The approach for setting FMUs and sub-FMUs, called rohe, for the Otago region, which is described in section 3.2 of chapter 21 of this report, was adopted by Council during its meeting on 3 April 2019 (Briggs, Leduc, & De Pelsemaeker, 2019). At the time, ORC was preparing its pORPS. Shortly prior to its original notification date, the NPSFM 2020 was released which contained the requirement to prepare long-term visions and include them in regional policy statements. To meet the requirements of the NPSFM, engagement with communities on the long-term visions occurred in October and November 2020. As part of this consultation, feedback was also received on the boundaries of the FMUs and rohe. Community feedback was received through the following engagement methods:

- a. 23 community workshops at 18 locations across Otago covering all FMUs and rohe attended by 237 people;
- b. an online survey with 216 responses;

⁴ Clause 3.8, NPSFM

⁵ Clause 3.3(1) and (2)(a), NPSFM.

⁶ Clause 3.3(2)(b) and (c), NPSFM.

⁷ Clause 3.3(3), NPSFM.

- c. written feedback and face to face meetings with iwi representatives; and
 - d. other submissions or reports received as an adjunct to these processes (e.g., the Shaping Our Future report (Shaping Our Future, 2019), prepared by the Upper Clutha community, which represented a significant amount of research and community consultation)⁸.
41. The Manuherekia rohe (part of the Clutha Mata-au FMU) was not included in the workshop process because it was already undergoing its own comprehensive consultation process on the long-term management of freshwater in the area. Considerable information about the values and aspirations for the rohe therefore already existed.
42. ORC prepared a Consultation Report that sets out the methodology and findings of the regional consultation on freshwater visions. Detailed written feedback was also received from Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku. These reports are appended to the Section 32 Evaluation Report for the PORPS (Otago Regional Council, 2021a).⁹
43. No changes were made to the proposed FMU and rohe boundaries as a result of this engagement process. The FMUs and rohe, and their long-term visions were included in the pORPS that was notified in June 2021.
44. However, further changes to these boundaries have been made through the submissions and hearings process for the pORPS, with the Otago Regional Council adopting in March 2024 the pORPS's hearings panel recommendation to:
- a. amend the boundaries of the North Otago and Dunedin & Coast FMUs so that the Waikōuaiti River catchment is included in the Dunedin & Coast FMU; and
 - b. amend the boundary between Catlins and Clutha Mata-au FMUs so that the Pūerua River catchment is included in Lower Clutha rohe of Clutha River/Mata-au FMU.
45. There have been no appeals lodged on the boundaries of the FMUs or rohe.

6.2. Freshwater values (November 2021 – March 2022)

46. The NPSFM requires regional councils to identify values related to freshwater applying to an FMU or part of an FMU.¹⁰ Appendix 1A of the NPSFM identifies four compulsory values, while Appendix 1B lists nine other values that must also be considered as applying to an FMU or part of an FMU. Other values to those set out in the NPSFM may also be identified.
47. Over the period November 2021 to March 2022 ORC undertook a community engagement process that was specifically aimed at confirming the values identified for each FMU and rohe. This engagement process marked the first stage of community engagement for the pLWRP but it built on the findings from the earlier pORPS consultation for setting long-term visions discussed in section 6.1 above.
48. Stage 1 of the engagement focused on the four compulsory values that apply to every FMU or part of an FMU, listed in Appendix 1A of the NPSFM, as well as the other values that must

⁸ ORC has prepared a Consultation Report that sets out the methodology and findings of the regional consultation on long-term visions. Detailed written feedback was also received from Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku. These reports are appended to the section 32 evaluation report for the pORPS. Available from <https://www.orc.govt.nz/media/10012/section-32-report-v61-appendices.pdf>.

⁹ Available from <https://www.orc.govt.nz/media/10012/section-32-report-v61-appendices.pdf>

¹⁰ Clause 3.9, NPSFM 2020.

also be considered as applying to an FMU or part of an FMU and that are included in Appendix 1B of the NPSFM.

49. The NPSFM also lists series of attributes requiring limits on resource use (Appendix 2A of the NPSFM) and attributes requiring an action plan (Appendix 2B of the NPSFM). Stage 1 of the pLWRP consultation provided communities with an opportunity to discuss the attributes listed in the appendices of the NPSFM that are associated with these values. Stage 1 also provided ORC staff with initial information that would help with the development of alternative criteria for some of the compulsory (listed in NPSFM Appendix 1A) and other values ((listed in NPSFM Appendix 1A), particularly where the NPSFM attributes fall short of providing for an effective and holistic monitoring measures or where other scientifically robust attributes are not available.¹¹ This information was collated by asking participants about the various characteristics of the values (see below).
50. Stage 1 of the pLWRP engagement was initially planned to be run as a series of in-person community meetings (drop-in sessions), with feedback also sought via an online survey. The meetings in the Upper Lakes rohe and Catlins FMU were held in-person during November 2021.¹² However, the presence of COVID-19 in the community in early 2022 led to a change to online meetings for the remaining FMUs and rohe. A total of seven online community meetings, each one focused on one of the remaining FMUs and rohe, were held between 28 February 2022 and 16 March 2022.
51. To make the language used during the community engagement less technical and more easily understood by the wider public, ORC staff translated the compulsory values and other values into activities, and attributes were described as “characteristics”. For example, the value “human contact” was the activity of “swimming”, while the attribute “*E. coli*” became the characteristic “risk of getting sick.”¹³
52. The values presented for feedback from the community were:
 - a. Swimming (and other primary contact recreational water activities)
 - b. Fishing (and other secondary contact recreational water activities)
 - c. Walking, camping, picnicking, sightseeing (and other non-contact recreational water activities)
 - d. Plants and animals that live in or near water (Aquatic species)
 - e. Threatened species
 - f. Habitat
 - g. Water Quality
 - h. River flow and lake level (Flow regime and river behaviour)

¹¹ For example, the attributes listed in Appendix 2A and 2B of the NPSFM have a strong focus on measuring chemical water quality and biological health conditions but do not provide clear or direct measures for river flows or lake and groundwater levels or are insufficient for monitoring certain aspects of the value natural character (another value listed in Appendix 1B of the NPSFM), such as the presence of man-made structures in the river bed.

¹² An estimated total of 110 people attended the Upper Lakes rohe meetings in Queenstown and Wanaka. An estimated total of 95 people attended the Catlins FMU meeting in Owaka.

¹³ Describing the attributes as characteristics of a value proved to be particularly helpful for ensuring the input from lay people during Stage 1 as further consultation during stages 2 and 3 of the pLWRP community engagement illustrated that interpreting the draft target attribute states using the NPSFM attributes is challenging for participants that don't have technical background.

- i. Natural Character
 - j. Water take/use
 - k. Wetlands
 - l. Groundwater
 - m. Ecosystem function and processes (Upper Lakes and Catlins only)¹⁴
53. Participants were asked for feedback on these values and their associated characteristics, via an in-person activity. At the in-person meetings participants were asked to evaluate the condition of each characteristic of the thirteen values and to identify locations where the values occur. Large scale maps of the FMU/rohe captured participant feedback on locations associated with each value. For example, participants were able to identify locations of primary contact sites or known habitats of threatened species on the maps. People who could not attend any of the in-person events were provided with an opportunity to give feedback or share information via an online survey and mapping tool. Paper copies of the survey were also made available on request.¹⁵
54. ORC staff collated the survey responses and feedback received on specific values and the condition of their associated characteristics into FMU/rohe specific community summary reports and used them to inform:
- a. the development of environmental outcomes for identified values;
 - b. the identification of measurable attributes that relate to each value; and
 - c. the setting of target attribute states and alternative criteria that are required to assess the achievement of environmental outcomes/objectives are being achieved.
55. The summary reports that were produced following Stage 1 of the community engagement are available on the ORC website.¹⁶

6.3. Environmental outcomes and actions to get there (October 2022 – December 2022)

56. The second stage of engagement was rolled out over the period October 2022 to December 2022. This stage was designed to provide local communities in Otago with an understanding of the current state of their environment as well as existing and emerging pressures within this environment. It also provided them with draft environmental outcomes for identified values. Feedback was sought from the community on options for management interventions (including limits, regulatory controls, and non-regulatory actions) for achieving these draft environmental outcomes.

¹⁴ While using different terminology than the NPSFM, the values presented to the community were based on the four 'compulsory' values and seven 'other' values, as described in Clauses 3.9(1) and (2) of the NPSFM. In addition to these, a small set of extra 'values' were also consulted on (e.g. non-contact recreational activities, wetlands and groundwater).

¹⁵ A total of 20 survey responses were received for the Catlins FMU, 84 for the Dunedin and Coast FMU, 36 for the North Otago FMU, 45 for the Taiari FMU, 52 for the Upper Lakes rohe, 68 for the Dunstan rohe, 15 for the Roxburgh rohe and 45 for the Lower Clutha rohe.

¹⁶ The summary reports for Stage 1 of the community engagement can be downloaded from the ORC website: <https://www.orc.govt.nz/your-council/plans-and-strategies/land-and-water-regional-plan/previous-community-feedback/community-feedback-round-one/>

57. This stage of the engagement was run as a series of 20 in-person community meetings across the region, with at least one being organised in each rohe or FMU. During these meetings participants were encouraged to workshop the draft environmental outcomes for identified values and options for management interventions through small group discussions.
58. The participants were also provided with an initial draft of the attribute bands for the Appendix 2A and 2B attributes that provide for the compulsory values ecosystem health and human contact. To allow for the interpretation of the attribute bands participants were provided with a short description of the attribute band in lay person terms and how these bands relate to the national bottom lines for these attributes in the NPSFM.¹⁷ The information provided to participants also indicated where the Appendix 2A and 2B attributes allow for the monitoring of the state of identified values other than ecosystem health and human contact for which no national guidance or direction for the use of key attributes exist.
59. Participants were given hardcopies of these draft environmental outcomes, draft attribute bands and management interventions options and asked to record their feedback on a form. To complement these in-person meetings ORC also organised two online meetings.
60. People attending any of the online or in person meetings, or people who could not attend the in-person events, were provided with an opportunity to give feedback via an online survey tool or via email. This mix of 'in-person' and 'online' proved to be a valuable engagement approach. Approximately 300 people attended the in-person meetings, while 87 people provided feedback online and another 13 parties provided feedback via email.
61. Overall, the feedback indicated broad support for the draft environmental values that were presented to the community at the consultation. There was a general acknowledgment that communities need to look after the environment and make sure our rivers and lakes are in a healthy state. However, some people expressed concerns about the need to reconcile the need for healthy waterways with the need to look after people's physical and mental health and social and economic wellbeing. Their view was that the pLWRP must:
- a. provide for the efforts that have already been made or underway by local communities and landholders; and
 - b. ensure everyone plays a part in looking after the environment; and
 - c. recognise that some of the proposed actions or controls do not reflect best practice everywhere in the region, are impractical or could have unanticipated or unintended adverse environmental effects.
62. The feedback received during this stage allowed staff to develop a better understanding of the degree to which the draft environmental outcomes and draft attribute bands reflect community aspirations within each of Otago's FMUs and rohe as well as the workability of the range of management interventions for achieving these options. This understanding in turn would assist with the drafting of plan provisions, including the setting of limits and target attribute states to support the achievement of environmental outcomes.

¹⁷ The bands were described as follows: A-band: Contributes to health & resilience of water, similar to natural conditions; B-band: Slight impact on the health of the waterbody; C-band: Moderate impact on the health of the waterbody; and D-band: Creates high risk of permanent shift to degraded state. A, B and C bands were described as generally above national bottom-lines (when specified), with the exceptions being ammonia and nitrate toxicity (where only the A and B bands are above the national bottom line).

6.4. Issues and options (November 2022 – December 2022)

63. To inform the development of the regionwide provisions for the pLWRP, topic-based discussions were being planned with key stakeholders, including catchment group representatives, over the months November and December 2022. The topic-based discussions focussed on the identification and confirmation of issues and options that were then used for developing management approaches for different categories of activities.
64. Key stakeholders were identified by the Policy team by applying the following criteria:
- Ensuring that for each category of topics representatives from both relevant economic sectors in Otago and environmental interest groups are included;
 - Where possible, when identifying representatives from economic sectors and environmental interest groups, selecting representatives associated with organisations or agencies that are active across the entire region;
 - Inviting representatives or originations with sound technical knowledge in relevant areas and
 - Inviting district or city councils for discussions on the management of activities that are typically managed (e.g. earthworks) or undertaken (e.g. provisions of reticulated wastewater or water supply services) by these local authorities.
65. The table below sets out the categories of topics and activities that were discussed, and the stakeholders/industry groups that were invited to participate in these discussions.

Table 1: Parties invited to discuss various topics to inform issues and options papers

Categories	Topics and activities	Key stakeholders, sector groups invited
Environmental flows/levels	<ul style="list-style-type: none"> Minimum flows Residual flows Lake/aquifer levels 	Farming sector, Environmental interest groups, Territorial authorities
Taking and use of water	<ul style="list-style-type: none"> Allocation framework (includes phasing out overallocation) Consumptive water takes (e.g. domestic, community supplies, stock water, irrigation) Non-consumptive water takes (e.g. hydro-electricity) Efficiency in allocation/water use (technical efficiency) Dewatering, drainage Retakes, flow augmentation Transfers (of point of take) 	Farming sector, Environmental interest groups, Territorial authorities
Damming and diversion	<ul style="list-style-type: none"> Damming of water Diversion of water Establishment, maintenance and operation of damming structures 	Farming sector, Energy, Mining, Environmental interest groups
Group water management	<ul style="list-style-type: none"> Irrigation schemes Catchment groups 	Farming sector, Environmental interest groups

Categories	Topics and activities	Key stakeholders, sector groups invited
Agricultural discharges	<ul style="list-style-type: none"> • Effluent (liquid and solid) • Pesticides & Herbicides • Fertiliser use • Nutrient discharges 	Farming sector, Environmental interest groups
Activities on the beds or margins of lakes, wetlands or rivers	<ul style="list-style-type: none"> • Loss of river bed values & extent • Construction, maintenance, upgrade, removal, use of structures • Disturbance of and deposition on the beds of lakes and rivers • Debris clearance, flood protection works, alluvium extraction • Vegetation removal, 	Farming sector, Territorial authorities, Energy, Mining, Environmental interest groups
Other discharges	<ul style="list-style-type: none"> • Discharges of hazardous substances • Discharges from contaminated land • Swimming pools/spas, greywater • Discharge of water (e.g. dams, races) • Mixing of waters 	Farming sector, Territorial authorities, Fuel companies, Energy, Mining
Landfills and cemeteries	<ul style="list-style-type: none"> • Landfills, greenfills, cleanfills • Farm landfills • Silage & composting • Cemeteries 	Farming sector, Territorial authorities, Environmental interest groups
Stormwater & wastewater discharges	<ul style="list-style-type: none"> • Reticulated/unreticulated stormwater • Reticulated and on-site wastewater • Long drops, composting toilets • Industrial / trade wastes 	Farming sector, Territorial authorities, Environmental interest groups
Land use	<ul style="list-style-type: none"> • Development (including forestry) & intensification • Mining • Earthworks & erosion control • Stock access • Intensive winter grazing • Vegetation burning/clearance • Bore construction, maintenance 	Farming sector, Territorial authorities, Environmental interest groups, Land developers, Forestry

66. Ahead of each region wide topic discussion, an Issues and Options paper was provided to each of the stakeholders attending these sessions.
67. Approximately 150 people attended either in person or online one or more of the seven sessions that were held over this period. They represented a wide variety of stakeholders, including community groups, businesses from various economic sectors, local authorities, and government agencies.

6.5. Environmental outcomes, target attribute states and draft provisions (September 2023 – November 2023)

68. Following the completion of Stage 2 of the community engagement and key stakeholder discussions on issues and options, draft regionwide provisions as well as FMU and rohe specific provisions (including target attribute states and limits) were developed with input

from Aukaha and Te Ao Marama as representatives of mana whenua. A first draft of these provisions was completed in August 2023. From 9 September until 6 November 2023, a third stage of community engagement on the draft LWRP was undertaken, with ORC staff seeking feedback on summarised draft provisions from the community and a range of external stakeholders.

69. During this round of engagement, 10 drop-in sessions were held across all FMUs and rohe in the region, as well as two public online sessions and four targeted stakeholder briefings for specific groups (farming sector, forestry sector, territorial authorities, the Department of Conservation and environmental interest groups). Staff from various ORC teams (including policy, science, environmental implementation, consents, communications, and compliance) attended the sessions and discussed the LWRP proposals with participants. To facilitate the discussions, and allow people and industries to get a good understanding of the draft provisions, ORC staff made the following information available online:
- a. An overview of the strategic policy direction set in the draft LWRP;
 - b. A detailed summary of the management approach and draft provisions for each of the draft LWRP chapters;
 - c. A detailed summary of the draft provisions for each of the area-specific chapters, including:
 - i. draft environmental outcomes for identified values;
 - draft baseline, target attribute states and, where applicable, interim target attribute states for specific monitoring sites within each FMU and rohe;
 - take limits and (where applicable) environmental flows and levels for lakes, river and groundwater;
 - a summary of the draft rules (including FMU or rohe specific limits on resource use that apply to activities or land uses and are expressed as land use controls, input and/or output controls)¹⁸ and methods;
 - other areas specific matters, such as water bodies that meet the PORPS criteria for identifying outstanding water bodies, sites for monitoring target attribute states, primary contact sites and representative primary contact monitoring sites;
 - d. Draft glossary of terms; and
 - e. Frequently asked questions around process and the interpretation or implications of specific draft LWRP provisions.
70. Printed copies of this information were also made available for people attending the drop-in sessions. Members of the public were given three options for providing feedback: in person during the drop-in session, via email or via a survey tool on the ORC's website.¹⁹
71. A large proportion of the feedback received during Stage 3 of the engagement focused on the draft provisions in the *FF – Framing and Forestry* chapter. Other parts of the draft LWRP that garnered a lot of feedback were the provisions in the *EFL – Environmental flows, levels,*

¹⁸ Clause 3.12 (1) (a) and (b) and 3.14 of the NPSFM.

¹⁹ By the end of the engagement period, written feedback on the draft LWRP provisions was received from approximately 570 individuals or organisations, either via email or via a survey tool on the ORC's website.

and allocation chapter and the provisions for the management of activities in the *BED – Beds of lakes and rivers* chapter. Finally, a considerable number of people and organisations also commented on the draft provisions in the damming and diversions, earthworks and drilling, other discharges, and wetlands chapters, as well as the provisions for managing outstanding water bodies (Smith & De Pelsemaeker).²⁰

72. The feedback provided during the third stage of LWRP engagement was reviewed by ORC staff and used to assist with preparing an updated draft LWRP for the first stage of formal pre-notification consultation, discussed in section 7.1 below.

6.6. Overview in the Manuherekia rohe and Lindis, Arrow and Cardrona catchments.

73. The three stages of community engagement described above did not inform the setting of environmental flows and levels, and take limits for specific water bodies in the Manuherekia rohe and in three areas in the Dunstan rohe:

- a. The Arrow catchment;
- b. The Cardrona catchment and Wanaka Basin; and
- c. The Lindis catchment and Bendigo-Tarras Basin.

74. The environmental flows and levels, and take limits set in the pLWRP for water bodies in these four catchments were developed through different processes, outlined in the sections below.

75. The main reason for relying on different processes for the development of environmental flows and/or levels and take limits for water bodies in these areas is that both the technical work and community engagement processes intended to inform the development of these provisions had commenced well before the start of the development of the pLWRP.

6.6.1. Manuherekia rohe

76. Work between the community and ORC to develop specific objectives, policies and rules to manage water quantity in the Manuherekia rohe started as early as 2016 with initial drop-in sessions where community members were asked to share their knowledge and aspirations for the catchment. During a first series of drop-in sessions organised in August of that year, participants were asked to identify what they value about water in the catchment and whether they had concerns about its current state (Otago Regional Council, 2016a).²¹ At a second round of drop-in sessions in March 2017 ORC sought community feedback on a range of options for managing the amount of surface water and groundwater in the Manuherekia rohe.

²⁰ A more comprehensive overview of the feedback received, organised by main themes on each topic, and other information (including the number of respondents providing feedback on various topics, as well as different FMUs and rohe), is included in the Report No. POL2314 Overview of feedback received during community engagement on the draft Land and Water Regional Plan, presented to the Council at its meeting on 6 December 2023. This document is available at: <https://www.orc.govt.nz/media/15796/council-agenda-public-2023-12-06.pdf>

²¹ The summary report providing an overview of the feedback received from the public consultation on the identification of important values for the Manuherekia Catchment can be found here: <https://www.orc.govt.nz/media/2414/consultation-number-1-summary-of-feedback.pdf>

77. In 2019, however, ORC changed its approach to engaging with the Manuherekia community and developing a management regime for the catchment and adopted a more collaborative process towards finding specific solutions for managing freshwater in the catchment. A key aspect of this new approach involved the formation of two groups:
- a. The Manuherekia Reference Group (MRG), made up of a range of key stakeholders representing the wide ranging interests of the community²², and
 - b. The Technical Advisory Group, a group of technical experts employed or contracted by ORC, Fish and Game, the Department of Conservation, Fish and Game, Aukaha and OWRUG) to provide scientific advice on freshwater hydrology and ecology to the ORC.
78. Building on the 2016 values identification process, the Manuherekia community was asked in September and October 2019, to confirm and validate the values for the Manuherekia River (Otago Regional Council, 2019a).²³ This engagement process formed the basis for the development of draft objectives by the Manuherekia Reference Group. Following this work and the completion of a series of technical studies undertaken to inform a range of minimum flow scenarios, further consultation with the community was undertaken in May and June 2021. During this consultation ORC asked for feedback from the community on five water quantity management scenarios for the Manuherekia. (Manuherekia Reference Group, 2021a) Two public meetings were held in Alexandra and Omakau and over 1,000 submissions were received by ORC (Ferguson, 2021). The technical information gathered, and feedback received during this process (Manuherekia Reference Group, 2021), helped to inform the minimum flow proposed for the Manuherekia rohe.²⁴
79. The environmental flows and take limit for the Manuherekia River and its tributaries and other aspects of the NOF, including the regionwide provisions as well as baseline states, target attribute states, environmental outcomes and other rules and limits specific for this rohe, were then discussed with the community during the third stage of community engagement on the draft LWRP that ran over the three-month period between 9 September and 6 November 2023.²⁵ A drop-in session for the Manuherekia community were held on 27 October 2023 at the Ophir Peace Memorial Hall.

²² The MRG included representatives from Department of Conservation, Forest and Bird, Central Otago District Council, Fish and Game, the Central Otago Environmental Society and irrigators.

²³ A report was prepared by ORC in December 2019 providing an overview of the values and aspirations held by mana whenua, the local community and stakeholders for the Manuherekia Rohe to inform freshwater management options for the rohe. Information for the report was sourced from two community consultations in August 2016 and September 2019; the Community Proposition developed by the Manuherekia Catchment Water Strategy Group in 2013 (Manuherekia Catchment Water Strategy Group, 2013); and a Kāi Tahu Cultural Values Report by KTKO/Aukaha in 2017 (Clucas, 2017).

The report (Manuherekia Reference Group, 2021a) can be found here: <https://www.orc.govt.nz/media/8499/manuherekia-values-and-aspirations-final-draft-12-december-2019.pdf>

²⁴ Technical reports can be found on the ORC website: <https://www.orc.govt.nz/your-council/plans-and-strategies/water-plans-and-policies/freshwater-management-units/cluthamata-au/manuherekia-rohe-area/>

²⁵ No in person consultation meetings for stages 2 of the community engagement on the development of the draft pLWRP were held in the Manuherekia rohe. The reason for this was that previous community consultation on the identification of relevant freshwater values and the development of environmental outcomes for the Manuherekia rohe had been undertaken by ORC through the Manuherekia Reference Group in the period May and June 2021. Other aspects relevant to the development of a freshwater management framework for the Manuherekia rohe that gives effect to the NPSFM and that require engagement with communities and tangata whenua under the NOF were consulted on during the third stage of community engagement.

6.6.2. Arrow catchment, Cardrona Catchment and Wanaka Basin

80. In 2016, ORC staff commenced work on the development of environmental flows and take limit for the Arrow catchment. As part of this process, community workshops on values were undertaken in June 2017. Technical work including a cultural impact assessment by Aukaha (Keinlange, Kleinlangevelsloo, & Clucas, 2017), ecology and hydrology studies (Olsen, Lu, & Ravenscroft, 2017), and investigations in water supply reliability and economic impacts were all completed in the same year. The recommended take limit and environmental flows that were developed using this information were presented back to the community in December 2017 and July 2018.
81. Consultation with the communities in the Cardrona catchment and the Wanaka Basin on the setting of take limits and environmental flows for the Cardrona catchment (and connected groundwater in the Cardrona Alluvial Ribbon Aquifer) and Bullock Creek and the setting of take limits the Wanaka Basin-Cardrona Gravel Aquifer started prior to the consultation that was undertaken for the Arrow catchment. Initial workshops with the Cardrona and Wanaka communities were held in 2010, 2012 and 2013 presenting technical information and examples of potential water management options for managing surface water and groundwater in the Wanaka Basin and Cardrona catchment (Dale & Rekker, 2011). However, following further hydrological investigations and subsequent updates of the technical information a series of more targeted meetings were held in 2018 to present the latest technical data and discuss revised options for environmental flows and levels and take limits.
 - a
82. Following subsequent shifts in national direction for freshwater management, the recommended take limits and environmental flows and levels that were developed for the Arrow and Cardrona and Bullock Creek catchments and Wanaka Basin-Cardrona Gravel Aquifer were reevaluated by policy staff and ORC's technical experts (freshwater ecologists) in 2019 (against the requirements of the NPSFM 2014 (amended 2017), and later again, in 2020 against the requirements of the NPSFM 2020.
83. After the 2020 re-evaluation of the recommended take limit and environmental flows for these water bodies found them to be compliant with the requirements of the NPSFM 2020 and the overarching framework of Te Mana te Wai, the recommended take limits and environmental flows and levels were presented to the Arrow catchment, Cardrona catchment and Wanka Basin community during community meetings in March 2021.
84. Engagement with these communities on the development of all other draft provisions for the proposed LWRP, including the regionwide provisions and any rohe or catchment specific provisions (i.e. baseline states, target attribute states, environmental outcomes and other limits specific for this catchment), was undertaken through the three stages of LWRP engagement discussed previously.

6.6.3. Lindis catchment/Bendigo-Tarras Basin

85. Technical work to inform the setting of a minimum flow for the Lindis catchment commenced in the early 2000s (Wilding & Jowett, 2003). After completing initial hydrological studies, Council hosted four community workshops between 2009 and 2011 to share technical information about the Lindis River (Otago Regional Council, 2008) and the aquifers in the Bendigo-Tarras Basin (Houlbrooke, 2010) and identify important values supported by

the area's surface water and groundwater resources. At the fourth public workshop ORC staff presented the community with options for the management of the surface and groundwater resources in the Lindis catchment.

86. Two further community workshops were held in the period April 2014 to April 2015 to inform the development of a plan change seeking to set in a minimum flow and take limit for the Lindis catchment (and connected groundwater in the Lindis Alluvial Ribbon Aquifer) and take limits for three aquifers in the Bendigo-Tarras Basin. These three aquifers are the Ardgour Valley, Bendigo, and Lower Tarras Aquifers.
87. Council notified proposed Plan Change 5A (Lindis: Integrated water management) (PC5A) to the operative Water Plan, seeking to set a minimum flow and take limit for the Lindis catchment and Lindis Alluvial Ribbon Aquifer and take limits for the Bendigo-Tarras Basin aquifers in August 2015. Following the hearing of submissions in March and April 2016, ORC released its decision on PC 5A in August 2016.
88. The take limit and minimum flow for the catchment was appealed to the Environment Court by the Lindis Catchment Group (LCG), an incorporated society representing the majority of the water users in the Lindis catchment.²⁶ A further 18 parties joined the appeal under s274 of the RMA.
89. Environment Court-assisted mediation took place between December 2017 and July 2018 and concluded with a signed agreement between ORC & the Lindis Catchment Group around a mutually agreed minimum flow and take limits subject to LCG committing to applying for new consents to replace deemed permits and replacing their open races with gallery intakes located further downstream. The mediation agreement was supported by some, but not all s247 parties, hence the matter was referred to an Environment Court hearing.
90. Between October 2019 and September 2020, the Environment Court released a total of 12 decisions (including interim decisions and final decisions) on PC5A and the applications for resource consents.²⁷ In its decisions the Environment Court approved the resource consent applications and directed that a primary allocation limit (i.e. A block take limit) of 1,612 l/s and minimum flow of 550 l/s be set for the Lindis River.²⁸
91. While the Environment Court decisions approving the granting of the LCG resource consents to replace deemed permits in the Lindis catchment remained uncontested, the Court's decision on PC5A was appealed to the High Court by the Otago Fish and Game Council on points of law.

²⁶ The Council's decision on the take limits for the Bendigo-Tarras Basin aquifers was not appealed.

²⁷ Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 121 (7 August 2020), Lindis Catchment Group Incorporated v Otago Regional Council [2019] NZEnvC 179 (8 November 2019); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 166 (29 September 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 130 (19 August 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 134 (21 August 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 104 (14 July 2020); Lindis Catchment Group Inc v Otago Regional Council [2020] NZEnvC 100 (7 July 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 160 (23 September 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 85 (19 June 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 112 (24 July 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 127 (14 August 2020) and Lindis Catchment Group Incorporated v Otago Regional Council [2019] NZEnvC 174 (1 November 2019).

²⁸ Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 166 (29 September 2020), Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 100 (7 July 2020) and Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 85 (19 June 2020).

92. On 30 November 2021 the High Court released its decision with respect to the appeal of Fish and Game Otago against the Environment Court’s decision on PC5A. In its decision the High Court dismissed the appeal against the Environment Court’s decision. No appeals were received by the Court of Appeal, with the period for lodging appeals expiring on 18 January 2022.
93. The Environment Court’s decisions that approved the resource consent applications to replace the deemed permits and resource consents that authorised the taking of water from the Lindis catchment allowed for the granting of two lots of consents over two stages:
- a. Stage 1: 5-year resource consents for all deemed permits and surface water takes in the Lindis catchment. These short-term consents allow for the continued taking of water, while landholders are building new water intake and distribution infrastructure and are transitioning to a new water management regime. The consents do not require adherence to the minimum flow set by the Environment Court.
 - b. Stage 2: Upon expiry of these 5-year consents, the granting of 35-year consents for any existing and previously consented takes. Under these new, long-term consents the total consented allocation from the catchment will be no greater than the take limit set by the Environment Court and water permit holders will need to comply with the relevant minimum flows.
94. The pLWRP adopts the take limit and minimum flows for the Lindis catchment set by the Environment Court. No further water can be allocated from the Lindis catchment and the existing water takes in the Lindis catchment are now authorised by long-term consents that are unlikely to be surrendered or replaced with new resource consents within the lifespan of this plan. As a result, it would be difficult to implement any alternative regime for the management of water quantity in the Lindis catchment set in the pLWRP within the foreseeable future.

7. RMA pre-notification consultation

95. In addition to consultation discussed above, ORC has also undertaken consultation as directed by Schedule 1 of the RMA.

7.1. Clause 3, Schedule 1

96. Clause 3 of Schedule 1 of the RMA includes a requirement to consult certain parties during the preparation of a proposed plan, including (but not limited to) the Minister for the Environment, other Ministers who may be affected, local authorities and takata whenua through iwi authorities. In addition to seeking feedback from parties listed in clause 3(1), other parties were also consulted as provided by clause 3(2). Clause 3B of Schedule 1 sets out the requirements for consultation with iwi authorities.
97. Pre-notification consultation under clause 3 of Schedule 1 of the RMA took place between January and April 2024. A draft copy of the pLWRP provisions were sent to the following parties for their feedback. Parties who provided written feedback are in **bold**.

Table 2: Parties consulted under clause 3, Schedule 1, RMA

Clause 3 parties	Organisations
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Ministers	Minister for the Environment, Ministers of Agriculture, Forestry, Climate Change, Conservation, Energy, Transport, Ministers for Infrastructure, RM Reform, Resources, Tourism and Hospitality.
Local authorities	Central Otago District Council, Clutha District Council, Dunedin City Council, Environment Canterbury, Environment Southland, Queenstown Lakes District Council , Waitaki District Council.
Iwi authorities	Te Rūnanga o Ngāi Tahu, Aukaha, Te Ao Marama Inc
Other parties	Aurora Energy, Beef and Lamb NZ , Central Otago Winegrowers Association, Contact Energy, Dairy NZ , Deer Industry New Zealand, Department of Conservation, Environmental Defence Society, Farm Forestry NZ, Federated Farmers , Fertiliser Association of New Zealand, Fish and Game, Fonterra, Forest and Bird, Forest Owners Association of New Zealand , Foundation for Arable Research, Horticulture New Zealand , Infrastructure New Zealand, Irrigation New Zealand, Land Information New Zealand, Manawa Energy, Meridian Energy , Ministry for Business Innovation and Employment, Ministry for Primary Industries , Ministry for the Environment, Ministry of Transport, New Zealand Winegrowers, New Zealand Agrichemical Education Trust (Growsafe), NZ Agricultural Aviation Association , Otago Conservation Board, Otago Water Resources User Group, Pioneer Energy, Southern Wood Council Inc, Taumata Arowai , Transpower, Waka Kotahi, Wise Response Inc.

98. ORC received a wide range of written feedback from the parties above, which was considered and incorporated into a revised draft of the pLWRP prior to Clause 4A consultation.

7.2. Clause 4A, Schedule 1

99. Clause 4A of the RMA requires a local authority to provide a copy of a draft proposed plan to an iwi authority consulted under clause 3(1)(d) and allow adequate time and opportunity for the iwi authorities to consider the draft plan and provide advice on it. This enables an iwi authority to identify the resource management issues that are of concern to it, as well as providing guidance to the local authority on how these issues have been, addressed.
100. Pre-notification consultation under Clause 4A of Schedule 1 of the RMA took place in the months July and August 2024. A draft copy of the pLWRP provisions was sent to Te Runanga o Ngāi Tahu, Aukaha and Te Ao Marama Inc for comment.
101. Clause 4A (1)(b) of the RMA requires that a local authority must have particular regard to any advice received on the draft proposed plan from those iwi authorities.
102. Following the conclusion of the clause 4A pre-notification process, a public briefing was held on 29 August 2024 where ORC staff provided ORC Councillors with an overview of:
- the feedback received on the draft pLWRP from iwi authorities; and
 - staff recommendations in the response to this feedback.
103. An overview of how the feedback received from Iwi authorities under Clause 4A of Schedule 1 of the RMA has informed the development of the various pLWRP provisions is discussed in Chapters 5 to 21 of this report.

7.3. Managing changes to the national regulatory framework

104. The current New Zealand Government has indicated that some parts of the regulatory framework for managing land and freshwater will change in the coming months. Ministers have indicated that they would like a replacement NPSFM to be in place by the end of 2025. In addition, the Government has extended the date by which ORC must notify a new plan to 31 December 2027 in order to accommodate the forecasted changes in national legislation and direction. The choice of when to notify plan changes prior to that date sits with regional councils.
105. There are a number of reasons why the Otago Regional Council has chosen to continue working towards notifying the pLWRP by the end of October 2024. These reasons are:
- a. The Water Plan does not provide for the health and wellbeing of Otago’s freshwater and the ecosystems and communities supported by these resources;
 - b. There are economic costs and financial risks associated with a continued reliance on the Water Plan for key economic sectors and communities; and
 - c. Changes to national direction can be accommodated within the plan development framework of the RMA.

7.3.1. The Water Plan does not provide for the health and wellbeing of Otago’s freshwater, ecosystems and communities

106. The current planning framework does not adequately manage natural and physical resources in a way, or at a rate that:
- a. enables people and communities to provide for their social and cultural wellbeing and for their health and safety, while
 - b. safeguarding the life-supporting capacity of Otago’s ecosystems.
107. As discussed earlier in section 3 of this report, prior to the start of the process of developing the new pLWRP, the operative Water and Waste Plans were both well past their legislated review dates and a review of ORC’s planning functions concluded that the operative Water Plan was not fit for purpose.
108. A new management framework is needed to better manage the potential effects and risks of land use intensification and rural and urban land development on water quality. As previously outlined in Chapter 2 of this report some parts of the region show degrading trends, with all of Otago’s FMU and rohe having at least one category with either measurements below the bottom lines, or multiple degrading trends that require addressing. Because the operative Water Plan has not been able to prevent this from occurring, changes to the framework for managing water quality are needed to avoid or reduce the potential for more stringent restrictions being required in the future to manage water quality. Where water quality continues to deteriorate, more costly solutions are likely to be needed to ensure our communities have access to clean water.
109. In various Otago catchments, water abstraction is having adverse impacts on various ecological, cultural and wider recreational and amenity values supported by rivers and lakes. Sustainable minimum flows water take limits are needed to decrease the potential impacts of water takes on values supported by the region’s freshwater resources.

110. The timely replacement of the current framework with a new freshwater planning framework will reduce the risk of irreversible damage on habitats and ecosystems and allows ORC to provide effective and targeted responses to specific issues and risks in the region.

7.3.2. There are economic costs and financial risks associated continued reliance on the Water Plan

111. There are also economic costs and financial risks associated continued reliance on the framework of the operative Water Plan. The most recent changes to the operative Water Plan, Plan Changes 6AA and 7, were prepared on the basis that a new plan would be in place by 2026.
112. A review of the water quality provisions of the Water Plan in 2018 has indicated that existing provisions for managing rural discharges, such as Policy 7.D.2, and Rules 12.C.1.1(g), 12.C.1.1A and 12.C.1.3, are unenforceable, uncertain and ambiguous. Some challenges include the inability for land users to be able, in practice, to ensure that the discharge contaminant thresholds set out in Schedule 16, are complied with everywhere on their property, at all times, when the flow at the relevant flow sites is below median flows. To address this issue Plan Change 6AA was initiated. The intent of PC6AA was for these rules to not take effect, i.e., they would be superseded by enforceable clear rules through the pLWRP. As it stands, these rules will come into effect in 2026 and create practical challenges for both land users and ORC.
113. In relation to Plan Change 7, the current provisions as a result of decisions of the Environment Court mean that expansion of irrigable areas (Policy 10.A.2.1) is required to be avoided, use is restricted to historic rates and volumes, and water take consents are limited to a maximum of six years. For replacement water permits (excluding groundwater not connected to surface water) that expire on 31 December 2025 and beyond, these will only be able to be assessed under Chapter 12 rules and can only be granted for a maximum of 6 years in line with Chapter 10A duration policies. For new water takes there will be no change to how they are currently processed and would be subject to a maximum term of 6 years.
114. Opportunities exist to improve the efficiency in the allocation and use of water. A more directive and transparent policy framework for the allocation of water and its efficient use will allow for a more effective allocation framework that benefits the instream environment, and will also benefit water users by:
- a. further maximising the available allocation between different uses;
 - b. creating a more equitable outcome for water users; and
 - c. reducing the cost and complexity of consent processes (when compared to pre-Plan Change 7 consent application process).

7.3.3. Legislative change can be accommodated within the plan development framework of the RMA

115. ORC intends that the pLWRP is the first step on the pathway to achieving the long-term visions set out in the pORPS. Future plan changes to the pLWRP are already signalled in ORC's

Long-Term Plan 2024-2034,²⁹ which will provide opportunities for the pLWRP to be updated as and when required, including to respond to new national direction on relevant resource management matters.

116. ORC also intends that any changes to national direction that occurs before the pLWRP is made operative would be accommodated through the Freshwater Planning Process. Managing legislative changes through regional plans is a common part of plan making and can be accommodated within the plan development framework of the RMA. The Freshwater Planning Process under Section 80A of the RMA, provides opportunities for any new national direction to be incorporated into a plan during the hearings process. This means changes to the RMA and/or NPS or any other national direction while the hearings process is underway can be managed by the Panel.

7.4. Freshwater Planning Instrument

117. The High Court declaration discussed in section 1.4 of chapter 3 of this report resulted in the pORPS being split into two parts: one containing the provisions identified as the Freshwater Planning Instrument and one containing all other provisions. This added considerable complexity into the process.
118. Section 80A has since been amended to widen the definition of a Freshwater Planning Instrument. Section 80A(2) of the RMA now states:

A freshwater planning instrument means:

- (a) *any part of a proposed regional plan or regional policy statement that relates to objectives that give effect to the national policy statement for freshwater management:*
- (b) *any provisions of a proposed regional plan or regional policy statement in relation to which the regional council has decided to use the freshwater planning process under subsection (6B)(b):*
- (c) *any regional policy statement (including any change or variation to the statement) in relation to which the council has decided to use the freshwater planning process under subsection (6B)(c):*
- (d) *any change or variation to a proposed regional plan or regional policy statement if the change or variation—*
 - (i) *relates to objectives that give effect to the national policy statement for freshwater management; or*
 - (ii) *relates to a provision described in paragraph (b).*

119. Subsection (6B) of RMA s80A of the RMA further states that:

A regional council—

- (a) *must use the freshwater planning process when preparing any part of a regional plan or regional policy statement that relates to objectives that give effect to the national policy statement for freshwater management; and*

²⁹ Part 3 – What we will deliver. Land and Water, Long Term Plan 2024-2034, p42.

- (b) *may use the freshwater planning process when preparing other provisions of a regional plan or regional policy statement that relate to freshwater; and*
 - (c) *may use the freshwater planning process when preparing a regional policy statement or change or variation to the statement if the council is satisfied that doing so is necessary to achieve integrated management of the natural and physical resources of the whole region.*
120. Subsection (6A) of RMA s80A of the RMA further stipulates that:
- A proposed regional plan or regional policy statement (or any part of it) relates to freshwater if it:*
- (a) *it relates (in whole or in part) to an objective of the regional plan or regional policy statement; and*
 - (b) *the objective relates to the performance of a function in section 30(1)(c), (e), (f), (fa), (g), or (ga).*
121. The proposed Land and Water Regional Plan (pLWRP) is considered to be a freshwater planning instrument in its entirety because:
- a. It includes provisions that relate to objectives that give effect to the NPSFM in accordance with Section 80A(2)(a) of the RMA; and
 - b. The Council has decided to use the freshwater planning process for the remainder of the provisions in accordance with Subsection (6B)(b) as all of the provisions in the pLWRP relate to freshwater in accordance with Subsection (6A). The provisions relate to freshwater because the pLWRP includes objectives, and the associated policies, rules and methods to achieve the objectives in the pLWRP, relate to the performance of ORC's functions in Sections 30(1)(c), (e), (f), (fa), (g), and (ga) of the RMA; and

8. Overview of Plan Structure

122. The structure of the pLWRP follows the mandatory format prescribed by the National Planning Standards. The National Planning Standards are provided for under Sections 58B–58J of the RMA and set out requirements or other provisions relating to the structure, format, or content of regional policy statements and plans.³⁰ Chapter 5 of this report provides an assessment of how the pLWRP implements the National Planning Standards.

8.1. Part 1: Introduction and general provisions

123. *Part 1 - Introduction and general provisions* of the pLWRP contains the foreword to the plan or mihi, a purpose statement and description of the Otago region. This part of the pLWRP also contains chapters that outline how the plan works and how its provisions must be interpreted, and set out the definitions, including the mandatory definitions included in the Definitions List of the National Planning Standards, and abbreviations applied throughout the pLWRP. Finally, Part 1 also provides a chapter outlining various relevant national direction instruments and a mana whenua chapter, which provides an overview of Kai Tahu values and perspectives and relevant iwi and hapu planning documents.

³⁰ Sections 18A and 58B of the RMA.

124. Guidance on the relationship between the different provisions contained in various chapters of the pLWRP and how plan users and decision-makers need to consider these is provided under the *General approach* section of the *How the plan works* chapter of the pLWRP.
125. This section of the pLWRP outlines the following principles for establishing the relationship between the plan's provisions:
- a. The provisions in the IM – Integrated management section and the environmental outcomes included as objectives in FMU1 to FMU5 provide the strategic direction for the Plan, which includes the development of other chapters in the Plan, and the subsequent implementation and interpretation of those chapters. The IM – Integrated management provisions apply to all activities managed in the plan, in addition to any topic-specific and/or area-specific provisions.
 - b. The topic chapters contain objectives, policies, and rules that apply to the whole region. These rules determine when an activity is permitted and when a resource consent is required. Activities may be subject to the provisions of one or more of the chapters in the topics section and an activity must comply with all relevant rules in the Plan unless the rule itself states otherwise.
 - c. The area-specific matters chapters contain provisions that apply to different FMUs (FMU1 to FMU5). The provisions in the topic chapters continue to apply unless expressly provided for otherwise in the FMU chapters.
 - d. The FMU1 – Clutha/Mata-au chapter includes five rohe (CAT1 to CAT5). Unless expressly stated otherwise, the provisions in FMU1 prevail over those provisions in CAT1 to CAT5.

8.2. Part 2: Management of resources

126. The plan's objectives, policies, rules, and other methods that provide for the management of the region's natural and physical resources are included in Part 2 *Management of resources* of the pLWRP.

8.2.1. Strategic directions

127. The strategic directions for the draft LWRP are set out at the start of Part 2. This part of the plan contains objectives and policies (but not rules) that are relevant to the management of all activities under the plan. In accordance with Directions 6 and 7 of Regulation 3 of the National Planning Standards these objectives and policies are include in the *Integrated Objectives* and *Integrated Policies* chapters, with both of these chapters grouped together under the heading *Integrated Management*. The provisions in *Integrated Objectives* and *Integrated Policies* chapters focus on:
- a. Giving effect to Te Mana o te Wai.
 - b. Achieving the long-term visions in the pORPS and the environmental outcomes for each FMU and rohe in Otago.
 - c. Managing resources in an integrated way.
 - d. Recognising that the management of land and water is part of New Zealand's integrated response to climate change.

- e. Recognising the need for transitions in the use of resources over time.
- f. Managing resources in a way that provides for:
 - i. Mana whenua kaitiakitaka and rakatirataka (leadership)
 - The social, economic, and cultural well-being of people and communities
 - Nationally and regionally significant infrastructure
 - Protecting the values of outstanding water bodies and natural character of water bodies.
- g. Implementing mandatory direction set by the NPSFM.
- h. Requiring activities to use good environmental practice.
- i. Recognising the national and regional benefits of renewable electricity generation.
- j. Outlining the principles for avoiding and phasing out over-allocation.
- k. Managing both new and existing activities in areas subject to natural hazard risk so that the level of risk is not increased.
- l. Setting direction on managing discharges, including providing policy direction on the use of mixing zones.
- m. Managing uncertainty in decision-making under the LWRP.
- n. Managing cross-boundary matters
- o. Providing policy guidance for setting consent durations.

8.2.2. Region-wide provisions

128. Part 2 also contains several chapters with regionwide and area specific (FMU and rohe) provisions. In accordance with Direction 14 in Regulation 3 of the *National Planning Standards*, provisions (objectives, policies, rules and other methods) that apply predominantly to only one topic, but that are not specific to only one or more FMUs or rohe, have been located in one of the following topic chapters under the *Topics* heading of the pLWRP:

- BED – Beds of lakes and rivers
- CL – Contaminated land
- DAM – Damming and diversion
- EARTH – Earthworks and bores
- EFL – Environmental flows, levels and allocation
- FF – Farming and Forestry
- FLOOD – Flood protection and drainage assets
- OTH – Other Discharges
- SW – Stormwater
- WASTE – Waste and Landfills

- WW – Wastewater
- WET – Wetlands

8.2.3. Area-specific matters

129. Direction 14 of Regulation 3 the *National Planning Standards* also requires that provisions that apply only to an FMU are located in the relevant chapter under the *Area-specific matters* heading of the plan, while Direction 16 in the same regulation of the *National Planning Standards* further requires that each FMU has its own chapter under the Area-specific matters heading. To give effect to these directions, Part 2 of the pLWRP includes the following chapters that include FMU or rohe specific provisions (including environmental outcomes and FMU or rohe specific objectives, policies, target attributes states, rules and other methods):

- FMU1 – Clutha Mata-au freshwater management unit. This chapter is comprised of 5 smaller chapters:
 - CAT1 – Upper Lakes rohe
 - CAT2 – Dunstan rohe
 - CAT3 – Manuherekia rohe
 - CAT4 – Roxburgh rohe
 - CAT5 – Lower Clutha rohe
- FMU2 – Taiari freshwater management unit
- FMU3 – North Otago freshwater management unit
- FMU4 – Dunedin & Coast freshwater management unit
- FMU5 – Catlins freshwater management unit

130. The provisions included in these FMU or rohe chapters have been developed on a 'by exception' principle, meaning the FMU or rohe chapters only contain provisions that not regionwide. This approach ensures the LWRP structure is consistent with the requirements of the *National Planning Standards*, and also positively contributes to the pLWRP's user-friendliness by avoiding any unnecessary duplication within the Plan.

8.3. Part 3: Appendices, schedules, and maps

131. Finally, the appendices, schedules, and maps of the pLWRP are included in *Part 3 – Appendices, schedules and maps* of the pLWRP.