

ORC Staff recommendations in response to feedback from iwi authorities (Clause 4A feedback)

Overview

1. This document sets out, in full, the feedback received on the draft Land and Water Regional Plan (LWRP) from iwi authorities during consultation undertaken under clause 4A of Schedule 1 of the RMA. The document has two parts:
 - Part A (Key focus areas): This part sets out the feedback from iwi authorities first, followed by the response to the feedback from ORC staff and any recommendations.
 - Part B (Specific comments): This part includes more detailed amendments sought to provisions. It is in table form, and additional columns have been added to the iwi feedback and shaded blue to highlight the ORC staff response and recommendations.

Part A: key focus areas

1. Is the strategic direction clear?

Feedback from iwi authorities

Concern:

In our Clause 3 feedback, we were concerned that the structure of the draft Plan distracted from the clarity of the strategic direction, which was spread across four chapters (MW Mana Whenua, IM Integrated Management, LF Land and Freshwater and Area-specific Matters/ FMUs) and not well organised. Some topic chapters also did not have a clear focus on achieving the strategic directions.

Has this been addressed?

Combining the MW, IM and LF objectives and policies, restructuring these and removing duplication has made the direction much clearer. However, there are still improvements that could be made, particularly with respect to fish passage provisions. We also retain concerns about the visibility of the outcomes in the Area-Specific Matters Chapter (see 2 below) and consider that reference to the Regional Policy Statement long-term freshwater visions needs to be made clearer for Plan users.

As part of the restructuring, objectives and policies previously in the MW chapter have been incorporated into the IM chapter. We support this but we are concerned that changes to the MW whenua content have been made without any discussion with us. In some cases, this has resulted in the direction being weakened or made less clear.

We also consider that over-use of qualifiers such as “to the extent practicable” has weakened the direction inappropriately. Where there are matters of practicability to be considered, it would be more appropriate to address these in the detailed policy approaches than in the overarching strategic direction.

There is some unevenness in the way that topic chapters are linked to the strategic direction. In some cases (e.g. BED) there is a link to objectives but not policies. In other cases (e.g. EFL) the link is made in individual policies rather than across the whole policy framework. It is important that the

application of the strategic direction to the topic chapters is clearly visible, and also that this direction is embedded in the policy considerations and rule requirements.

Recommendations:

- a. Amend as described in Part B to:
 - combine fish passage provisions and shifting some to BED chapter
 - amend MW provisions (now numbered IO-O2, IP-P2 and IP-P3)
 - delete “to the extent practicable” from IO-O8, IP-P3, IP-P5, IP-P6 and amend other policies to remove weak qualifiers
 - make IO and IP provisions clearer.
- b. Ensure that reference to the Regional Policy Statement long-term freshwater visions is clear to Plan users.
- c. Review topic chapters to ensure that linkages to strategic direction are consistent and that the outcomes and policy approach in the IM chapter is appropriately embedded in policies and rules.
- d. Include a diagram or similar user guidance to assist users in understanding the linkages.

Staff response and recommendation

2. The concerns raised and recommendations made by mana whenua are best addressed in the context of each provision, rather than in an ‘overall’ way. Staff have considered the feedback in relation to every provision in the IM chapter and recorded responses (and, in some cases, recommended amendments) in the table contained in Part B below. A summary of these changes in response to the recommendations from mana whenua is set out below.

Combine fish passage provisions and shift some to the BED chapter

3. Staff have explored combining Objectives IO-O6 and IO-O7 but consider these provisions are best kept separate as they have a different focus. IO-O6 focusses on the management fish passage, including the role of fish passage in the management of species interactions, whereas Objective IO-O7 focusses on the management of the habitats of indigenous and exotic fish species. Keeping these as separate objectives provides for greater clarity.
4. The changes to IO-O7 ensure alignment with pORPS policy LF-FW-P14 and with the wording from threatened species definition.
5. Staff do not recommend amending IO-O7 to provide for or require the restoration of habitats of indigenous species, as the current wording aligns with Policy 9 of the NPSFM. It is noted that the environmental outcomes in the pLWRP seek to provide for the protection and restoration of the habitat of threatened species.
6. Mana whenua seek to move some fish passage provisions to the BED chapter. Including these provisions in the IM chapter means that they apply to any chapter in the plan managing activities that may affect fish passage, including BED but also, for example, damming and diversion activities managed by the DAM chapter and flood protection and drainage works managed by the FLOOD chapter. Staff recommend retaining the provisions in the IM chapter so that they can continue to apply to any chapter managing structures in water bodies.

Amend MW provisions (now numbered IO-O2, IP-P2, and IP-P3)

7. In the written feedback, mana whenua asked for further discussion with ORC on this matter, rather than requesting any specific amendments. This has occurred, and it was clarified that the concerns were:
- Reference to recognising and providing for mana whenua aspirations as land and water users “in accordance with the provisions of this plan” in IO-O2 and IP-P3. This phrasing was considered to be redundant, because the policy can only be implemented by the provisions of the plan. Staff agree and recommend removing the phrase from both provisions.
 - Qualifying the requirement for activities to be undertaken in a way that maintains or improves the health and well-being of water bodies and freshwater ecosystems “to the extent practicable”. The concern was that this was an inappropriate weakening, given that Policy 5 of the NPSFM requires maintaining or improving the health and well-being of water bodies and freshwater ecosystems without qualification. Staff agree and recommend removing the phrase.
 - Removal to the reference to mana whenua values in IP-P3. In the clause 3 version of this policy, clause (3) also sought to ensure that activities contributed to the achievement of mana whenua freshwater outcomes as described in APP9. This was removed because the outcomes in APP9 were significantly more stringent than the environmental outcomes for the FMUs, which was not considered appropriate. Mana whenua have clarified that the original wording was incorrect – the content of APP9 is not setting outcomes. Mana whenua are considering whether the content of APP9 are ‘alternative criteria’ under the NPSFM, and if so, may seek it through a submission on the pLWRP. However, the removal of the reference in its entirety has left a gap in this policy for outlining the role of achieving the environmental outcomes for Māori freshwater values, which is an important component of supporting the Kāi Tahu relationship with fresh water. Staff recommend an amendment to address this in Part B.

Delete “to the extent practicable” from IO-O8, IP-P3, IP-P6, and amend other policies to remove weak qualifiers.

8. Some of the concerns about ‘weak qualifiers’ have been addressed above. For other provisions, whether it is appropriate to remove qualifiers to be considered in the context of each provision. This is set out in more detail in Part B. At a high level:
- IO-O8: ‘To the extent reasonably practicable’ gives effect to pORPS policy LF-LS-P18. Staff do not recommend any changes.
 - IP-P5: Staff agree that including ‘where practicable’ is not consistent with IM-M1(5) of the pORPS and recommend its deletion.
 - IP-P6: Staff agree that ‘to the extent reasonably practicable’ is not required in this policy if an additional amendment is made to clarify that it is the design of practices which is the focus of the clause.
 - IP-P7: Staff agree that minimising the impacts on communities from achieving environmental outcomes and long-term visions will not always be possible, however this is already reflected in the provision which concludes with “where practicable”. To assist with visibility, staff recommend moving this phrase from the end of the clause to the start.

Make IO and IP provisions clearer

9. Part B contains a range of specific amendments sought by mana whenua to improve the clarity of provisions. Generally, staff recommend accepting these changes unless doing so would alter the intent or application of the provision in a way that is not consistent with Council direction.

Ensure that reference to the Regional Policy Statement long-term freshwater visions is clear to Plan users

10. Staff agree that there should be a clear line of sight from the pORPS to the pLWRP. However, the long-term visions are currently under appeal and may still change as those appeals are resolved. There may be a risk that referring directly to these provisions 'locks in' a particular version of those provisions, which may be superseded if changes are made by the High Court. To assist with ensuring there is still a link to the visions, the pLWRP defines 'long-term vision' as the long-term visions for fresh water developed under clause 3.3 of the NPSFM and included in the pORPS 2021. As appeals on the pORPS are resolved, the line of sight may be able to be reconsidered and a more direct link made in the pLWRP.

Ensure linkages in topic chapters to strategic direction are consistent and IM outcomes and policy approach is appropriately embedded

11. In relation to most topic chapters, mana whenua seek additional provisions and/or cross-references within existing provisions back to the provisions in the IM chapter. It is generally accepted in planning practice and courts of law that plans must be read as a whole – all provisions are relevant, unless they are determined to be irrelevant (i.e. because they do not manage the activity in question) or because they specifically state that they are not relevant to a particular activity. The pLWRP adopts this approach, which is explained in the 'How the plan works' section of the plan.
12. There is a risk with including cross-references that provisions that are not cross-referenced are not considered in decision-making, even if they are relevant. To ensure that relevant policies are identified in the context of assessing each application, staff recommend retaining the existing approach in the plan, which is that cross-references are only used to identify where there is a *different* relationship between provisions than the presumption that they all apply. For example, FLOOD-P1 states that only specific policies in the BED and DAM chapter also apply to activities managed by the FLOOD chapter, and that all other policies do not apply.
13. As set out in more detail below, staff recommend including additional guidance at the beginning of Part 2 of the plan explaining the structure of the plan and the relationship between the chapters.

Include a diagram or similar user guidance to assist users

14. Staff appreciate that the mandatory plan structure required by the National Planning Standards has the effect of divorcing parts of the plan from each other in a way that can be unhelpful for plan users. There is an explanation and existing diagram in the 'How the plan works' section, however staff appreciate that this may be easily overlooked as it is contained in the introductory part of the plan rather than with the provisions, which is where most plan users will be looking. Staff have recommended including additional guidance at the beginning of Part 2 – Management of resources (the part containing the objectives, policies, and rules) which explains the relationship between the parts of the plan and emphasises that the IM chapter applies in addition to every topic chapter. This additional guidance is as follows:

Overview

The strategic direction for this plan is set out in the IM – Integrated management chapter and the *environmental outcomes* included as objectives in the area-specific chapters. Together, these provisions apply in addition to all of the topic-specific chapters and the remaining provisions in the area-specific chapters. The strategic direction is relevant for the development of other chapters in the Plan, and the subsequent implementation and interpretation of those chapters. This relationship is shown below in Figure 1.

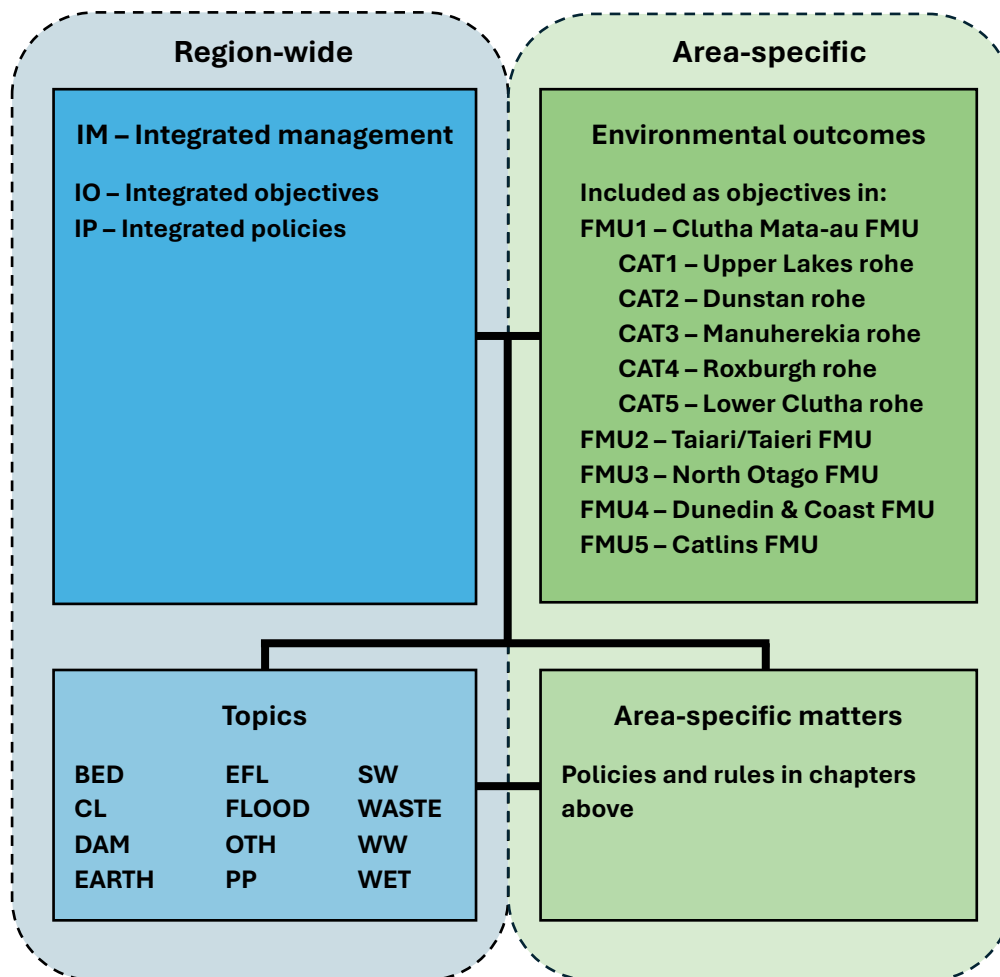


Figure 1 – Relationship between region-wide and area-specific parts of the plan

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.

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. 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.

2. Are the topic chapters clear about the environmental outcomes to be achieved?

Feedback from iwi authorities

Concern:

In our earlier feedback we suggested that the FMU environmental outcomes need to be more clearly identified as part of the strategic direction and the outcomes, attribute targets and criteria need to be linked into the provisions of the topic chapters.

Has this been addressed?

Integration of FMU environmental outcomes, targets and criteria is patchy and these are not as visible as they need to be both as part of the strategic direction and in the policies and rules across the Plan. Although we understand they are required to be included in the Area-specific Matters chapter, their location at the end of the plan document contributes to the lack of visibility.

It would be helpful for all Plan users to have a clear “line-of-sight” to be able to understand and interpret the rules.

Recommendations:

Make the environmental outcomes more visible in the IM chapter, for example by use of a table of outcomes linked to IO-03.

We would like to see, and to work through with ORC staff, “mapping” of how the environmental outcomes, targets and criteria have been embedded in policies and rules in the topic chapters and where there are gaps in this.

Staff response and recommendations

Make the environmental outcomes more visible in the IM chapter

15. As recommended by mana whenua, staff recommend including a table of the environmental outcomes in IO-03 (as set out in Part B below) and agree that this assists with highlighting the environmental outcomes, without removing them from the FMU chapters.

“Mapping” of how the environmental outcomes, targets, and criteria have been embedded in policies and rules in the topic chapters and where there are gaps

16. Amendments have been made to Part 1 of the pLWRP and the IM chapter to provide more clarity to plan users around how the plan works and should be read. This is to ensure that every plan user, when undertaking an activity or considering a resource consent that proposes to undertake an activity, assess the (proposed) activity against:

- The provisions in the IM chapter (strategic directions); and
- The provisions in the relevant Topic chapter that applies to the activity; and
- The relevant FMU/rohe provisions.

Activities requiring resource consent under the pLWRP:

17. For activities that require resource consent under the pLWRP: plan users are guided by objectives and policies in the IM and FMU chapters (e.g. IO-03, IP-P1, IP-P16, FMU1-5-P1) that seek to ensure that these activities are managed to achieve:
 - The relevant long term visions (within timeframes specified in the visions); and
 - The relevant environmental outcomes; and
 - The relevant (interim) target attribute states (by the dates specified in the pLWRP).

Activities that are permitted under the pLWRP:

18. For any activity that is enabled as a permitted activity in the pLWRP, rules have been drafted in accordance with the following principle: Permitted activity conditions must ensure these activities have no more than minor adverse effects on the environment.
19. The permitted activity conditions need to be sufficiently clear and certain to allow for compliance monitoring. Therefore, these conditions do not make reference to the environmental outcomes. To ensure that the permitted activity condition contributes to achieving the environmental outcomes, more certain (standard) conditions have been drafted.
20. A high-level overview of how various types of permitted activity conditions used throughout the different Topic-chapters in the pLWRP seeks to address each identified values and achieve the environmental outcome for this value is shown in Appendix 1 at the end of this document.

3. Is the approach to considering mana whenua values clear and consistent?

Feedback from iwi authorities

Concern:

We identified a concern, in our Clause 3 feedback, that the approach to referring to mana whenua values and mana whenua freshwater environmental outcomes was variable across the Plan.

Has this been addressed?

The general approach has been made consistent across the Plan but the role of APP9 in this approach, and the connection of APP9 to the environmental outcomes set out in the Area-specific Matters chapter, needs to be made clearer.

In addition to the general approach, the EFL chapter includes provisions relating to mixing of water between different catchments. This is a matter that has been identified as a mana whenua concern, including in the Proposed Otago RPS¹, and the Plan must address the concern to give effect to the Proposed RPS. The Kāi Tahu ki Otago iwi management plan also includes a policy opposing further cross-mixing of waters.² However, the approach proposed in the EFL chapter is more “black-and-white” than necessary, particularly with respect to phasing out existing cross-mixing. The concern, and the appropriate approach to address it, was described in cultural evidence on the Proposed RPS, as follows:

Because mauri is unique for each water body, the cross-mixing of water between water bodies via irrigation races, damming, and diversion is a long-standing issue of concern to mana whenua. The transfer of water between water bodies and catchments augments one system and depletes the other, impacting on the mauri of each. Such transfers also potentially impact on the ecosystems and water quality of the receiving waters.

The way in which it is appropriate to address this issue will vary from situation to situation. However, the central requirement in every case is that mana whenua are involved in determining the approach to be taken.³

Recommendations:

Amendments are needed to ensure that the following points are clear:

- APP9 (developed by Aukaha following whānau engagement) is part of the approach to achieving the environmental outcomes set out in the Area-specific Matters chapter. It describes, for various components of the environment, the state required to achieve environmental outcomes for wāhi tūpuna, taoka species and mahika kai. It is intended to be used together with the attribute targets and criteria in Tables 3 and 4.
- APP9 is also intended to provide greater clarity to Plan users as to what is meant by “Māori freshwater values” as referred to in the NPSFM. In policies and matters for discretion the

¹ LF-FW-M6(9)

² Kāi Tahu ki Otago Natural Resource Management Plan 2005, 5.3.4(6)

³ Evidence of Edward Ellison to the PORPS (Freshwater Planning Instrument parts), 28 June 2023, paragraphs 75-76.

appropriate approach in most cases will be to refer to APP9 rather than to include general reference to Kāi Tahu values.

- The expectation is not that every activity will ensure that the states described in APP9 are achieved, but that they will make a positive rather than a negative contribution towards these.

We would like the opportunity to work with ORC to ensure that this approach is expressed clearly in the relevant parts of the Plan.

We have also identified some gaps in the assignment of attributes and criteria in Tables 2 and 3 to the environmental outcomes for wāhi tūpuna, taoka species and mahika kai.

The policy approach to mixing of waters between catchments should be adjusted to provide for the appropriate approach in each situation to be determined in consultation with mana whenua, and to ensure that the potential effects on both the source catchment and the receiving catchment are fully considered.

Staff response and recommendations

Mana whenua values and the role of APP9

21. It is helpful that mana whenua have clarified that their expectation is not that every activity will ensure the states described in APP9 are met. However, staff remain concerned that it may not be practical for every activity to positively contribute towards these states. For example, discharges of treated wastewater from on-site wastewater systems are unlikely to positively contribute to any of the states, but may be managed in such a way that they don't negatively contribute either. Where APP9 is referenced in the plan, the requirement is for a decision-maker to consider the extent to which an activity contributes to achieving the criteria in APP9. That allows a consideration of the 'gap' between the activity and the criteria, which can inform decision-making, without necessarily directing the decision to be made.
22. Iwi authorities requested to work with ORC to address their concerns on this matter, which occurred on 19 August. In summary, staff from the iwi authorities and ORC agree that:
 - The NSPFM requires identifying Māori freshwater values. Currently, it is not clear in the pLWRP which values identified in FMUs are also Māori freshwater values. It would assist readers if "Māori freshwater values" was defined and clearly identified that the values of mahika kai, wāhi tūpuna, and taoka species in the FMU chapters are Māori freshwater values.
 - To assess whether an environmental outcome for a value is being achieved, the NSPFM requires identifying either attributes or alternative criteria to measure against.⁴ Mana whenua are still considering whether it was intended that APP9 be used as 'alternative criteria' in this way, and if so, may seek it through a submission on the pLWRP.

Gaps in attributes

23. Council has acknowledged that, in parts of the Otago region, the target attribute states and environmental outcomes are unlikely to be achieved within the timeframes set out in the relevant long-term visions of the pORPS solely by implementing the draft provisions of the pLWRP. Other

⁴ Clause 3.10(1), NPSFM.

instruments, such as the roll-out of freshwater farm plans and the implementation of action plans, are anticipated to contribute to bridging or further reducing this 'management gap' in the future. Current state of knowledge does not allow for accurate quantification of the reductions in contaminant loadings or discharges that may be required to fully bridge the gap. Nor is it currently possible to predict the environmental gains that may be made over time through implementation of the pLWRP or future roll-out of freshwater plans and non-regulatory measures in action plans. Staff consider that ongoing development of ORC's monitoring network and science program will support an adaptive management approach. This will entail the future development of additional targeted non-regulatory and/or regulatory tools for achieving the TAS where needed.

24. Staff do not recommend specific changes to the pLWRP, but note that IP-P7 – Facilitating transition recognises that ongoing changes to practices will be necessary beyond the life of the plan to achieve the long-term visions and environmental outcomes.

Gaps in the assignment of attributes and criteria to environmental outcomes for wāhi tūpuna, taoka species and mahika kai

25. Staff note that all attributes in Table 3 currently already apply to wāhi tupuna and taoka species. Staff support the requested amendment to apply these attributes to environmental outcomes for the value mahika kai.

Cross-mixing of waters

26. After further discussion with iwi, the following amendments to the policy are recommended:
- Change the 'avoid' chapeau and change its focus towards the nature of the effects of concern;
 - Make it clearer that there is some flexibility for existing cross mixing;
 - Add guidance on matters to take into account if cross missing is occurring or proposed;
 - Direct applicants to consultation with Kāi Tahu before they apply for consent;
 - to provide more flexibility and guidance on cross mixing.

4. Is climate change given sufficient attention?

Feedback from iwi authorities

Concern:

We raised a concern, in our earlier feedback, that the need to plan for and manage the effects of climate change was not given sufficient emphasis throughout the Plan.

Has this been addressed?

We have not had sufficient time to carry out a thorough review of this matter and would appreciate the opportunity to work through it with ORC staff.

Recommendations:

We would like to see, and to work through with ORC staff, “mapping” of how consideration of climate change has been embedded in policies in the topic chapters and where there are gaps in this.

Staff response and recommendations

27. Climate change has been considered across the pLWRP, however staff acknowledge that this is sometimes in an implicit way which may not be obvious to readers. Because climate change is an issue affecting all activities managed under the plan, and every part of the region, the primary direction for managing climate change is in the *IM – Integrated management* chapter.
28. Objective *IO-O5 – Manahau āhuarangi/climate change* sets out the outcome sought across the entire plan: that land and water are managed as part of New Zealand’s integrated response to climate change and in a way that supports implementation of the national adaptation plan for climate change and achieving the emissions reduction plan and any national, regional, or district targets for emissions reduction, as well as ensuring renewable electricity generation supports the overall reduction in greenhouse gas emissions, supporting the resilience of ecosystems and communities, and avoiding or mitigating natural hazards.
29. Policy *IP-P25 – Natural hazard risk* provides direction on managing activities in areas subject to natural hazard risk, which is an important part of managing the effects of climate change that create or exacerbate natural hazard risk. Policy *IP-P16 – Decision-making on all applications* requires decision-makers on all resource consent applications to have particular regard to the effects of climate change. Policy *IP-P18 – Consent duration* provides a pathway for durations longer than 10 years where activities are contributing to achieving environmental outcomes, including by implementing staged improvements over the lifetime of the consent, replacing an existing activity with one that has lower contaminant losses or actual water use, or are using/will use best practice. This incentivises activities with positive impacts, including those which assist with supporting the resilience of the natural environment to respond to the effects of climate change.
30. In addition to the IM chapter, the following sections describe how climate change has been considered in each chapter of the plan.

BED – Beds of lakes and rivers

31. In addition to IP-P16, policy *BED-P3 – Management of activities in the beds of lakes and rivers* requires that all consent applicants consider how their proposed activity may be affected by

climate change, including any measures taken to avoid or mitigate the effects of climate change, including managed retreat.

CL – Contaminated land

32. Objective *CL-O2 – Natural hazard risks* provides direction on identifying and remediating contaminated land that is at risk from the effects of climate change. In addition, CL-P3 provides direction to identify and move or remediate closed landfills at risk of the effects of climate change and avoid any adverse effects.

DAM – Damming and diversion

33. For activities involving works in the bed or riparian margins, BED-P3(2) applies, requiring consideration of the effects of climate change (as described above). The DAM provisions also implicitly recognise climate change impacts through policy direction and permitted activity conditions, particularly managing natural hazard risks, which may be exacerbated by the effects of climate change. Improving resilience to the effects of climate change has informed the overarching policy approach in DAM, particularly the provision for off-stream storage of water in preference to in-stream storage.

EARTH – Earthworks and bores

34. In the EARTH chapter, erosion and sediment control plans are required for consented earthworks activities. APP17 requires that contingency measures are implemented to manage seasonal variability and extreme weather events, which will become more frequent due to climate change.

EFL – Environmental flows, levels, and allocation

35. Climate change has been addressed in the EFL provisions in two ways. Firstly, by providing for resilience against the effects of climate change and, secondly, by allowing for the consideration of the effects of climate change in the management of water allocation and water taking.
36. Policies such as EFL-P4 and EFL-P11 provide for the taking of water for storage at higher flows as a means of enabling people, communities and businesses to adapt to the effects of climate change (increased frequency and duration of low flow periods). It also assists with transitioning to the flow regimes set out in APP8 by providing water users with an alternative water source.
37. For most of the catchments in Otago (River catchments in Part 1C of APP8) the pLWRP determines environmental flows and take limits based on a low flow statistic, the 7-Day Mean Annual Low Flow (7D MALF). Using this methodology allows for changes in climate change effects on catchment yield and river hydrology to be incorporated when determining the environmental flows and take limits, because 7D MALF will change over time.
38. Where bespoke take limits and environmental flows are set in APP8 of the pLWRP, these take limits and environmental flows have been set using long term flow records. These flow records include flow data that captures the effects of climate variability cycles, such as the Interdecadal Pacific Oscillation (IPO). The long-term effects of climate change are within the range of effects that is currently being observed within these climate variability cycles.
39. The objectives and policies in the IM chapter (e.g. IO-05, IP-P16) allow for consideration of climate change effects when making decisions on resource consent applications. The policy guidance for the consent duration in IP-P18 allows for activities to be reconsidered in a timely manner, thereby enabling greater adaptability to climate change impacts.

FLOOD – Flood protection and drainage assets

40. Policy *FLOOD-P1 – Links with the BED and DAM chapters* specifically cross-references BED-P3(2) above. Additionally, policy *FLOOD-P2 – Nature-based solutions* encourages the adoption of nature-based solutions, which are considered likely to improve resilience to climate change.

PP – Primary production

41. The provisions in the PP chapter do not make direct reference to climate change. However, the objectives and policies in the IM chapter (e.g. IO-O5, IP-P16) allow for consideration of climate change effects when making decisions on resource consent applications that authorise farming activities that require consent. The policy guidance for the consent duration in IP-P18 allows for activities to be reconsidered in a timely manner, thereby enabling greater adaptability to climate change impacts.

WASTE – Waste and landfills

42. Objective *WASTE-O2 – Location of waste deposition and processing sites* requires landfills, cleanfill, organic waste and green waste areas to be located to avoid the risks from natural hazards, including where they arise from the effects of climate change.

WW – Wastewater

43. WW – IP-P16 directs that all decision making on resource consent applications have particular regard to the effects of climate change. This will apply to resource consents granted for discharges from reticulated wastewater treatment plants and discharges of biosolids, as well as any other discharge of sewage, industrial and trade waste or greywater which does not meet the permitted activity requirements.

5. Do the policies and rules in the EFL chapter provide a clear and robust means of phasing out over-allocation?

Feedback from iwi authorities

Concern:

Concerns we raised in earlier drafts about whether the approach to phasing out allocation was expressed clearly and was sufficiently robust were still being addressed at the time of the Clause 3 feedback.

Has this been addressed?

The approach to phasing out over-allocation has been made clearer. However there are still some aspects which do not appear sufficiently robust or workable. In particular:

- There is no clear signal in the Plan that a reduction in take will be required in the Manuherekia and Taiari catchments to phase out over-allocation. Because of the size of the current allocation in these catchments (which is unrelated to the size of flow in the rivers), reliance solely on the minimum flow will not provide for the health of these rivers – a take limit will be required to ensure flow variation to support achievement of the environmental outcomes. We recognise that some additional information may be needed before an appropriate longer term take limit can be confirmed, but we consider that the transition to this will need to be managed by means of an interim limit so that resource users are able to prepare for the transition.
- The approach of setting the initial take limit, in many catchments, at the existing maximum consented take does not appear to comply with NPSFM 3.17(4), which requires take limits to be identified that provide for the needs of the water body and aquatic life and that take into account the relevant environmental outcomes.
- EFL-P3(2)(c) indicates that interim environmental flows and limits can be changed through a consent process. We do not support this approach – we do not understand how an environmental flow or limit could be altered without a requirement for a plan change, and we are also concerned that a consent process would not provide for the level of information and engagement required by the NOF process when setting flows and limits.
- Provision for takes at higher flows is an important tool in phasing out over-allocation. However the size of the flow at which this allocation becomes available must be sufficiently high for it to be effective. We consider that the draft provisions need to be clearer in explaining what this flow is, and we would also like to understand better how that has been determined.

Recommendations:

We would like the opportunity to work with ORC to resolve these concerns.

In addition, some specific amendments are proposed in Part B.

Staff response and recommendation

There is no clear signal in the Plan that a reduction in take will be required in the Manuherehia and Taiari catchments to phase out over-allocation.

44. Staff are recommending amendments to the policy framework to clearly signal that:
- long-term take limits will be set in the future for the Taiari and Manuherehia catchments, and
 - reductions in the rate and volume of water allocated to consents in the Taiari and Manuherehia catchments will be required if those take limits are exceeded
45. Staff are proposing including additional text signalling the approach to phasing out over-allocation in the overview section in each FMU chapter where relevant. This will include a description of the issues and approach to achieving environmental flows and levels and the long-term vision in the pORPS.

The approach of setting the initial take limit, in many catchments, at the existing maximum consented take does not appear to comply with NPSFM 3.17(4).

46. Take limits that are specific in the pLWRP being the sum of the existing maximum consented take are generally considered to be interim take limits. Further amendments to the plan provisions are proposed to make it clear that these take limits are a temporary limit only, allowing for a transition period within which existing water permits can be re-consented prior to the final limits (i.e. bespoke limits) coming into effect.

Mana whenua do not support the approach whereby EFL-P3(2)(c) indicates that interim environmental flows and limits can be changed through a consent process.

47. Environmental flows and take limits that are set in the plan cannot be changed through the consent process. EFL-P3(2) will be amended to make it clearer that that the minimum flows will not be re-set in the plan, but that the policy provides the option to apply a different minimum flow to a consent
48. Policy EFL-P3(2) only applies to specified water bodies where an interim minimum flow has been set based on the default method for setting minimum flows in the pLWRP.

Draft provisions for taking at higher flow need to be clearer in explaining what this flow is, and mana whenua would like to understand better how that has been determined.

49. Staff are recommending amending the provisions for determining the allocation of water at higher flows (i.e. within B-Blocks) to ensure that the approach for determining the size of the B-blocks and the flows at which takes within the B-Blocks can be operated is more clearly articulated in the pLWRP. To achieve greater clarity staff recommend:
- streamlining policy EFL-P4 and
 - removing the clauses that set out how to calculate the B-block sizes and B-Block minimum flows for different catchments in Otago from EFL-P4 and incorporate these into new methods in the pLWRP.

6. Do the PP chapter and the FMU chapters provide a clear means of improving water quality outcomes to achieve the stated targets?

Feedback from iwi authorities

Concern:

In Clause 3 feedback, we were concerned that the farming provisions in the PP Primary Production chapter were focused on 'holding the line' and making only incremental improvements, primarily through use of good practice measures and freshwater farm plans. Modelling by ORC's Science Team had indicated that reliance on good management practice will not be sufficient to achieve water quality attribute targets in many catchments and it was not clear how the gap would be filled.

Has this been addressed?

Our concerns about the approach remain. Although attribute targets are not currently being met in many catchments, and water quality trends are declining in some, there are no clear measures in the policies or rules to address the NPSFM requirement to reverse degradation (over-allocation) to achieve the targets. Rather than providing direction for improvement, the approach appears to maintain a total envelope of contaminants that are 'accepted' within a catchment, regardless of the current state of that catchment. Although we understand that a more fine-grained approach tailored to the needs of particular catchment will take time to develop, the need for change in some areas should be clearly signalled so that resource users can prepare for transition. There is no signal in the policy approach that resource users may need to prepare for a change in activities or land uses in order to achieve attribute targets, and no indication of any transition to this.

Recommendations:

Amendments are needed to:

- Include phased pathways for achievement of targets in degraded catchments
- Ensure the policy framework clearly explains how both regulatory and non-regulatory actions are intended to work together to achieve the targets
- Include provision for additional consent requirements in heavily degraded catchments.

We would like the opportunity to work with ORC to resolve these concerns.

Staff response and recommendations

Include phased pathways for achievement of targets in degraded catchments

50. The LWRP does currently not prescribe phased pathways for achievement of targets in degraded catchments. In the absence of certainty around the anticipated environmental gains that may be made through the introduction of freshwater farm plans and action plans, it is currently not possible to accurately quantify required reductions over time. In the absence of robust and catchment specific technical information on required reductions it is considered not appropriate to specify phased reductions in the LWRP.

Ensure the policy framework clearly explains how both regulatory and non-regulatory actions are intended to work together to achieve the targets

51. Staff consider that these matters are already covered by existing policies in the pLWRP, including IP-P7 – Facilitating transition and PP-P4 – Use of Freshwater Farm Plans to reduce environmental effects. The section 32 report will also set out how non-regulatory actions will support the Plan.

Include provision for additional consent requirements in heavily degraded catchments.

52. The LWRP currently contains a number of policies in the IM chapter that set out additional requirements or direction for activities in degraded or over-allocated catchments. These policies apply to all activities managed by the pLWRP, including the PP chapter. A number of amendments to these policies are recommended in response to mana whenua feedback. These amendments are detailed in the table in Part B below. Examples include:

53. IP-P6 – Good environmental practice: This policy requires that all activities managed under the pLWRP are carried out using practices that are designed to contribute to improving the health and well-being of water bodies where these water bodies are degraded.

54. IP-P7 – Facilitating transition: This policy recognises that changes to practices and activities necessary for achieving the long-term visions and environmental outcomes will need to continue beyond the life of the pLWRP. It also seeks to enable development and use of new and improved practices and activities and to promote land use change that assists with achieving the long-term visions and environmental outcomes.

55. IP-P8 – Overallocation: This policy directs that future over-allocation is to be avoided and existing over-allocation is phased out in a way that (among other things) recognises the needs of present and future generations and supports the efficient allocation and use of resources, including providing for re-allocation where necessary.

56. IP-P16 also directs decision-makers on consent applications to ensure the activity is consistent with achieving the relevant environmental outcomes.

57. IP-P18 requires the applicant to demonstrate the extent to which the activity will support the achievement of all relevant environmental outcomes and long-term visions.

7. Are the provisions for on-stream dams and activities in the beds of water bodies appropriately focused on the environmental outcomes?

Feedback from iwi authorities

Concern:

Our Clause 3 feedback highlighted a concern that the DAM and BED chapters relied largely on other chapters for direction as to the effects on water bodies and ecosystem health to be addressed, and that the policy focus with the chapters themselves (particularly for the BED chapter) was very narrow. We were also concerned that permitted activities in both chapters did not include sufficient control of effects on scale and duration of activity, water quality and effects on indigenous species.

Has this been addressed?

The BED chapter relies heavily on permitted activity conditions to manage the effects of activities. While some policies in the chapter now refer to effects on mana whenua values and to effects on natural character, form and function of water bodies, the breadth of provision for permitted activities means these will not be able to be considered in many cases. Similarly, because of the permitted activity approach, there is little protection for the habitats of indigenous species that are not threatened species, except for spawning and for roosting/ nesting of birds. Poor linkage to environmental outcomes remains a concern.

We have not had time to review the DAM chapter thoroughly, but request that the recommendations below be considered in respect to that chapter as well as the BED chapter.

Recommendations:

- Review permitted activity conditions against environmental outcomes and the attributes and criteria in Tables 3 and 4 to check whether they address the appropriate range of effects on environmental outcomes.
- Include limits on permitted activities to ensure that consent will be required in sensitive locations and for large scale activities.
- Remove permitted activity provision for activities with potentially significant effects on the benthic environment or the natural form of a water body (including suction dredging and sediment traps).

Staff response and recommendations

58. Staff have considered the mana whenua feedback and recommendations in relation to the BED and DAM chapters (and, in some cases, recommended amendments) in the table contained in Part B below. Although the recommendations in Part B are focused primarily on the BED chapter, responses are made in respect of the DAM chapter where relevant. A summary of these changes in response to the recommendations from mana whenua is set out below.

Review permitted activity conditions against environmental outcomes and the attributes and criteria

59. Staff agree there should be a clear line-of-sight from activity specific provisions to the target attribute states and environmental outcomes. Staff have reviewed the policies and permitted activity conditions in the BED and DAM chapters and consider that they (alongside the strategic direction in the IM chapter) address the appropriate range of effects on environmental outcomes. However, in response to mana whenua, minor amendments have been made to BED-P3, BED-P7,

DAM-P4 and a suite of permitted activity rules to address adverse effects on water quality and indigenous species more clearly and to align with recommended changes to the IM chapter.

Include limits on permitted activities to ensure that consent will be required in sensitive locations and for large scale activities.

60. Staff have reviewed the permitted activity conditions in all relevant BED and DAM rules, and consider that they provide limits on scale, either explicitly (e.g., BED-R2-PER1, BED-R17-PER1, DAM-R2-PER1 etc.), or implicitly through conditions restricting the duration of activities in the wetted bed and discharges of sediment, and/or requiring environmental flows and levels to be met. Most activities within sensitive sites (e.g. habitats of threatened and other species, mātaītai and taiāpure, drinking water protection zones etc.) in these chapters will require consent.

61. Staff agree with the mana whenua recommendation to include limits in relevant permitted activities to ensure that consent is required for works adjoining nohoaka entitlements from August to April. The specific provisions to which these amendments are recommended to be made are outlined in the table in Part B. Staff also agree with recommended amendments to BED-R5 to limit the maximum width of ford structures.

Remove permitted activity provision for activities with potentially significant effects on the benthic environment or the natural form of a water body (including suction dredging and sediment traps).

62. Staff have reviewed the permitted activity provisions in the BED and DAM chapters in light of this recommendation and consider that they appropriately manage the adverse effects of concern. In relation to suction dredging, technical advice has informed the drafting of the permitted activity conditions, with area and nozzle size limits and restrictions in sensitive areas to ensure that any potential adverse effects are limited. Similarly, staff consider that the permitted activity conditions for sediment traps appropriately manage the concerns raised by mana whenua.

Other minor changes

63. Staff recommend several other minor amendments to the BED chapter in response to mana whenua feedback to improve the clarity or certainty of the provisions (e.g. correcting numbering errors and clarifying the intent of policies). These are detailed in the table in Part B.

8. Is the direction to phase out discharges of wastewater to water clear and aligned with the RPS policy?

Feedback from iwi authorities

Concern:

Our Clause 3 feedback raised a concern that some of the wastewater discharge policy was not sufficiently directive and also that the cumulative effects of multiple on-site wastewater systems (septic tanks) were not adequately dealt with.

Has this been addressed?

The concern has been largely addressed. Remaining matters of concern are:

- No distinction is made in the rules between treated and untreated wastewater. We consider that discharge of untreated wastewater to water should be prohibited.
- Although the policy direction for on-site wastewater systems includes some consideration of cumulative effects in urban or “urban adjacent” areas, it does not address these effects for developments of multiple households that are not adjacent to urban areas (for example in rural-residential and coastal areas). Implementation of the policy direction in rules is further limited to an exclusion from the permitted activity if there is an available reticulated system that could be used instead.

Recommendations:

Amendments are needed to:

- Make discharges of untreated wastewater to water a prohibited activity
- Ensure that policies and rules to manage the cumulative effects of on-site wastewater systems apply to any multiple household developments wherever they occur.

Staff response and recommendations

Make discharges of untreated wastewater to water a prohibited activity

64. Staff do not recommend amending the provisions, because making the discharge of untreated wastewater to water a prohibited activity could result in the unintended consequence that in some instances this type of discharge is subject to less oversight or is no longer actively managed. (see Part B below under topic “wastewater”).

Ensure that policies and rules to manage the cumulative effects of on-site wastewater systems apply to any multiple household developments wherever they occur

65. Staff recommend an amendment to **WW-P5** (see Part B below under topic “wastewater”).

PART B: SPECIFIC COMMENTS

Feedback from iwi authorities

Note: We have only included reasons below where this is not self-evident in the requested amendment. We encourage ORC to ask us for further explanation if this is needed.

	Provision	Requested amendment	Reason	Staff recommendation
How the plan works				
1	Partnership, Te Tiriti o Waitangi and Kāi Tahu	We request the opportunity to provide a revised version of the key issues to ensure it matches related narrative in the MW chapter.		Awaiting revised version.
Interpretation – Definitions				
2	Critical source area	Include shallow alluvial soils	Shallow alluvial soils present a high-risk path for transport of contaminants to groundwater.	No change. Critical source areas (CSA) are generally described as overland flow paths that can accumulate and convey water (and contaminants) to waterways. While it is likely that in some areas there are hotspots where, due to soil types, there is a risk of leaching to groundwater, it is not appropriate to be included reference to shallow alluvial soils in the definition of CSA. Rules around nitrogen loss should address the issues of leaching, however further work is required in this area.
3	Effects management hierarchy	Amend to refer, in (d) and (e), to “offsetting” not “action planting”.	This is an apparent error.	Agree with requested amendment.
4	In-stream dam	Amend as follows: <i>means any dam which is located in part or in whole in, on, under or over the bed of a lake or river, or within a natural inland wetland.</i>		Staff recommend removing the reference to “within a natural inland wetland” altogether from the definition. The provisions in the WET chapter together with the relevant IM policies provide the necessary direction for the consideration of a consent application for a damming activity under the NESF. In addition, the requested change would result in additional restrictions on off-stream damming activities (e.g., more activities would be captured as “in-stream” and subject to more restrictive provisions). This would not align with direction from Council to provide an enabling pathway for off-stream damming. Damming activities that do not meet the relevant permitted activity rules in the DAM chapter or the NESF will be subject to the pLWRP policy direction, including the provisions in the WET chapter, which seek to protect a wide range of wetland types.
5	Non-consumptive take	Amend to provide greater clarity about what is meant by “within a timeframe as near as practicable to when the take is operating”.	While we appreciate that this is less certain, some flexibility is needed about how quickly water is returned to the waterbody. This requirement works in conjunction with the requirement to return water within 200 m of the point of take.	No change. The wording of the definition is based on (but not identical to) the wording in regulation 4 of the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010. No technical information is currently available that supports replacing the wording in (iii) of the definition with more certain criteria
6	Off-stream dam	Amend as follows: <i>means any dam of which no part is located in, on, under or over the bed of a lake or river, or within a natural inland wetland.</i>		See recommendation for ‘in-stream dam’ above.
7	Resilience	Review the need for and appropriateness of this definition.	The definition relates to ecosystems, but the term is used more broadly than this.	Agree with requested amendment. The definition should be consistent with the pORPS definition, which is not limited only to ecosystems.

	Provision	Requested amendment	Reason	Staff recommendation
8	Te Mana o te Wai	Amend to refer to PORPS LF-WAI-O1.		Agree with requested amendment. Amending this definition to include a clearer link to the pORPS is consistent with the approach taken to defining long-term visions. As set out below in response to mana whenua concerns about the line of sight to the long-term visions in the pORPS, there are legal risks associated with direct references to those provisions.
9	Undesirable fish species (in relation to fish passage)	Amend as follows: means includes: <i>(a) in all rivers and receiving environments in Otago, freshwater fish species listed in APP5 – Fish species that are undesired fish species in all rivers and receiving environments; or and</i> <i>(b) in all rivers and receiving environments in Otago, indigenous freshwater fish species that are not naturally in the Otago region, or do not have an expected range in Otago; or and</i> <i>(c) sports fish in all rivers and receiving environments except where identified as a desired fish species in particular rivers and receiving environments in APP7 – Sports fish as desired fish species or undesirable fish species; or and</i> <i>(d) any other exotic freshwater fish species.</i>		Agree with requested amendment. The amendments sought clarify this definition.
10	Values	Review the need for and appropriateness of this definition.	The definition relates to wetland values in NESF but is used more broadly than this.	Agree with requested amendment. The definition is not needed. The term is used elsewhere (not in relation to wetlands) and therefore is not particularly helpful.
MW - Mana whenua				
11	Mana whenua involvement and participation in resource management	We would like the opportunity to work with ORC to include a paragraph describing how the matters discussed in the chapter have been reflected in the Plan (i.e. in IO-O2, IP-P2 and IP-P3, environmental outcomes for wāhi tūpuna, mahika kai and taoka species and use of APP9)		An initial discussion with mana whenua representatives on this point has occurred as part of wider discussions about regarding mana whenua values and the role of APP9 (described in more detail in Part A(3)). Mana whenua representatives are currently preparing a first draft of this explanatory paragraph. The intent is that this paragraph either sits at the beginning of APP9 to explain the content of that chapter, or in the MW – Mana whenua chapter to describe how APP9 works alongside other provisions in the plan, particularly IO-O2, IP-P2, and IP-P3, and the environmental outcomes for Māori freshwater values (mahika kai, wāhi tūpuna, and taoka species).
IM - Integrated management				
12	General	Ensure that reference to the Regional Policy Statement long-	See Part A(1) and (2)	Staff do not recommend making the change sought. When they are referred to in the LWRP, the long-term visions in the pORPS are referred to as ' <i>long-term visions</i> ' which is defined as:

	Provision	Requested amendment	Reason	Staff recommendation
		term freshwater visions is clear to Plan users.		<p>means the long-term visions for fresh water developed under clause 3.3 of the NPSFM and included in the PORPS 2021.</p> <p>The long-term visions in the pORPS are currently under appeal to the High Court and may change if and when those appeals are resolved. The approach above was adopted so as to avoid referring to a specific version of the long-term visions which may be superseded as appeals are resolved.</p> <p>There are two instances in the LWRP where this term is either incorrect (IP-P7, which refers to 'the long term visions for fresh water) or not italicised (IO-O3), and therefore readers may miss the connection (through the definition) back to the pORPS. Staff recommend correcting these references for consistency.</p>
13		Include a diagram or similar user guidance to assist users in understanding the linkages.	See Part A(1) and (2)	<p>Agree with the requested amendment</p> <p>The amendment will assist plan users to have greater clarity on how the parts of the plan work together. See amendments included in response to Part A(1) above.</p>
14		Make the environmental outcomes more visible in the IM chapter, for example by use of a table of outcomes linked to IO-O3.	See Part A(1) and (2)	<p>Agree with the requested amendment</p> <p>A table setting out the environmental outcomes will be included as part of OI-O1. This will assist with giving the environmental outcomes more visibility in the plan and alert readers to the importance of the connection between the IM chapter and the FMUs chapters.</p>
15	IO-O2 – Relationship of Kāi Tahu to freshwater	<p>Amend as follows:</p> <p><i>... (5) recognising and providing for mana whenua aspirations as land and water users in accordance with the provisions of this plan.</i></p>	This qualifier does not make sense in an objective - the provisions are to achieve the objective, so this is circular. We note that no qualifier is included in other similar objectives (such as objective IO-O9 providing for social, economic and cultural wellbeing).	<p>Agree with the requested amendment.</p> <p>The qualifier is unnecessary because the objective can only lawfully be achieved in accordance with the provisions of the plan.</p>
16	IO-O5 – Manahau āhuarangi/climate change	Amend clause 3(b) and (c) to ensure consistency with the National Adaptation Plan.	The wording needs to be adjusted so the focus is clearly on managing within the constraints of te taiao. The National Adaptation Plan for Climate Change (Action 6.6) refers to a Water Availability and Security programme that will help food and fibre businesses and rural communities adapt to increasingly variable natural water availability through a range of complementary activities <u>to both reduce demand and make best use of available water</u> . The objective needs to be worded so it is consistent with this and can't be interpreted in a way that trades off the health of water bodies against water security.	<p>Agree in part with the recommended amendments.</p> <p>The intent of this objective is that (1) and (2) must be achieved at the same time as (3) and (4), which is consistent with what is being sought by mana whenua. Minor changes are recommended to clarify these clauses, and that they all work together. However overall, the structure is considered to have the effect sought by mana whenua already.</p> <p>Mana whenua also seek to incorporate IO-O11 – Renewable electricity generation into IO-O5 as both focus on achieving climate change outcomes. This is a practical suggestion. IO-O5 seeks that land and water are managed as part of New Zealand's integrated response to climate change, including by supporting the achievement of targets for greenhouse gas emissions. IO-O11 seeks that renewable electricity generation in Otago supports a reduction in New Zealand's greenhouse gas emissions and contributes to achieving targets for greenhouse gas emissions. Both objectives are addressing emissions reduction, and it is sensible to have them sitting together. It is recommended to incorporate IO-O11 into IO-O5.</p>
17	IO-O6 – Fish passage IO-O7 – Freshwater fish	<p>Combine IO-O6 and IO-O7, and also:</p> <ul style="list-style-type: none"> expand IO-O7 to cover other freshwater-dependent species 	See Part A(1)	<p>Staff recommend:</p> <ul style="list-style-type: none"> retaining IO-O6 and IO-O7 as two separate objectives; and retaining IO-O6 as drafted; and amending IO-O7 to make reference to: <ul style="list-style-type: none"> indigenous species, rather than indigenous freshwater fish species indigenous species that rely on water bodies for at least part of their life.

	Provision	Requested amendment	Reason	Staff recommendation
		<ul style="list-style-type: none"> include reference to restoration of habitats of indigenous species 		<p>Objectives IO-06 and IO-07 are best kept separate as both provisions have a different focus. IO-06 focusses on the management fish passage, including the role of fish passage in the management of species interactions. Objective OI-07 focusses on the management of habitat of both indigenous and exotic fish species. Keeping these as separate objectives ensures greater clarity.</p> <p>The changes to IO-07 shown above ensure alignment with pORPS policy LF-FW-P14 and with the wording from threatened species definition.</p> <p>Staff do not recommend amending IO-07 to provide for or require the restoration of habitats of indigenous species as the current wording aligns with Policy 9 of the NPSFM. It is noted that the environmental outcomes in the pLWRP seek to provide for the protection and restoration of the habitat of threatened species.</p>
18	IO-08 – Land and soil resources	<p>Amend as follows:</p> <p>(1) to the extent reasonably practicable, their life-supporting capacity and productive capacity is not permanently reduced; and ...</p>	See Part A(1)	<p>No change.</p> <p>“To the extent reasonably practicable” was added in order to give effect to LF-LS-P17 of the pORPS, which requires “maintain[ing] the health and productive potential of soils, <u>to the extent reasonably practicable</u>, by managing the use and development in a way that ...”</p>
19		Clarify how this objective is given effect to in policies.		<p>No change.</p> <p>This objective responds to ORC’s functions to control the use of land for the purpose of soil conservation (RMA s30(1)(c)(i)) as well as the requirement in the NPS Highly Productive Land for local authorities to manage the effects of the use and development of highly productive land in an integrated way that includes considering how land-based primary production, including supporting activities, interact with freshwater management at a catchment level.</p> <p>The objective is implemented through IP-P6 in the IM chapter as well as through the topic chapters which manage adverse effects on the health of soil (and therefore its productive capacity), particularly CL-P1, CL-P4, EARTH-P1, FLOOD-P3, PP-P1, PP-P4, PP-P10, PP-P11, WW-P3, and WW-P7.</p>
20	IO-011 – Renewable electricity generation	Consider incorporating this objective in IO-05.	The outcome expressed in the objective is emissions reduction, so it would appropriately be bracketed with other climate change outcomes in IO-05.	Agree with the requested amendment – see discussion in relation to IO-05.
21	IP-P2 – Rakatirataka and kaitiakitaka	<p>Amend as follows:</p> <p>(5) where relevant, taking into account iwi management plans when making resource management decisions ...</p>		<p>Agree with the requested amendment.</p> <p>This is consistent with MW-P2(8) of the pORPS which requires local authorities to “exercise their functions and powers in accordance with the principles of Te Tiriti o Waitangi by ... (8) taking into account iwi management plans when making resource management decisions.”</p>
22	IP-P3 – Kā honoka ki te wai	We would like to opportunity to work with ORC to restore the original intent of the policy.	This policy has lost some of its intent and has been weakened from the policy originally included in the MW chapter.	<p>Following discussion, it has been clarified that there are three areas of concern.</p> <ol style="list-style-type: none"> ‘To the extent practicable’ in clause (3) Mana whenua consider this is a significant weakening of the direction to ensure that activities are undertaken in a way that maintains or improves the health and well-being of water bodies and freshwater ecosystems. Removal of the reference to mana whenua values In the clause 3 version of this policy, clause (3) also sought to ensure that activities contributed to the achievement of mana whenua freshwater outcomes as described in APP9. This was removed because the outcomes in APP9 were significantly more stringent than the environmental outcomes for the FMUs, which was not considered appropriate. Mana whenua have clarified that the original wording was incorrect – the content of APP9 is describing criteria for assessing the achievement of environmental outcomes for Māori freshwater values, not setting outcomes. The

	Provision	Requested amendment	Reason	Staff recommendation
				<p>removal of the reference in its entirety has therefore left a gap in this policy for outlining the role of achieving the environmental outcomes for Māori freshwater values, which is an important component of supporting the Kāi Tahu relationship with fresh water. Staff recommend an amendment to address this gap.</p> <p>3. 'In accordance with the provisions of this plan' in clause (5) The concern raised with this phrase in relation to IO-O2 also applies to this policy. For the same reasons as outlined in relation to IO-O2, staff agree this should be deleted.</p>
23	IP-P4 – Integrated approach to decision-making	Amend clause 4: <i>... the integrated management of fresh water, and land use and development, that avoids, remedies, or mitigates adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, <u>habitats of freshwater-dependent indigenous species and receiving environments including estuaries and coastal waters.</u></i>		<p>Staff do not recommend making the change sought.</p> <p>Clause (4) refers to “the health and well-being of water bodies and freshwater ecosystems” which includes the habitats of freshwater-dependent indigenous species. There is a risk that including sub-categories of habitats may unintentionally narrow the application of the clause or suggest that habitats of other species are not within the scope of the clause.</p> <p>The term ‘receiving environment’ is defined in the NPSFM (emphasis added): includes, <u>but is not limited to</u>, any water body (such as a river, lakes, wetland or aquifer) and the coastal marine area (including estuaries)</p> <p>Estuaries and coastal waters are therefore included in the definition of ‘receiving environment’ and so the additional wording sought is not necessary. The term ‘receiving environment’ in this clause is a defined term but is not italicised. It is recommended to italicise this term so that the link to the definition is clear.</p>
24		Replace “avoids, remedies, or mitigates” with clearer strategic direction.		<p>No change.</p> <p>The use of the words ‘avoids, remedies, or mitigates’ is deliberately broad because there are other policies in the LWRP that manage particular adverse effects in specific ways (e.g. IP-P9, IP-P10, WET-P3). This policy should not override those more specific policies by including something more directive.</p>
25	IP-P5 – Cross-boundary matters	Amend as follows: <i>(2) where practicable, having regard to effects on receiving environments that are in neighbouring regions ...</i>		<p>Agree with the requested amendment.</p> <p>The term ‘where practicable’ is not consistent with the direction in IM-M1(5) of the pORPS which requires local authorities, in their plans, to adopt a ki uta ki tai approach to resource management by establishing policy and implementation frameworks that treat Otago’s environments as an integrated system.</p>
26		Consider shifting this policy below the policies on good environmental practice and over-allocation.		<p>Agree with the requested amendment.</p>
27	IP-P6 – Good environmental practice	Amend as follows: <i>... (3) using practices that, to the extent reasonably practicable: (a) <u>to the extent reasonably practicable</u>, optimise efficient resource use; and (b) safeguard the life-supporting capacity of the region’s land and soils; and (c) contribute to maintaining or, if degraded, improving the health and well-being of water bodies,</i>		<p>Agree with the requested amendment.</p> <p>Removing ‘to the extent reasonably practicable’ from clause (3) is appropriate if coupled with an additional amendment: “using practices <u>that are designed to:</u> ...”</p> <p>This will ensure that the focus of the policy is appropriately on the way practices are designed, rather than on each individual practice’s use on the ground.</p> <p>Policy 11 of the NPSFM requires fresh water to be used efficiently and is not qualified in the way sought by mana whenua. Staff do not consider this amendment appropriately gives effect to the NPSFM.</p>

	Provision	Requested amendment	Reason	Staff recommendation
		<i>and freshwater and coastal water ecosystems ...</i>		
28	IP-P7 – Facilitating transition	Amend clauses (2) and (5) so that they clearly refer to the environmental outcomes in the Area-specific part.	Reference to “outcomes” in clauses (2) and (5) is not clear.	Agree with the requested amendment. Clauses (2) and (5) are unclear. It is recommended to align the wording with clause (1), which refers to the long-term visions and environmental outcomes.
29		Delete or amend: <i>(3) minimising the adverse impacts on people and communities from these changes where practicable ...</i>	We do not consider that the “minimising the adverse impacts of change” is always the appropriate test. This must be weighed up with the importance and urgency of the change required.	No change. Minimising is not always the appropriate test, which is why the clause is qualified by “where practicable” at the end. To make this more visible to readers, staff recommend moving this to the front of the clause.
30	IP-P8 – Over-allocation	Amend as follows: <i>(3) supports the efficient allocation and use of resources, including providing for re-allocation where necessary where <u>consistent with achieving the environmental outcomes...</u></i>		Agree with the requested amendment. The amendment sought improves the clarity of the clause by explaining when re-allocating resources would be necessary.
31	IP-P9 – Natural character, form and function and instream values	Consider restructuring so that clause 1 re avoiding loss of values sits below the clauses describing what is needed to protect the values.		No change. Clause (1) implements clause 3.24 of the NPSFM, which is the primary way the NPSFM manages effects on the values of rivers. Staff consider it is more appropriate and more visible for this clause to be the first in the policy.
32	IP-P11 – Threatened species	Include further policy to support the recovery of species that are not threatened but are declining.		No change. This policy was drafted to support the achievement of environmental outcomes related to threatened species, as defined in the NPSFM and provided for as a compulsory value. Staff do not consider additional specific policy support is required. The provisions of the plan support, more generally, the recovery of indigenous species that do not meet the NPSFM definition by maintaining or improving the health and well-being of water bodies and freshwater ecosystems.
33	IP-P12 – Fish passage	Redraft clause 2 to make the intent clearer.	The wording of clause 2 imposes a positive obligation to impede passage, which could be used to justify activities with adverse effects on the water body.	Agree that clause 2 needs to be redrafted so intent is clearer.
34		This policy should also be shifted to the BED chapter.		No change. This policy applies to activities managed by BED, DAM and FLOOD. It is therefore better located in IM, than only in BED.
35	IP-P13 – Remediation of existing structures	This policy should be shifted to the BED chapter.		No change. This policy applies to activities managed by BED, DAM and FLOOD. It is therefore better located in IM, than only in BED.
36	IP-P14 – Renewable	Amend clause 3 to clarify what is meant by “managed”.		No change.

	Provision	Requested amendment	Reason	Staff recommendation
	electricity generation			“Managed” is a deliberately broad reference because the way the effects are managed depends on what the effects are. For example, effects on natural character, form, and function and instream values will be managed in accordance with IP-P9 and effects on fish passage will be managed in accordance with IP-P12. It would not be appropriate for this policy to override those other policies, particularly those that give effect to the pORPS and/or the NPSFM.
37		Amend Clause (4) to also address the effects of damming.		No change. Effects of damming are managed by a range of other policies in the IM (including IP-P9) and the DAM chapter. As above, there will be a number of policies that apply to damming activities and it would not be appropriate for this policy to override them.
38	IP-P16 – Decision-making on all applications	We would like to opportunity to work with ORC to make clause 2 regarding APP9 clearer.		This has been discussed with mana whenua representatives. In part, the concerns raised by mana whenua are resolved by including reference to the environmental outcomes for Māori freshwater values in IP-P3 (as discussed above).
39	IP-P18 – Consent duration	Amend Clause 3(b) to clarify the extent of reduction that will be required to qualify.	Clause 3(b) allows for duration longer than 10 years if an activity is being replaced with one that has “ <i>lower contaminant losses or actual water use</i> ”, but there is nothing to say how much lower this needs to be to qualify.	This sub-clause appears under another clause which states that the application must be (emphasis added) “consistent with the relevant objectives and policies of this plan and demonstrates that the activity will contribute to achieving the relevant environmental outcomes, target attribute states and interim target attribute states, and environmental flows and levels or take limits to an extent that corresponds with the scale and significance of the activity by: ...” It is not possible to quantify the extent of the reduction that will be required to qualify. The extent of the reductions required will be determined on a case-by-case basis and will be specific to each application (i.e. the type of proposed activity and the state/characteristics of the receiving environment). To improve clarity, staff recommending adding “including” before “by” so that it is clear that the sub-clauses are part of the main clause. References to ‘target attribute states’ and ‘interim target attribute states’ have unintentionally had the word ‘attribute’ removed. These are recommended to be added back in. Additionally, to improve clarity and comply with the Planning Standards, the sub-clauses under (3)(b) need to be renumbered (i), (ii), and (iii).
40	IP-P22 – Decision-making on instream structures	This is about fish passage and needs to be clearly linked to that. Suggest incorporating it into IP-P12 in a way that will also address the problem flagged above for that policy.		No change. This policy sits under a subheading called ‘Decision-making’ and there is a risk that moving it out of that section may mean readers miss that it is directing decision-makers.
41	IP-P23 – Discharges to land or water	In clause (2)(b), need to specify that exception for discharges for biosecurity relates to aquatic pests, so it can’t be used to justify runoff/ spray drift from terrestrial discharges.		Agree with the requested amendment. The requested amendment is consistent with the clause 3 feedback that led to the inclusion of (2)(b). Pests are one type of biosecurity threat, but there are also other classifications. For consistency with how these are addressed elsewhere in the LWRP, it is recommended that (b) refer to “an aquatic pest, pest agent, unwanted organism, or organism of interest”
42		Clause 2(c) requirement to comply with receiving water standards should apply in all circumstances (i.e. should be linked to other clauses by ‘and’ not ‘or’).		No change. If the adverse effects of a discharge to land are greater than a discharge to water, it would not be appropriate to potentially then prevent the discharge to water occurring by requiring those discharges to comply with the receiving water standards. If they cannot, there is then no pathway for the discharge even if it does not result in significant adverse effects. The best way to manage these discharges will be in a way that allows activity- and site-specific information to be taken into account. It is not necessary for discharges for biosecurity purposes to be subject to the receiving water standards. Substances for biosecurity purposes are approved under HSNO with controls on their use, depending on the nature of the hazard they pose. For substances that are considered hazardous to the environment, environmental exposure limits apply (including specifically for surface water).

	Provision	Requested amendment	Reason	Staff recommendation
43	IP-P24 – Mixing zones	Consider whether provision for a mixing zone should be precluded for some discharges e.g. wastewater.		No change. Determining whether provision for a mixing zone is appropriate should be considered within the context of an application because it will depend on a range of factors, such as the content of the discharge, the management approach, and the sensitivity of the receiving environment. No changes are recommended.
44		Amend clause 2(c) as follows: <i>will not result in significant adverse effects on aquatic life within the mixing zone unless the discharge is for biosecurity and the effect is limited to the pest species being controlled</i> and make this clause applicable to the default mixing zone as well as site-specific ones.		<u>Amendment sought to clause (2)(c)</u> Agree with the requested amendment. The amendment sought is consistent with the intent of the clause, which is to exempt discharges for biosecurity purposes (for example, aquatic weed control). For the same reasons as set out in relation to IP-P23, it is recommended to refer simply to ‘species’ rather than ‘pest species’, which may unintentionally narrow the clause to only species identified as pests (and not, for example, an unwanted organism). <u>Apply (2)(c) to all mixing zones</u> ORC’s Science team provided technical advice on the use of mixing zones in the plan. ⁵ Considering the amendment sought required returning to this advice. Staff note that, when determining site-specific mixing zones, the advice recommends that the following be given regard: <i>ensuring that within the mixing zone, contaminant concentrations will not cause acute toxicity effects on aquatic ecosystems.</i> This is not consistent with IP-P25(2)(c) which instead refers to significant adverse effects (a more stringent threshold). This policy applies to consent decision-making on discharge permits. Section 107 of the RMA states that ORC cannot grant a discharge permit if (emphasis added): <i>after reasonable mixing, the contaminant or water discharged ... is likely to give rise to any or all of the following effects in the receiving waters:</i> ... <i>(g) any significant adverse effects on aquatic life.</i> Applying clause (2)(c) as written, and applying it to default mixing zones as requested by mana whenua, is significantly more stringent than s107 (which only applies <u>after</u> reasonable mixing, not within the mixing zone). For this reason, staff recommend replacing (2)(c) with the wording recommended by Science. Staff agree that the clause should apply to all mixing zones and therefore also recommend incorporating the content of the clause into the chapeau of the policy.
BED – Beds of lakes and rivers⁶				
45	General	Review to ensure policies and rules address the range of matters in the strategic direction and the environmental outcomes. Consider including an objective that makes clear the outcomes for which activities in beds are being managed. These should relate to: <ul style="list-style-type: none"> health of freshwater species (including 		No change. The “line-of-sight” discussion provided in response to question A.2. is relevant to this request. BED and DAM specific objectives, including cross-references to IM provisions and environmental outcomes are not recommended. For each of the topic areas identified, the key IM and FMU provisions have been identified: <ul style="list-style-type: none"> Freshwater species: IO-07, FMU objectives (MCI TAS specified in FMUs) Fish passage: IO-06 Water quality: IO-03, FMU objectives Natural character, form and function: IP-P9 Public access: FMU mahika kai objectives Flood management: IO-05, IP-P9

⁵ https://www.orc.govt.nz/media/grdbjr2d/memo_mixing-zones-and-receiving-water-standards_rozanne_nov-2023.pdf and https://www.orc.govt.nz/media/vmwbwo4z/memo_mixing-zones-and-receiving-water-standards-appendix-fn_rozanne_nov-2023.pdf

⁶ Given the request in Part A.7. of this feedback document, staff recommendations are also included for the DAM chapter where relevant.

	Provision	Requested amendment	Reason	Staff recommendation
		<p>macroinvertebrates) and their habitats</p> <ul style="list-style-type: none"> • maintenance and improvement of fish passage for desired migratory species • water quality, particularly sediment transport • natural character, form and function • access • flood management 		
46	Policies – General	Include reference to the IP policies		<p>No change.</p> <p>The ‘How the plan works’ section provides an overview of the relationship between the IM and activity specific chapters.</p>
47	BED-P3 – Management of activities in the bed	<p>Amend clause 3 as follows:</p> <ul style="list-style-type: none"> • include a subclause relating to management of sediment and maintenance or improvement of water quality • expand (f) to include other indigenous freshwater species besides fish 		<p>Agree with the requested amendments.</p> <p>Staff agree that there is a gap in terms of the management of water quality in BED-P3 and recommend including a new clause to manage adverse effects on water quality.</p> <p>Staff recommend:</p> <ul style="list-style-type: none"> • an amendment to BED P3(3)(f) and DAM-P4(1)(c) to ensure consistency with IO-O7; and • consequential amendments to the permitted and controlled activity conditions in the rules of the BED and DAM chapters that make reference the habitat of desired fish species.
48	BED-P4 – Use, maintenance, alteration, replacement and placement of structures	<ul style="list-style-type: none"> • Include reference to effects on aquatic life • Incorporate IP-12, IP-13 and IP-22 into or alongside this policy • Clarify that this policy is intended only to enable alteration, placement and replacement of limited range of structures (as listed in BED-R2-PER1) 		<p>No change.</p> <p>Effects on aquatic life are not recommended to be added as a specific matter in BED-P4. BED-P3 captures effects on aquatic life through (3)(a), (d), (e), (f) and (g). In all cases where consent is required for works in the bed, BED-P3 will be a relevant consideration.</p> <p>Cross-referencing is not recommended, in accordance with the general approach to cross-referencing in the pLWRP.</p> <p>BED-P4 is intended to provide direction for all structures in the bed, and is not specific to the structures managed by BED-R2-PER1.</p>
49	BED-P6 – Restoration of lake and river extent and values	<p>Amend as follows:</p> <p>Encourage works in the bed that provide for the restoration of lake or river extent and value, including: ...</p> <p>Clarify the intent of clause (1).</p> <p>Delete clauses (4) and (5) and/or incorporate in other fish passage</p>	<p>It is the restoration that should be encouraged, rather than the works themselves. There may be alternative ways to achieve restoration, and the effects of works will need to be weighed against the benefits in each case.</p> <p>In Clause (1) it is not clear whether reference to “adaptation to climate change” means adaptation of the water body and its ecosystems, or adaptation of communities.</p>	<p>Agree in part with the requested amendments.</p> <p>The amendment to the chapeau is supported. The clauses provide specificity about the types of works/activities to be encouraged.</p> <p>Clause (1) should be read in conjunction with the chapeau. Clause (1) only encourages adaptation to climate change where it will restore the extent or values of lakes or rivers. Where adaptation will not provide this restoration, it is not enabled by BED-P6. There is a risk that in trying to provide more detail on (1), it will unintentionally narrow the application of (1).</p>

	Provision	Requested amendment	Reason	Staff recommendation
		policies. If (5) is retained, it needs to be amended to read: <i>the placement of structures that intentionally prevent the passage of some desired fish species ...</i>	The latter might not be consistent with restoration or the river extent and values. Clauses (4) and (5) overlap with other policies on fish passage, and it would be clearer to consolidate these in one place in the BED chapter, as suggested above.	Agree that clauses (4) and (5) overlap with the fish passage policies in the IM chapter. The following amendments are proposed: <ul style="list-style-type: none"> A change is recommended to cross-reference the relevant IM policies. Cross referencing has been adopted in this case, as the alternative is replicating the IM provisions in BED-P6, which may result in inconsistencies further through the planning process, particularly if the IM provisions are changed but not BED-P6, or vice versa.
50	BED-P7 – Removal and planting of vegetation	Add a further subclause to clause (1) as follows: <i>... the activity enhances or restores the habitat of indigenous species ...</i>		Agree with the requested amendments. Under the NPSFM, values of rivers and lakes includes indigenous biodiversity (definition of <i>loss of values</i>). On this basis, enhancing or restoring habitat of indigenous species will protect or restore river/lake/riparian margin values. However, for clarify, the additional clause is recommended to be added.
51	BED-P8 – Drain maintenance	Include a requirement in clause (3) that clearance does not increase the extent or degree of modification of a modified watercourse.		No change. A limit on physical width or depth of the watercourse is not appropriate, given any clearance activity will increase depth, compared to the depth immediately prior to the clearance. Staff are uncertain what other criteria could be used to constrain the maintenance activity, but are open to additional limits in BED-P8.
52	BED-P10 – Gravel extraction	Amend to ensure the decision-making considerations relate to the environmental outcomes. Effects not mentioned that should be addressed include effects on aquatic life, water quality, access and introduction or spread of pests or unwanted organisms. Amend clause (2) as follows: <i>(a) the volume, extent, and duration of the extraction is sustainable and will not result in a decrease in the mean bed level of the water body at or downstream of the proposed location, taking into account (at a minimum) ...</i>		Agree with the requested amendments. Effects on aquatic life, water quality, access and introduction or spread of pests or unwanted organisms are not recommended to be added as specific matters in BED-P10. BED-P3 captures all listed effects. In all cases where consent is required for works in the bed, BED-P3 will be a relevant consideration, alongside the specific gravel policy direction. The change to (2)(a) is recommended to be adopted, and is acknowledged as a useful consideration for gravel extractions.
53	BED-P11 – Future gravel management	Amend to provide greater clarity about the transition to this “future” – when and how will it occur?		No change. Previous versions of BED-P11 included more specific detail on the future transition for gravel management. However, provisions in the LWRP cannot bind future councils to particular requirements or timeframes, so the level of specificity was removed.
54	BED-P12 – Duration of consents to extract gravel	Amend to make it clear what criteria would need to be met to demonstrate the requirement for		No change. Criteria for longer consent durations are not recommended to be included, as it is considered that the list of criteria would effectively provide the justification for consent applications. The consents team is well equipped to assess whether a longer consent duration is appropriate, based on the reasons provided by the consent applicant.

	Provision	Requested amendment	Reason	Staff recommendation
		and appropriateness of a longer duration.		
55	Rules - General	<p>Review permitted activity conditions in all rules against environmental outcomes and the attributes and criteria in Tables 2 and 3 to check whether they address the appropriate range of effects on environmental outcomes.</p> <p>Include limits on permitted activities to ensure that consent will be required for large scale activities and activities in sensitive locations.</p> <p>Include limits on permitted activities to ensure that consent will be required for works adjoining nohoaka entitlements during the months of August to April.</p>	<p>See Part A (7).</p> <p>Nohoaka entitlements are a mechanism provided for under the Ngāi Tahu Claims Settlement Act 1998 and are described in the MW chapter. Kāi Tahu interests in these areas should be recognised and provided for when considering activities that could impact on mahika kai values in the associated water bodies.</p>	<p>The “line-of-sight” discussion provided in response to question A.2. is relevant to this request.</p> <p>All permitted activity rules provide some limit on scale, either explicitly (e.g., BED-R2-PER1, BED-R17-PER1, DAM-R2-PER1, DAM-R4-PER1, DAM-R6-PER1, DAM-R8-PER1), or implicitly through conditions limiting time in the wetted bed, discharges of sediment, and meeting environmental flows and levels. Most activities in sensitive sites will require consent, with few exceptions (i.e. bridges have slightly more enabling permitted activity conditions, compared to fords and culverts).</p> <p>The restriction related to nohoaka is recommended to be included in all relevant permitted activity conditions for BED and DAM, and the BED appendices.</p>
56	Rules – permitted activity conditions on discharges	<p>Amend clause as follows: <i>any discharge complies with the standards for visual clarity and change in sediment cover set out in APP14 – Receiving water standards 200 metres downstream of the works within the default mixing zone calculated in accordance with IP-P24...</i></p>	<p>The default mixing zone is more appropriate to manage effects as it varies with the size of the water body.</p>	<p>No change.</p> <p>A previous version of the drafting relied on the default mixing zones in APP14. Internal advice was received that it is difficult to apply the site-specific defaults to permitted activities in the bed, and that the current approach in the RPW, using a 200 m distance, coupled with the 10 hour limit on works in the bed was effective.</p>
57	Rules - Advice notes: Note (1) BED-R3 – Alteration, placement or replacement of a barrier to upstream fish passage BED-R7 – Disturbance associated with culverts or passive flap gates	<p>Amend to make it clear in the advice note, BED-R3 and BED-R7 that the scope of the NESF only relates to effects on fish passage and that these structures are also subject to other rules controlling structures in beds.</p> <p>There is also an error in rule numbering.</p>	<p>The purpose of regulations 70, 71 and 74 the NESF is only to deal with effects on fish passage (see regulation 58). Regulation 6(1) allows for more stringent rules to be included in regional plans and there may be a need for resource consents or conditions for culverts and passive flap gates, and other barriers to fish passage, to address other effects such as constriction of flow, effects on habitat other than fish passage and the range of effects addressed in rules for other structures.</p>	<p>No change.</p> <p>Outside BED-P3, the pLWRP does not manage the placement of culverts in the BED, given this is managed by the NESF. Acknowledge that the focus of the NESF is primarily on fish passage, but consider that in providing for fish passage, the NESF is also likely to provide for unimpeded flow of water. BED-R7 is intended to capture effects on other habitats, associated with the disturbance required to place a culvert.</p> <p>The rule numbering error is recommended to be corrected.</p>

	Provision	Requested amendment	Reason	Staff recommendation
58	BED-R2 – Alteration, placement or replacement of a structure: BED-R2-PER1	Review whether permitted activity provision for maimai and whitebait stands is appropriate in all water bodies.	Lakes and rivers are significant wāhi tupuna to Kāi Tahu and proliferation of unessential structures in these cultural landscapes is a concern reflected in the Kāi Tahu ki Otago iwi management plan. ⁷	No change. BED-R2-PER1 limits where these works can occur, including that they cannot occur in habitats of threatened freshwater species, mātaītai, taiāpure, nohoaka (based on earlier recommended changes) or drinking water protection zones. Maimai are also required to be set back 90 m from any other maimai.
59	BED-R4 – Alteration, placement, or replacement of a single span bridge: BED-R4-PER1	Amend clause (5) as follows: <i>where the bridge is intended to be used by stock, measures are taken to avoid bridge design and construction must ensure no animal effluent entering will enter the river ...</i>		No change. The suggested amendments may result in the setting of very high thresholds to ensure compliance. The condition as drafted requires that measures are put in place to prevent effluent entering water but acknowledges that in some rare situations this may occur, while the proposed wording effectively requires all discharges to be avoided, which may not be practicable.
60	BED-R5 – Alteration, placement or replacement of a ford: BED-R5-PER1	Amend to include a condition limiting the width of the ford.		Agree with the requested amendments. Recommend a maximum width for permitted fords of 3.5m be added, based on minimum widths for vehicle crossings and traffic lanes in New Zealand.
61	BED-R7 – Disturbance associated with culverts or passive flap gates: BED-R7-PER1	Amend clause (1) so it is clear that only effects related to fish passage are managed by the NESF and that structures are also subject to other rules.	See comment on Advice note (1) above	No change. BED-R7 only manages disturbance associated with the structure, and does not place limits on the structure itself. As per Advice Note 1, no changes are recommended.
62	BED-R8 – Demolition or removal of a structure: BED-R8-PER1	Amend Clause (3) as follows: <i>if the structure prevented the passage of undesirable fish species, the removal or demolition of the structure does not provide for the passage of undesirable fish other measures have been put in place that will prevent the passage of those species ...</i> Amend or delete clause (4) to ensure it does not discourage removal of unnecessary structures in these sensitive areas.		No change. The amendment proposed to clause (3) may read as authorising the establishment of other measures, which is not the intention of this rule. Any other measures required to prevent passage of undesirable fish species will need to be assessed against the BED rules in their own right. The request to amend clause 4 in relation to sensitive sites is acknowledged, particularly where structures may be adversely affecting the values of the sensitive sites. However, the converse may also be true, where a structure supports values, and the removal of the structure, while returning the waterbody to a more natural state, may adversely affect the values. Therefore, no change is recommended to clause (4).
63	BED-R10 – Sediment traps: BED-P10-R1, BED-R10-PER2	Remove permitted activity provision for sediment traps in the bed of a river	As discussed in respect to Plan Change 8, and in our Clause 3 feedback, we have concerns about the ability to set clear and certain conditions to address the effects that sediment traps can have on the values	No change. Existing permitted activity conditions are considered to manage the matters raised. <ul style="list-style-type: none"> As a permitted activity, works can only occur in the dry, which limits the scale and extent of works. The controlled activity provides a pathway for works in water in small water courses, and CSAs.

⁷ Kāi Tahu ki Otago Natural Resource Management Plan 2005, 5.6.4(24)

	Provision	Requested amendment	Reason	Staff recommendation
			<p>and extent of water bodies, freshwater ecosystems and mahika kai. Conditions would need to address at least the following:</p> <ul style="list-style-type: none"> the scale of the works and extent of modification of the water body effects on habitat (including habitat of taoka species that are not classified as threatened species) the effects of discharge of substrate and sediment removed from the bed the effective life of the sediment trap and the ability to rehabilitate or restore the form of the river once it has ceased operating. 	<ul style="list-style-type: none"> Existing permitted activity conditions for placement manage effects on threatened species, spawning habitats, mātaītai, taiāpure and nohoaka, alongside fish salvage requirements. This approach is consistent with the IM policy direction. BED-R1-PER2 manages discharges associated with placement. Discharges associated with maintenance are not subject to the same conditions, given disturbance will be occurring within the sediment trap, which should assist in mitigating effects, Both permitted activity rules require fish salvage. If sediment traps are not maintained in accordance with BED-R10-PER1 council will be able to take enforcement action, or consent will be required. Not sure how common it might be to rehabilitate sediment traps. If upstream sediment loads reduce, then maintenance requirements will also reduce.
64	BED-R11 – Vehicle access: BED-R11-PER1	Amend clause (1)(b) to make the condition more certain.		No change. It is not clear what additional certainty is sought.
65	BED-R15 – Suction dredge mining: BED-R15-PER1	Remove permitted activity provision for suction dredge mining.	As stated in our Clause 3 feedback, we do not support this permitted activity status for suction dredge mining on the basis of nozzle size. The effects on the benthic environment are not determined by nozzle size – smaller dredges may sometimes have bigger impacts because they can operate in smaller water bodies. Effects on the habitat of taoka species that are not classified as threatened species (or are not birds or bats) are not addressed in the permitted activity conditions.	No change. Technical advice has been received on this permitted activity rule, with area limits in addition to nozzle size intended to limit impacts. There are also permitted activity limits on sensitive sites.
66	BED-R18 – Introduction or planting of vegetation: BED-R18-PER1	Review the scope of this rule in relation to the relevant policy direction (BED-P7).	The broad scope of this rule appears inconsistent with BED-P7, which only provides for planting for restoration purposes.	No change. Previous drafting of this rule was more aligned with BED-P7 in terms of limiting the purpose of planting. However, decision was made to make this rule as enabling as possible, subject to the more general permitted activity conditions. Most permitted planting will assist in restoring natural character and extent/value of lakes, rivers and riparian margins.
EFL – Environmental flows, levels and allocation				
67	Objectives	Include reference to IM and Area-specific objectives.	Without reference to the strategic objectives, most policies have no clear link to objectives, and it looks as if the focus is on use rather than on the health and wellbeing of the water bodies and ecosystems.	No change. The objectives are referenced in Policy EFL-P1 to make it clear that the flows and take limits must be set to achieve the IM objectives. The interaction between the IM objectives and other chapters is addressed in the introduction to the plan.
68	EFL-P1 – Environmental flows, levels and	Amend Clause (1) to update reference to the strategic objectives and policies.	See Part A(1).	Agree in part with the requested amendments. Make amendments as suggested except for the requested amendment to clause (4)(b). Amend clause (4)(b) to refer to natural wetlands (but not all wetlands due to the inclusion of functional/constructed wetlands, which may be temporary).

	Provision	Requested amendment	Reason	Staff recommendation
	take limits for rivers, lakes, and groundwater	<p>Amend Clause (2) to refer to the alternative criteria in Table 4 as well as environmental outcomes and target states.</p> <p>Amend clauses (3) and (4) as follows:</p> <p><i>(3) for rivers:</i> <i>(a) protect, or where appropriate improve flow and channel behaviour to ensure that it reflects natural flow and channel behaviour to the extent reasonably practicable ...</i></p> <p><i>(4) for natural lakes and controlled lakes:</i> <i>... (b) maintain, or where appropriate improve, flows into connected rivers, natural lakes, controlled lakes, and natural inland wetlands ...</i></p>	<p>It is not clear what “where appropriate” means in the context of this policy.</p> <p>The requirement to maintain or improve flows should apply to flows into all wetlands, not just natural inland wetlands, to protect the hydrological functioning of these wetlands (and the values associated with this) in accordance with PORPS Objective LF-FW-09.</p>	
69	EFL-P3 – A Block Minimum flows and take limits for rivers	<p>Reconsider the approach for rivers in Part 1B of APP8 to address the concerns raised in Part A of this feedback about:</p> <ul style="list-style-type: none"> • setting take limit as the maximum consented take • providing for alternative environmental flows to be set through a consent process 	See Part A(5)	<p>Agree in part with the requested amendments.</p> <p>Recommend:</p> <ul style="list-style-type: none"> • Adding new method to set out how the consented take limit will work. • Adding two new methods to clarify how take limits and minimum flows are set for different river categories (as categorised in APP8) • Adding clause (2) to set out the method for setting minimum flows and take limits in the Taiari and Manuherekia Rivers, which will be moved to their own separate part in APP8. Also add a signal that further reductions in take limits will be required. • Amending the provisions about alternative environmental flows and take limits in Clause (3) to make it clear that the minimum flows will not be re-set in the plan, but there is the option to apply a different minimum flow to a consent, which was the intention of the policy. • Amending the Manuherekia River policy in the FMU chapter to signal that long-term take limits will be set in the future for the Manuherekia catchment, and that reductions in the rate and volume of water allocated to consents in the Manuherekia catchment will be required if those take limits are exceeded • Adding a similar policy to the one above for the Taiari catchment in the Taiari FMU chapter.
70	EFL-P4 – B Block Minimum flows and take limits for rivers	<p>Redraft Clause 3(a) to make clearer the calculation of flow at which the B Block allocation becomes available.</p> <p>Reconsider the approach in Clause 3(b) as for EFL-P3 above.</p>	See Part A(5)	<p>Agree in part with the requested amendments.</p> <p>Remove the method from EFL-P4 and re-write this as a more detailed standalone method for determining B Block allocation, including changes to 3(b) similar to changes to EFL-P3 above.</p>
71	EFL-P12 – Conveyance	Amend Clause (2) to ensure there is a clear direction that even if a	Interception of water bodies by water races and pipes can lead to significant loss of	Agree in part with the requested amendments.

	Provision	Requested amendment	Reason	Staff recommendation
		<p>take is authorised, the river flow should not be intercepted to the extent that the natural flow pattern cannot continue in the river or the interception results in reduction of the water level of a wetland, and include a further clause on phasing out the interception of rivers, springs and wetlands to restore natural form and function.</p> <p>Delete Clause 4(b).</p>	<p>extent and values of the water body. For existing takes, opportunities should be taken where possible to improve intake structures to reduce interception.</p> <p>See Part A(3). It is not clear why the consideration of mixing of waters is tied in this policy to conveyance efficiency. It would be clearer to set out the approach to mixing of waters in a single policy (i.e. EFL-P13).</p>	<p>No changes to clause (2). The management of takes that are referenced in clause (2) is more appropriately addressed by the policies and rules for the take and use of water, which already address the effects on natural flow patterns, takes from wetlands (not allowed) etc.</p> <p>Staff recommend amending EFL-P12 by deleting clause 4(b) as it is considered unnecessary.</p>
72	EFL-P13 – Cross mixing of water	<p>Delete and replace with a policy that:</p> <ul style="list-style-type: none"> identifies Kāi Tahu as an affected party for any application that will result in cross mixing, and requires that the potential effects on both the source water body and the receiving water body be taken into consideration in decision-making. <p>We request the opportunity for further discussion about the circumstances in which there should be a specific requirement for avoiding new cross-mixing.</p>	See Part A(3)	<p>Agree in part with the requested amendments.</p> <p>The following amendments to the policy are recommended:</p> <ul style="list-style-type: none"> Change the ‘avoid’ chapeau and change its focus towards the effects of concern Make it clearer that there is some flexibility for existing cross mixing Add guidance on matters to take into account if cross missing is occurring or proposed Direct applicants to consult with Kāi Tahu before they apply for consent.
73	EFL-P16 – Over-allocation	<p>Amend Clause (2)(a) as follows:</p> <p><i>(a) ensuring that the rate and volume of water allocated to replacement consents is no more than is appropriate, in accordance with EFL-P19 ...</i></p> <p>or replace reference to ‘no more than is appropriate’ with wording that sets out clearly what the considerations are.</p> <p>Amend Clause (6) to make the meaning clearer.</p>		<p>Agree with the requested amendments.</p> <p>Staff recommend amending EFL-P16 by</p> <ul style="list-style-type: none"> Deleting ‘no more than is appropriate’ in clause (2)(a). Making a minor amendment to clause (6) to make it clearer.

	Provision	Requested amendment	Reason	Staff recommendation
74	EFL-P26 – Secondary takes	Amend as follows: <i>Provide for existing secondary takes that were lawfully established as at 31 October 2024</i> ... Amend Clause (2) to be consistent with the approach recommended above for EFL-P13.	Wording should be consistent with similar clauses elsewhere in the Plan.	Agree in part with the recommended amendments. Staff recommend amending EFL-P26(2) by adding reference to 'lawfully established takes'.
75	EFL-P28 – Site-to-site transfers of water takes	Amend Clause (1) to ensure the transfer is limited to the same river environment (i.e. the part of the water body where the flow is essentially the same as for the consent being transferred), and, in particular, that it cannot be transferred to a point upstream where the flow is less.		Agree in part with the recommended amendments. Clause 1 of EFL-P28 limits transfers to sites that are subject to within the same take limit. This limits how far water can be transferred. Beyond that it is difficult to know how transfers could be limited further. Some upstream transfers can have positive outcomes on river flows. For example, where rivers lose flow to groundwater transferring the point of take upstream may result in better outcomes (particularly where the rate of take from the new site is reduced). Difficult to ascertain whether the flows at the proposed upstream point of take are likely to be less than the flows at the original point of take as ORC is unlikely to have flow information at this scale. However, staff recommend changes to strengthen the policy to provide further guidance on the management of effects, including effects on lawfully established uses, effects on bores and stream depletion effects.
76	EFL-R6 – Takes for dewatering: EFL-R6-PER1	We would like to understand the basis for setting the flow limit at 40 litres per second, and we seek confirmation that this will be sustainable in all circumstances.		There is no technical information available in regard to the 40 L/s rate, but in conjunction with the other conditions of this rule, including a condition limiting the activity to temporary dewatering, and management of stream depletion and bore drawdown effects, it is considered sufficiently limiting.
77	EFL-R8 – Community water supply: EFL-R8-CON1	Review whether controlled activity status is appropriate for this activity and ensure matters relating to the health and wellbeing of water bodies and freshwater ecosystems are able to be considered and addressed.	The rule does not provide for any consideration of effects in respect to the first tier priorities or environmental outcomes for ecosystem health, mahika kai, wāhi tūpuna and taoka species except to the extent these are provided for in the environmental flows and take limits and in provisions for fish passage. Environmental flows and take limits do not address the effects of loss of flow on site-specific values. Some community water supplies include a significant proportion of water that is used for commercial activities, and controlled activity status for community water supply takes could increase that practice in preference to seeking sustainable water sources elsewhere. Although the requirement for a water supply strategy includes a requirement to identify the proportions of water used for drinking water supply and for other uses, controlled activity status provides no ability to decline	Agree in part with the recommended amendments. The controlled activity rule is limited to existing drinking water supplies listed in APP15. In addition, activities must also comply with all other conditions of this rule. It is therefore considered that the rule is sufficiently restrictive. Staff agree with the concern about the rule not addressing effects and recommend adding matters of control to provide for consideration of effects in respect to the first-tier priorities.

	Provision	Requested amendment	Reason	Staff recommendation
			consent as long as the supply of water for drinking and domestic use is 50% of the supply as required by the definition.	
78	EFL-R9 Takes for renewable electricity generation: EFL-R9-CON1	Amend activity status to restricted discretionary and include matters for discretion relating to achievement of the environmental outcomes.	The rule does not provide for any consideration of effects in respect to first tier priorities or environmental outcomes for ecosystem health, mahika kai, wāhi tūpuna and taoka species except to the extent these are provided for in the environmental flows and take limits. Environmental flows and take limits do not address the effects of loss of flow on site-specific values.	Agree in part with the recommended amendments. The controlled activity status is considered to appropriately give effect to national requirements for existing and new renewable electricity generation. Staff agree with the concern about the rule not addressing effects and recommend adding matters of control to provide for consideration of effects in respect to the first-tier priorities.
79	EFL-R14 – Transfers	As for EFL-P28 above, amend Clause (1)(a) to ensure the transfer is limited to the same river environment. Include reference to APP9 and to effects on ecosystems and habitats.		Agree in part with the recommended amendments. See staff recommendation with respect to EFL-P28. Staff recommend amending condition (1) to ensure the entry condition to the rule requires that the transfer location is within the same surface water body and take limit Staff recommend adding reference to APP9 as suggested.
80	General	Include reference to IM and Area-specific objectives and policies. Review to ensure policies and rules address the range of matters in the strategic direction and the environmental outcomes, including: <ul style="list-style-type: none"> health of freshwater species (including macroinvertebrates) and their habitats maintenance and improvement of fish passage for desired migratory species water quality, particularly sediment transport natural character, form and function access. Amend the approach to limit the enabling approach to works that are consistent with an approved	This chapter provides for activities with a similar range of effects to those addressed in the BED chapter but provides a more enabling approach. The chapter is a late addition to the draft Plan and we have not had time to fully assess whether this approach is appropriate. Our initial comments are as follows: <ul style="list-style-type: none"> FLOOD-P3(1) appears to prioritise the functions under the Soil Conservation and Rivers Control Act 1941 above the objective of the NPSFM in all circumstances, without consideration of matters such as the degree of hazard risk, the distinction between risk to life and risk to property, the characteristics and values of the locations in which the works might be undertaken and the need to adapt to the effects of climate change. We consider a more nuanced approach would be more appropriate. We consider that if a separate approach is to be retained for flood protection and drainage assets, an 	Agree in part with the recommended amendments. Changes are recommended to FLOOD-P3(1) to better manage the possible conflict between the NPSCM and the SCRCA. The use of a network plan is not considered appropriate in the context of the regional plan, without further direction on the content or intention of such a plan. However, some amendments are recommended to APP27 to require consideration of how the works contribute to the wider catchment management. Cross-referencing is not recommended, in accordance with the general approach to cross-referencing in the pLWRP. (This is further discussed in Part A(1)) The “line-of-sight” discussion provided in response to question A.2. is relevant to the question regarding environmental outcomes. The additional effects specific direction is not recommended to be added to FLOOD policies. The BED policies capture these effects, and in accordance with FLOOD-P1, in all cases where consent is required for works in the bed, specific BED policies, including BED-P3 and BED-P6, will be a relevant consideration. BED-P3 includes a reference to APP9, as does FLOOD-R1-CON1.

	Provision	Requested amendment	Reason	Staff recommendation
		<p>network consent/ network plan. (We would like the opportunity to discuss this further with ORC staff.)</p> <p>Review conditions in permitted activity and controlled activity rules against environmental outcomes and the attributes and criteria in Tables 2 and 3 to check whether they address the appropriate range of effects on environmental outcomes.</p> <p>Include reference to APP9.</p> <p>Include amendments as requested in the BED chapter above.</p>	<p>important component of this approach needs to be a requirement to consider the protection network as a whole, so that the way in which the components work together and the extent to which there is potential for alternative approaches in various parts of the network can form part of the decision-making consideration. Although the draft Plan includes a requirement for a flood protection and drainage works management plan, this focuses on individual works rather than taking an integrated management approach to a protection network as a whole.</p> <ul style="list-style-type: none"> • Our comments on the BED chapter in Part A(7) and the amendments we have requested to the BED chapter above also generally apply to this chapter. 	
PP – Primary production				
81	Policies - General	<p>Include reference to the IP policies.</p> <p>Provide clarity as to which policies apply generally and which apply specifically to farming or to forestry. We consider that PP-P1 and PP-P2 should apply generally, and PP-P1 should be amended to reflect this.</p> <p>Provide guidance as to how primary production activities other than farming and forestry are addressed in the Plan.</p>	<p>This is entitled “Primary production” but the policies mostly only relate either to farming or to forestry. Policies which relate just to farming are not identified as being limited to that and some, such as PP-P1, should be broadened to apply to both. There also needs to be clarity as to whether this chapter is intended to deal with other activities included in the definition of “primary production” such as mining, quarrying and aquaculture.</p>	<p>Agree in part with the recommended amendments.</p> <p>Staff agree that the title of ‘Primary Production’ is inaccurate as the chapter does not manage the other activities that are included in the national planning standard definition such as mining, quarrying and aquaculture. Staff recommend amending the title to ‘Farming and Forestry’, which better reflects the content of the chapter.</p> <p>Cross-referencing is not recommended, in accordance with the general approach to cross-referencing in the pLWRP. (This is further discussed in Part A(1))</p> <p>Activities such as mining quarrying and aquaculture will be managed by rules in other topics across the LWRP such as EARTH, BED, DAM, OTH.</p>
82	PP-P1 – Avoiding or minimising adverse effects	<p>Amend so that this policy applies to forestry activities as well as farming.</p> <p>Include reference to environmental outcomes, attribute targets and alternative criteria, and APP9.</p>		<p>Agree in part with the recommended amendments.</p> <p>Staff agree that it is appropriate to apply the direction in PP-P1 to forestry and recommend changes to PP-P1 to reflect this.</p> <p>To address the request regarding the inclusion of references to environmental outcomes, attribute targets and alternative criteria, and APP9, see staff recommendation in Part A (6) above.</p>

	Provision	Requested amendment	Reason	Staff recommendation
83	PP-P3 – Recognising environmental actions	Redraft to make the intent of this policy clear.		Agree with the recommended amendments. Staff are considering minor changes to PP-P3 to further clarify the intent of the policy (acknowledging environmental actions)
84	PP-P5 – Intensification	Amend to avoid intensification anywhere it may contribute to the attribute targets not being met.	The policy does not address the situation where the existing contribution to contaminant loads is already resulting in degradation, so will not be effective in phasing out over-allocation.	No change. To address the request regarding the inclusion of references to environmental outcomes, attribute targets and alternative criteria, and APP9, see staff recommendation in Part A (6) above.
85	PP-P7 – Managing and operating animal effluent systems	Amend to refer to avoiding discharge of effluent to land: when the soil moisture exceeds field capacity unless the soil moisture deficit exceeds the depth of discharge to be applied.	We have had advice, based on an AgResearch report, ⁸ that field capacity is not the appropriate cut-off point here because at that point there is no capacity/ no buffer. It would be better to frame the requirement around applying only where there is a suitable water deficit.	Agree with the recommended amendments. Staff recommend amending PP-P7 to include the suggested wording. Staff note that current research refers to soil moisture deficit or soil water deficit and that the proposed amendment is in line with current best practice. However, it creates a higher threshold for discharging effluent to land.
86	PP-P9 – Planting forestry	Consider what measures can be included to reduce existing effects in over-allocated catchments.	This policy will only “hold the line”. It will not contribute to phasing out existing over-allocation.	No change. Overallocation of water quantity is unlikely to be resolved through preventing replanting of forestry in overallocated catchments. Given ETS liabilities that would eventuate, this would not be an efficient outcome.
87	PP-P11 – Managing wilding conifers	Amend to make it clear whether this policy is a requirement on forest operators or on ORC.		Agree with the recommended amendments. Staff recommend amending PP-P11 to clarify that managing wilding conifers is an operator responsibility.
88	PP-P12 – Management of commercial forestry	Amend Clause (2) as follows: <i>requiring a resource consent for more than 10 ha of afforestation, to enable authorise the establishment of the commercial forestry which will generally only be granted for the establishment phase ...</i>		Agree with the recommended amendments. Staff recommend amending PP-P12 in accordance with the change requested.
89	PP-R2— Intensive Winter Grazing: PP-R2-PER1 PP-R2-PER2 PP-R3 – Sacrifice paddocks: PP-R3-PER1 PP-R4 – Pasture-based wintering of cattle: PP-R4-PER1 PP-R8 – Agricultural waste: PP-R8-PER1	Amend setback clauses to: <ul style="list-style-type: none"> restrict the activity in all wetlands impose a vertical setback from groundwater (e.g. <i>where the ground surface at any time is less than 1m above groundwater</i>). 		No change. Natural wetlands are already covered by the definition of critical source area. The proposed inclusion of a vertical separation distance from groundwater for these activities is considered too restrictive as it does not capture all the activities in a farming system which contribute to nitrogen leaching. It would be difficult to apply consistently due to landscape variability (topography, climate, soils, connectivity to groundwater). Current Good Management Practice would take into account changing groundwater levels with actions that would be employed to minimise the risk of leaching such as reduction in pugging, plan B in extreme weather conditions and fencing of critical source areas.

⁸ Houlbrooke D, Laurenson S, Carrick S, 2011. *Categorising the environmental risk from land application of liquid wastes based on soil properties*. Report prepared for Marlborough District Council.

	Provision	Requested amendment	Reason	Staff recommendation
90	PP-R5 – Silage production and storage: PP-R5-PER1	Amend to: <ul style="list-style-type: none"> require that, as well as being covered, the silage pit or stack is banded/ contained restrict the activity in all wetlands. 		No change. PP-R5-PER1(1) requires that the leachate cannot escape the sides of a silage pit or stack. PP-R5-PER(2) requires that leachate is captured and diluted before applying to land. Regarding the request to restrict activities in all wetlands: Natural wetlands are already covered by the definition of critical source area.
91	PP-R7 – Farm refuse pits: PP-R7-PER1	Amend to include a requirement that material in the pit is not burned.		Agree with the recommended amendments. Staff recommend amending PP-R7-PER1 to prevent waste from being burnt.
92	PP-R9 – Fertiliser PP-R9-PER1	Amend Clauses (1) and (3) to restrict the activity in all wetlands.	A direct discharge of fertiliser into a wetland would be a discharge to water.	No change. Permitted activity condition (2) about 'field capacity' covers discharges to water in any event.
93	PP-R10 – Freshwater Farm Plans: PP-R10-PER1	Amend Clause 1(c) so that it includes a cap on horticultural use consistent with (b).	The current drafting would allow, for example, 19 ha of horticultural use and 1 ha grazing, which would be inconsistent with the intent of (b).	No change. The current drafting in the pLWRP is aligned with FWFP regulations.
94	PP-R11 – Controls on land use expansion: PP-RR11-PER1	Consider what measures can be included to reduce existing effects in degraded catchments.	The rule allows for incremental increase in nutrient loadings, and no reversing of over-allocation/ degradation.	No change. Refer to discussion in Part A(2).
95	PP-R12 – Stock exclusion: PP-R12-PER1	Amend to include restrictions on access to wetlands and springs.		No change. Stock exclusion in wetlands is covered in the Wetlands chapter (will also cover many springs).
96	PP-R16 – Discharges of solid animal effluent: PP-R16-PER1	Amend to: <ul style="list-style-type: none"> refer to avoiding discharge of effluent to land: when the soil moisture exceeds field capacity <u>unless the soil moisture deficit exceeds the depth of discharge to be applied</u> apply the setback to all wetlands. 	See comment at PP-P7 above	Agree in part with the recommended amendments. Staff recommend amending PP-R16-PER1(3)(c) to include the suggested wording. Staff note that the proposed amendment is in line with current best practice but creates a higher threshold for discharging effluent to land. Regarding the request to apply setbacks in all wetlands: Refer to comments provided in relation to PP-R2 above.
97	PP-R17 – Discharges of liquid animal effluent: PP-R17-PER1 PP-R17-PER2	Amend to refer to avoiding discharge of effluent to land: when the soil moisture exceeds field capacity <u>unless the soil moisture deficit exceeds the depth of discharge to be applied</u>	See comment at PP-P7 above	Agree with recommended amendments. Staff support the suggested change and recommend amending PP-R17-PER1 and PP-R17-PER2. Staff note that the proposed amendment is in line with current best practice but creates a higher threshold for discharging effluent to land.
98	PP-R17 – Discharges of liquid animal effluent:	Amend matter for discretion (2) to include reference to all wetlands and to critical source areas and groundwater.		Agree in part with the recommended amendments. Staff consider that, if applied appropriately and in accordance with good management practice, the risk of applying liquid animal effluent to critical source area and groundwater will be minimised. Vertical separation distance from groundwater

	Provision	Requested amendment	Reason	Staff recommendation
	PP-R17-RDIS1			is addressed by using the appropriate rate and amending the provisions from field capacity as a cut-off point to applying only where there is a suitable water deficit. Staff recommend an amendment to the matters of discretion in PP-R17-RDIS1 to allow for consideration of the degree of application uniformity as a measure of the evenness with which the soil receives water across the irrigated area.
99	PP-R17 – Discharges of liquid animal effluent: PP-R17-PR1	Amend to: <ul style="list-style-type: none"> refer to avoiding discharge of effluent to land: when the soil moisture exceeds field capacity unless the soil moisture deficit exceeds the depth of discharge to be applied apply the setback to all wetlands. 	See comment at PP-P7 above	Agree in part with the recommended amendments. Staff recommend amending PP-R17-PR1(7) to include the wording suggested. Regarding the request to apply setbacks in all wetlands: Staff do not consider that prohibited activity is suitable for a 50m setback for all wetlands.
100	PP-R21 – All other disturbances of the bed: PP-R21-PER1	Consider whether additional controls are needed to address effects on habitats of indigenous species not currently on the Threatened list.		No change. PP-R21 applies in addition to the NESCF regulations specified in clause 1. Regulation 97 of the NESCF manages discharges, disturbances and diversions, and for disturbances of the bed requires that spawning habitats are not disturbed during the relevant fish spawning period, identified using the Fish Spawning Indicator. No additional stringency in relation to fish spawning is recommended.
WW – Wastewater				
101	General	Include reference to IM objectives and policies and environmental outcomes, and to the relevant attribute targets and criteria in Tables 2 and 3.		Agree with recommended amendment. Staff recommend including reference to environmental outcomes in WW-P5.
102	WW-O1 – Wastewater	Amend to ensure wording is consistent with similar objectives and include reference to the environmental outcomes.		No change. Staff recommend to retain provision as drafted. The concern raised is proposed to be addressed through changes in the introduction chapter of the plan.
103	WW-P5 – Consenting of onsite wastewater treatment systems in urban areas	Amend to apply this policy to developments for multiple households wherever they are.	See Part A(8)	Agree with recommended amendment. Staff recommend amending WW-P5 so that applicants seeking resource consent for developments with multiple dwellings are required to demonstrate that onsite wastewater systems are more effective in achieving the environmental outcomes (than reticulated wastewater systems).
104	WW-R1 – Reticulated wastewater systems	Include a prohibited activity rule for discharge of untreated wastewater to water.	See Part A(8)	No change. Staff consider that making the discharge of untreated wastewater to water a prohibited activity could result in the unintended consequence that in some instances this type of discharge is subject to less oversight or is no longer actively managed. See also Part A. Instead, the Plan provides a non-complying consenting pathway for discharges to water so that the wastewater network operator will be required to demonstrate they have plans in place to minimise the possibility of overflows occurring, and to actively mitigate their effects.
Area-specific matters				

	Provision	Requested amendment	Reason	Staff recommendation
105	Area-specific matters Values, environmental outcomes and attributes	Shorten narrative and focus it on explaining how the environmental outcomes, attributes and alternative criteria are to be used.	Much of this section is contextual information which does not need to be in the Plan itself, or else could be moved to the introductory sections. Conversely, the section does not provide guidance to Plan users as to how the environmental outcomes, attributes and alternative criteria apply in policies, rules and decision-making.	No change. The information in this section sets out how achievement of the environmental outcomes in the FMU chapters will be measured, including by identifying which measures are applicable to each value. While it is contextual, it is considered important information for plan users. It would not assist interpretation to remove that information. This part of the LWRP does not provide guidance on how the environmental outcomes, attributes, and alternative criteria apply in policies, rules, and decision-making because that is set out in policy IP-P16, which requires decision-makers on all resource consent applications to ensure that the activity is consistent with achieving the relevant environmental outcomes set out in the FMU chapters.
106	Table 3	Amend the table to ensure all attributes for the threatened species value also apply to the taoka species value. Include attribute/s, to apply to the mahika kai values, for toxins that would make species unsafe to eat.	The table currently has gaps in the attributes relevant to the environmental outcomes for these values.	Agree with recommended amendment. Staff recommend amending Table 3 to ensure all attributes for the threatened species value also apply to the taoka species value. Staff note that all attributes for the values ecosystem health (threatened species) including Ammonia (toxicity) and Nitrate (toxicity) currently apply to the mahika kai value.
APP8 – Flows, levels and limits				
107	General	For catchments where the dates for introduction of take limits or minimum flows extend out more than 10 years, consider whether it is possible to include an interim flow or limit to provide a clear change in direction within the life of the Plan.	See Part A(5)	No change. Staged minimum flows are proposed for the Manuherehia catchment. For other catchments there is no technical information available that recommends staged or interim minimum flows or take limits based on instream ecology or other values supported by freshwater. Interim take limits, determined as the sum of the consented rate of takes, are proposed for a number of catchments, where the sum of the consented rate of takes currently exceeds the long-term take limit (that gives effect to the NPSFM) set in the pLWRP. Amendments are proposed to provisions elsewhere in the pLWRP that more strongly signal the temporary and transitional nature of take limits that are based on the sum of the consented rate of takes and that these will be superceded by the long-term limits in the Plan at a date specified in the pLWRP.
108	Manuherehia rohe and Taiari FMU	Include an interim take limit that is appropriate to the size of the river flow, to ensure there is a clear mechanism for staged reduction.	See Part A(5)	No change. Staff do not recommend setting additional interim take limits in the pLWRP (other than the interim take limits that are determined as the sum of the consented rates of take) Staff note that elsewhere in the pLWRP amendments to the policy framework are recommended to clearly signal that: <ul style="list-style-type: none"> • long-term take limits will be set in the future for the Taiari and Manuherehia catchments, and • reductions in the rate and volume of water allocated to consents in the Taiari and Manuherehia catchments will be required if those take limits are exceeded Staff are also proposing including additional text signalling the approach to phasing out over-allocation in overview section in each FMU chapter where relevant. This will include a description of the issues and approach to achieving environmental flows and levels and the long-term vision in the pORPS.
109	Shag River	Amend name to Waihemo/ Shag River.	This is the official name of the river.	Agree with recommended amendment. Staff propose to amend the name in APP8 to Waihemo/ Shag River.
110	Waianakarua River	Review the B Block minimum flow to ensure it is correct.	The B Block minimum flow is lower than the A Block winter flow, which seems inconsistent with the intent of the B Block.	Staff recommend: <ul style="list-style-type: none"> • restructure the appendix to separate A and B blocks take limits and minimum flows; and clarify how the seasonal minimum flows in the Waianakarua River work in conjunction with the B block minimum flow for this river to ensure the highest flow applies.

	Provision	Requested amendment	Reason	Staff recommendation
APP9 – Mana whenua aspirations for land and fresh water				
111	General	<p>We would like the opportunity to work with ORC to:</p> <ul style="list-style-type: none"> ensure that the intent of APP9 is expressed clearly in the relevant parts of the Plan, including amending the name and including explanatory text confirm that the contents of APP9 are appropriately reflected in Tables 3 and 4. 	See Part A(3)	A discussion with mana whenua representatives has occurred, where the intent of APP9 was clarified. This is discussed in Part A(3)
APP10 – Consent reviews and catchment expiry dates				
112	Part 2 – Common catchment expiry dates: Taiari FMU	Include appropriate review and expiry dates for consents in the Taiari FMU.	There are currently no review or expiry dates identified for the Taiari FMU.	<p>No change.</p> <p>Staff consider that no date needs to be added. A catchment review /catchments expiry for the Taiari FMU will be determined as part of the technical work for determining an NPSFM compliant take limit for the Taiari catchment.</p> <p>However, staff are recommending amendments to the policies framework elsewhere in the LWRP to clearly signal that reductions may be required in the Taiari (and Manuherehia) catchments in the future.</p>

Appendix 1: High-level overview of how different types of permitted activity conditions correspond with the values identified in the draft LWRP and the associated environmental outcomes.

Environmental outcome	Value	Types of permitted activity conditions	Topic chapter														
			BED	CL	DAM	EARTH	EFL	FLOOD	OTH	PP-Farming	PP-Forestry	SW	WASTE	WET	WW		
01	Ecosystem Health	- Prevent stream depletion effects					✓										
02	Human contact	- Comply w environmental flow; take limit not exceeded					✓										
05	Mahika Kai (condition)	- No works in wetted bed	✓														
011	Taoka Species Fishing	- Setbacks from water bodies, minimum distances above groundwater level, measures to prevent discharges, design requirements, avoid s70 effects, compliance with receiving water standards, standards for background concentration limits, etc...	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
		- Prevent impacts on spawning, roosting or breeding habitat	✓		✓				✓						✓		
		- No storage or placement of hazardous substances in bed or riparian margin	✓							✓	✓						✓
		- No activities in outstanding water body, water bodies protected by WCO, Lake Wanaka Preservation Act,	✓							✓						✓	
		- Limit on the scale or duration of the activity	✓		✓	✓	✓			✓						✓	
		- Prevent spread of pests, unwanted organism, etc...		✓	✓	✓	✓	✓		✓				✓			✓
		- Prevent impacts on threatened species habitat	✓		✓	✓										✓	
		- Prevent adverse impacts on legal public access	✓		✓	✓	✓	✓		✓			✓			✓	
03	Threatened species (habitat)	- Prevent impacts on threatened species habitat	✓		✓	✓									✓		
04	Threatened species (recovery)																
06	Mahika kai (access harvest and use)	- No activities in Mataitai, Taiapure	✓		✓	✓	✓		✓			✓			✓		
07	Natural character	- Leave site in tidy condition, return area to natural condition as much as possible	✓		✓					✓						✓	
		- No activities in outstanding water body, water bodies protected by WCO, Lake Wanaka Preservation Act,															
08	Drinking water supply (source water)	- No activities in Drinking Water Protection Zone	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
		- Setbacks from water bodies, minimum distances above groundwater level, measures to prevent discharges, design requirements,															
		- No impacts on existing lawful takes of water															
09	Animal drinking water	- Setbacks from water bodies, minimum distances above groundwater level, measures to prevent discharges, design requirements,	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
		- No impacts on existing lawful takes of water															
010	Wahi tupuna	- Carry out activities in accordance with Accidental Discovery Protocol	✓	✓	✓	✓			✓								
013	Cultivation, and production of food beverages and fibre	- Setbacks from existing takes	✓		✓			✓	✓								
		- No impacts on existing lawful takes of water															
014	Commercial and industrial use	- Setbacks from existing takes	✓		✓			✓	✓						✓		
		- No impacts on existing lawful takes of water															
015	Hydro-electricity generation	- Provide for the protection of regionally and nationally significant infrastructure	✓		✓					✓							
		- No impacts on existing lawful takes of water															
		- Setbacks from existing takes															