

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

	ENV-2024-CHC-
Under	The Resource Management Act 1991 (the Act)
In the Matter	of an appeal pursuant to clause 14 of schedule 1 of the Act
Between	RAYONIER MATARIKI FORESTS First Appellant
	CITY FORESTS LIMITED Second Appellant
	ERNSLAW ONE LIMITED Third Appellant
	PORT BLAKELY NZ LIMITED Fourth Appellant
	“Forestry Appellants”
And	OTAGO REGIONAL COUNCIL Respondent

**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION
ON PROPOSED REGIONAL POLICY STATEMENT FOR OTAGO ON
BEHALF OF THE FORESTRY APPELLANTS**

DATED 14 MAY 2024



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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION
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To: the Registrar

Environment Court

Christchurch Registry

May it please the Court:

1. Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited (together **Forestry Appellants**), appeal against a decision of the Otago Regional Council on the Proposed Otago Regional Policy Statement 2021 (Non-Freshwater Parts) (**Decision**).
2. The Forestry Appellants made the following submissions and further submissions in relation to the Decision:
 - (a) Rayonier Matariki Forests – OS and FS 0020
 - (b) City Forests Limited – OS 0024
 - (c) Port Blakely NZ Limited – OS 0033
 - (d) Ernslaw One Limited – OS and FS 0412
3. The Forestry Appellants are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.
4. The Forestry Appellants received notice of the decision on 3 April 2024.
5. The Decision was made by Otago Regional Council.
6. The Forestry Appellants are appealing the parts of that decision that relate to Forestry generally, and specifically:
 - (a) Part 1 – Introduction and General Provisions:
 - (i) National Direction Instruments

(b) Part 2 – Resource Management Overview

(i) Introduction

(ii) Figure 2

(iii) SRMR-I10

(c) Part 3 – Domains and Topics:

(i) CE-P3

(ii) CE-M3

(iii) CE-M4

(iv) LF-LS-P16A

(v) LF-LS-M12

(vi) LF-LS-M13

(vii) ECO-P1

(viii) ECO-P2

(ix) ECO-P3

(x) ECO-P6

(xi) ECO-P12

(xii) ECO-M2

(xiii) ECO-M5

(d) Part 5 – Appendices and Maps:

(i) APP5 – Species prone to *wilding conifer* spread

7. The reasons for the appeal are:

(a) Commercial forestry in Otago is regulated by the Resource Management (National Environmental Standards for Commercial

Forestry) Regulations 2017 (**NES-CF**). The Forestry Appellants do not see any reason to depart from that framework in Otago.

- (b) Regional and District Plans must give effect to a Regional Policy Statement.¹ Those plans may contain rules in regional or district plans that apply to commercial forestry activities, if the National Environmental Standards for Commercial Forestry do not apply to a particular activity.²
- (c) Where this Decision adopts an objective or policy that contemplates a greater restriction on commercial forestry activities that are already regulated by the NES-CF, an evaluation report must examine whether the prohibition or restriction is justified in the circumstances of the region.³
- (d) No analysis has been undertaken to justify more stringent provisions than the NES-CF for Commercial Forestry in Otago.
- (e) Therefore, all parts of this Decision that are more stringent than the regulations in the NES-CF are beyond the jurisdiction of the Council unless section 32(4) has been complied with.
- (f) Forestry provides long-term net benefits and positive ecosystem service. This includes (but is not limited to) the sequestration of carbon.
- (g) Regarding Part 1 – National Direction Instruments:
 - (i) Rules in plans made by local authorities may not be more stringent than a national environmental standard unless the more stringent rule is shown to be justified by evaluation in the circumstances of each region or district in which the rule would have effect.
- (h) Regarding Part 2 – SRMR – Introduction and Figure 2:

¹ Resource Management Act 1991 (**RMA**), ss 67(3)(c) and 75(3)(c).

² NES-CF, regulation 5(4)

³ RMA, s 32(4).

- (i) Submission point 00020.003 was accepted by the Panel (See Appendix 5.1 to the Panel's Report, at page 206) but not pulled through to the Decision. This seems to be an error.
 - (ii) SRMR- I10: the statement to this issue provides the unsupported assertion that sediment from poorly managed development and primary production activities (includes commercial forestry) flows into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats.
- (i) Regarding Part 3 – Domains – CE:
- (i) The CE provisions contain an unwarranted extension of commercial forestry regulation beyond the NES-CF, without any evidence to support more stringent regulation.
 - (ii) The NES-CF and other industry guidelines are used to ensure forestry is working to best and current practices. These include best management practices for earthworks stabilisation and mechanisms to avoid, remedy or mitigate loss of soil from cutover and timing replanting.
 - (iii) The policies and methods also open the door for Council to impose greater restrictions on forestry within a future regional land and water plan.
- (j) Regarding Part 3 – Domains – LF:
- (i) LF-LS-M12 – The provision requires territorial authorities to exercise further control of new forestry activities.
 - (ii) This fails to acknowledge the ecosystem and carbon reduction benefits to be derived (and likely required to meet emissions reduction targets) from expanding forestry in Otago. In relation to (aa) it is too early to review the effectiveness of the NES-CF wilding conifer controls in place since 2018. Trees planted in the interim are a few years away from producing cones or fertile seeds.
- (k) Regarding Part 3 – Topics - ECO:

- (i) Generally - The adverse effects of commercial forestry on indigenous biodiversity in Otago should be managed in accordance with Policy 12 and clauses 3.14 (inside SNAs) and 3.16 (outside SNAs) to maintain indigenous biodiversity in relation to the terrestrial environment.
 - (ii) Commercial forestry provisions should ultimately be subject to the provisions of the NES-CF. That is the appropriate document for regulating the adverse effects of forestry activities.
 - (iii) ECO-P3(3) has the potential to increasingly constrain commercial forestry activities. The NES-CF was developed through a rigorous process which identified clearly the adverse effects of commercial forestry activities.
 - (iv) The interaction between IM-P6 and ECO-P3(3) should be clarified to acknowledge that IM-P6 is not intended to apply the precautionary approach to commercial forestry activities, because those effects are clearly understood.
 - (v) Plantation forestry activities are to be provided for in accordance with Policy 12 of the NPSIB.
 - (vi) Specifically – In ECO-P1(3), the change from “Recognise the role of...” to “Enable” in the introduction to the provision is a significantly stronger instruction and requires actions to be taken to carry out the directions of the policy. Resource management policy and plans are not the place to direct access of third parties to private land. This access to commercial forestry areas raises significant workplace health and safety responsibilities for forestry owners and operators.
 - (vii) In relation to ECO-P2 and ECO-M2: It is important that identification and mapping of SNAs through satellite imagery or other means is verified on the ground at the relevant site.
- (l) In relation to wilding pine control generally and specifically in LF-LS-P16A, LF-LS-M13 and APP5:

- (i) Adequate and industry specific controls for wilding conifer risk already exist in regulations 11 and 79 of the NES-CF. These activities are already regulated.
- (ii) It is too early to review the effectiveness of NES-CF wilding conifer controls in place since 2018, as trees planted in the interim are a few years away from producing cones or fertile seeds. There is therefore no evidence that the NES-CF is not sufficiently stringent to manage wilding conifer risk.
- (iii) If council has concerns, it should collaborate with the industry to review the effort and success of wilding conifer control undertaken since the NES-CF came into force versus before that time.

8. The Forestry Appellants seek the following relief:

- (a) Amendments to the provisions listed in this appeal, including (but not to limit the general nature of the relief sought) the suggested drafting of provisions outlined at **Appendix 1**.
- (b) Such further, other or consequential relief to give effect to the original and further submissions, and the reasons given in this notice of appeal.

9. I attach the following documents to this notice:

- (a) A copy of the Forestry Appellants' original and further submissions;
- (b) A copy of the relevant decision; and
- (c) A list of names and addresses of persons to be served with a copy of this notice.



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DATED 14 May 2024

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Advice to Recipients of Copy of Notice

How to Become a Party to Proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to Obtain Copies of Documents Relating to Appeal

The copy of this notice served on you does not attach a copy of the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

Appendix 1: Relief Sought

Appeal Point	Provision	Reasons for Appeal	Relief Sought
PART 1 – INTRODUCTION AND GENERAL PROVISIONS			
National direction instruments			
1.	<p>National environmental standards</p> <p>National environmental standards (NESs) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. If an activity doesn't comply with an NES, it is likely to require a resource consent. NESs must be observed and enforced by local authorities. ...</p>	<p>The Forestry Appellants seek a clear direction in the PORPS 2021 that in commercial forestry matters, plans defer to the NES-CF unless there is clear evidence not to. Any evidence to demonstrate more stringent rules are required should pass a rigorous cost benefit analysis and be worked through with the industry.</p> <p>Significant adverse environmental effects from regulated plantation forestry can and will be avoided. Very few locations in Otago are so steep and erodible that clear fell harvesting would give rise to adverse environmental effects.</p> <p>This relief will also recognise the long term provision of positive ecosystems services that plantation forestry can provide, including the sequestration of carbon. PORPS 2021 currently fails to recognise that afforestation and the</p>	<p>NESs must be observed and enforced by local authorities. <u>Rules in plans made by local authorities may not be more stringent than a standard unless the more stringent rule is shown to be justified by evaluation in the circumstances of each region or district in which the rule would have effect.</u> The following relevant NESs are currently in force:</p> <p>...</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
		<p>spatial extension of new plantation land area, as well as the consequent displacement of pastoral agriculture, will bring multiple eco-system services and benefits.</p> <p>The PORPS 2021 does not need to duplicate or conflict with the NES-CF.</p>	
PART 2 – RESOURCE MANAGEMENT OVERVIEW			
SRMR – Significant resource management issues for the region			
2.	Introduction and Figure 2	Submission point 00020.003 was accepted by the Panel (See Appendix 5.1 to the Panel’s Report , at page 206) but not pulled through to the Decisions Version. This seems to be an error.	<p>Include plantation forestry in SRMR introduction and figure 2 as it is part of the primary production activities in the Otago region.</p> <p>This was recommended by the Panel.</p>
3.	SRMR–I10 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the	The statement to this issue provides the unsupported assertion that sediment from poorly managed development and primary production activities (includes commercial forestry) flows into streams and builds up in the coastal	Amend: Statement

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>future impacts they cause</p> <p>Statement</p> <p>Sediment from poorly managed development and <i>primary production</i> activities flows into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats. <i>Water</i> abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. ...</p>	<p>environment, smothering kelp forests and affecting rich underwater habitats.</p> <p>The Forestry Appellants consider that these effects are overstated in the aftermath of the NES-CF coming into force.</p>	<p><u>When development and primary production are poorly managed, sediment from these activities can</u> Sediment from poorly managed development and primary production activities flows <u>flow</u> into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats. <i>Water</i> abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. ...</p>
PART 3 – DOMAINS AND TOPICS			
CE – Coastal environment			
4.	<p>CE-P3 – Coastal water quality</p> <p>Manage water quality in the coastal environment by:</p>	<p>Subclause (5) is very broad and does not identify the activities it refers to nor the evidence to support it. The policy change has the</p>	<p>Delete subclause (5)</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(1A) restoring coastal water quality where it is considered to have deteriorated to the extent described within CE-P2(2),</p> <p>(1) maintaining or enhancing healthy coastal ecosystems, indigenous habitats provided by the coastal environment, <i>indigenous vegetation</i> and fauna, and the migratory patterns of indigenous <i>coastal water</i> species,</p> <p>(2) sustaining Kāi Tahu relationships with and customary uses of <i>coastal water</i>,</p> <p>(3) maintaining or enhancing recreation opportunities and existing uses of <i>coastal water</i>,</p> <p>(5) controlling activities outside the coastal marine area that have an effect on coastal water quality,</p>	<p>potential for the RPS to direct policy and rules to be adopted into lower order documents that could constrain forestry activities without justification.</p>	

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(6) maintaining or enhancing water quality within areas of coastal water identified in CE-P2(3) where mana whenua have a particular cultural interest, and</p> <p>(7) setting appropriate limits and targets for coastal water quality, including for ecosystem health, habitats of taoka species, sediment, contact recreation and safe kaimoana gathering.</p> <p>[note – the Decisions Version contains no Policy CE-P3(4), so we have done the same]</p>		
5.	<p>CE-M3 – Regional plans</p> <p>Otago Regional Council must prepare or amend and maintain its <i>regional plans</i> no later than 31 December 2028 to:</p>	<p>Without an assessment of the effectiveness of the NES-CF provisions in the s 32 report, there is no justification for further regulating commercial forestry in this way.</p> <p>There is an unwarranted focus on forestry in this provision. The policy opens the door for Council</p>	<p>Amend (4)(d)(ii) regarding the suggested reference to NES-CF.</p> <p>(ii) controlling the impacts of vegetation removal on sedimentation (inexcluding harvesting plantation forestry <u>undertaken in accordance with the NESCF</u>), and...</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(1) map areas of deteriorated <i>water</i> quality in the coastal environment, in accordance with CE-P2(2)</p> <p>(1A) identify, manage, and improve where degraded, areas of <i>coastal water</i> where <i>mana whenua</i> have a particular interest, including <i>wāhi tūpuna</i>, statutory acknowledgement areas, tōpuni and <i>nohoaka</i> identified in the NTCSA, and customary fisheries,</p> <p>(1B) set water quality limits and targets for <i>coastal waters</i> in accordance with CE-P3,</p> <p>(2) map the areas and characteristics of, and access to, <i>surf breaks</i> of national significance,</p>	<p>to impose greater restrictions on forestry within a future regional land and water plan.</p> <p>The NES-CF and other industry guidelines are used to ensure forestry is working to best and current practices. These include best management practices for earthworks stabilisation and mechanisms to avoid, remedy or mitigate loss of soil from cutover and timing replanting.</p> <p>The NES-CF regulations for arguably the two highest risk commercial forestry activities, harvest & earthwork, Regulations 26 and 69, both have provisions that appropriately and severely constrain sediment inputs by requiring:</p> <p>Sediment originating from [earthworks / harvesting] must be managed to ensure that after reasonable mixing it does not give rise to any of the following effects in the receiving waters:</p> <p>(a) any conspicuous change in colour or visual clarity:</p>	

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(3) require development to be set back from the <i>coastal marine area</i> and other <i>coastal water</i> where practicable to protect the natural character, open space, public access and <i>amenity values</i> of the coastal environment,</p> <p>(4) manage the <i>discharge</i> of <i>contaminants</i> into coastal water to achieve limits or targets for water quality by:</p> <p>(a) using the smallest <i>mixing zone</i> necessary to achieve the required <i>water</i> quality standards in the <i>receiving environment</i>, and minimise adverse <i>effects</i> on the life-supporting capacity of <i>water</i> within any mixing zone,</p> <p>(b) prohibiting any new <i>discharge</i> of untreated human <i>sewage</i></p>	<p>(b) the rendering of fresh water unsuitable for consumption by farm animals:</p> <p>(c) any significant adverse effect on aquatic life.</p> <p>If Council is monitoring and enforcing those regulations, using the provisions of NES-CF regulation 106 (Local authorities may charge for monitoring permitted activities) then there is no justification for further or more stringent regulation of sediment generating activities.</p> <p>There is no reason why more stringent regulation of harvesting plantation forestry is justified in the particular circumstances of the Otago Region.</p>	

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>directly to water in the coastal environment,</p> <p>(ba) requiring the implementation of methods to progressively reduce the volume and frequency of existing <i>discharges</i> of untreated human <i>sewage</i> from reticulated <i>wastewater</i> systems in the event of a system failure or overloading the system, including by minimising <i>stormwater</i> inflows and infiltration into <i>wastewater</i> systems,</p> <p>(bb) encouraging methods and actions to reduce <i>contaminant</i> discharges at source,</p> <p>(c) prohibiting the <i>discharge</i> of treated human <i>sewage</i> directly to water in the coastal environment unless:</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(i) there has been adequate consideration of alternative methods, sites and routes for undertaking the <i>discharge</i>, and</p> <p>(ii) it can be demonstrated that the proposal has been informed by consultation with <i>tangata whenua</i> and the affected community, and</p> <p>(d) reducing the discharge of sediment by:</p> <p>(i) requiring that <i>subdivision</i>, use, or development will not increase sedimentation of the <i>coastal marine area</i> or other <i>coastal water</i>,</p> <p>(ii) controlling the impacts of vegetation removal on sedimentation including the impacts of harvesting <i>plantation forestry</i>, and</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(iii) reducing sediment loadings in runoff and in <i>stormwater</i> systems through controls on <i>land use</i> activities, and</p> <p>(e) designing, installing, operating and maintaining new reticulated <i>wastewater</i> systems to avoid cross-contamination between <i>wastewater</i> and <i>stormwater</i> systems and remedying cross-contamination where it currently exists in established systems, and</p> <p>(f) having particular regard to:</p> <p>(i) the sensitivity of the receiving environment,</p> <p>(ii) the nature of the <i>contaminants</i> to be <i>discharged</i>, the <i>contaminant</i> concentration thresholds not to be exceeded to achieve the required water quality in the receiving</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>environment, and the risks if that concentration of <i>contaminants</i> is exceeded,</p> <p>(iii) the capacity of the receiving environment to assimilate the <i>contaminants</i>, and</p> <p>(iv) avoiding significant adverse <i>effects</i> on ecosystems and habitats after reasonable mixing,</p> <p>(5) control the use and development of the <i>coastal marine area</i>, in order to:</p> <p>(a) manage <i>coastal water</i> quality; preserve and restore natural character; and protect natural features and landscapes (including seascapes), <i>wāhi tūpuna</i> and indigenous <i>biodiversity</i> of the <i>coastal marine area</i> in accordance with CE-P3, CE-P4, CE-P5, CE-P6 and HCV-WT-P2, and</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(b) manage Otago's <i>surf breaks</i> of national significance in accordance with CE– P7,</p> <p>(6) include provisions requiring the adoption of a precautionary approach to assessing the <i>effects</i> of activities in the coastal environment in accordance with IM– P6 where:</p> <p>(a) there is scientific uncertainty or a lack of relevant knowledge, or</p> <p>(b) there are potentially significant or irreversible adverse <i>effects</i>, or</p> <p>(c) coastal resources are potentially vulnerable to effects from climate change,</p> <p>(7) identify areas that may be appropriate for aquaculture,</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(8) provide for walking access to, along, and adjacent to the <i>coastal marine area</i> in accordance with Policy 19 of the NZCPS,</p> <p>(9) control vehicle access to, along, and adjacent to the <i>coastal marine area</i> in accordance with Policy 20 of the NZCPS,</p> <p>(10) manage <i>reclamation</i> and de-reclamation activities in accordance with CE-P12, and when <i>reclamation</i> is considered suitable in accordance with CE-P12, have particular regard to the matters listed in Policy 10(2) and (3) of the NZCPS,</p> <p>(11) require stock to be excluded from the <i>coastal marine area</i>, adjoining intertidal areas and</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p><i>coastal water</i> and riparian margins in the coastal environment, and</p> <p>(12) provide for and encourage activities undertaken for the primary purpose of enhancing <i>coastal water</i> quality, coastal habitats and ecosystems, customary fisheries, <i>mahika kai</i> and kaimoana activities, and restoring natural character, features and landscapes (including seascapes) in accordance with CE-P3, CE-P4, CE-P5, CE-P6, and CE-P13, and</p> <p>(13) identify any aquaculture settlement areas gazetted under the Māori Commercial Aquaculture Claims Settlement Act 2004.</p>		
6.	CE-M4 – District plans	The direction of this provision has the potential to direct District Council's to impose greater	Clarify that commercial forestry is not captured by this provision.

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p><i>Territorial authorities</i> must prepare or amend and maintain their <i>district plans</i> to:</p> <p>(1) control the location, density and form of <i>subdivision</i> in the coastal environment (outside the <i>coastal marine area</i>),</p> <p>(2) control the location, scale and form of <i>buildings</i> and <i>structures</i> in the coastal environment (outside the <i>coastal marine area</i>),</p> <p>(3) control the location and scale of <i>earthworks</i>, mining, and vegetation planting, modification and removal in the coastal environment (outside the <i>coastal marine area</i>),</p> <p>(3A) achieve the integrated management of, and control over,</p>	<p>controls on commercial forestry than those required under the NES-CF.</p>	<p>(3) control the location and scale of earthworks, mining, and vegetation planting, modification and removal in the coastal environment (outside the <i>coastal marine area</i>)⁷. <u>This provision does not apply to commercial forestry activities.</u></p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>land use activities which could cause direct or indirect <i>effects</i> on the <i>coastal marine area</i> in accordance with CE-P1A,</p> <p>(4) require <i>resource consent</i> for uses of <i>land</i> on reclamations that have occurred after the date this RPS becomes operative,</p> <p>(5) provide for the establishment of <i>esplanade reserves</i> and <i>esplanade strips</i>,</p> <p>(6) include provisions requiring the adoption of a precautionary approach to assessing the <i>effects</i> of activities in the coastal environment in accordance with IM-P6 where:</p> <p>(a) there is scientific uncertainty or a lack of relevant knowledge, or</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(b) there are potentially significant or irreversible adverse <i>effects</i>,</p> <p>(c) coastal resources are potentially vulnerable to the effects of climate change.</p> <p>(7) provide for walking access to, along, and adjacent to <i>the coastal marine area</i> in accordance with Policy 19 of the NZCPS,</p> <p>(8) control vehicle access to, along, and adjacent to the coastal marine area in accordance with Policy 20 of the NZCPS,</p> <p>(9) recognise <i>mana whenua</i> needs for <i>papakāika</i>, marae and associated developments within the coastal environment and make appropriate provision for them,</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(10) provide access to <i>surf breaks</i> of national significance, and</p> <p>(11) provide for and encourage activities undertaken for the primary purpose of enhancing coastal water quality, coastal habitats and ecosystems, customary fisheries and other <i>mahika kai</i> activities restoring natural character, features, or landscapes in accordance with CE-P1, CE-P3, CE-P4, CE-P6 and CE-P13.</p>		
LF – Land and freshwater			
7.	<p>LF-LS-P16A – Managing pests</p> <p>Reduce the impact of <i>pests</i>, including <i>wilding conifers</i>, by:</p> <p>(1) avoiding <i>afforestation</i> and <i>replanting</i> of <i>plantation forests</i> with <i>wilding conifer</i> species listed in APP5 within:</p>	The NES-CF already regulates wildling conifers in the context of commercial forestry. There is no evidence to support further regulation of commercial forestry in this way.	<p>DELETE Policy LF-LS-P16(1)(a) and (b) and ADD NEW PROVISION</p> <p><u>(5) For the avoidance of all doubt, this provision does not apply to commercial forestry activities already regulated under Part 2 of the NES-CF.</u></p> <p><u>OR</u> ALTERNATIVE RELIEF that clarifies that this provision does not apply to</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(a) areas identified as outstanding natural features, outstanding natural landscapes, or <i>significant natural areas</i>, and</p> <p>(b) buffer zones adjacent to the areas listed in (a) where it is necessary to protect those areas,</p> <p>(2) outside <i>plantation forests</i>, avoiding the planting of <i>wilding conifer</i> species listed in APP5 and any other <i>pests</i> in a way that is consistent with the Otago Regional Pest Management Plan 2019-2029,</p> <p>(3) enabling the control of <i>pests</i> on <i>land</i>, and</p> <p>(4) supporting initiatives to control <i>pests</i> and limit their further spread.</p>		<p>commercial forestry activities already regulated under Part 2 of the NES-CF.</p>
8.	<p>LF-LS-M12 – District plans</p> <p><i>Territorial authorities</i> must prepare or amend and maintain their <i>district plans</i> no later than 31 December 2026 to:</p> <p>(1) manage <i>land use</i> change by:</p>	<p>The provision requires territorial authorities to exercise further control of new forestry activities. This fails to acknowledge the ecosystem and carbon reduction benefits to be derived (and likely required to meet emissions reduction targets) from expanding forestry in Otago.</p> <p>In relation to (aa) it is too early to review the effectiveness of the NES-CF wilding conifer</p>	<p>Disapply this provision to those activities already regulated under the NES-CF.</p> <p>ADD NEW PROVISION</p> <p><u>(10) For the avoidance of all doubt, this provision does not apply to commercial forestry activities already regulated under Part 2 of the NES-CF.</u></p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(aa) avoiding the planting of <i>pest plants</i> in accordance with LF-LS-P16A,</p> <p>(a) controlling the establishment of new or any spatial extension of existing <i>land use activities</i> where necessary to give effect to an objective developed under the NPSFM, and</p> <p>(b) minimising the removal of montane tall tussock grasslands, to recognise their ability to capture and hold precipitation, and</p> <p>(2) provide for and promote the creation and enhancement of vegetated riparian margins and constructed <i>wetlands</i>, and maintain these where they already exist,</p> <p>(3) facilitate public access to and along <i>lakes</i> and <i>rivers</i> by:</p> <p>(a) requiring the establishment of <i>esplanade reserves</i> and <i>esplanade strips</i>, and</p> <p>(b) promoting the use of legal <i>roads</i>, including paper <i>roads</i>, and</p>	<p>controls in place since 2018. Trees planted in the interim are a few years away from producing cones or fertile seeds.</p>	

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>any other means of public access rights that connect with <i>esplanade reserves</i> and <i>esplanade strips</i>., and</p> <p>(4) maintain the availability and <i>productive capacity</i> of <i>highly productive land</i> identified and mapped under LF-LS-M11A in accordance with LF-LS-P19, and</p> <p>(8) manage development in <i>rural areas</i> in accordance with UFD-P7,</p> <p>(9) manage and rural lifestyle activities development in in accordance with UFD-P8.</p>		
9.	<p>LF-LS-M13 – Management of beds and riparian margins</p> <p><i>Local authorities</i> must prepare or amend and maintain <i>their regional plans</i> and <i>district plans</i> to manage the condition of the <i>bed</i> and banks of <i>water bodies</i>, riparian margins and associated <i>lands</i>, including vegetative cover, to:</p> <p>(1) maintain or enhance existing indigenous <i>biodiversity</i> values,</p>	These activities are already regulated by the NES-CF.	<p>Add new provision</p> <p><u>(5) For the avoidance of all doubt, this provision does not apply to commercial forestry activities regulated under Part 2 of the NES-CF.</u></p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(2) increase the presence, resilience and abundance of indigenous flora and fauna, particularly taoka species, including by providing for <i>wetlands</i> and <i>biodiversity</i> corridors within <i>river</i> systems, and requiring riparian buffers that are sufficient to maintain indigenous <i>biodiversity</i>,</p> <p>(3) support improvement in the functioning of catchment processes where these have been adversely affected by changes in margins and connected <i>lands</i> over time, and</p> <p>(4) reduce unnatural sedimentation of <i>water bodies</i></p>		
ECO – Ecosystems and indigenous biodiversity			
10.	ECO - Generally	The Wilding Tree Risk Calculator manages wilding conifer spread.	Disapply provisions that further regulate wildling trees for activities undertaken in accordance with NESCF.
11.	ECO-P1- <i>Kaitiakitaka</i>	The change from “Recognise the role of...” to “Enable” in the introduction to the provision is a significantly stronger instruction and requires actions to be taken to carry out the directions of the policy. It is not clear who will be obliged to	Remove reference to “enable” in the introduction to the provision.

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>Enable Kāi Tahu to exercise their role as kaitiaki of Otago's <i>indigenous biodiversity</i> by:</p> <p>(1) partnering with Kāi Tahu in the management of <i>indigenous biodiversity</i> to the extent desired by <i>mana whenua</i>,</p> <p>(1A) working with Kāi Tahu to identify <i>indigenous species</i> and ecosystems that are taoka,</p> <p>(2) incorporating the use of mātauraka Māori in the management and monitoring of <i>indigenous biodiversity</i>, and</p> <p>(3) facilitating access to and use of <i>indigenous biodiversity</i> by Kāi Tahu, including mahika kai, according to tikaka.</p>	<p>enable Kai Tahu to do the things described in the policy.</p> <p>In relation to ECO-P1(3) -. Resource management policy and plans are not the place to direct access of third parties to private land. Access to commercial forestry areas raises significant workplace health and safety responsibilities for forestry owners and operators. Access to private land should remain a matter of agreement.</p>	<p>Delete ECO-P1(3). Alternatively, amend ECO-P1(3) to replace “facilitating” with “encouraging where practicable”.</p>
12.	<p>ECO-P2 – Identifying <i>significant natural areas</i> and taoka</p> <p>Identify and map:</p> <p>(1) the areas of significant <i>indigenous vegetation</i> or significant <i>habitat</i> of indigenous fauna that qualify as <i>significant natural areas</i> using the</p>	<p>Amend to include mapping and verifying as part of the identification process.</p> <p>Important that mapped values are not based on aerial imagery alone and are verified on the ground through field-work.</p>	<p>Amend:</p> <p>Identify, and map <u>and verify</u> :</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>assessment criteria in APP2 and in accordance with ECO-M2, and</p> <p>(2) where appropriate, indigenous species and ecosystems that are taoka, including those identified by <i>mana whenua</i> as requiring protection, in accordance with ECO-M3.</p>		
13.	<p>ECO-P3 – Protecting significant natural areas and taoka</p> <p>Outside the coastal environment, and except as provided for by ECO-P4 and ECO-P5A, protect <i>significant natural areas</i> and indigenous species and ecosystems that are taoka by:</p> <p>(1) first avoiding adverse <i>effects</i> that result in:</p> <p>(aa) loss of ecosystem representation and extent,</p> <p>(ab) disruption to sequences, mosaics, or <i>ecosystem function</i>,</p> <p>(ac) fragmentation of <i>significant natural areas</i> or the loss of buffers or connections within an SNA,</p>	<p>These provisions should be subject to the NES-CF. That is the appropriate document for regulating the adverse effects of forestry activities.</p> <p>ECO-P3(3) has the potential to be used as a justification for greater stringency for commercial forestry activities.</p> <p>The NES-CF was developed through a rigorous process which identified the adverse effects of commercial forestry activities. This policy needs to be clarified to recognise that IM-P6 and ECO-P3(3) are not intended to apply the precautionary approach to commercial forestry activities, because their effects are understood. This is reflected in Policy 12 of the NPSIB: Plantation forestry activities are to be provided for.</p>	<p>Generally, oppose any attempt to regulate adverse effects of forestry on indigenous biodiversity that go beyond Policy 12 and clause 3.14 (Forestry and SNAs) and cl 3.16 (indigenous biodiversity outside SNAs) of the NPSIB.</p> <p>Disapply the precautionary approach to those commercial forestry activities that are already regulated under Part 2 of the NES-CF, the effects of which are already well understood.</p> <p>Delete ECO-P3(3) or alternatively amend in the following way:</p> <p>(3) prior to significant natural areas and indigenous species and ecosystems that are taoka being identified and mapped in accordance with ECO-P2, adopt a precautionary approach towards activities <u>that</u> have adverse effects that are uncertain,</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(ad) a reduction in the function of the <i>significant natural area</i> as a buffer or connection to other important habitats or ecosystems, or</p> <p>(ae) a reduction in the population size or occupancy of <i>Threatened or At Risk (declining)</i> species that use <i>an significant natural area</i> for any part of their life cycle,</p> <p>(b) any loss of taoka values identified by <i>mana whenua</i> as requiring protection under ECOP2(2), and</p> <p>(2) after (1), applying the <i>effects management hierarchy (in relation to indigenous biodiversity)</i> to areas and values other than those covered by ECO-P3(1), and</p> <p>(3) prior to <i>significant natural areas</i> and indigenous species and ecosystems that are taoka being identified and mapped in accordance with ECO-P2, adopt a precautionary approach towards</p>		<p><u>unknown or little understood</u> in accordance with IM-P6(2).</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	activities in accordance with IM-P6(2).		
14.	<p>ECO-P6 – Maintaining indigenous biodiversity</p> <p>Outside the coastal environment and excluding areas protected under ECO-P3, manage Otago’s <i>indigenous biodiversity</i> by:</p> <p>(1) applying the <i>effects management hierarchy (in relation to indigenous biodiversity)</i> to manage significant adverse <i>effects</i> on <i>indigenous biodiversity</i>), and</p> <p>(2) requiring the <i>maintenance</i> of <i>indigenous biodiversity</i> for all other adverse effects of any activity, and</p> <p>(3) notwithstanding (1) and (2) above, for <i>regionally significant infrastructure</i> and <i>nationally significant infrastructure</i> that is either <i>renewable electricity generation</i> or the <i>National Grid</i> avoid, remedy or mitigate adverse <i>effects</i> to the extent practicable.</p>	Align this policy with Policy 12 of the NPS-IB.	<p>Add new subclause:</p> <p><u>(4) Notwithstanding (1) and (2) above, management of indigenous biodiversity within plantation forestry must also provide for plantation forestry activities.</u></p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
15.	<p>ECO-M2 – Identification of <i>significant natural areas</i></p> <p><i>Local authorities</i> must:</p> <p>(1) in accordance with the statement of responsibilities in ECO-M1, identify the areas and <i>indigenous biodiversity</i> values of <i>significant natural areas</i> as required by ECO-P2, and</p> <p>(2) map and verify the areas and include the <i>indigenous biodiversity</i> values identified under (1) in the relevant <i>regional plans</i> and <i>district plans</i> no later than 31 December 2030,</p> <p>(3A) identify areas and values of <i>indigenous biodiversity</i> within their jurisdictions in accordance with CE-P5, map the areas and describe their values in the relevant <i>regional plans</i> and <i>district plans</i>, and</p> <p>(3) recognise that <i>indigenous biodiversity</i> spans jurisdictional boundaries by:</p>	<p>Important that satellite imagery is verified on the ground to avoid protecting areas that do not qualify for protection.</p>	<p>Amend ECO-M2-(4)</p> <p>until significant natural areas are identified, and mapped <u>and verified</u> in accordance with (1) and (2), require ecological assessments to be provided with applications for resource consent, plan changes and notices of requirement that identify whether affected areas are significant natural areas in accordance with APP2, and</p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(a) working collaboratively to ensure the areas identified by different <i>local authorities</i> are not artificially fragmented when identifying <i>significant natural areas</i> that span jurisdictional boundaries, and</p> <p>(b) ensuring that indigenous <i>biodiversity</i> is managed in accordance with this RPS,</p> <p>(4) until <i>significant natural areas</i> are identified and mapped in accordance with (1) and (2), require ecological assessments to be provided with applications for resource consent, plan changes and notices of requirement that identify whether affected areas are <i>significant natural areas</i> in accordance with APP2, and</p> <p>(5) in the following areas, prioritise identification under (1)</p> <p>(a) intermontane basins that contain indigenous vegetation and habitats,</p> <p>(b) areas of dryland shrubs,</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(c) braided <i>rivers</i>, including the Makarore, Mātakitaki and Lower Waitaki Rivers,</p> <p>(d) areas of montane tall tussock grasslands, and</p> <p>(e) limestone habitats.</p> <p>(6) When identifying <i>significant natural areas</i>, ensuring that:</p> <p>(a) if the values or extent of a proposed <i>significant natural area</i> are disputed by the landowner, the local authority:</p> <p>(i) conducts a physical inspection of the area,</p> <p>(ii) or, if a physical inspection is not practicable, uses the best information available to it at the time, and</p> <p>(b) if requested by a <i>territorial authority</i>, the <i>regional council</i> will assist the territorial authority in undertaking its district-wide assessment, and</p> <p>(c) where a <i>territorial authority</i> has identified a <i>significant natural area</i></p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>prior to 4 August 2023, and prior to 4 August 2027, a suitably qualified ecologist is engaged by the <i>territorial authority</i> to confirm that the methodology originally used to identify the area as a <i>significant natural area</i>, and its application, is consistent with the assessment approach in APP2, and</p> <p>(d) if a <i>territorial authority</i> becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of <i>significant indigenous vegetation</i> or <i>significant habitat</i> of <i>indigenous fauna</i> that qualifies as a <i>significant natural area</i>, the territorial authority:</p> <p>(i) conducts an assessment of the area in accordance with APP2 as soon as practicable, and</p> <p>(ii) if a new <i>significant natural area</i> is identified as a result, includes it in the next appropriate plan or plan change notified by the <i>territorial authority</i>, and</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(e) when a <i>territorial authority</i> does its 10-yearly plan review, it assesses its district in accordance with ECO-P2 and APP2 to determine whether changes are needed, and</p> <p>(7) allow an area of Crown-owned land to qualify as a <i>significant natural area</i> without the need for the assessment required by ECO-P2, using APP2, if:</p> <p>(a) the land is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act, and</p> <p>(b) the <i>territorial authority</i> is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as a <i>significant natural area</i> under APP2, and</p> <p>(c) the area is:</p> <p>(i) a large and more-or-less contiguous area managed under a</p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>single protection classification (such as a national park), or</p> <p>(ii) a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park), or</p> <p>(iii) a well-defined landscape or geographical feature (such as an island or mountain range), or</p> <p>(iv) a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.</p>		
16.	<p>ECO-M5 – District plans</p> <p><i>Territorial authorities</i> must prepare or amend and maintain their <i>district plans</i> to:</p> <p>(1) if the requirements of ECO-P3 to ECO-P6 are met, provide for the use of <i>land</i> and the surface of <i>water bodies</i> including:</p>	Ensure consistency with Policy 12, Clauses 3.14 and 3.16 of the NPSIB.	Delete or amend any part of the provision that regulates commercial forestry and indigenous biodiversity to the extent that it is more stringent than clauses 3.14 and 3.16 of the NPSIB, whilst bearing in mind Policy 12.

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p>(a) activities undertaken for the purposes of pest control or maintaining or enhancing the habitats of indigenous fauna, and</p> <p>(b) the maintenance and use of existing <i>structures</i> (including <i>infrastructure</i>), and</p> <p>(c) <i>infrastructure</i> that has a <i>functional</i> or <i>operational need</i> to be sited or operated in a particular location,</p> <p>(2) manage the clearance or modification of indigenous vegetation, while allowing for <i>mahika kai</i> activities (including through the development, in partnership with mana whenua, of provisions for mahika kai activities that may provide an alternative approach to effects management than the policies in this ECO chapter),</p> <p>(3) promote the establishment of <i>esplanade reserves</i> and <i>esplanade strips</i>, particularly where they would support ecological corridors, buffering or connectivity between <i>significant</i></p>		

Appeal Point	Provision	Reasons for Appeal	Relief Sought
	<p><i>natural areas</i>, or access to <i>mahika kai</i>,</p> <p>(4) require:</p> <p>(a) resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (<i>in relation to indigenous biodiversity</i>) have been followed, and</p> <p>(b) that consents are not granted if the sequential steps in the effects management hierarchy (<i>in relation to indigenous biodiversity</i>) have not been followed, and</p> <p>(5) provide for activities undertaken for the purpose of restoring or enhancing the habitats of indigenous fauna, and</p> <p>(7) require buffer zones adjacent to <i>significant natural areas</i> where it is necessary to protect the <i>significant natural area</i>.</p>		
<p>PART 5 – APPENDICES AND MAPS</p>			

Appeal Point	Provision	Reasons for Appeal	Relief Sought						
17.	APP5	<p>Adequate and industry specific controls for wilding conifer risk already exist in regulations 11 and 79 of the NES-CF.</p> <p>It is too early to review the effectiveness of NES-CF wilding conifer controls in place since 2018, as trees planted in the interim are a few years away from producing cones or fertile seeds. There is therefore no evidence that the NES-CF is not sufficiently stringent to manage wilding conifer risk.</p> <p>If council has concerns, it should collaborate with the industry to review the effort and success of wilding conifer control undertaken since the NES-CF came into force versus before that time.</p>	<p>Remove the broad generic reference to Pine species in the Appendix.</p> <p>Identify economically important trees to the Otago Region be removed from the wilding conifer list including <i>Pinus radiata</i> and sterile Douglas-fir.</p> <p>Exclude the low spread risk posed by heavy seed species.</p> <p>Amend heading from “species prone to spread” to “species known to present a high risk of spread”.</p> <p>APP5 – Conifer Species prone to wilding conifer spread <u>known to present a high risk of spread</u></p> <p>Table 5: Conifer Species prone to wilding conifer spread <u>known to present a high risk of spread.</u></p> <table data-bbox="1480 1177 1912 1337"> <thead> <tr> <th data-bbox="1480 1177 1682 1206">Common name</th> <th data-bbox="1711 1177 1912 1206">Botanical name</th> </tr> </thead> <tbody> <tr> <td data-bbox="1480 1241 1648 1270">Big cone pine</td> <td data-bbox="1711 1241 1877 1270"><i>Pinus coulteri</i></td> </tr> <tr> <td data-bbox="1480 1302 1637 1331">Bishops pine</td> <td data-bbox="1711 1302 1890 1331"><i>Pinus muricata</i></td> </tr> </tbody> </table>	Common name	Botanical name	Big cone pine	<i>Pinus coulteri</i>	Bishops pine	<i>Pinus muricata</i>
Common name	Botanical name								
Big cone pine	<i>Pinus coulteri</i>								
Bishops pine	<i>Pinus muricata</i>								

Appeal Point	Provision	Reasons for Appeal	Relief Sought
			<p>Contorta (lodgepole) pine <i>Pinus contorta</i></p> <p>Corsican pine, Black pine <i>Pinus nigra</i></p> <p>Douglas fir <i>Pseudotsuga menziesii</i> (excluding sterile Douglas-fir produced by gene editing)</p> <p>Dwarf mountain pine <i>Pinus uncinata</i></p> <p>Japanese cedar <i>Cryptomeria japonica</i></p> <p>Japanese larch <i>Larix kaempferi</i></p> <p>Larch <i>Larix decidua</i></p> <p>Lawson's cypress <i>Chamaecyparis lawsoniana</i></p> <p>Macrocarpa <i>Cupressus macrocarpa</i></p> <p>Maritime pine <i>Pinus pinaster</i></p> <p>Mountain pine <i>Pinus mugo</i></p> <p>Norfolk Island pine <i>Araucaria heterophylla</i></p> <p>Norway spruce <i>Picea abies</i></p> <p>Patula pine <i>Pinus patula</i></p> <p>Pine <i>Pinus sp./Pine</i></p>

Appeal Point	Provision	Reasons for Appeal	Relief Sought
			<p>Ponderosa pine <i>Pinus ponderosa</i></p> <p>Radiata pine <i>Pinus radiata</i></p> <p>Scots pine <i>Pinus sylvestris</i></p> <p>Sitka spruce <i>Picea sylvestris</i></p> <p>Slash pine <i>Pinus elliotii</i></p> <p>Spruce <i>Picea sp.</i></p> <p>Strobus pine <i>Pinus strobus</i></p> <p>Western red cedar <i>Thuja plicata</i></p> <p>Western white pine <i>Pinus monticola</i></p>

List of names of persons to be served with this notice (attached)

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Proposed Otago Regional Policy Statement 2021

**Report and recommendations of the Non-Freshwater and
Freshwater Hearings Panels to the Otago Regional Council**

MARCH 2024

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Prologue for the Non-Freshwater and Freshwater reports

1. This Prologue is the same for each of the two reports as to the non-freshwater process termed Appendix One, and the freshwater planning instrument (FPI) which is Appendix Two.
2. The Prologue is intended to provide a procedural background. It is also intended to serve as an explanatory statement as to why and how the two reports were prepared, and how the two reports' recommendations are to be combined together to achieve one integrated regional policy statement (ORPS).
3. It also explains how the various Appendices work in with each other to enable a reader to track outcomes of submissions.

1. Background

4. The proposed Otago Regional Policy Statement 2021 (pORPS) is a critical document for the management of natural and physical resources in Otago underpinning the planning framework across the region.
5. The Non-Freshwater Parts of the Proposed Otago Regional Policy Statement 2021 along with the Freshwater Parts will replace the partially operative Otago Regional Policy Statement 2019 (RPS 2019). The RPS 2019 provided an overarching policy framework for the region and will become fully operative in March 2024. The Otago Regional Council notified a reviewed Regional Policy Statement on 26 June 2021.
6. The pORPS is a document that directs and informs the content of both regional and district level plans as well as other types of plans and strategies, for example the Regional Land Transport Plan. The structure of the pORPS is significantly different to the RPS 2019, because it aligns with the National Planning Standards introduced in April 2019. The National Planning Standards outline a mandatory structure and format for regional policy statements. Implementing these standards required revisiting many of the provisions and separating parts into different chapters.

2. Preliminary Integration Issues

2.1 Statutory background

7. Every regional council is required by the Resource Management Act 1991 (RMA) to prepare and adopt a regional policy statement.

s.60(1) provides:

60. (1) There shall at all times be for each region 1 regional policy statement prepared by the regional council in the manner set out in Schedule 1.

8. Prior to 2020 that was a straightforward process with Schedule 1 requiring readily understood processes involving opportunities for community input through consultation, submission, and further submission processes. Those processes were followed by a standard hearing process, and a straightforward single appeal process utilising one jurisdiction, with all appeals to be by way of re-hearing before the Environment Court.

9. The result of that straightforward process was to be an integrated document. Section 59 provides that the sole purpose of the regional policy statement is for it to provide an integrated overview of the issues for a region:

59 Purpose of regional policy statements

The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

10. That integrated procedural process in Part 5 of the RMA all changed from 1 July, 2020 with the introduction into the RMA of Sub-part 4 of Part 5 which introduced a new provision s.80A. It provides in sub-section 1 that:

80A Freshwater planning process

The purpose of this subpart is to require all freshwater planning instruments prepared by a regional council to undergo the freshwater planning process.

11. The same 2020 amendment Act introduced a new freshwater planning process into the RMA which provided for hearings by specifically appointed Freshwater Hearing Panels to hear submissions on ‘freshwater instruments’.

12. What resulted in Otago over the next two years was that the previous procedural process of straightforward integration for regional policy statements, became a complicated, expensive process bearing more hallmarks of dis-integration rather than integration.

2.2 Otago Regional Council initial processes

13. That outcome was no fault at all of the Otago Regional Council (ORC). The ORC just happened to be the first regional council off the block throughout the country required to apply these new mandatory provisions which central government had laid down that it must follow.

14. The confusion arose because a regional policy statement must address all resources of a region, including physical and ecological resources including water resources. The ORC was very cognisant that the new definition of ‘freshwater instrument’ in s.80A (2) included, at the very least, critical parts of the proposed regional policy statement, such as the objectives.

15. ORC did not wish to separate out freshwater aspects of what had been prepared as one integrated document, as the RMA required. It believed it was enabled by the new provisions to treat the whole of the regional policy statement as a freshwater instrument. ORC notified the whole of its new Proposed Otago Regional Policy Statement (PORPS) for submissions as an integrated freshwater planning instrument, intending submissions on it would be heard by a freshwater planning panel under the new freshwater planning process.

2.3 High Court declaratory proceedings

16. Because of questions being raised by some submitters about the freshwater planning process being applied to the whole of the regional policy statement, the Otago Regional Council out of understandable caution applied for a declaratory judgment from the High Court. It sought declarations confirming the validity of the course it had adopted in order to achieve the integrated document it was required to prepare.

17. However, the subsequent High Court decision in *ORC v. Royal Forest & Bird Protection Society of New Zealand Incorporated* (2022) NZHC 1777 made it plain that the new legislation did not allow that integrated procedural approach to be followed in respect of the whole of the PORPS.
18. The outcome was the making of declarations by the High Court that the ORC had to differentiate between provisions directly relating to the quantity and quality of water, and the other ‘non-freshwater’ aspects of the PORPS.
19. The High Court judgment required that ORC identify the freshwater instrument parts of the PORPS and re-notify those provisions as a freshwater planning instrument. That would require submitters who wished to submit under that freshwater planning process having to file fresh submissions to be heard by a Freshwater Planning Panel. The ORC carried out that separation of freshwater provisions, and their re-notification, by shading those freshwater parts of the PORPS in blue. The non-freshwater aspects then constituted the greater part of the PORPS.
20. The High Court endeavoured as far as it could to be pragmatic, by allowing the submissions in respect of the non-freshwater parts of the regional policy statement to be able to proceed utilising the existing submissions on those non-freshwater submission points.

2.4 Processes of the Two Hearing Panels

21. Initially four commissioners were then appointed by the ORC to constitute the Non-Freshwater Hearing Panel - those members being R.D.Crosby (Chair), and RMA Commissioners R. Kirikiri, A. Cubitt and B. Sullivan.
22. Those hearings proceeded in the first half of 2023. The non-freshwater hearing Panel adjourned those proceedings at the end of hearings in May, 2023 to enable completion of the Freshwater hearing process in the hope that some form of integration of the two processes would be possible once the freshwater hearings had been completed.
23. In late 2022 and while the non-freshwater hearings were proceeding in the first half of 2023, the freshwater parts of the PORPS were notified, and submissions and further submissions lodged. The Chief Freshwater Commissioner then pragmatically appointed the same personnel to be the members of a Freshwater Planning Panel, and those freshwater hearings were conducted in August and September, 2023.

2.5 Reporting challenges for the two hearing panels

24. So the Alice in Wonderland legal situation we now find ourselves in, is that we must embark on preparation of two separate reports making recommendations to ORC in respect of two entirely separate procedural processes – but in respect of one integrated document, the PORPS. Pursuant to s. 59 of the RMA the purpose of that one document is “...to *achieve integrated management* of the natural and physical resources of the whole region.” (Panel’s emphasis)
25. In summary, in procedural terms we are required to make one set of recommendations which are subject to the non-freshwater hearing process, only on those aspects of the PORPS not shaded blue; and at the same time, we have to make another separate report of recommendations in respect of the freshwater parts, which are shaded in blue.

26. However, the overall outcome is required by s. 60 of the RMA to be one regional policy statement document. Section 59 of the RMA requires that one document has the purpose of achieving integrated management of the region's resources.
27. During some of the various hearings we have had urged upon us at various times in the two different processes a range of submissions as to the process we must observe. Those submissions have included inter alia that:
- a. We must not take into account evidence or submissions proffered to us in the other process;
 - b. We cannot recommend changes in the different process that we have noticed require amendment in the other process;
 - c. The non-freshwater process is the 'senior' process and that the freshwater process must be co-ordinated with it;
- and even that, (before we were appointed to common membership of both panels);
- d. the two panels could not confer to achieve an integrated outcome as they each could only properly take into account material heard in their process;
- and finally by ORC in closing on the freshwater hearing process
- e. that an elaborate process of further hearings should be timetabled to enable all submitters and ORC to call evidence and submit as to the impact of freshwater recommendations on the 'non-freshwater planning instrument parts of the RPS', i.e. involving by necessary implication a proposition that the freshwater report preceded the non-freshwater report.
28. We cannot see that there is any express statutory guidance providing a 'priority' or 'seniority' of any nature to the non-freshwater process as has been suggested directly, or by implication, in submissions. The sequential timing of non-freshwater and freshwater hearings that has occurred in this Otago setting has come about solely as a practical matter as a result of the High Court directions as to re-notification of the freshwater planning instrument. In our view neither report containing recommendations has any greater legal weight or priority than the other.
29. Most aspects of those non-integration approaches that were urged upon us are necessarily resolved by the pragmatic consequence of common membership of the two hearing panels. Each member of the two separate hearing panels has only the one brain – we necessarily have been informed by both processes.
30. However, despite the best efforts of the High Court, ORC and the Chief Freshwater Commissioner to be pragmatic and enable us to achieve an integrated document, we still face some arguable jurisdictional procedural challenges as to our ability to make recommendations in one or other process. Moreover, we are keenly aware of the differing appeal rights that arise depending upon which process we make a recommendation in, and what that recommendation is – once again these disjuncts in appeal processes have occurred because of central government statutory direction.
31. The differences in appeal rights appear to be:

- a. In respect of the non-freshwater recommendations appeal rights lie to the Environment Court in the normal way, i.e by way of full re-hearing.
 - b. In respect of the freshwater recommendations where ORC accepts our recommendations or accepts our recommendations for alternative relief outside the submission relief sought, appeal rights lie to the High Court, but are restricted to points of law.
 - c. In respect of the freshwater recommendations where ORC does not accept our recommendations or does not accept our alternative recommended relief outside the scope of submissions, appeal rights lie to the Environment Court, but do not seem to be restricted to points of law.
32. We observe in passing, without having the temerity to express any views on the point, that it is not at all easy to see how the High Court and Environment Court, (and for that matter any higher courts on further appeal where again rights of appeal appear to differ), are to liaise on the different processes to be able to achieve one integrated document. There does not appear to be any clear procedural process provided by the RMA for any co-ordination to occur between the Environment Court and the High Court in respect of appeals relating to the same document but being heard in two different jurisdictions.
33. We must also grapple with the probably inevitable problem that some changes we consider are necessary in the PORPS provisions have been raised in or by a freshwater submission, but relate to unshaded non-freshwater provisions, and vice versa, i.e. a non-freshwater submission either expressly, or by implication, or by necessary consequence, affects a freshwater provision.
34. In respect of those latter matters we have decided the best we can do is to make the recommendation which best meets the s.59 imperative as to the single purpose of regional policy statements - which we repeat is to provide:
- ... an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.*
35. That being the sole purpose of regional policy statements expressed in the RMA, we do not consider that procedural difficulties imposed by inadequate central legislation as to how the two processes are to be melded into the one regional policy statement should stand in the way of people and resources in Otago being able to have one regional policy statement which is intended to achieve integrated management of resources. That is the vital planning base in the RMA upon which regional and district plans are to be prepared.
36. Our recommendations will endeavour to identify which recommendations relate to which process, but our overall focus is to achieve one integrated document which works in managing the resources of the region.

2.6 Process and format adopted to enable integration of two separate Reports of Recommendations into one planning document

37. Since a 2017 amendment the provisions of the RMA now include some overall procedural principles in s.18A. We interpret those principles as being of particular relevance to a situation such as this where a clear procedural lacuna exists. We are required to achieve one integrated planning document, but are required to do that using two entirely different processes which have different appeal rights. The lacuna lies in the fact that there is no statutory procedural guidance as to how we are to integrate the recommendations we make in two separate reports to achieve that one planning document.

38. We consider that section 18A provides some helpful guidance:

18A Procedural principles

Every person exercising powers and performing functions under this Act must take all practicable steps to—

- a. *use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised; and*
- b. *ensure that policy statements and plans—*
 - i. *include only those matters relevant to the purpose of this Act; and*
 - ii. *are worded in a way that is clear and concise; and*
- c.

39. Those provisions of s.18A must also be read and applied in conjunction with the hearings procedure provision s.39 (1) RMA relating to non-freshwater hearing processes. It concludes that a hearing panel in a non-freshwater process “*shall establish a procedure that is appropriate and fair in the circumstances.*” In Schedule 1 Part 4 a similar direction is found in clause 48 (1) which provides that a freshwater hearings panel must “*regulate its own proceedings in a manner that is appropriate and fair in the circumstances;...*”

40. Bearing those various directives in mind we have endeavoured to exercise our recommendatory powers to achieve an efficient and cost-effective process which ensures the purpose of the Act is met. We have sought to do that by ensuring sustainable management of Otago’s resources is provided for in one regional policy statement that provides for the integrated management of Otago’s resources – which is what s.60 of the RMA requires.

41. Accordingly we have decided that each set of separate recommendations will have attached to it one final recommended regional policy statement, which will have the same blue shading as was required for the separate hearing processes to mark out the freshwater instrument provisions from the non-freshwater provisions.

42. We have also decided that in practical terms we should prepare this Introductory section, which would have been exactly the same for each of our recommendatory reports for each process. It would be contrary to common sense, and unnecessarily repetitive, expensive and pointless to do that.

43. Instead we intend to formally record that this introductory part of the report is able to be read and applied in both processes.

44. A report by the non-freshwater hearings panel containing recommendations for Otago Regional Council is contained in **Appendix One**.
45. A report by the freshwater hearings panel containing recommendations for Otago Regional Council is contained in **Appendix Two**.
46. **Appendix Three** is the recommended final form of the one PORPS required by s.60 of the RMA - again with blue shading for the freshwater instrument provisions.
47. **Appendix Four** is a tracked change version of the original notified version of the PORPS. It is intended to enable submitters to follow the directions we address below under the sub heading of Part Two as to the structure of the reports and recommended PORPS Appendices One, Two and Three. That structure description explains how submitters can determine the reasoning and source of any recommended changes.
48. Because of the greater scope to make recommendations outside of relief requested in submissions in the freshwater process, on limited occasions where we encountered such problems we used that process to make recommendations for change. In respect of the non-freshwater text in the PORPS, where we have seen such changes as being necessary, we have recommended them as consequential changes.

3. General Observations

49. This whole separate hearing process laid down by central government has been required by the RMA to be funded by ORC as the regional council.
50. The separation of hearing and decision-making functions has involved a process we consider to be more akin to 'disintegration' rather than 'integration' as required by the RMA for regional policy statements. That 'disintegrating' procedural effect will have added significant extra cost to ORC, and probably will still involve major ongoing extra cost and uncertainty in trying to align any appeal processes.
51. We appreciate the following views are outside of our jurisdiction.
52. Nonetheless as the closest body informed as a result of having to operate under this system, we felt we should express the view we hold that Central government may wish to consider assisting ORC in meeting the extra cost incurred by it.
53. That extra cost burden hopefully will not be faced by other councils, who are fortuitously later in the process than the ORC, given the amendments made belatedly in August 2023 to s.80A of the Resource Management Act by s. 805 (4) of the Natural and Built Environment Act 2023 in an attempt to resolve some of the worst deficiencies in the process. (This whole area has become even more complex in that since drafting of our reports has commenced there has been a change of government and the Natural and Built Environment Act 2023 has already been repealed.)
54. It seems wrong that simply being at the front of the queue should result in ORC having to carry such an extra cost burden, that other later regional councils will not have to bear.

4. Structure of Recommendations

55. It is important that the topic decisions supporting recommendations in each of Appendices One and Two are read as a whole together with the tracked change version of the PORPS in Appendix Four. The decision on each topic contains the reasons for the Panel's recommendations. These comprise either adoption of the reasoning and recommendations of the original Section 42A Report, or the replies by s.42A report writers to evidence, or a specific reasoning by the Panel.
56. The tracked change version of the relevant PORPS provisions in Appendix Four forms an integral part of the decisions leading to the recommendations in Appendices One and Two. The source of any change that was dealt with is clearly identified in the track changes version of the PORPS. This records all amendments (additions and deletions) to the notified PORPS provisions recommended to be made by the respective Panels.
57. In an effort to avoid repetition and to be able to produce reasonably timely and concise reports, the Panels have relied upon the submission point identification numbers in the section 42A reports to link submitters to particular issues. All chapters will therefore deal with issues without necessarily repeating the particular submission point or identifying the submitter in respect of the submission giving rise to that consideration.
58. Where the PORPS provisions **remain as notified**, it is because:
- a. The Panel involved has decided to recommend retention of the provision as notified for reasons set out in the relevant subject decision in Appendix One or Two; or
 - b. The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to retain the provision as notified as recommended in the Reply to Evidence by the s.42A report writer; or
 - c. The Panel adopted the reasoning and recommendation of the Section 42A Report to retain the provision as notified in the original Section 42A report.
59. Where there is a **change to a provision** within the PORPS it is because:
- a. The relevant hearing Panel has amended a provision for reasons set out in the relevant subject decision in Appendix One or Two in response to a submission point which the Section 42A report writer(s) does not recommend in their reports; or
 - b. The relevant hearing Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the Reply to Evidence by the s.42A report writer; or
 - c. The relevant hearing Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the original Section 42A report; or
 - d. A consequential change has been necessary following on from a decision in either a), b) or c); or
 - e. The Freshwater Panel made a decision on its own volition outside the scope of any particular submission for the reasons set out in Appendix Two.

60. Where there is a **different recommendation** between the Section 42A Report and the Reply to Evidence (i.e., the recommendation by the Section 42A report writer(s) has changed as a result of hearing the evidence of submitters), unless the relevant hearing Panel decision in Appendix One or Two specifically adopts the original report's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
61. There are limited circumstances where the Panel has taken the opportunity to give effect to national policy statements or implement national environmental standards. Where this occurs the relevant decision in Appendix One or Two clearly sets out the nature of the change and the reason for the change.
62. Finally, there are limited circumstances where the relevant hearing Panel has decided that **alternative relief** is more appropriate than that requested by the submitters, but still within the scope of the relief sought. This is recorded in the Panel's decision in Appendix One. As stated above in Appendix Two on some limited occasions alternative relief has been recommended which is beyond the scope of any submission.

5. Requirements of Section 32AA of the RMA


63. In relation to the requirements of s.32AA of the RMA the Panel has had regard to all the matters required to be considered in terms of s.32 as it has made its assessments of submissions, the s.42A responses and the evidence and submissions it has received.
64. In deciding how to report in a manner which meets the obligations in both the freshwater and non-freshwater processes, it has taken into account particularly the requirements of s.18A of the RMA. That section requires that:

Every person exercising powers and performing functions under the Act must take all practicable steps to:

- (a) *use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised;*

65. To endeavour to slavishly repeat the thought process of a s.32 analysis in respect of each decision on each submission would fly in the face of that requirement of practicable steps being taken. It would involve a massively costly and time consuming repetitive process serving no useful purpose.
66. Instead the Panel has decided this statement of general compliance with the s.32AA process should be recorded. The Panel in particular wishes to record that it believes the decisions it has made on each submission are the most appropriate way to achieve the purpose of the Act in the most efficient, effective and reasonably practicable manner open to it, in each case where it has recommended changes to the PORPS.

For the Hearing Panels:

A rectangular box containing a handwritten signature in dark ink. The signature is stylized and appears to read 'Ron Crosby'.

Ron Crosby

Chair

Proposed Otago Regional Policy Statement Hearings Panel, and Freshwater Hearings Panel

Dated 21 March 2024

Appendix One: Report by the Non-Freshwater Hearings Panel

Section 1: Legal Issues

1. Introduction

1. The Proposed Otago Regional Policy Statement (PORPS) initially gave rise to 1463 submissions involving a very large number of submission points in respect of non-freshwater issues which this report must address, with many of those being impacted by a range of legal issues which have been raised.
2. The principal legal issues underlying the majority of those submission points arise out of a limited number of major concerns, as follows:
 - a. The assertion that the overall drafting of the PORPS has adopted an overly protective 'avoid adverse effects' approach, akin to that utilised in the National Policy Statement on Freshwater Management (NPSFM)
 - b. A consequent assertion that such an 'avoidance' approach with only very limited qualifications inhibits, or possibly even prevents, the operation, maintenance and development of the following existing or new significant infrastructure and activities, by leaving them without a practicable consent pathway:
 - i. Lifeline infrastructure including - renewable electricity generation; the transmission of electricity through the National Grid; the distribution of electricity; telecommunications networks; water distribution, whether for irrigation or drinking water; roading infrastructure; port and airport operations
 - ii. Mining & quarrying (particularly for aggregate)
 - iii. Ski-field operations
 - iv. Aquaculture (particularly for off-shore salmon farming)
3. After the closing of the periods for submissions and further submissions, some caucusing and more informal discussions were conducted by the s.42A report writers in respect of many of those issues. Those pre-hearing processes led to a level of amended recommendations being made by report writers as each chapter of the PORPS was considered by the Hearing Panel ('Panel').
4. Persuasive cases were then presented by submitters to the Hearing Panel ('Panel') in respect of all those issues.
5. A positive feature of this five month long hearing process then occurred. That was demonstrated by the degree to which those major concerns of submitters were listened to and responded to by the s.42A report writers. In the reply reports they provided, many of their earlier recommendations were further amended to address or ameliorate to a greater or lesser extent the major concerns underlying the submission points.
6. Doubtless many submitters will still feel a level of disquiet that it was necessary to undertake the hearing process of preparing detailed legal submissions and providing expert and lay evidence to achieve those amended outcomes. In the Panel's view the outcome on many of the issues of concern is a sound one, which has been tested and resolved in an effective manner by the hearing process, rather than having to await an imposed outcome from this recommendatory report.
7. However, some issues have not been resolved by that process, and do require the Panel to make a decision as to the recommendations it makes.

8. The first of those is the major issue of prioritisation of protection which many submitters asserted underpinned the whole of the PORPS. As will be seen right up until the very last document filed in this proceeding ORC held to its position on this point. Given that fact, despite the very late major change in position by ORC we still consider it necessary to canvass the contrasting positions we had presented to us throughout the hearings.

2. Part 2 RMA – Prioritisation: a protective or enabling approach – or both?

9. In legal terms the fundamental difference in views, and perceptions, of the PORPS related in large part to the issue of how the various aspects of Part 2 of the RMA were to be applied in the PORPS.
10. Various activity groups, including the infrastructure providers and operators, the rural sector, the mining and quarrying and skifield operators, and aquaculture developers in particular, from their varying viewpoints were saying that the PORPS philosophical approach was not ‘enabling’ as they asserted Part 2 intended.
11. Rather they complained that the PORPS approach was too prescriptive, adopting a default base for all activities that required ‘avoidance’ of effects in a manner that was too strictly proscribed. The common thread of these submitters’ cases was that their particular activity area had either not been recognised or provided for, either at all or adequately, in the identification of regional issues of significance, or that the activity chapters did not contain any, or an adequate, practical consent pathway for their desired activities.
12. The common concomitant approach taken by most of these submitters was that the NPSFM prioritisation hierarchy had effectively been adopted and applied to the broader region-wide natural environment, which resulted in an elevation of protection of every aspect of ecology and the natural environment above human needs and activities.
13. That approach was said to be contrary to the guidance provided by the Supreme Court in the *NZ King Salmon* litigation. (As these Panel considerations develop we will address later on the Supreme Court’s more recent decision in *Port Otago Limited v Environmental Defence Society Incorporated (2023) NZSC 112* as a result of which the major change in position by ORC eventuated.)
14. The Kāi Tahu and related mana whenua submitters’ approach under Part 2 was more nuanced. They did not level the same degree of concerns about the prioritisation hierarchy of protection of the natural environment, as Kāi Tahu and its associated submitters sought a high level of such protection of the natural environment. Rather their focus was that in some respects the PORPS avoidance of effects approach did not properly give full effect to the Treaty obligations to enable mana whenua to exercise tino rangatiratanga in respect of their own takiwa resources, and to exercise kaitiakitaka obligations in respect of that takiwa.
15. To the Panel’s mind, those two bases of criticism stem from a common assertion that differing aspects of Part 2 of the RMA were not being properly applied in the overarching PORPS approaches. The Treaty related issue is such a discrete issue that it is best left for a later discussion on the mana whenua chapter provisions in the PORPS.
16. We turn now, then, to address the fundamental difference in approach between ‘enabling’ or ‘protecting’ arguments as to what is required for the PORPS to meet the Part 2 objectives of the RMA.
17. The initial ORC response reflected in the s.42A reports was in essence that rather than adopting a prescriptive approach to activities, the approach of the PORPS was to ensure, in accordance with Part 2, that the environment was protected as a first priority by use of priorities, effects

management hierarchies, and the setting of some limits. Ecological limits were a prime example. So long as the environmental bottom lines set to achieve a sustainable level of protection were not transgressed, this approach argued that the outcome would protect the natural environment and enable human activities to be conducted. In short, human activities involving resource use and development were enabled, but only so long as their effects did not breach limits, and for that reason protection of those limits was set as the first priority.

18. When looked at in that light it was said that the combination of the prioritisation hierarchy, limits and detailed effects management hierarchies provided the base protection mechanisms required by Part 2 for the natural environment, while enabling use and development of resources to occur without further restriction.
19. In the Panel's perception what these differing arguments boil down to is a consideration of how and when 'enabling' and 'effects management' regimes envisaged by Part 2 are to be addressed in a regional policy setting.
20. Obviously, the startpoint for that consideration must be the guidance provided by the highest court in the land, the Supreme Court in the *NZ King Salmon* litigation¹. That case provides clear direction on the knotty potential for conflict between the protectionist language found variously in Part 2 in the ss. 5, 6 & 7 provisions, and the enabling terminology found in s.5 itself. The latter includes phrases such as 'enables people and communities to provide for their social, economic, and cultural well-being' and 'use and development' of resources. The protectionist language by way of contrast in ss.5,6 & 7 includes words such as 'sustaining', 'safeguarding', 'preserve', 'protect', 'maintain', 'manage' in relation to various aspects of the environment, and 'avoid', 'remedy', 'mitigate' and 'enhancement' as to effects.
21. The submitters supporting the 'enabling' approach understandably stressed the former 'enabling' phrases, while the ORC s.42A reports initially, and other submitters supportive of their protective approach, stressed the latter. In each case the opposing arguments were buttressed by concessionary assertions. On the one hand in support of the 'enabling' approach assertions were made that effects management hierarchies and/or limits were not opposed per se, but they were to the extent that they were so restrictive they did not provide real or practicable consent pathways. On the other hand those supportive of the 'protective' approach asserted that they were not opposed to use and development of resources, but only to the extent that the effects of use and development were in breach of limits.
22. In both the notified version and in the final s.42A recommended change version of the PORPS a priority was adopted in relation to the integrated management of resources within the Otago region. Policy IM-P2 for example in the notified version used a heading **IM-P2 – Decision priorities**. As notified it provided:

IM-P2 – Decision priorities

Unless expressly stated otherwise, all decision making under this RPS shall:

- (1) firstly, secure the long-term life-supporting capacity and mauri of the natural environment,
- (2) secondly, promote the health needs of people, and
- (3) thirdly, safeguard the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

¹ *EDS v. NZ King Salmon Co Ltd (2014) NZSC 38*

23. In the final recommended version dated 15 September 2023, IM-P1 and IM-P2 were consolidated into the following form as IM-P1:

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, **prioritise:**

(1) the life-supporting capacity and mauri of air, water, soil, and ecosystems, and then

(2) the health and safety of people and communities, and their ability to provide for their social, economic, and cultural well-being, now and in the future.

(Panel's emphasis)

24. The key issue then is whether or not an approach which expressly prioritises protection of the natural environment on a broad region-wide basis is in accordance with Part 2 of the RMA.
25. That issue is also critical to the more indirect criticisms of the PORPS by user submitters. They asserted that even if protection was not expressly stated in other provisions, then by omission of express provisions relating to the recognition of, provision for, and enabling of a raft of significant activities, but by contrast expressly protecting the natural environment, the PORPS was in effect prioritising protection over use and development of resources.
26. The Integrated Management chapter of the PORPS will be addressed in more detail later in this report in relation to the particular submission points that require addressing in detail, but the overall issue of how integrated management should be achieved in accordance with the law needs to be addressed first as a major discrete issue.
27. So what did the Supreme Court have to say in *NZ King Salmon* about this issue of prioritisation?

2.1 NZ King Salmon case

28. The decision of the Supreme Court in *EDS v. NZ King Salmon* (hereafter simply '*King Salmon*') is by now nearly ten years old, but it remains the leading authority on how the purpose and objectives of the Act are to be achieved and how Part 2 is to be interpreted.
29. In the decade since that decision, aspects of its application have been reviewed by other courts on occasion. Most relevantly for the Otago region, such a potential reconsideration was live during our hearings in the Supreme Court itself, in a case involving Port Otago Limited. That case was heard in May, 2022, but the decision *Port Otago Limited v. EDS (2023) NZSC 112* only issued on 24 August, 2023, after the non-freshwater hearings were concluded but left open to resume if the Supreme Court's decision was received later in the year. When that happened we duly allowed submissions to be lodged as to the implications of that decision.
30. The *Port Otago* case involved the relationship between what was termed the 'Port' Policy 9 of the NZCPS and the 'avoid policies' of Policies 11,13,15 and 16 of the NZCPS. Policy 9 of the NZCPS is the policy which recognises the need nationally and internationally for an efficient port system, whereas Policy 11 protects indigenous biological diversity, Policy 13 protects natural character, Policy 15 protects natural features and landscapes, and Policy 16 protects nationally significant surfbreaks.

31. We will return to address the *Port Otago* case later but commence with a review of the *NZ King Salmon* case.

32. The principal passages of relevance to the priority issue being addressed at this stage of this report are found at paragraph 24 of the *King Salmon* case relating to the definition of ‘sustainable management’ which is the s.5 purpose of the Act:

24. (a)...

(b) ...

(c) *Third, there has been some controversy concerning the effect of the word “while” in the definition. The definition is sometimes viewed as having two distinct parts linked by the word “while”. That may offer some analytical assistance but it carries the risk that the first part of the definition will be seen as addressing one set of interests (essentially developmental interests) and the second part another set (essentially intergenerational and environmental interests). We do not consider that the definition should be read in that way. **Rather, it should be read as an integrated whole.** This reflects the fact that elements of the intergenerational and environmental interests referred to in sub-paras (a), (b) and (c) appear in the opening part of the definition as well (that is, the part preceding “while”). That part talks of managing the use, development and protection of natural and physical resources so as to meet the stated interests – social, economic and cultural well-being as well as health and safety. The use of the word “protection” links particularly to sub-para (c). In addition, the opening part uses the words “in a way, or at a rate”. These words link particularly to the intergenerational interests in sub-paras (a) and (b). **As we see it, the use of the word “while” before sub-paras (a), (b) and (c) means that those paragraphs must be observed in the course of the management referred to in the opening part of the definition. That is, “while” means “at the same time as”.***

(Panel’s emphasis)

33. In broad terms what the Supreme Court termed as ‘developmental interests’ includes what we have termed as supporters of the ‘enabling approach’, and what it termed as ‘intergenerational and environmental interests’ we have termed the ‘protectionist approach’. Regardless of the labels applied, those conclusions we have emphasised in *King Salmon* make it plain that the outcome has to be the same – an integrated approach is required for both sets of interests, or on both approaches, to meet the sole purpose of the Act of sustainable management. Each of the elements in s.5(2) must be observed contemporaneously. In terms of a regional policy statement that requires each element to be observed or provided for in the same document. As the Court stressed at paragraph 64 that of course is what s.59 of the RMA requires *“by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.”*

34. On their face, and if only taken that far, those conclusions would mean prioritisation could never be applied. However, the Supreme Court continued in its decision to make it plain that the statutory regime in Part 2 is far more complex than that.

35. It then addressed the provisions found in s.5(2) and observed, still in paragraph 24:

(d). *Fourth, the use of the word “protection” in the phrase “use, development and protection of natural and physical resources” and the use of the word “avoiding” in sub-para (c) indicate **that s.5(2) contemplates that particular environments may need to be protected from the adverse effects of activities in order to***

implement the policy of sustainable management; that is, sustainable management of natural and physical resources involves protection of the environment as well as its use and development. The definition indicates that environmental protection is a core element of sustainable management, **so that a policy of preventing the adverse effects of development on particular areas is consistent with sustainable management.** This accords with what was said in the explanatory note when the Resource Management Bill was introduced:

The central concept of sustainable management in this Bill encompasses the themes of use, development and protection

(Panel's emphasis)

36. Later in its decision after analysing the terms or concepts of 'avoidance', 'protection' and 'inappropriate' and 'appropriate' use and development, the Court then went further in making the crucial decision for the purposes of that case as to what approach was required to observe Part 2 in the interpretation of the NZCPS policies.
37. Was it the 'overall judgment' approach, which would enable the 'balancing' of a wide range of statutory planning objectives and policies? Or the 'environmental bottom line' approach, which would operate more akin to a 'rules'-based approach? In relation to that issue the Court came down strongly in favour of the 'environmental bottom line' approach, holding at Paragraph 131 and at the start of paragraph 132 as follows:

*[131] A danger of the "overall judgment" approach is that decision-makers may conclude too readily that there is a conflict between particular policies and prefer one over another, **rather than making a thoroughgoing attempt to find a way to reconcile them.** In the present case, we do not see any insurmountable conflict between policy 8 on the one hand and policies 13(1)(a) and 15(a) on the other. Policies 13(1)(a) and 15(a) provide **protections against adverse effects of development in particular limited areas of the coastal region – areas of outstanding natural character, of outstanding natural features and of outstanding natural landscapes (which, as the use of the word "outstanding" indicates, will not be the norm).** Policy 8 recognises the need for sufficient provision for salmon farming in areas suitable for salmon farming, but this is against the background that salmon farming **cannot occur in one of the outstanding areas if it will have an adverse effect on the outstanding qualities of the area.** So interpreted, the policies do not conflict.*

*[132] Policies 13(1)(a) and (b) and 15(a) and (b) do, in our view, **provide something in the nature of a bottom line.** We consider that this is consistent with the definition of sustainable management in s 5(2), which, as we have said, **contemplates protection as well as use and development.***

(Panel's emphasis)

38. The fundamental recurring feature in the Supreme Court's reasoning for a bottom lines approach keeps coming back to the s.6 distinction of particular protection of particular areas or aspects of the environment. Thus the Court emphasised that in s.6 outstanding areas were provided with the possibility of an elevated level of protection as compared to s.7 matters. The analysis at paragraphs 26 and 28 makes that distinction plain:

[26] Section 5 sets out the core purpose of the RMA – the promotion of sustainable management of natural and physical resources. Sections 6, 7 and 8 supplement that by stating the particular obligations of those administering the RMA in relation to the various matters identified. **As between ss 6 and 7, the stronger direction is given by s 6 – decision-makers “shall recognise and provide for” what are described as “matters of national importance”, whereas s 7 requires decision-makers to “have particular regard to” the specified matters.** The matters set out in s 6 fall naturally within the concept of sustainable management in a New Zealand context. The requirement to “recognise and provide for” the specified matters as “matters of national importance” **identifies the nature of the obligation that decision-makers have in relation to those matters when implementing the principle of sustainable management.** The matters referred to in s 7 tend to be more abstract and more evaluative than the matters set out in s 6. This may explain why the requirement in s 7 is to “have particular regard to” them (rather than being in similar terms to s 6).

27. ...

[28] It is significant that three of the seven matters of national importance identified in s 6 relate to the preservation or protection **of certain areas**, either absolutely or from “inappropriate” subdivision, use and development (that is, ss 6(a), (b) and (c)). Like the use of the words “protection” and “avoiding” in s 5, **the language of ss 6(a), (b) and (c) suggests that, within the concept of sustainable management, the RMA envisages that there will be areas the natural characteristics or natural features of which require protection from the adverse effects of development.** In this way, s 6 underscores the point made earlier that protection of the environment is a core element of sustainable management.

(Panel’s emphasis)

39. On the Panel’s understanding of the current legal position, the Supreme Court was not directing that Part 2 of the RMA required protection of the natural environment to be prioritised above use and development on a broad-brush basis across a region. Instead, as it repetitively said, “*the RMA envisages that **there will be areas the natural characteristics or natural features of which require protection from the adverse effects of development.***” It seems plain to the Panel that the Supreme Court approach envisaged the identification of particular aspects or areas of the natural environment which needed protection for particular reasons, before the bottom-line approach of language like ‘avoids’ could be applied in objectives and policies.

40. This was made plain by way of repetition at paragraphs 148 and 149 of the decision:

[148] *At the risk of repetition, s5(2) defines sustainable management in a way that makes it clear that **protecting the environment from the adverse effects of use or development is an aspect of sustainable management – not the only aspect, of course, but an aspect.** Through ss 6(a) and (b), those implementing the RMA are directed, “in relation to managing the use, development, and protection of natural and physical resources”, to provide for the preservation of the natural character of the coastal environment and its protection, as well as the protection of outstanding natural features and landscapes, from inappropriate development, these being two of seven matters of national importance. They are directed to make such provision in the context of “achieving the purpose of [the RMA]”. We see this language as underscoring the point that **preservation and protection of the environment is an element of sustainable***

management of natural and physical resources. Sections 6(a) and (b) are intended to make it clear that those implementing the RMA must take steps to implement that protective element of sustainable management.

[149] **Section 6 does not, we agree, give primacy to preservation or protection; it simply means that provision must be made for preservation and protection as part of the concept of sustainable management.** The fact that ss 6(a) and (b) do not give primacy to preservation or protection within the concept of sustainable management does not mean, however, that a particular planning document may not give primacy to preservation or protection **in particular circumstances.** This is what policies 13(1)(a) and 15(a) in the NZCPS do. Those policies are, as we have interpreted them, entirely consistent with the principle of sustainable management as expressed in s 5(2) and elaborated in s 6.

(Panel's emphasis)

41. And similarly at paragraph 152 in relation to the NZCPs where the Court stated:

[152] *The NZCPS is an instrument at the top of the hierarchy... Given that environmental protection is an element of the concept of sustainable management, we consider that the Minister was fully entitled to require in the NZCPS that **particular parts** of the coastal environment **be protected** from the adverse effects of development. That is what she did in policies 13(1)(a) and 15(a), **in relation to coastal areas with features designated as "outstanding"**. As we have said, no party challenged the validity of the NZCPS.*

(Panel's emphasis)

42. In the notified version of the PORPS, IM-P2 did not endeavour to identify particular aspects or areas of the natural environment requiring protection for particular reasons – instead it stated on an all-encompassing basis:

IM-P2 – Decision priorities

Unless expressly stated otherwise, all decision making under this RPS shall: firstly, **secure** the long-term life-supporting capacity and mauri **of the natural environment, ...**

(Panel's emphasis)

43. Whilst the reply form of the PORPS dated 15 September 2023 recommended a more moderated approach in the consolidated IM-P1, nonetheless it still took a broad brush approach to the natural environment by prioritisation of protection:

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, **prioritise:**

- 1) the life-supporting capacity and mauri of **air, water, soil, and ecosystems,** and then
- 2) ...

(Panel's emphasis)

44. The Panel’s conclusion is that the both the notified and the recommended reply version of the PORPS had erred in adopting a broad prioritisation approach to include protection of all of the natural environment. ORC had adopted that approach both in the notified version and in the recommended reply version. The first priority accorded was of the whole of the air, water, soil, and ecosystems. (The definition of ‘environment’ in the RMA, which is replicated exactly in the PORPS, includes ‘ecosystems and their constituent parts, including people and communities’ – so it is all encompassing.)
45. By way of contrast the protective absolute ‘avoid’ approach in the NZCPS was focussed on outstanding natural character (Policy 13 (1)(a)), outstanding natural features and outstanding natural landscapes (Policy 15 (1)(a)). In Policy 11(a) as to indigenous biodiversity the absolute ‘avoid’ approach was limited to at risk, rare and threatened species, or species and indigenous biodiversity which are nationally significant.
46. Similarly, by way of contrast the NPSFM has been issued against a background of a welter of reports that the states of the quality and/or quantity of many of New Zealand’s freshwater bodies are so degraded or reduced that they are particularly sensitive to certain existing or ongoing levels of adverse effects from the use of water. Those are particular aspects of environmental concern as to the sensitivity of a particular aspect of the natural environment in freshwater bodies. As a consequence, in its expression of the concept of Te Mana o Te Wai at cl.1.3 the NPSFM provides a hierarchy of obligations expressed as follows:
- (5) There is a hierarchy of obligations in Te Mana o te Wai that prioritises:*
- (a) first, the health and well-being of water bodies and freshwater ecosystems*
- (b) second, the health needs of people (such as drinking water)*
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future*
47. We observe in passing that the similarity between that NPSFM hierarchy and the prioritisation in the notified IM-P2 and the reply version IM-P1 is obvious. Each is based to an extent on aspects of the wording in s.5(2) of the RMA.
48. There is no such particularisation in the PORPS warranting its application of a prioritisation for protection purposes of all of ‘*the life-supporting capacity and mauri of **air, water, soil, and ecosystems***’. Nor is there any region wide identification in the s.32 report of risk to all of those natural environment aspects or areas warranting such an all-encompassing protection approach reflected in the prioritisation of protection.
49. Absent such particularisation of aspects or areas needing protection, then in the Panel’s view the *King Salmon* decision makes it plain that for an integrated regional policy statement like PORPS to be in accordance with Part 2 of the RMA it must apply subclauses (a), (b) and (c) of section 5(2) as an integrated whole. Those sub-clauses “**must be observed in the course of the management referred to in the opening part of the definition. That is, “while” means “at the same time as”**”. In short there is to be no general prioritisation of protection above the enabling function of the RPS.
50. We consider that conclusion is supported by the statements made at paragraphs 129 and 130 of the *King Salmon* decision which are very relevant to the more nuanced manner in which the reply version of the consolidated IM-P1 is worded, so that it only applies in situations of conflict of policies:

[129] When dealing with a plan change application, the decision-maker must first identify those policies that are relevant, paying careful attention to the way in which they are expressed. Those expressed in more directive terms will carry greater weight than those expressed in less directive terms. Moreover, it may be that a policy is stated in such directive terms that the decision-maker has no option but to implement it. So, “avoid” is a stronger direction than “take account of”. That said however, we accept that there may be instances where particular policies in the NZCPS “pull in different directions”. But we consider that this is likely to occur infrequently, given the way that the various policies are expressed and the conclusions that can be drawn from those differences in wording. **It may be that an apparent conflict between particular policies will dissolve if close attention is paid to the way in which the policies are expressed.**

[130] **Only if the conflict remains after this analysis has been undertaken is there any justification for reaching a determination which has one policy prevailing over another. The area of conflict should be kept as narrow as possible.** The necessary analysis should be undertaken on the basis of the NZCPS, albeit informed by s 5. As we have said, s 5 should not be treated as the primary operative decision-making provision.

(Panel’s emphasis)

51. An objective for an integrated RPS to meet the s.59 imperative of the RMA should be to ensure that as far as possible there are not irreconcilable provisions. A broad sweeping prioritisation involving a protectionist approach over an enabling one in the PORPS, either expressly or indirectly, does not in our view accord with Part 2.

2.2 Port Otago case

52. The next point to consider is just how, if at all, the *Port Otago* decision of the Supreme Court can be said to have varied, developed or further clarified the *NZ King Salmon* guidance. The Supreme Court itself expressed the view that nothing it said in *Port Otago* changed the concepts laid down in the *NZ King Salmon* case.
53. The first point to note about this decision was that the Supreme Court in *Port Otago* did not depart at all from the general principles established in three of its earlier decisions – those being:
- (i) the *NZ King Salmon* case itself in 2014 about the interpretation approach to be adopted to the directive nature of policies in the NZCPS
 - (ii) the related *Sustain our Sounds* case² also in 2014 particularly as to application of adaptive management techniques to reduce or avoid adverse effects; and finally,
 - (iii) the *Trans-Tasman*³ decision in 2021, which in relation to different related legislation introduced a concept of ‘material harm’ into the assessment of adverse effects under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.
54. In *Port Otago* all of those principles were adopted and applied in various ways. At paragraph 81 the Court particularly stressed that the ‘structured analysis’ approach it concluded would be necessary in resolving conflicting policies was not the same as the “overall judgment” approach it rejected in the *King Salmon* case. In relation to the *Trans-Tasman* case the Supreme Court noted (at para 65) that:

² (2014) NZSC 40

³ (2021) NZSC 127

the standard was protection from material harm, albeit recognising that temporary harm can be material. Although in a different context, the comments are nonetheless applicable to the NZCPS. It is clear from Trans-Tasman that the concepts of mitigation and remedy may serve to meet the “avoid” standard by bringing the level of harm down so that material harm is avoided.

55. At paragraph 68 of the Port Otago decision the Supreme Court provided a summary of the application of those principles as follows:

All of the above means that the avoidance policies in the NZCPS must be interpreted in light of what is sought to be protected including the relevant values and areas and, when considering any development, whether measures can be put in place to avoid material harm to those values and areas.

56. The Court’s analysis then shifted to address the issue of how the conflicting directive policies in the NZCPS were to be addressed – in that case being the conflict between the directive policy enabling port development which it termed the ‘ports’ policy and the avoidance policies which were also directive.

57. Most importantly, at paragraph 72 the Court held that the resolution of such conflicts did need to be addressed “at the regional policy statement and plan level as far as possible.” The Supreme Court’s rationale for that approach was so that those considering particular projects would have guidance on what matters would be the focus of decision-making on any applications for consents where such conflicts in policies arose, and could weigh whether it was worth applying. Importantly, too, the Court observed that “decision-makers at the consent level will have as much guidance as possible on methods for addressing conflicts between policies.”

58. It is of interest and significance to observe, however, that having made that decision as to process, the Supreme Court immediately found itself in the same predicament this Panel faces. That is that it simply did not have enough contextual factual material before it to provide other than high level guidance in the proposed policy it went on to suggest to reconcile the differences in the policies. At paragraph 75 it stated:

As there is not sufficient information before us to attempt any detailed reconciliation between the ports policy and the avoidance policies, we provide only general guidance as to how a decision-maker at the resource consent level might approach the reconciliation between the ports policy and the avoidance policies.

59. That general guidance was then described in paragraph 76 in terms that the decision-maker would have to be satisfied that:

(a) the project is required to ensure the safe and efficient operation of the ports in question (and not merely desirable);

(b) assuming the project is required, all options to deal with the safety or efficiency needs of the ports have been considered and evaluated. Where possible, the option chosen should be one that will not breach the relevant avoidance policies. Whether the avoidance policies will be breached must be considered in light of the discussion above on what is meant by “avoidance”; including whether conditions can be imposed that avoid material harm; and

(c) if a breach of the avoidance policies cannot be averted, any conflict between the policies has been kept as narrow as possible so that any breach of any of the avoidance

policies is only to the extent required to provide for the safe and efficient operation of the ports.

60. Importantly for the consideration of the policy approach in the PORPS the Court also held at paragraph 77 that *“There can be no presumption that one directive policy will always prevail over another.”* That is a very clear direction from the Supreme Court that rules out a general prioritisation approach of avoidance policies above other directive policies.

61. At paragraphs 78 and 79 the Supreme Court stressed that the assessment of which policy prevails will depend upon *“the particular circumstances of the case.”* And further that in the structured analysis approach it had laid down that decision-makers will need to assess what it is which is being directed to be provided for, and the *“importance and rarity of the environmental values at issue in the particular circumstances”* and the intrinsic worth of the protected environmental values.” The Court concluded at paragraph 82 on these issues that:

Resolution of any conflict, through a structured analysis, will have to occur at resource consent level with regard to particular projects.

62. The Court stressed at paragraph 81 that the ‘structured analysis’ required was not a ‘loose overall’ evaluation but:

Rather they are disciplined, through the analytical framework we have provided, to focus on how to identify and resolve potential conflicts among the NZCPS directive policies.

The Court at paragraph 84 then continued to observe that:

...all relevant factors would have to be considered in a structured analysis, designed to decide which of the directive policies should prevail, or the extent to which a policy should prevail, in the particular case.

2.2.1 ORC response to Port Otago decision

63. Given that guidance by the Supreme Court, it did not come as too much of a surprise when a significantly amended form of the provisions of the consolidated IM-P1 was finally presented by ORC’s counsel in a version dated 10 October 2023 which encompassed all of the ORC recommended changes advanced by the s.42A report writers and its counsel. That final recommended form of IM-P1 in the 10 October version provides:

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to:

(1) consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and

(2) if after (1) there is an irreconcilable conflict between provisions in this RPS which apply to an activity, only consider the activity if:

(a) the activity is necessary to give effect to a policy in this RPS and not merely desirable, and

- (b) all options for the activity have been considered and evaluated, and
- (c) if possible, the chosen option will not breach any other policy of this RPS, and
- (d) if (c) is not possible, any breach is only to the extent required to give effect to the policy providing for the activity, and

(3) if 2(d) applies, evaluate all relevant factors in a structured analysis to decide which of the conflicting policies should prevail, or the extent to which a policy should prevail, and

(4) in the structured analysis under (3), assess the nature of the activity against the values inherent in the conflicting policies in this RPS in the particular circumstances.

64. The major point to be noted about that change is that the previously recommended ORC position that in the event of a conflict between relevant provisions there was to be prioritisation of the protection of all of *'the life-supporting capacity and mauri of air, water, soil, and ecosystems'* has disappeared. Instead a complex sequence of provisions provides a consent pathway in the form of a 'structured analysis'. The manner in which that change came about is enlightening. It arose as late as 29 September 2023 in a 'Memorandum of submissions by ORC's counsel in response to submitters on the implications of the Supreme Court judgment in *Port Otago Limited v Environmental Defence Society Incorporated.*' Paragraph 26 of that submission which tendered the recommended version of IM-P1 merely said that amendment of that provision was "appropriate". We agree.

65. This prioritisation issue of protection objectives and policies as a rigid concept was the major issue in all of the submissions and presentations we read and heard over nearly twelve months. Until the very last week or so of that whole hearings process ORC's position had not changed that that prioritisation was the appropriate legal stance upon which the PORPS was to be based. The change was plainly a result of the Supreme Court decision, yet even then at paragraph 28 of the submission by ORC's counsel the following was stated:

28. It is proposed to adopt the Court's methodology not because the Court's judgment requires it, rather because it is a suitable policy response to resolve any conflict which (despite best efforts) remains in the PORPS, so as to achieve integrated management.

66. We consider this very late change and modification of position to be inevitable in the light of the two Supreme Court decisions. That Court had made it crystal clear in both decisions that the type of broad prioritisation of Part 2 RMA protection provisions previously recommended by ORC was not appropriate at all in the absence of clear statutory direction. In the event of conflict of provisions, prioritisation was only warranted when particular circumstances or particular features or areas warranted protection policies being given priority over enabling provisions.

67. In our view the outcome now finally recommended is much more in keeping with both Supreme Court decisions and provides a consent pathway through a structured analysis approach as was recognised by the Supreme Court in the Port Otago case was apposite in those limited situations where conflicting provisions could not be reconciled.

68. This more nuanced approach to situations where potential conflicts may arise between provisions will need to inform the Panel's consideration of other prioritisation positions for protective provisions in other parts of the PORPS as they are examined in detail. In our view the message to be taken from the Supreme Court's decisions is that every attempt is to be made to reconcile

provisions and in the very limited cases where that cannot be achieved a structured analysis approach is to be utilised to ensure in the confined factual context involved that an appropriate weighting is given in the final decision-making one way or the other.

69. The NPSFM provides a clear example of where a statutory prioritisation for protection is expressly made. Its effects management hierarchy based on that prioritisation is not apposite to be applied on a broad-brush approach to general Part 2 matters. However, it is also important to record that the death-knell sounded by the Supreme Court's guidance to general provisions of Part 2 matters in our view cuts both ways. In the absence of express statutory prioritisation of enabling provisions ahead of protection provisions so-called 'bespoke' priority provision for REG or electricity transmission infrastructure, or for any other activities, similarly is not appropriate.
70. Our consideration as to how the detailed submission points on the Integrated Management chapter, and other relevant chapters, are affected by this conclusion will be addressed in the topic chapters which follow in this report. In particular, the Supreme Court's guidance will need to be considered later by the Panel in its consideration of the effects management hierarchy wording recommended in the s.42A reports in this non-freshwater process.
71. However, at this stage it is also appropriate to continue to consider the final recommended form of IM-P1. It has been set out above but for convenience is repeated here:

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to:

- (1) consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and
- (2) if after (1) there is an irreconcilable conflict between provisions in this RPS which apply to an activity, only consider the activity if:
 - (a) the activity is necessary to give effect to a policy in this RPS and not merely desirable, and
 - (b) all options for the activity have been considered and evaluated, and
 - (c) if possible, the chosen option will not breach any other policy of this RPS, and
 - (d) if (c) is not possible, any breach is only to the extent required to give effect to the policy providing for the activity, and
- (3) if 2(d) applies, evaluate all relevant factors in a structured analysis to decide which of the conflicting policies should prevail, or the extent to which a policy should prevail, and
- (4) in the structured analysis under (3), assess the nature of the activity against the values inherent in the conflicting policies in this RPS in the particular circumstances.

72. The base framework for this recommended new form of IM-P1 is found in the Supreme Court's own suggested format for a policy in the previous 2019 version of the Otago RPS at the paragraph 87 of its decision. It provides for a cascade approach to avoidance of effects but still concludes with opportunity for resource consent to be sought where the adverse effects are shown to be the minimum necessary to achieve the "*efficient and safe operation of the port or ports.*" That resource consent process would necessarily have to be carried out using the 'structured analysis' approach referred to in paragraph 84 of the Supreme Court's decision which means:

... all relevant factors would have to be considered in a structured analysis, designed to decide which of the directive policies should prevail, or the extent to which a policy should prevail, in the particular case

73. The problem we perceive with the ORC recommended wording for IM-P1 is that the opening words of the new provision and the opening words of sub-clause (2) would restrict the resource consent pathway which is opened up to only apply where there is irreconcilable conflict “*between provisions in this RPS*”. That restriction is too restrictive.
74. The Port Otago case itself is an example of where the conflict did not exist between the proposed RPS provisions, (because it provided for a prioritisation of avoidance policies), but rather between two differing types of provisions in the NZCPS. There has now been a proliferation of such national policy statements, which to some degree or other in particular factual settings may well have the potential to be irreconcilably in conflict with each other or internally within each document. That may also occur in some other settings as between RMA’s own provisions, or as between PORPS provisions. In other words at each level in the RMA schema there is potential for such conflict to arise in particular factual settings.
75. We also have one final observation to make about the Supreme Court’s structured analysis approach. It is addressing primarily situations where an apparent irreconcilable conflict has arisen between relevant statutory provisions – usually in objective or policy form akin to a rule in effect. While we move on below to recommend some amendments to the ORC suggested adoption of the Supreme Court structured analysis approach, we wish to make the important observation that in some limited situations activities will be proposed which are not expressly provided for by a particular relevant objective or policy but which may appear contrary to another relevant policy. Yet in overall RMA terms the proposed activity may have limited if any real adverse effects. In those situations the structured analysis wording suggested by the Supreme Court requiring a necessity to ‘give effect to’ a relevant statutory provision may not be open. In our view that situation can be met, however, under sub-clause (1) of the proposed ORC response with sub-clauses (2) and (3) only applying where there is a clear potential for apparent irreconcilable conflict between statutory provisions. If a broad purposive analysis of policies or other statutory provisions is made under subclause (1) of the proposed ORC response, then for the majority of activities with a beneficial environmental outcome and limited effects, even if no express or specific policy or statutory provision identifying the activity exists, a consenting path will still be available.
76. What this highlights for the drafting of plans is the necessity to ensure that enabling policies are relatively broadly worded to ensure that protection policies do not unreasonably inhibit what might be in more general section 5 terms be beneficial activities for the community and the environment.
77. As a consequence the wording of IM-P1 must be amended to be less restrictive as it is not possible at this stage to be aware of all the potential contextual settings where an irreconcilable conflict may arise giving rise to the need for a resource consent to be able to be considered in a structured analysis, or where an express relevant policy or statutory provision may not be available for a proposed activity.
78. In our view the following changes are needed:

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS and other relevant statutory provisions requires decision-makers to:

(1) consider all provisions relevant to an issue or decision and apply them purposively according to the terms in which they are expressed, and

(2) if after (1) there is an irreconcilable conflict between any of the relevant RPS and/or statutory provisions which apply to an activity, only consider the activity if:

(a) the activity is necessary to give effect to a relevant policy or statutory provision and not merely desirable, and

(b) all options for the activity have been considered and evaluated, and

(c) if possible, the chosen option will not breach any other relevant policy or statutory provision, and

(d) if (c) is not possible, any breach is only to the extent required to give effect to the policy or statutory provision providing for the activity, and

(3) if 2(d) applies, evaluate all relevant factors in a structured analysis to decide which of the conflicting policies or statutory provisions should prevail, or the extent to which any relevant policy or statutory provision should prevail, and

(4) in the analysis under (1), (2) or the structured analysis under (3), assess the nature of the activity against the values inherent in the relevant policies or statutory provisions in the particular circumstances.

79. Before the report moves onto the topic chapters, we will also address the Supreme Court's guidance in *King Salmon* and the *Port Otago* cases on the interpretation of some other fundamentally important words or phrases, prior to addressing a range of other discrete legal issues which have arisen in the submissions or during the hearings. However, before addressing those legal matters of interpretation or definition we need to address two other discrete and significant Part 2 issues raised in submissions and presentations at the hearings.

3. Lack of provision of a rural chapter & the National Planning Standards 2019

80. One of those issues was related in part to the prioritisation issue, in that rural user submitters, such as OWRUG, NZ Beef and Lamb and Horticulture NZ in particular, had been critical of the lack of any specific rural chapter in the PORPS.

81. However, the omission of such a chapter has its own legal complications in that since 2019 the combination of s. 58I of the RMA and the National Planning Standards ('NPS') has meant that regional councils have certain statutory obligations that must be observed as a mandatory matter in the manner in which proposed regional policy statements are prepared.

82. Standard 2 of the NPS contains the mandatory requirements for regional policy statements and commences at clauses 1-5 by saying:

1. All parts and their titles in table 2 must be included, in the order shown. Additional parts must not be included.

2. Chapters and sections that are black in table 2 must be included, in the order shown.

3. Unless otherwise specified, chapters and sections that are grey in table 2 must be included if relevant to the regional policy statement, in the order shown.

4. If a chapter in table 2 is included, its associated heading must also be included.

5. Local authorities must add sections and subsections within chapters where appropriate to organise related provisions.

83. The only words under the heading Domains and Topics that are coloured black and grey in Table 2 are as follows (Those in black are bold in Table 2 and all the other words are coloured grey):

PART 3 – DOMAINS AND TOPICS

DOMAINS

Chapters: Air
Coastal environment Section: Coastal marine area
Geothermal
Land and freshwater

TOPICS

Chapters: Ecosystems and indigenous biodiversity
Energy, infrastructure and transport
Hazards and risks
Historical and cultural values
Natural character
Natural features and landscapes
Urban form and development

84. Table 2 of the NPS, therefore, did not require a rural chapter – strange though that might seem for a country most of which comprises rural land. It is even more odd when Table 19 of the NPS contains specific colours for planning maps specifically for General Rural, Rural Production and Rural lifestyle zones. Moreover, Table 16 of the NPS provides acronyms by way of a Table 16 for what is described as ‘zone framework’ which include the following:

RURZ – Rural zones
GRUZ – General rural zone
RPROZ – Rural production zone
RLZ – Rural lifestyle zone

85. The NPS clearly therefore anticipates the likelihood or necessity in plans for Rural zones, but makes no express mandatory provision for Rural Chapters in an RPS to address the objectives and policies in plans for such zones.
86. ORC faced the problem, therefore, that in preparation of the PORPS Table 2 of the NPS did not make a provision for rural related issues as a Topic. Some rural related issues were included in the Urban form and development (UFD) chapter in the PORPS. Those issues related to aspects of UFD principally in respect of reverse sensitivity issues and control of the urban/rural interface for subdivision and development.
87. Strong bodies of evidence were provided by the interested submitters described above seeking that a rural chapter be incorporated to provide enabling provisions for their activities. The later chapters of this report relating to the UFD and Land and freshwater (LF) chapters will address the

Panel's views on the substantive merits of those requests, but the first question that requires to be addressed is whether that is legally possible given the mandatory nature of s.58I and the NPS 2019 Table 2 provisions.

88. The Panel sought specific submissions on that issue from Counsel for OWRUG and NZ Beef and Lamb and it was addressed by Horticulture NZ both in submissions and in the evidence of Lynette Wharfe the expert planning witness for Horticulture NZ.

89. Mr Page for OWRUG submitted that clause 10 of Standard 2 (which he termed Direction 10) provided a mandatory answer to the issue. It provides:

*10. Any other matter addressed by the regional policy statement not covered by the structure in table 2 must be included as a new chapter, inserted alphabetically under the Topics heading in Part 3. **Additional chapters must not be synonyms or subsets of the chapters in table 2.***

(Panel's emphasis)

90. Mr Page submitted that because of the phrase 'Any other matter addressed by the regional policy statement not covered by the structure in table 2 must be included as a new chapter' cl.10 imposes a mandatory duty on a regional council to import different chapters.

91. We do not agree with Mr Page. The first use of the word 'must' in this clause is in our view only mandatory as to process i.e. if a regional council decides to add a new chapter, then clause 10 directs how that must be formatted - "*alphabetically under the Topics heading*", and where - "*in Part 3*".

92. However, clause 10 importantly does contain one direction as to substance and that is in the last sentence which we have highlighted in bold which plainly enables some additional chapter consideration. The words 'synonym' and 'subset' are not defined in the NPS, and their use is unhelpful. A synonym is defined in the Oxford Dictionary as being:

A word or phrase that means exactly or nearly the same as another word or phrase in the same language.

93. It is hardly a word that is useful when comparing two or more full potential chapters of an RPS.

94. The word 'subset' is not much better in that broad type of comparative context. Its Oxford Dictionary meaning is:

A smaller group of people or things formed from the members of a larger group.

95. Neither word is of much relevance to a broad comparison of potential chapters in an RPS addressing objectives, policies, methods, principal reasons and anticipated environmental results.

96. The basic approach to interpretation of enactments under the Legislation Act 2019 in s.10 is that the meaning must be ascertained from 'its text and in the light of its purpose and its context.

97. Applying that approach in this situation the purpose of the last sentence of clause 10 of Standard 2 appears to be to avoid repetition of chapter content by requiring that an additional chapter contains nothing which is similar in nature to the matters in one of the named chapters in Table 2.

98. Such a decision necessarily involves a consideration of the substance of the context of the possible rural chapter and a comparison with other chapter content in the UFD and LF chapters.

99. If that comparison finds similarities or subsets in a proposed rural chapter with the other two chapters, then any attempt to frame a separate chapter may well run a risk of not complying with clause 10 of Standard 2. However, at this point we do observe that as Mr. Page stressed in his submissions an example for formatting of a separate chapter not contained in Table 2 is provided for in clause 18 of Standard 10. Interestingly, the example provided is where a mining chapter may be included – that appears in the right hand column of clause 18 Standard 10.
100. Further important considerations must be whether the form of the proposed draft new rural chapter was advanced with sufficient detail in the submission process enabling scope for the Panel to consider its inclusion; or, whether any lack of its inclusion in the consultation/submission process limits the ability to include it now.
101. Furthermore, one of the critical s.32A considerations may prove to be that the costs of uncertainty of potential litigation over the enforceability of such a chapter when it has not been a part of the consultation process, and/or to whether it accords with clause 10 of Standard 2 in the NPS, and the concomitant duration, uncertainty and cost of such litigation, may well outweigh the benefits of achieving certainty by adding provisions to either the UFD or LF chapters.
102. All of those considerations will need to be taken into account in the detailed substantive consideration of the UFD and LF chapters which follow.
103. As part of that consideration we also point out that the complaints listed in Mr Page’s submissions at paragraph 29 that a rural activity at the moment will have to be considered under many different chapters depending on whether the effects produced affect indigenous biodiversity, transport issues, historic values, or natural features, may not be solved by insertion of a rural chapter. That is because the NPS requires at Standard 2 clause 9 (a) and (b) as follows:

9. Provisions (excluding the provisions in Part 2) that:

a. apply predominantly to only one topic must be located in the relevant chapter under the Topics heading

b. apply to more than one topic must be located in the relevant chapters under the Domains heading

104. In short the NPS does not pave a ready path for the substantive inclusion by way of submission of a new rural chapter – illogical as that may seem in a region which is 99% non-urban. There is, however, potential jurisdiction under the NPS for the inclusion of such a chapter so long as it can meet some vaguely worded concepts that require that they are not ‘*synonyms or subsets of the chapters in table 2.*’

4. Mana Whenua Part 2 Issues & papakāika and Māori land definitions

105. The last of the major Part 2 issues was summarised in the s.42A report in the following way:

The request by Kāi Tahu related submitters (‘Kāi Tahu’) to see that the PORPS enabled them to exercise tino rangatiratanga in respect of their own “ancestral lands, water, sites, waahi tapu, and other taonga” (s.6 (e) RMA), according to their own tikanga, thus enabling them to exercise their kaitiakitanga (s.7(a) RMA) responsibilities. They asserted that was required by the s.8 obligation to “take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”.

106. The evidence we received as to the relationship between ORC and its s.42A report writer Mr Adams and Kāi Tahu related submitters showed a refreshing willingness by ORC in the PORPS

to acknowledge and give effect to the s.6(e), s.7(a) and s.8 statutory encouragements to ensure the RPS provided for Otago's Māori community. We say 'refreshing' because all members of the Panel at various times over the span of the RMA have heard tangata whenua Māori complaint about the challenging attitude of some councils that have adopted the legally technical position that the Crown is the Treaty partner, and that as local authorities are not strictly Treaty partners the Treaty principles need only be taken into account and are not required to be observed. Another common experience is to hear Māori complaints that the s.6(e) and s.7(a) imperatives and s.8 obligations have effectively only received lip service.

107. That has definitely not been the case in either respect with this PORPS. In the notified version a very proactive commitment was made by the ORC right at the start of the PORPS to the Part 2 approach it was to adopt with the statement at page 3:

...Developing this new Regional Policy Statement (RPS) has provided an opportunity for renewed partnership between Kāi Tahu in Otago and Southland, and the ORC. We present this foreword to the notified version together, in recognition of that partnership and in anticipation of the work to come.

108. Moreover, Kāi Tahu submitters all described how the ORC had made major efforts to engage on the proposed terms of the PORPS right down to and during the hearings process. That volunteered partnership approach was reflected also in the s.42A report writer's willingness to accept many of the requests made in the Kāi Tahu related submissions and to seek out submitters for pre-hearing discussions. It was plain from the extensive changes that were recommended by the s.42A reports to the mana whenua provisions throughout the PORPS at the request of various mana whenua submitters, that the wishes of the latter were listened to, and where considered appropriate, were recommended to be accepted.
109. Limited areas where no agreement was reached will be traversed in the later MW chapter which consider the submissions on mana whenua provisions throughout the PORPS. Some other issues where agreement was reached, or reached only in part, and where the Panel considers it also needs to discuss some of those issues in detail, will also feature in that later chapter. (One of those will be the very preference by Kāi Tahu interests for use of the term 'mana whenua' rather than 'takata or tangata whenua'.)
110. At this point of the report, however, we need to address two significant practical issues which arise from the consideration of Part 2 of the RMA, where the agreement on wording proposed by mana whenua was finally accepted by the s.42A report writer and recommended to be accepted by the Panel. That aspect of Part 2 relates to the effect of the combination of the definitions agreed upon for the phrase 'Māori land', when coupled with the definition of the word 'papakāika'.
111. The background to that agreed recommendation lies in large part in the issue as to what is the appropriate approach to be taken to the Part 2 considerations in respect of the 'enabling' within the PORPS of the tino rakatirataka rights and kaitiakitaka obligations which mana whenua sought.
112. In essence Kāi Tahu witnesses gave strong evidence, reinforced by submissions by their counsel Mr. Cameron and their expert planning witnesses, which emphasised the frustrations that have arisen historically for Kāi Tahu in the Otago region as a result of nearly all-encompassing land loss in breach of the Treaty. That land loss has been exacerbated in their view by the application of early planning and later RMA controls, in which they have in the past had little input. The result was described as being an outcome where Kāi Tahu had commonly been left only poorer quality lands, often near the coastline, where it was difficult for them to even grow sufficient food without removing native growth or affecting landscapes, or where infrastructure services were not available to enable development, let alone provide sources of employment and income.

113. The Treaty breaches that resulted in massive land loss of over 34 million acres for Kāi Tahu have been exhaustively detailed by the Waitangi Tribunal in the Ngāi Tahu Report WAI 27 on their historic ‘nine tall trees’ claims. Those breaches are a matter of public record. Minimal lands remained in Māori customary ownership in Otago. The consequence has been a Treaty settlement for Kāi Tahu recorded in the Ngāi Tahu Claims Settlement Act 1998 which, as with all Treaty settlements, provided amongst other recompense a monetary level of compensation. While that was significant on its face, it was a tiny percentage of the then current land value lost through historic Treaty breach. Those settlement funds have been particularly well husbanded and developed by Kāi Tahu, but the hard reality for Kāi Tahu people on the ground in Otago was that the settlement did not provide any significant land resource for Otago Kāi Tahu to occupy and use. Of the small amounts of poorer quality reserve lands that were set aside for Kāi Tahu’s continued occupation we were told by Mr. Edward Ellison that only 50% remains in Māori ownership.
114. In the meantime before the Treaty settlement, repetitive planning legislation had vested planning control of all of their ancestral lands, water, sites, wāhi tapu, and other taonga, including any customary rights in respect of water or coastal waters, in the Crown, local authorities or Crown owned entities. So, too with fisheries, but as that has been the subject of the Fisheries Settlement legislation, Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, we cannot address that further, other than as background to Kāi Tahu historical concerns. Similarly so with aquaculture claims, where another national settlement has occurred in the Māori Commercial Aquaculture Claims Settlement Act 2005, although an aspect of the consequence of that process will be considered later in the Coastal chapter of this report.
115. Those planning controls were described in the evidence as adding to the harsh outcomes for the Otago Kāi Tahu community, by imposing such restrictions and controls that they faced major costly legal hurdles in trying to develop their lands to support themselves. They described that they had suffered the experience of local authorities taking over by statutory authority control and management of all water and coastal water and fisheries, thus excluding them even further from control of use of their own resources or taonga through the exercise of kaitiakitaka responsibilities. Yet the outcome, they asserted, was to find those resources often degraded, pillaged, or adversely affected in a manner which was not acceptable to their own kawa and tikaka.
116. Their response to all that background was to strongly submit, as identified in the issue above, that the PORPS must recognise their needs and enable them to exercise tino rakatiratata in respect of their own “ancestral lands, water, sites, waahi tapu, and other taonga” (s.6(e) RMA), according to their own tikaka, thus enabling them to exercise their “kaitiakitanga” (s.7(a) RMA) responsibilities.
117. The overall approach of Kāi Tahu was succinctly summarised by their counsel Mr. A. Cameron in the following manner in the Coastal environments hearing week:
- 1. Integrated management sits at the heart of a regional policy statement. It is core to the purpose of the PORPS, its function and its significance. From a Kāi Tahu perspective, integrated management is central to the concepts of “ki uta, ki tai”, and the interconnected nature of whenua, wai, and moana.*⁴
118. Counsel for Kāi Tahu and planning experts relied upon the major advances in recognition of Treaty rights and obligations as a result of three streams of jurisprudence over recent decades. The first was the much more developed recognition in the general Courts of tikanga as a source of law in New Zealand, particularly where referred to in legislation, and of certain Treaty principles as

⁴ Submission on Integrated Management chapter A. Cameron counsel for Kāi Tahu 8 February, 2023

identified in the NZ Maori Council litigation from the 1980s; the second was the strong body of Waitangi Tribunal jurisprudence identifying a number of relevant Treaty principles; and thirdly, the Environment Court's increasing recognition of the weight of Treaty principles under s.8 of the RMA.

119. Much was made of these issues in support of requests for relief that very broad definitions be applied to Māori lands and customary concepts such as papakāika, so as to leave control of development and use of those lands in the hands of Kāi Tahu according to their tikaka. In general terms their counsel Mr Cameron described the current situation in the following terms:

58 ...The PORPS represents a significant opportunity to unlock native reserves and Māori land for Kāi Tahu whānau. As discussed in the evidence of Evelyn Cook, the Catlins area is a good example of such land, where recognition of Kāi Tahu rakatiratata would enable whānau to better use and develop their own land.⁵

120. The recommended definitions for the two terms at issue included the following aspects, (which have been highlighted below by the Panel), in respect of those parts that may be described as being the 'high-points' of that enabling approach:

Māori Land for the purposes of this RPS, means land within the region that is:

- (1) owned by Te Rūnanga o Ngāi Tahu or its constituent papatipu rūnaka and to be used for the purpose of:**
 - (a) Locating papakāika development away from land that is either at risk from natural hazards, including climate change effects such as sea level rise, or is otherwise unsuitable for papakāika development,**
 - (b) extending the area of an existing papakāika development.**
- (2) Māori communal *land* gazetted as Māori reservation under s338 Te Ture Whenua Māori Act 1993;
- (3) Māori customary *land* and Māori freehold *land* as defined in s4 and s129 Te Ture Whenua Māori Act 1993;
- (4) former *Māori land* or general land owned by Māori (as those terms are defined in Te Ture Whenua Māori Act 1993) that has at any time been acquired by the Crown or any local or public body for a public work or other public purpose, and has been subsequently returned to its former Kāi Tahu owners or their successors and remains in their ownership;
- (5) general *land* owned by Māori (as defined in Te Ture Whenua Māori Act 1993) that was previously Māori freehold *land*, has ceased to have that status under an order of the Māori Land Court made on or after 1 July 1993 or under Part 1 of the Māori Affairs Amendment Act 1967 on or after 1 April 1968, that is in the ownership of Kāi Tahu whānui;
- (6) vested in a Trust or Māori incorporation under Te Ture Whenua Māori Act 1993;
- (7) held or claimed (whether as an entitlement, part of an ancillary claim, or because it was transferred or vested) either:
 - (a) as part of redress for the settlement of Treaty of Waitangi claims; or
 - (b) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed (as those terms are defined under the Urban Development Act 2020);
- (8) owned by a person or persons with documentary evidence of Kāi Tahu whakapapa connection to the land, where that evidence is provided by either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit.**

...

⁵ Submission on MW chapter A. Cameron counsel for Kāi Tahu 8 February, 2023

Papakāika or papakāinga

means *subdivision, use and development by mana whenua, either on their own or in conjunction with other parties, of Māori Land and associated resources to provide for themselves in general accordance with tikanga Māori, which may include residential activities and non-residential activities* for cultural, social, educational,¹⁵¹ recreational, environmental, **or commercial purposes.**

121. A challenge was raised for Transpower as to whether there was proper scope for the broader 'Māori land' definition sought to be inserted when the PORPS did not have a definition of 'Māori land' originally. We have looked at the references in the Kāi Tahu submissions that Mr. Cameron provided in his 8 February 2023 response which were repeated by Mr. Anderson for ORC in closing, and we accept they do indeed provide sufficient scope. The very term 'ancestral lands' used in the submissions Mr. Anderson took us through, in our view includes all of the lands in the Otago region which fell within the takiwā of Kāi Tahu. So any submission which made reference to those ancestral lands and sought definition of them in the PORPS was broad enough to cover what has been recommended to us by way of a definition.
122. The larger issue is what the consequence of that definition is when coupled with the definition of 'papakāika'.
123. One matter raised by the Panel during the hearings was that under clause 8 of the recommended definition of 'Māori land' all that was needed was whakapapa proof of connection to land, when the likelihood was that any Kāi Tahu with Otago whakapapa would be likely to be able to establish such a connection with ancestral land they were likely to acquire in Otago. Another related concern with the definition of 'papakāika' was that it arguably opened the door for possible joint venturers with no whakapapa linkages to the land to become involved in 'non-residential activities for ... commercial puposes' which would be within such a broad definition of 'papakāika'. That could include the non-customary entities, such as any major trading company operated by Kāi Tahu commercial interests, but could also include general commercial entities with no whakapapa linkages at all, whether direct or indirect.
124. The original s.42A report had recommended that the phrase 'commercial purposes' in the papakāika definition be prefaced with the word 'limited', but Kāi Tahu submitters strongly argued for the removal of the word 'limited', so that it would apply to any 'commercial purposes'. That request was made on the basis that it was asserted that tikaka could be relied upon to ensure that was not abused with major industrial or commercial developments, or large residential subdivisions being commenced under the guise of being papakāika.
125. That broader wording change sought by Kāi Tahu, and the general effect of the combination of the two definitions, were particularly challenged in evidence by the Dunedin City Council planner Mr. Freeland. The basis of the challenge was that, if granted, the relief sought by Kāi Tahu would mean that on change of ownership of any land in Otago into the ownership of anyone with Kāi Tahu whakapapa, an effective zoning change could occur by virtue of the combination of the very broad definitions of 'Māori land' and 'papakāika'. That could result in an enabling of a raft of uncontrolled industrial or commercial activities, or major residential developments on rural land with inadequate services. The DCC concern was that such an outcome would be in breach of legitimate expectations of natural justice under the RMA that such major changes in adjoining land use could not occur without undergoing a plan change or gaining a resource consent, involving a thorough assessment of effects of development in either pathway.
126. Another concern expressed by Mr Freeland was that there would be a real uncertainty as to what land might fall within the definition of 'Māori land' meaning the exposure to effects on adjoining

property owners was real with their having no opportunity for input on those effects. If needed he sought mapping of 'Māori land'.

127. The s.42A response to that assertion was to say that it was time some trust was placed by the general community in the Treaty partner to be able to control activities so they would not breach tikaka through the exercise of rakatirataka involving the responsibilities of kaitiakitaka, which should ensure adverse effects were controlled on Māori land by Māori, rather than by local authority controls.
128. Mr Cameron, counsel for Kāi Tahu, particularly addressed these issues in some further submissions in response on 9 February 2023. As to the uncertainty issue he responded:

29. The Panel can rely on the evidence already before it as to the nature and extent of Kāi Tahu landholdings, to find that the changes, while momentous to Kāi Tahu as those most likely to benefit from them, are unlikely to be all that significant to the public at large.

30. That is consistent with s 32(1)(c), which requires a level of detail that corresponds to the scale and significance of effects that are anticipated from the implementation of the proposal – here, in our submission, few to none.... here the principal aim is to enable Kāi Tahu to develop their landholdings and take the lead in the management of any adverse effects. That is unlikely to pose many, if any, problems for other private landowners.

129. That submission might be argued to be correct if current land holdings by Kāi Tahu people could somehow be fixed in time, and limited to cultural or traditional uses. However, that is not the position, and is particularly not the position if the definition remains as recommended.
130. We do not see any real benefit, however in trying to impose restrictions in a planning context related to ownership issues. Section 6(e) requires that the PORPS 'recognise and provide' for the 'relationship of Maori and their culture and traditions with their ancestral lands.' Given that effectively all land in Otago falls within the historic purview of ancestral lands for Kāi Tahu one might reasonably question what purpose a detailed definition provides. But given that the link with papakāika must in the end be based on whakapapa we can see benefit if clause 8 is utilised, but in a slightly amended form. The key to what happens in terms of controls on the use of such land should not rest on ownership, but rather the potential effects of activities on that land.
131. For example, if the definitions remain as recommended, then if major commercial opportunities were to be identified in future anywhere in Otago, a Kāi Tahu person with whakapapa links could be utilised and funded as owner by a commercial operator and be able to acquire the land. The land could then be used under the papakāika definition by being leased by the funder and developed, and after development acquired by that funder/developer and probably on-sold. We do not regard that scenario as being beyond possibility, or impractical, or unrealistic. It is the way of the world for commercial operators to look for and take advantage of such opportunities. Their drivers are returns of income or capital, not culture or traditions. It is the latter we understand Kāi Tahu to be seeking to enable under their tikaka and not the former.
132. The real concern arises out of that potential for commercial opportunity, as contrasted with a need for recognition of cultural and traditional relationships with ancestral lands, and that requires to be addressed.
133. Mr Cameron's response for Kāi Tahu in his 9 February 2023 submission on that issue was that a failure to adopt the recommended definition package would bring into play s.32 considerations:

31. It is also consistent with s 32(2)(c), which requires an assessment of the risk of acting or not acting where there is uncertainty about the subject matter of any provisions. In this case, failing to act on the proposed definition due to a lack of information as to its location would exclude from future consideration land that is subsequently acquired by Kāi Tahu, whether to substitute or supplement other landholdings, which might also benefit from the same enabling approach that applies to land in categories (2) to (6). Doing so would create a real risk of perverse outcomes and arbitrary barriers to the expression of *rakatirataka, kaitiakitaka, and mana whenua*.

134. For the reasons outlined above as to the positive development of attitudes to Part 2 matters affecting mana whenua of any area, which has been increasingly enforced by the Environment Court and the general courts, we do not think the risk of “*perverse outcomes and arbitrary barriers to the expression of rakatirataka, kaitiakitaka, and mana whenua*” is real into the future - certainly not at law. Local authorities are now well aware of the changing RMA atmosphere, and that has been significantly reinforced at a national and regional level by the recognition of the concept of Te Mana o Te Wai and other strong provisions as to mātauranga and mahika kai in the NPSFM. In Otago it has also been demonstrated by the PORPS approach to ‘partnership’ with mana whenua.
135. However, we are also cognisant of the history of past bad planning practice outlined by Kāi Tahu traversed earlier in this discussion, and the inhibitions they have experienced through poor, overly restrictive planning controls on use and development of their lands.
136. In our view a balanced view of how to meet the Part 2 imperatives without handing a planning ‘free pass’ entirely to Kāi Tahu can be achieved through a tightening of the papakāika definition. We do not think the insertion of the word ‘limited’ before the concept of ‘commercial purposes’ assists much if at all. After all, how would ‘limited’ be interpreted and applied? Is it to be a measure of size of physical footprint of development in area, height, width or length? Or is it to relate somehow to production levels, or gross or net income, and how are those to be fixed, monitored and enforced?
137. In such a context it is always best to consider the nature of the ‘problem’ or issue being addressed to assess what is the purpose sought to be achieved by a provision. In this case the problem is a perceived inability of Kāi Tahu people to have the freedom to construct papakāika to meet their cultural and traditional practices as well as housing and some income needs. Housing provision readily falls into a definition for papakāika. The more vexed issue is what income purposes papakāika are intended to serve. The issue of commercial activities may be met to the extent warranted by s.6(e) if those purposes can be reasonably closely defined.
138. In Kai Tahu’s submission at para 3.6 what was sought was referred to as provisions enabling Kāi Tahu to be able to use land for ‘*papakāika, marae or associated activities*’. We do not consider that any adjoining person could reasonably challenge that papakāika can meet the test for 6(e) of providing for the relationship of mana whenua with their ancestral lands when those lands are used for ‘*activities for cultural, social, educational, recreational, environmental, ... purposes.*’ All of those purposes to some extent or other involve cultural or traditional aspects of use.
139. The problem arises when the word ‘commercial’ is inserted in that list. Immediately its insertion introduces potential adverse effects which do not need to have a cultural or traditional perspective at all, which is as far as s.6(e) goes. We do not believe that not enabling that freedom of commercial activity at whatever scale impacts on Kāi Tahu people’s relationship with their ancestral lands. We anticipate that Kāi Tahu may feel a home-related occupation should be included. We can accept that such an inclusion would also enable what might be described on the evidence we heard of a common usage that might well be expected to occur in a papakāika.

140. We are satisfied that on the evidence we have heard that papakāika are most likely to be constructed adjacent to or in close proximity to marae, or locations of substantial Māori occupation. We also accept that tikaka will play a major role in where, and to what extent, that sort of papakāika development might occur. We do not consider it reasonable to seek to limit Kāi Tahu as to where any new such development may occur. Practicalities such as land availability and services availability will also have a natural limitation on their development.

4.1 Recommendation

141. For those reasons we accept the definition of 'Māori land' as recommended in clause 8 but amend the wording of the Māori land and papakāika definitions to read:

Māori land	<p>for the purposes of this RPS, means land within the region that is:</p> <p><u>(1) owned by Te Rūnanga o Ngāi Tahu or its constituent papatipu rūnaka and to be used for the purpose of:</u></p> <p><u>(a) Locating papakāika development away from land that is either at risk from natural hazards, including climate change effects such as sea level rise, or is otherwise unsuitable for papakāika development,</u></p> <p><u>(b) extending the area of an existing papakāika development,</u></p> <p><u>(2) Māori communal land gazetted as Māori reservation under s338 Te Ture Whenua Māori Act 1993,</u></p> <p><u>(3) Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Māori Act 1993,</u></p> <p><u>(4) former Māori land or general land owned by Māori (as those terms are defined in Te Ture Whenua Māori Act 1993) that has at any time been acquired by the Crown or any local or public body for a public work or other public purpose, and has been subsequently returned to its former Kāi Tahu owners or their successors and remains in their ownership,</u></p> <p><u>(5) general land owned by Māori (as defined in Te Ture Whenua Māori Act 1993) that was previously Māori freehold land, has ceased to have that status under an order of the Māori Land Court made on or after 1 July 1993 or under Part 1 of the Māori Affairs Amendment Act 1967 on or after 1 April 1968, that is in the ownership of Kāi Tahu whānui,</u></p> <p><u>(6) vested in a Trust or Māori incorporation under Te Ture Whenua Māori Act 1993,</u></p> <p><u>(7) held or claimed (whether as an entitlement, part of an ancillary claim, or because it was transferred or vested) either:</u></p> <p><u>(a) as part of redress for the settlement of Treaty of Waitangi claims, or</u></p> <p><u>(b) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed (as those terms are defined under the Urban Development Act 2020), or</u></p> <p><u>(c) as SILNA lands,</u></p> <p><u>(8) owned by a person or persons with documentary evidence of Kāi Tahu whakapapa connection to the land, where that evidence is provided by either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit.</u></p>
Papakāika or papakāinga	<p>means <u>subdivision</u>, use and development by <i>mana whenua</i> of <u>Māori land</u> ancestral or tribal lands and associated resources to <u>provide for sustain</u> themselves in <u>general</u> accordance with <u>tikaka tikanga</u> Māori <u>for their cultural and traditional purposes</u>, which may include residential activities and non-residential activities for cultural, social, <u>housing, educational</u>, recreational, environmental, or <u>home occupation</u> limited commercial purposes.</p>

5. Interpretation of other terms in the RMA

142. In the course of reaching its 'bottom line' approach decision the Supreme Court in *King Salmon* provided other guidance on the interpretation of the words or phrases such as 'avoid', 'adverse effects' and the concepts of 'protection' and 'inappropriate use and development' - all of which are terms found throughout the PORPS.

143. The most important of those to be considered is the use of the word 'avoid'.

5.1 Avoid

144. The interpretation of this word was addressed quite succinctly in the *King Salmon* decision from paragraphs 92-97 which were summarised at paragraph 24(b) in discussing the meaning of 'sustainable management':

[24] We make four points about the definition of "sustainable management":

(a) First, ...

(b) Second, as we explain in more detail at [92] to [97] below, in the sequence "avoiding, remedying, or mitigating" in sub-para (c), "avoiding" has its ordinary meaning of "not allowing" or "preventing the occurrence of". The words "remedying" and "mitigating" indicate that the framers contemplated that developments might have adverse effects on particular sites, which could be permitted if they were mitigated and/or remedied (assuming, of course, they were not avoided).

(Panel's emphasis)

145. The consequence in practical terms, as many submitters stressed to us, is that the use of the word 'avoid' has a preventive effect, particularly if it is coupled with a requirement that 'activities' themselves are avoided rather than the 'adverse effects' of those activities.

5.2 Adverse effects

146. Even though the Supreme Court in the *King Salmon* case held that a bottom lines approach was available under Part 2 for the protection of some aspects or particular areas of the environment, which required certain activities with adverse effects to be avoided, nonetheless the Court held that a correct application of Part 2 did not require prohibited activity status rules to be applied to rule out all effects which were transitory or minor in nature, stating:

*[145] The definition of "effect" in s 3 is broad. It applies "unless the context otherwise requires". So the question becomes, what is meant by the words "avoid adverse effects" in policies 13(1)(a) and 15(a)? This must be assessed against the opening words of each policy. Taking policy 13 by way of example, its opening words are: "To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development". Policy 13(1)(a) ("avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character") relates back to the overall policy stated in the opening words. **It is improbable that it would be necessary to prohibit an activity that has a minor or transitory adverse effect in order to preserve the natural character of the coastal environment, even where that natural character is outstanding.** Moreover, some uses or developments may enhance the natural character of an area*

(Panel's emphasis)

147. What is minor or transitory was not at issue in the *King Salmon* case and the interpretation of those words remain open for consideration in any particular factual context. It would be a bold approach, however, to accept that a type of activity or effect was not required to be avoided by a provision in the PORPS because it was argued to be minor or transitory. As to the latter, the issue of return frequency or intensity, (as of sound for example), may impact the outcome; and the amount of litigation over the meaning of ‘minor effects’ in the RMA provisions as to non-notification is indicative as to how vexed that consideration of what is ‘minor’ can prove to be.
148. However, some further guidance is now available from the Supreme Court decision in the *Port Otago* case which discussed the concept of avoiding effects from ‘material harm’. At paragraph 66 of that decision the Supreme Court described the significance of that phrase:

[66] In summary, the Court in Trans-Tasman said that decision-makers must either be satisfied there will be no material harm or alternatively be satisfied that conditions can be imposed that mean:

(i) material harm will be avoided;

(ii) any harm will be mitigated so that the harm is no longer material; or

(iii) any harm will be remedied within a reasonable timeframe so that, taking into account the whole period harm subsists, overall the harm is not material...

(Panel’s emphasis)

149. In short as with much of the terminology in this RMA area, the particular contextual factual setting both as to the nature of the effects and as to the mitigation measures available will have a significant influence as to the outcome of the consideration.

5.3 ‘Inappropriate use and development’

150. A similarly vexed issue of what is ‘inappropriate’ was squarely before the Supreme Court in the *King Salmon* case. On this issue it made the following opening observation:

*[98] Both pt 2 of the RMA and provisions in the NZCPS refer to protecting areas such as outstanding natural landscapes from “inappropriate” development – **they do not refer to protecting them from any development.** This suggests that the framers contemplated that there might be “appropriate” developments in such areas, and raises the question of the standard against which “inappropriateness” is to be assessed.*

(Panel’s emphasis)

151. The Court also conducted a deeper analysis:

[29] The use of the phrase “inappropriate subdivision, use or development” in s 6 raises three points:

(a) First, s 6(a) replaced s 3(c) of the Town and Country Planning Act, which made “the preservation of the natural character of the coastal environment, and the margins of lakes and rivers, and the protection of them from unnecessary subdivision and development” a matter of national importance. In s 6(a), the word “inappropriate” replaced the word “unnecessary”. There is a question of the significance of this change in wording, to which we will return.

(b) Second, a protection against “inappropriate” development is not necessarily a protection against any development. Rather, it allows for the possibility that there may be some forms of “appropriate” development.

(c) Third, there is an issue as to the precise meaning of “inappropriate” in this context, in particular whether it is to be assessed against the particular features of the environment that require protection or preservation or against some other standard. This is also an issue to which we will return.

152. That later consideration appears at paragraphs 100 to 105 relevant portions of which stated:

[100] The scope of the words “appropriate” and “inappropriate” is, of course, heavily affected by context. ...

*[101] We consider that where the term “inappropriate” is used in the context of protecting areas from inappropriate subdivision, use or development, **the natural meaning is that “inappropriateness” should be assessed by reference to what it is that is sought to be protected.** It will be recalled that s 6(b) of the RMA provides:*

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

... A planning instrument which provides that any subdivision, use or development that adversely affects an area of outstanding natural attributes is inappropriate is consistent with this provision.

...

[105] We consider that “inappropriate” should be interpreted in s 6(a), (b) and (f) against the backdrop of what is sought to be protected or preserved. That is, in our view, the natural meaning. The same applies to objective 2 and policies 13 and 15 in the NZCPS. Again, however, that does not resolve the fundamental issue in the case, namely whether the “overall judgment” approach adopted by the Board is the correct approach. We now turn to that.

(Panel’s emphasis)

153. It is plain from the *King Salmon* decision that where that phrase ‘inappropriate use and development’ is used in the sense of ‘protection’ it is a qualifier of the absolute protection level which might otherwise have been seen as warranted to accord with the word ‘avoid’.

154. That will become particularly relevant in the Ecology chapter of this report because while ss.6(a) and (b) contain that qualifier, s.6(c) does not. By contrast, in the Heritage chapter where the qualifier does apply the discussion in the Heritage topic in this report will address the complex issue of what is, or is not, inappropriate where Heritage structures have deteriorated. For that reason, this chapter of the report addressing legal issues will return later to address what effect that difference should make in the PORPS to the issue of the protection level of indigenous biodiversity or not.

5.4 'Protection' & 'Maintaining'

155. The word 'protection' also featured significantly in the reasoning in *King Salmon* with the Court stressing at paragraph 149, (cited earlier), that primacy was not given to protection by ss.6(a) and (b) of the RMA, but that in particular circumstances such protection may be required. In the context of a discussion considering the interpretation of the word 'protect' that consideration by the Court bears repetition:

*[149] Section 6 does not, we agree, give primacy to preservation or protection; it simply means that provision must be made for preservation and protection as part of the concept of sustainable management. The fact that ss 6(a) and (b) do not give primacy to preservation or protection within the concept of sustainable management does not mean, however, that a particular planning document may not give primacy to preservation or protection **in particular circumstances**. This is what policies 13(1)(a) and 15(a) in the NZCPS do. Those policies are, as we have interpreted them, entirely consistent with the principle of sustainable management as expressed in s 5(2) and elaborated in s 6.*

(Panel's emphasis)

156. Earlier at paragraph 24 (d) (cited earlier) the Court had also observed:

*(d) Fourth, the use of the word "protection" in the phrase "use, development and protection of natural and physical resources" and the use of the word "avoiding" in sub-para (c) indicate **that s 5(2) contemplates that particular environments may need to be protected from the adverse effects of activities in order to implement the policy of sustainable management; that is, sustainable management of natural and physical resources involves protection of the environment as well as its use and development.** The definition indicates that environmental protection is a core element of sustainable management, **so that a policy of preventing the adverse effects of development on particular areas is consistent with sustainable management.** This accords with what was said in the explanatory note when the Resource Management Bill was introduced:*

The central concept of sustainable management in this Bill encompasses the themes of use, development and protection.

(Panel's emphasis)

157. Then at paragraphs 62 and 90 the Court provided descriptions of the varying levels of protection envisaged by the RMA and the NZCPS in the coastal marine area:

*[62] The overall purpose of these directions is to preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development (policy 13) or to protect the natural features and natural landscapes (including seascapes) from inappropriate subdivision, use and development (policy 15). **Accordingly, then, the local authority's obligations vary depending on the nature of the area at issue. Areas which are "outstanding" receive the greatest protection: the requirement is to "avoid adverse effects". Areas that are not "outstanding" receive less protection: the requirement is to avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects.** In this context, "avoid" appears to mean "not allow" or "prevent the occurrence of", but that is an issue to which we return at [92] below.*

...

[90] ... s 5(2)(c) of the RMA talks about “avoiding, remedying or mitigating any adverse effects of activities on the environment” and s 6(a) identifies “the preservation of the natural character of the coastal environment (including the coastal marine area) ... and the protection of [it] from inappropriate subdivision, use and development” as a matter of national importance to be recognised and provided for. The NZCPS builds on those principles, particularly in policies 13 and 15. **Those two policies provide a graduated scheme of protection and preservation based on the features of particular coastal localities, requiring avoidance of adverse effects in outstanding areas but allowing for avoidance, mitigation or remedying in others.**

(Panel’s emphasis)

158. The graduated approach we have highlighted above, which has been taken in the NZCPS, has also been adopted either in the notified or amended reply versions in some provisions of the PORPS. As the consideration of the following domain and topic chapters will make plain, the significance of the varying levels of protection required in s.6 terms for differing contexts will dictate the wording we recommend for the PORPS.
159. The potential differences in treatment levels of the concept of ‘protection’ arose as to the context in which it is used in respect of areas of significant indigenous vegetation and significant habitats of indigenous fauna in s.6(c) RMA, where the word ‘protection’ is used, as contrasted to the regional function provisions in s.30(1)(ga). In the latter context the word ‘maintaining’ is used in respect of ‘maintaining indigenous biological diversity’.
160. The question that gives rise to is whether that difference in wording between ‘protection’ in s6(c) of the Resource Management Act 1991 (‘RMA’) and ‘maintaining’ in s 30(1)(ga) RMA, has any legal significance; and if so, how should that difference manifest itself or be reflected in the PORPS?
161. This issue was canvassed in various ways by a number of counsel with a number of those seeking an enabling approach asserting that the difference in protective levels between s.6(c) and s.30(1)(ga) had been overlooked in the PORPS, particularly because of what was asserted to be a very high level of protection provided in the ECO chapter for indigenous biodiversity. During the ECO chapter hearings the Panel posed that statutory difference and the weight to be given to it to counsel for DOC Ms Warnock, to which she responded in Supplementary submissions dated 9 May 2023.
162. In those submissions she advanced the argument that ‘protection’ being a noun suggested a standard to be achieved, but in recognition of the *King Salmon* discussion in para 24(d) quoted above she submitted “*you achieve protection of something (e.g., particular values) from something else (e.g., inappropriate uses, adverse effects)*”. The lack of an activity qualifier in s.6(c) such as ‘inappropriate’ activity against which protection is required she submitted meant that s.6(c) was requiring decision-makers to provide for protection against “**all threats**” including direct, indirect and naturally occurring threats. As counsel for DOC, therefore, she advocated that what was required of PORPS was to provide objectives, policies and methods which protected against all such threats.
163. By way of general authority for the discussion of s.6(a) to (c) Ms Warnock cited paragraph 28 of *King Salmon*. However as can be seen below, that paragraph does not refer to ‘threats’. The introduction of that word is a rather new concept we do not favour when RMA terminology usually addresses adverse ‘effects’ of activities rather than any ‘threat’ which an activity itself might be said to constitute. Paragraph 28 of *King Salmon* only referred to adverse effects:

[28] *It is significant that three of the seven matters of national importance identified in s 6 relate to the preservation or protection of certain areas, either absolutely or from*

“inappropriate” subdivision, use and development (that is, ss 6(a), (b) and (c)). Like the use of the words “protection” and “avoiding” in s 5, the language of ss 6(a), (b) and (c) suggests that, within the concept of sustainable management, the RMA envisages that there will be areas the natural characteristics or natural features of which require protection from the adverse effects of development. In this way, s 6 underscores the point made earlier that protection of the environment is a core element of sustainable management.

(Panel’s emphasis)

164. Ms Warnock had earlier submitted:

16. In relation to the risk from direct human-made threats (subdivisions, use and development), case law states that protection is not metonymic with ‘prevention’ or ‘prohibition’ of all activities. However, in a planning sense, protection is commonly achieved by ‘avoid adverse effects’ policies ...

165. In relation to s.30(1)(ga) Ms Warnock commenced with the observation that it is a function setting provision which uses the verb form of ‘maintaining’ suggesting action or measures, as can be expected in a function setting provision. She then cited the Environment Court in *Oceana Gold (New Zealand) Ltd v Otago Regional Council* [2019] NZEnvC 41 (63) where the Court stated that s 30(1)(ga) (and s 30(1)(c)(iia)) required ‘the maintenance of an existing level or quality’ of biological diversity. That conclusion was reached on the basis that if a substantive standard was not being set a neutral verb such as ‘managing’ rather than ‘maintaining’ would have been used. The Court went on to hold what that meant was a standard whereby the quality of an indigenous resource on a region-wide basis “does not get worse”.

166. However, at paragraph 22 of her submissions, counsel for DOC went a little further in our view by submitting:

*22. Accordingly, in the context of regional council functions, ‘maintaining’ biodiversity encompasses a broad range of actions, across temporal dimensions, that includes, for example: maintaining as far as possible at present level, restoring to some previous level, repairing, **enhancing, improving, expanding** etc.*

(Panel’s emphasis)

167. We do not regard ‘*enhancing, improving, expanding*’ as being metonymic with the phrase ‘*does not get worse.*’ Each of those concepts involve a measure of improvement rather than maintenance. To some extent, though, we can accept that restoration or repair of degraded biodiversity may be said to result in maintaining of region-wide biodiversity at a level which meant it did not get worse.

168. In conclusion Ms Warnock submitted:

*25. Accordingly, ‘maintaining’ indigenous biodiversity is not metonymic for protection but it can include protection, i.e., **protection is a subset of maintenance.***

(Panel’s emphasis)

169. Maintenance can include a form of protection, but protection in the sense used by the Supreme Court in *King Salmon* in our view is set at a higher level of protection for particular areas or aspects of significance than is provided by the word ‘maintaining’, which relates at a broader regional

level to all biodiversity. That difference between the two levels was really acknowledged in the DOC submissions at paragraph 24 where it was said:

24. Section 30(1)(ga) includes all indigenous biodiversity and so encompasses significant areas of biodiversity (i.e. s.6(c) matters).

170. However, while from a slightly different approach, we nonetheless accept as generally accurate the final paragraphs of the submissions for DOC on this issue when Ms Warnock said:

26. In 'maintaining' indigenous biodiversity, use and development leading to negative change will be tolerated if that change can be ameliorated in some way, minimised, remedied, offset or compensated, and actions can be quite interventionist in this sense.

...

28. In summary therefore, the core difference between 'protection' and 'maintaining' is that 'protection' of specific areas in s.6(c) is, of necessity, (ex) ante or pro-active. Whereas, 'maintaining' in s 30(1) (ga) is at the region-wide level and can be achieved using a range of actions, including ex post facto actions.

171. In the Panel's view an appropriate wording for a system of sustainable management that accords with the RMA would require replacing the phrase 'will be tolerated' with 'may be acceptable' in paragraph 26 of those submissions.

172. In summary then our view of the effect of the different wording in s.6(c) and s.30(1)(ga) is that the latter provision requires as a function of the regional council that it maintains the regionwide values of indigenous biodiversity- i.e. that it ensures through the PORPS provisions that the regionwide state of indigenous biodiversity is not made worse. That is a very broad function and of itself did not rule out or prevent the enabling of a degree of activity which in some locations may adversely affect indigenous biodiversity, so long as on a region-wide basis the state of indigenous biodiversity was not made worse. A good example would be the activity of pastoral farming involving grazing of tussocks which are present throughout the region. However, the advent of the NPS-IB with its specific provisions as to a limited consent pathway such as in sub-clauses 3.10(3) and 3.16(1) will affect the cascading assessment involved in the effects management hierarchy under that NPS.

173. Within that broad span of maintaining indigenous biodiversity throughout the region section 6(c) enables indigenous biodiversity to be specifically protected in areas or circumstances where it has a level of significance warranting protection that marks it apart from the general indigenous biodiversity. Obvious examples will be where a species is nationally or regionally under threat.

174. The challenge is to apply those approaches and the NPS-IB provisions to the Ecological chapter which will be addressed later in this report.

175. What also needs addressing first as a general matter is whether off-setting and compensation are available only as consent pathways for provisions imposed as part of the broader s 30(1)(ga) function, or whether they should also be available in respect of provisions protecting significant indigenous biodiversity under s.6(c). In respect of those aspects now covered by the NPS-IB its provisions will of course provide the direction to be taken.

6. Environmental Offsetting and Compensation

176. An argument raised strongly by Mr. S. Christensen as counsel for Oceana Gold Limited was that the PORPS did not properly address the provisions of s.104(1)(ab) which, as relevant, provides:

104 Consideration of applications

*(1) When considering an application for a resource consent and any submissions received, the consent authority **must, subject to Part 2 and section 77M, have regard to–***

(a) ...

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(Panel's emphasis)

177. As we understood his argument Mr Christensen submitted that since 2017 (the year when that provision was inserted in the RMA), it was mandatory for regard to be had as to any methods of offsetting or compensation provided for by that subsection in a resource consent application, that meant in turn that a methodology had to be provided for and that required an appropriate consent pathway in the PORPS. He noted that the notification date for the partially operative 2019 ORPS pre-dated the commencement date of the amendment so it could not be considered in that RPS.

178. Mr Christensen refined his arguments down to these propositions⁶:

42. The position in the notified pORPS is therefore in error:

a. Section 104(1)(ab) is clear that all offset and compensation proposals are to be had regard to.

b. The biodiversity and compensation principles in the NPSFM and exposure draft NPSIB post-date the enactment of section 104(1)(ab) and do not conflict with it by providing principles as to what proposals should and should not achieve that are able to be applied to guide the assessment of any proposal an applicant advances.

c. The partially operative RPS 2019 provisions regarding biodiversity offsetting and compensation could not consider section 104(1)(ab) and are in conflict with it by purporting to proscribe the circumstances when decision makers can consider a biodiversity offsetting and compensation proposals.

d. The PORPS largely repeats the provisions of the partially operative RPS 2019 as if section 104(1)(ab) does not exist, but the Otago Regional Council's own evidence on the matter acknowledges section 104(1)(ab) and notes that proposals that do not confirm to the PORPS 2021 will still be considered and may be accepted.

43. The result is that the provisions of APP3 and 4 as notified must be changed to read as considerations and not as presumptive limits. The revisions recommended by Oceana Gold's experts express matters as they must be expressed and should be adopted.

⁶ *Opening Submissions on Behalf Of Oceana Gold (New Zealand) Limited –17 April 2023*

179. In response to those submissions Ms Warnock counsel for DOC in her submissions on the ECO chapter⁷ said:

33. Oceania Gold submits that – as a matter of law – s 104(1)(ab) RMA provides a veto (or, as a corollary, a mandatory rule) that an RPS cannot contain a threshold at all for when offsetting will/won't be considered. This submission is incorrect. The wording in s 104(1) RMA, requires consent authorities to 'have regard to' the list of matters in s 104(1)(a)(c). 'Have regard to' means give genuine attention and thought to; it does not mean that it must be achieved or actioned.

180. Both submissions in our view carry some weight.

181. Ms Warnock is strictly quite correct in her submission, but her paragraph probably underplays the weight that the wording of 'have regard to' plays in RMA language. In the context of a regional policy statement, which has the statutory purpose under s.59 of achieving "integrated management of the natural and physical resources of the region", a statutory provision under s.104 as to a methodology to which regard must be had on any resource consent application, must have some relevance under the Part 2 consideration of sustainable management.

182. However, we do not accept the inherent suggestion in Mr Christensen's argument that there is some mandatory aspect as to the need to provide a consent pathway involving the s.104(1)(ab) methodology of offsetting or compensation. The mandatory aspect is only triggered at resource consent stage, and is a mandatory requirement to give genuine consideration to the offsetting or compensation which has been proposed as part of the application for resource consent. That does not convert it into a mandatory matter at the regional policy statement stage.

183. We do, nonetheless, consider that the introduction of a mandatory requirement for consideration on a resource consent application of such a methodology is something which should be given considerable weight at the regional policy statement stage. The corollary of that view is that provisions which might have the effect at a regional policy stage of preventing such a consideration as part of a consent pathway, should be very carefully considered before being approved.

7. Terminology of 'limits', 'environmental limits', 'tipping points' and 'thresholds'

184. At various times in the PORPS as notified and as recommended to be amended in the s.42A report processes and evidence these various terms have come up for consideration.

185. A limited submission response addressed the terms listed above, as well as other similar terms such as 'constraints', 'bottom lines' or 'environmental bottom lines'. Fish & Game supported the use of the term 'environmental limits' as better addressing this type of descriptor or terminology. Other submitters as described in the original s.42A report (at paras 123- 130) sought a range of differing terms or definitions.

186. In her 22 October, 2022 brief of Supplementary Evidence as to the Introduction and General Themes section, Ms. Felicity Boyd set out as an Appendix locations where the word 'limit' was used in the PORPS or the s.42A reports. That brief recommended that the Panel utilise two different definitions for the word 'limit' depending upon whether the provision was being used in the freshwater or non-freshwater parts of the PORPS. (Previously in her original s.42A report on Introduction and General Themes on this issue Ms. Boyd had sought to achieve a broader context

⁷ Submissions for the Director-General of Conservation on Ecosystems and Indigenous Biodiversity Chapter ('ECO') 19 April 2023

for 'limits' than purely biophysical limits by recommending use of a new definition for a phrase 'environmental limits'.)

187. The reason for the differentiation recommended finally by her was that the NPSFM provided a definition for the term 'limits' which was restricted to biophysical limits, whereas the general or natural meaning of the word 'limit' by the Oxford dictionary definition she quoted was broader in its application than just to biophysical limits. That Oxford definition is:

Any of the fixed points between which the possible or permitted extent, amount, duration, range of action, or variation of anything is confined; a bound which may not be passed, or beyond which something ceases to be possible or allowable.

188. The NZCPS uses the term 'limits' in that broader sense. That appears at Objective 6 as to enabling use and development in "...appropriate places and forms, and within appropriate limits;". The words 'limits' and 'thresholds' are also used in that broader context at Policy 7 (2) where the following appears:

"...Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing cumulative effects are to be avoided."

189. By contrast the NPSFM definition of 'limit' is used in a more limited biophysical sense:

limit means either a limit on resource use or a take limit

limit on resource use means the maximum amount of resource use that is permissible while still achieving a relevant target attribute state or a nutrient outcome needed to achieve a target attribute state (see clauses 3.12 and 3.14)

190. The use of the phrase 'tipping point' and the word 'threshold' is much more limited in the PORPS. The only use of the phrase 'tipping point' is in SRMR – I11 where it used in a context of either cumulative effects or gradual climate change resulting in a tipping point being reached.

191. The word 'threshold' is sparingly used in the PORPS. It appears at SRMR – I11 in the Environmental section discussion, but otherwise mainly appears in various locations in the IM chapter and on one or two occasions in the CE, HCV-HH and HAZ chapters. Generally, we are satisfied with the s.42A recommendations to retain the notified use of those terms on the basis that in SRMR – I11 what is being addressed are the outcome of usually gradual or incremental effects which take effects beyond limits that are sustainable. They may have the potential to be catastrophic in some settings but only once a tipping point has been passed. In the other contexts the use of the term 'threshold' we consider is appropriate as thresholds need to be identified or limits set for more identifiable effects to maintain a sustainable environment.

192. The only s.42A recommendation as to their use which we differ from is at the Environmental section discussion following on at SRMR – I11. The relevant notified part of that discussion read:

At the same time a resilience approach is needed that identifies thresholds and sets limits on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.

193. The s.42A report writer Ms. Boyd recommended in her 22 October, 2022 Appendix the deletion of the word 'threshold' but gave no particular reason for doing so other than that the newly defined 'limits' sufficed. We only differ slightly from her view on one aspect.

7.1 Recommendation

194. We are in agreement with the practical recommendation by Ms. Todd that the term ‘limit’ for freshwater purposes must accord with the NPSFM definition approach. That can be best achieved by her suggestion of a definition for freshwater purposes in the LF chapter, together with a separate definition of the word for all other purposes in the PORPS. At paragraph 21 of her brief her recommendation, with which we agree, was:

Limit In the LF – Land and freshwater chapter, “limit” has the meaning defined in the NPSFM, and elsewhere, “limit” has its natural and ordinary meaning.

195. We see no need to delete the word ‘threshold’ in that discussion section of SRMR I11 and recommend the wording remains as notified, other than to change the word ‘and’ to ‘or’ to align with the wording used in Policy 7 (2) of the NZCPS which refers to them as alternatives. Therefore, we recommend the passage to read:

At the same time a resilience approach is needed that identifies thresholds ~~and~~ or sets limits on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.

Section 2: Introduction and General Provisions

1. Introduction

1. The PORPS commences with a chapter entitled Introduction and General Provisions which addresses the following subheading sections:
 - (i) Foreword or mihi
 - (ii) Contents
 - (iii) Purpose
 - (iv) Description of the region
 - (v) How the policy statement works
 - (vi) Interpretation
 - (vii) National direction documents; and
 - (viii) MW- Mana whenua
2. The last of those sections, MW, is dealt with in this report in Section 3: Mana Whenua. It is a significant area given the Part 2 RMA identification of issues to be variously dealt with as either national interest matters of Māori relationships with their resources which are required to be recognised and provided for in s.6(e); kaitiakitanga matters to which particular regard is to be had under s.7(a); and matters of Treaty principle which are to be taken into account under s.8.
3. The balance of the matters listed in the Introduction and General Provisions chapter contents range in significance from formal introductory matters such as the Foreword/Mihi pages; or machinery/descriptive provisions such as the Contents, Description of region, and How the policy statement works; through to the more significant substantive matters such as the Purpose, Interpretation and National direction documents sections.
4. In the introductory Legal section to this report we have identified that in terms of Part 2 RMA, and in particular of the s.5 purpose of sustainable management of the environment, the PORPS as notified had a prioritised focus on environmental protection in a manner that in the Panel's view did not align with the approach of the Supreme Court in the *NZ King Salmon* and *Port Otago* decisions.
5. However, we also described in the Legal section how that prioritisation was amended in many respects as a result of the submission and hearing processes in the s.42A reply reports. As a result numerous changes were recommended by the s.42A report writers to the notified form of the PORPS, with a final significantly changed position being addressed after the issue of the *Port Otago* decision through the closing submissions of counsel for ORC. Those changes were all reflected in the final recommended version of the PORPS received by the Panel from ORC dated 10 October, 2023.
6. The overall result has in the Panel's view been a recommended regional policy statement which much better recognised the s.5 aspects of human use and enjoyment of resources, while at the same time protecting the environment, within limits, for future generations. As a further result the Panel's overview has often come down to a process of ensuring that an integrated approach to use and enjoyment of resources is enabled at the same time as protection of those resources within limits. The Panel believes the form of the PORPS which the Panel has recommended the ORC to adopt, does achieve that integrated outcome which aligns appropriately with the s.5 RMA purpose.

7. Necessarily the Legal section discussions of matters of:
- overall statutory purpose and function
 - related higher court decisions;
 - integration with national direction documents in the form of National Policy Statements, (of which there are now a surfeit), National Environmental Standards, and other statutory regulations;
 - and miscellaneous important interpretations of definitions
8. We have canvassed in considerable detail most of those issues in the Legal section of the Introduction, in Mana Whenua chapter or in the domain and topic chapters.
9. The balance of this chapter then will be restricted to addressing any final aspects of wording recommended in the 10 October 2023 version which we need to address, but which has not been addressed in those other areas of this report. The need for such discussion is really by now somewhat reduced, and often finely balanced as to whether further change is needed. A good example of that is the Foreword or mihi, to which we now turn.

2. Foreword or mihi

10. The only aspects of the wording here that have even caused some hesitation by the Panel arise again out of the earlier notified prioritisation approach. Two sentences cause us to reflect as to whether that prioritisation approach is still reflected to some degree. (To the extent that that might be so, there are countless submissions, (e.g. Federated Farmers, Oceana Gold, OWRUG to name but three), enabling a rewrite of any text to ensure the enabling aspect of human use of resources is appropriately recognised). The phrases in the Foreword/mihi that cause us to reflect somewhat are:

We have placed the environment at the centre of all we do in our long-term vision...
(Panel's emphasis.)

The purpose of these visions is to protect the mauri of water bodies in Otago, a responsibility shared by all. The aim is to achieve positive outcomes for water and habitat that also address the community's needs and interests.

11. The rationale in each case underlying these expressions is protection of the environment. A number of s.42A reports and evidence authored by Lisa Hawkins and Felicity Boyd under two differing titles were presented to us variously entitled as to the Introduction and General Provisions, or Themes. In the s.42A reply report of 23 May 2023 entitled 'Introduction and General Themes', Ms. Boyd had carefully traversed a series of reports from a range of experts and also referred to Kāi Tahu evidence to set out the threats which had developed over time to the sustainability of the environment. That survey covered paragraphs 18 to 34 of that reply report. It then led to the statement at paragraph 35 by Ms Boyd that:

In my view, given the evidence presented on the state of Otago's terrestrial, freshwater, and marine biodiversity, there is good reason to be cautious about the extent to which the use and development of resources should be enabled.

12. The concern we have is that a generally expressed 'good reason to be cautious' was utilised in the notified PORPS to warrant a prioritisation of protection of the environment over human use.

13. We had read or heard all of the information Ms Boyd stressed, and we are not in major disagreement with Ms Boyd, or the witnesses she referred to, as to the significance of those concerns. Where we have differed is in the overall approach to be adopted by the notified PORPS as a result. We have concluded that the Supreme Court's direction as to the appropriate approach for a regional policy statement or a plan is to ensure that both human use of resources and protection of the environment are enabled or addressed at the same time, with prioritisation of protection being utilised only in limited identifiable special circumstances. That will only occur where either by statutory direction, such as in the NPSFM, or as a result of unequivocal evidence, that is required to maintain sustainability of a particularly endangered resource.

14. In terms of the Introduction/mihi examples we have quoted above the first still leaves a concern for the Panel because we do not think it accurately reflects the change in the recommended amended long-term vision which follows it. That long-term vision has been recommended in the 10 October, 2023 version to refer to people and communities and their uses or well-being, and reads:

The management of natural and physical resources ~~in Otago~~, by and for the people of Otago, ~~including in partnership with~~ Kāi Tahu, ~~and as expressed in all resource management plans and decision making~~, achieves a healthy, and resilient, and safeguarded natural systems environment, ~~and including the ecosystem services they offer it provides~~, and supports the well-being of present and future generations, ~~mā tātou, ā, mā kā uri ā muri ake nei.~~

15. In our view the sentence preceding that would be more appropriately worded:

Our long-term vision recognises that use of resources and protection of the environment must occur in an integrated sustainably managed way: ..."

16. The second quote we had identified to consider in the Introduction/mihi is less concerning as it appears to relate primarily to freshwater resources where the NPSFM direction as to priority must be followed. However, as we have discussed in our consideration of the term 'mauri' in the Legal section of the Introduction to our freshwater report in Appendix Two, we have recommended that what is protected is the wellbeing of the waters. That in turn will mean 'mauri' is protected but without having to become entangled in trying to define what 'mauri' precisely means. For that reason we recommend a slight change in this wording.

2.1 Recommendation

17. That the wording of the Introduction/mihi be amended to read in the last text paragraph on page 3 of the 10 October, 2023 version:

We have placed the environment at the centre of all we do in Our long-term vision recognises that use of resources and protection of the environment must occur in an integrated sustainably managed way: ..."

and at the second paragraph of text at page 4:

The purpose of these visions is to protect the wellbeing of water bodies in Otago, so as to protect their mauri, a responsibility shared by all. The aim is to achieve positive outcomes for water and habitat that also address the community's needs and interests.

3. Purpose

18. At para 24 of the original s.42A report by Lisa Hawkins entitled Introduction and general provisions dated 22 May, 2022, the report writer had noted:

Federated Farmers considers the previous overview section of the partially operative RPS 2019 to be more aspirational, with the pORPS being seen to be too narrow and negative in its focus. The submitter seeks the overview of the partially operative RPS to be reinstated, specifically for the following text to replace the first two paragraphs in the pORPS

“Continued prosperity and wellbeing is essential to ensuring the community is equipped to face the environmental, economic, cultural and social changes of the 21st century, and to provide opportunities for all people to realise their aspirations. A thriving and healthy natural environment is vital to sustaining our wellbeing. The RPS is a high level policy framework for the sustainable integrated management of resources, identifying regionally significant issues, the objectives and policies that direct how natural and physical resources are to be managed and setting out how this will be implemented by the region’s local authorities.”

19. Ms Hawkins did not accept the underlying premise advanced by Federated Farmers that the PORPS was too narrow and negative in its focus, but nonetheless she did conclude at para 30 that:

...the links between a thriving natural environment and community wellbeing could be more explicitly set out in the purpose.

20. Therefore, she recommended an amendment to reflect the second part only of the Federated farmers submission as follows:

The ORPS also promotes a thriving and healthy natural environment as being vital to sustaining our wellbeing.

21. With one reservation, the Panel considers the points made in the first paragraph advanced by Federated Farmers as to enabling opportunities for people to realise their economic, cultural and social aspirations or needs should also be reflected in the Purpose in this Introduction chapter. That is important given the changes we have recommended in the Legal section to the Introduction to this report to the overall approach required of enabling human activities while protecting the environment. The sole reservation relates to the proposed use of the word ‘aspirations’. In Appendix Two when addressing that word in relation to LF-FW-P7A we expressed the view that the term ‘aspirations’ was too uncertain. Whilst it is being suggested here by a submitter in a more general context, for consistency reasons we prefer to use the term ‘intentions’.

22. To include both concepts would involve a wording such as:

The ORPS also aims to provide communities, including mana whenua, with opportunities to carry out activities to achieve their economic, cultural and social needs and intentions, while at the same time promoting a thriving and healthy natural environment as being vital to sustaining our wellbeing.

23. Finally, on the Purpose section in the original s.42A report submission points by NZ Pork and Horticulture NZ were also not accepted which had sought to specifically add ‘food production’ to paragraph three of the Purpose statement. That paragraph as notified read:

The ORPS responds to identified significant regional values and resource management issues relating to Otago's environment, historic heritage, economy, recreational opportunities and communities.

24. The reasons given in paragraph 32 of the s.42A report for rejecting that request were:

The list included in paragraph three is not a list of 'significant regional values and resource management issues' as has been interpreted by the submitters. Rather it comprises descriptors which significant regional values and resource management issues may relate to. I consider these terms contained within the pORPS (environment, historic heritage, economy, recreational opportunities and communities) to be broad enough to encompass food production as it relates to the economy and the community. I therefore recommend to not accept these submission points.

25. The Panel struggles to understand why such an important aspect to the Otago community as food production or primary production should be excluded as a descriptor which 'significant regional value' may relate to, when heritage and recreation opportunities are. That is particularly so in a broad diverse rural region such as Otago where that descriptor of economic activity is so pervasive. We do not consider addition of the phrase 'food production' undermines this descriptor list, and in fact we consider it augments it appropriately for the Otago region.

3.1 Recommendation

26. That the second and third paragraphs of the Purpose section of the PORPS at p.6 of the 10 October 2023 version be amended to read:

The Otago Regional Policy Statement (ORPS) provides a policy framework that aims to achieve long-term environmental sustainability by integrating the protection, restoration, enhancement, and use and development of Otago's natural and physical resources. The ORPS also aims to provide communities, including mana whenua, with opportunities to carry out their activities to achieve their economic, cultural and social needs and intentions, while at the same time promoting a thriving and healthy natural environment as being vital to sustaining our wellbeing.

The ORPS responds to identified significant regional values and resource management issues relating to Otago's environment, historic heritage, economy, food production and recreational opportunities and communities. The ORPS sets out objectives, policies, and methods to address and resolve, over time, the identified issues as effectively and efficiently as possible. The ORPS gives effect to the statutory requirements set out in the Resource Management Act 1991 (RMA-1991), as well as relevant national direction instruments, and is informed by iwi authority planning documents. Regional plans and district plans must give effect to the ORPS.

4. Description of the region

27. A corollary of the points we have just made about the importance of food or primary production in Otago relates to the section of the Introduction which describes the region. At paragraph 40 of the original s.42A report, and in following paragraphs, requests in submissions were identified seeking that this section more appropriately recognise the significance of the

primary production basis of the Otago region. At paragraph 46 to some measure that proposition was accepted but the comparative contribution of the rural productive sector to the Otago economy was queried but without any detailed analysis, or recognition of its export value. The latter was a point often stressed to us in the hearings.

28. The amendment recommended in the s.42A report was as follows:

Otago's economy centres around construction, primary production agriculture, tourism, ~~mineral mining~~, and education. The construction industry is a major contributor to employment numbers in Otago, supported by the region's population growth. The primary production sector is a source of revenue and employment for the districts and the wider region. Otago's farms are also a key contributor to the national food supply network. The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the economy. Tourism ~~has also had~~ a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.

29. The reply report suggested some further amendments so that the paragraph as recommended finally to the Panel was:

Otago's history recognises the early exploration and occupation of Otago by Māori followed by the arrival of settlers from Europe and Asia. Otago's economy centres around construction, primary production agriculture, tourism, ~~mineral mining~~, and education. The construction industry is a major contributor to employment numbers in Otago, supported by the region's population growth. The primary production sector is a source of revenue and employment for the districts and the wider region. Otago's farms are also a key contributor to the national food supply network. The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the economy. Tourism ~~has also had~~ a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.

30. The Panel wishes to record its agreement with those recommended changes but wishes to also recognise the export value consideration. With that addition in its view the recommended paragraph now aligns with the recommended changes to the Purpose section above.

4.1 Recommendation

31. That the fifth paragraph of the section Description of the region in the PORPS be amended to read:

Otago's history recognises the early exploration and occupation of Otago by Māori followed by the arrival of settlers from Europe and Asia. Otago's economy centres around construction, primary production agriculture, tourism, ~~mineral mining~~, and education. The construction industry is a major contributor to employment numbers in Otago, supported by the region's population growth. The primary production sector is a source of domestic and export revenue and employment for the districts, the

wider region and the nation. Otago's farms are also a key contributor to the national food supply network. The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the economy. Tourism has also had a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.

5. Remaining Introduction and General Provisions

32. As we have described above the balance of the substantive matters in the Introduction and General Provisions chapter of the PORPS as to Interpretation and Mana Whenua sections which the Panel has considered it needs to address have been dealt with elsewhere in our reports.
33. That has occurred in large part for definitions in either the Legal section of the Introduction to this non-freshwater report, or in the legal section to the Freshwater Appendix Two report, or in the Mana Whenua section of this report.
34. Others have been addressed in other topic chapters as terms arise which were integral to the consideration of the issues addressed in those topic chapters. Good examples of the latter are the important definitions of 'effects management hierarchy' which is dealt with in the ECO chapter and 'regionally significant infrastructure' which is dealt with in the EIT chapter. Otherwise where definitions or other provisions have not been specifically addressed, then as we have detailed in the Introduction to this report that is because the Panel has accepted the wording recommended by the s.42A report process and the reasons provided.

Section 3: Mana Whenua and Resource Management Issues of Significance to Iwi Authorities in the Region (MW & RMIA)

1. Introduction

1. The PORPS contains numerous provisions which particularly impact on the interests of the iwi in Ōtākou, which is Kāi Tahu. While differing submissions, often on differing provisions, were lodged by Ōtākou Kāi Tahu and Murihiku Kāi Tahu organisations, other submission points were raised in a submission by Te Rūnanga o Ngāi Tahu.
2. Unsurprisingly, given their close whakapapa based interrelationships, their interests were almost always commonly held, albeit on occasion differently expressed. No major issue, though, arose either in the formal written submissions or at the hearings between the provincial Kāi Tahu hapū based papatipu rūnaka or between them and the main Te Rūnanga o Ngāi Tahu. For those reasons, and for ease of reference, we will utilise a common nomenclature for their submissions, that they conveyed 'mana whenua' or 'Kāi Tahu' views. Those views were often expressed at hearing through two Kāi Tahu consultancies Aukaha and Te Ao Marama Incorporated.
3. In the introductory legal section to the combined reports we have already stressed two major matters of importance that have arisen during this PORPS process which arise from Kāi Tahu history, and the ORC approach to Kāi Tahu history, and the ORC approach to Kāi Tahu interests. We do not need repeat those in detail again here. A summary can suffice.
4. The first point is that the Panel accepted the overall thrust of the Kāi Tahu submissions and evidence that the extent of the Treaty breaches it had experienced had resulted in massive loss of land and other resources for Kāi Tahu. Those breaches have been the subject of a series of findings in favour of Kāi Tahu in the Waitangi Tribunal in WAI 27, and major settlement with that iwi which followed in the Ngāi Tahu Claims Settlement Act 1998. That settlement included all Kāi Tahu hapū with s.9 of the Settlement Act stating:

9 Meaning of Ngāi Tahu and Ngāi Tahu Whānui

*(1) For the purposes of this Act and any other enactment, unless the context otherwise requires, **Ngāi Tahu** and **Ngāi Tahu Whānui** each means the collective of individuals who descend from the primary hapū of Waitaha, Ngāti Māmoa, and Ngāi Tahu, namely Kāti Kuri, Kāti Irakehu, Kāti Huirapa, Ngāti Tuahuriri, and Kai Te Ruahikihiki.*

5. As a consequence of the major Treaty breaches involved, Kāi Tahu had been left with tiny fragments of land in Otago often near the coastal environment, which environmentally happens to be a more sensitive area for Kāi Tahu to seek to use and develop the scarce resources left in their ownership. Their lay witnesses described how since World War 2 those hard realities had been exacerbated by restrictive planning approaches under previous Town and Country planning statutes, and by the manner in which even the more well-intentioned RMA provisions as to Māori and Treaty related issues, had been applied to their lands and resources.
6. From the point of view of Kāi Tahu interests, therefore, they had faced what they plainly perceived, even for cultural purposes, as a series of statutory and planning barriers to the use and development of their very limited landholdings and other resources, including wai Māori (freshwater), wetlands and wai tai (coastal waters). They expressed in strong terms that the

outcome was a trammelling of their tino rangatiratanga or rakatirataka in respect of those resources.

7. They sought relief that would give real effect to the s.6(e) and s.8 considerations that they argued should enable them to use those resources as they required. However, Kāi Tahu submitters also stressed two other major environmental considerations that underpinned their submissions.
8. They were that the concept of tino rakatirataka properly applied required that they be offered the opportunity through the PORPS of having their views on how the environmental footprint of humankind was to be imposed on the Otago region recognised as a true Treaty partner at the decision-making table, rather than being considered as just another interested party.
9. Coupled with that major concern was the concomitant kaitiaki responsibility for the environment recognised in s.7(a) of the RMA, which is an inherent part of the exercise of tino rakatirataka. It was made clear by Kāi Tahu witnesses that while the latter, tino rakatirataka, may enable use of resources, alongside it ran obligation and responsibility to care for the environment – kaitiakitaka.
10. In respect particularly of wai Māori (freshwater) and wai tai (coastal waters), the thrust of the Kāi Tahu evidence was that the outcome of both national and local governments' management of those resources over the decades of their control and management had been well-nigh disastrous. In their view the outcome for freshwater had been increasing over-allocation of water, and serious degradation of water quality from discharges and sedimentation. Similarly, they asserted there had been major degradation of some areas of coastal waters both as a result of discharges and sedimentation. They expressed not dissimilar views as to the state of the whenua in many locations.
11. In respect of all those resources they complained that they had in the past not been properly consulted as to their views, and certainly had been commonly excluded from decision-making roles. Moreover, they had either lost, or had reduced, most of their customary access to customary resources in freshwater and coastal waters. Added to all those concerns was the assertion that biodiversity of mahika kai had been suffering badly as well.
12. In a statutory planning sense these sorts of issues were sought by ORC to be addressed in the PORPS in a manner which accorded with the National Planning Standards in three principal sections being:
 - Mana Whenua, (MW) which is Chapter 4 of Part 1 of PORPS
 - Resource Management Issues of significance to Iwi Authorities in the region (RMIA), a section of Chapter 5 of Part 2 of the PORPS; and
 - Wāhi Tūpuna, which are covered in the first section of the Historical Cultural Values (HCV) Chapter 13 of Part 3 of the PORPS
13. In addition to those specific sections of the PORPS there are a number of other provisions which have specific references to mana whenua interests of engagement in most of the topic chapters of the PORPS.
14. This section of this report will address the MW chapter and RMIA chapter respectively. The HCV chapter of this report will address any wāhi tupuna issues. All other mana whenua aspects will be dealt with as each subject topic chapter is addressed.

15. Finally, by way of introduction to these mana whenua issues one further aspect of the PORPS section bears a summarised repetition here from the observations of the Panel in the Introductory part of the legal section to both reports.
16. In that we had acknowledged that ORC had made genuine and repetitive efforts in the preparation of the PORPS and in the hearing of submissions to engage in a meaningful manner with Kāi Tahu entities and individuals. We noted that had occurred in the consultation phase; in the policy statement drafting; in the s.42A report responses to the mana whenua submissions; and finally in responses to mana whenua evidence and submissions in our hearings. We had also earlier observed that the genuineness of that engagement by ORC had led to a much larger measure of agreement with mana whenua as to the content of those provisions affecting or engaging mana whenua response.
17. The consequence of that co-operative engagement by all involved had been that relatively few major issues impacting on mana whenua require consideration by the Panel.
18. We would like to record our appreciation to the mana whenua submitters for the positive co-operative efforts they have made to resolve points of difference with ORC at the various stages involved and to ORC for its willingness to respond in an understanding and similarly positive manner to mana whenua concerns. Finally, we take this opportunity of acknowledging the value of the input of the s.42A report writer Mr James Adams who had demonstrated a real grasp of the historical, Treaty, statutory and related practical concerns of mana whenua who have engaged in this process.

2. MW – *Mana whenua* Chapter

2.1 Preliminary matters

19. Before moving to address issues on particular provisions, there are three preliminary issues we need to address of general application to this chapter and to other mana whenua provisions in the PORPS. They are:

- The use of the phrase mana whenua rather than tangata whenua
- The impacts of definitions of ‘Māori land’, and ‘papakāika’
- The dialectal spelling use of ‘k’ for ‘ng’ by Kāi Tahu.

2.1.1 Tangata whenua or Mana whenua

20. The term tangata whenua, or in Kāi Tahu dialectal spelling ‘takata whenua’, is the term commonly utilised in te ao Māori to refer to the people occupying a particular rohe. In the RMA, NZCPS, NPSFM, NPSIB (to identify just some of the NPSs more widely engaged in the PORPS), the term ‘tangata whenua’ is used. In the RMA the s.2 definition of ‘tangata whenua’ is:

tangata whenua, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area

(Panel’s emphasis)

21. In the lifelong knowledge of Te Reo Māori held by the kaumātua on our panel, Rauru Kirikiri, it was unusual – if not ungrammatical - to see the phrase ‘mana whenua’ used to describe

people (tangata/takata), rather than to describe the actual authority (mana) that those people held. In other words an iwi or hapū has mana whenua and therefore cannot be mana whenua.

22. Nevertheless, over time, and throughout the Māori world, the phrase ‘mana whenua’ has become accepted and is widely used as equating to ‘tangata whenua’.

23. Furthermore, an indication that either phrase may be used in an authoritative statutory sense has been given in the NZ National Planning Standards. In the Regional Policy Statement Structure Standard as Chapter 2, Mandatory Directions are specified. Part 1 – Introduction and General Provisions uses the following terminology as an option:

[TANGATA WHENUA/MANA WHENUA]

Chapter: [Tangata whenua/mana whenua]

24. It was made clear to the Panel during the hearings by respected Kāi Tahu kaumātua, and by their counsel and planning witnesses, that Kāi Tahu in Ōtākou preferred the phrase ‘mana whenua’ instead of ‘takata whenua’ throughout the PORPS to relate to the people who hold mana in the region. In the spirit of co-operation that we have earlier referred to, ORC accepted that preference, and the notified and following versions of the PORPS all use that phrase.

25. Finally, no submitter sought a preference for the use of the words ‘tangata whenua’ in this context and that is decisive, in that we do not have jurisdiction to change the terminology, whatever view may be held as to its appropriateness.

2.1.2 Definition impacts of definitions of ‘Māori land’, ‘papakāika’

26. The definitions of ‘Māori land’ and ‘papakāika’ are critical to those provisions seeking to enable Kāi Tahu interests to be able to utilise their lands.

27. Those issues have been discussed in detail in Section 1: Legal Issues of this report and will not be repeated here.

2.1.3 Dialectal spelling of ‘k’ for ‘ng’

28. The Kāi Tahu dialect commonly utilised throughout its customary areas of occupation is to pronounce the northern form in Te Reo Māori of the diphthong ‘ng’ as a ‘k’. However, that has not always been uniform and in the past certain words have been spelt with the ‘ng’ form, and that spelling has been adhered to. That is most significantly demonstrated by the name Te Rūnanga o Ngāi Tahu (TRONT) itself where both in the ‘Ngai’ and in the ‘Runanga’ the ‘ng’ form has been used rather than the ‘k’. That is because the 1996 legislation establishing TRONT the ‘ng’ form of spelling was used, and without tohutō or macrons – Te Runanga o Ngai Tahu Act 1996. That spelling for the overarching Kāi Tahu governing body is used in the PORPS.

29. Similarly, in the spelling of the papatipu rūnanga the ‘k’ has not been used in the PORPS for Te Rūnanga o Moeraki, or Te Rūnanga o Ōtākou because that is their preference. So too, in Southland for the neighbouring Hokonui Rūnanga, and for Awarua Rūnanga, Waihopai Rūnanga and Ōraka-Aparima Rūnanga. However, one Ōtākou Rūnaka does use the ‘k’ form – Kāti Huirapa Rūnaka ki Puketeraki. We have adhered to these nomenclatures accordingly.

30. We are not aware of any submissions seeking changes to achieve uniformity of the use of the ‘k’ spelling and therefore leave this brief note of record as to why there are those differences in spelling in the PORPS.

2.2 Primary issues in the Mana Whenua Chapter

31. In his final reply on non-freshwater issues counsel for ORC, Mr Anderson identified the following matters as legal issues still requiring resolution:

1. MW-P4 - sustainable use of Māori land & native reserves
2. Māori land definition - jurisdiction
3. SILNA land
4. Aquaculture
5. MW-M4 – introductory words
6. MW-M4(1) – bias
7. MW-M4(2) – lawfulness

2.2.1 MW-P4 – sustainable use of Māori land and native reserves

32. The final recommended version of the PORPS of 10 October 2023 recommended that MW-P4 read:

MW-P4 – Sustainable use of Māori land Native Reserves and Māori land

Kāi Tahu are able to ~~protect,~~ develop and use *land* and resources within native reserves and ~~land held under Te Ture Whenua Māori Act 1993~~ *Māori land* in accordance with mātauraka and tikaka, ~~a way consistent with their culture and traditions and to provide for their~~ economic, cultural and social aspirations, including for *papakāika*, marae and marae related activities, ~~while:~~

- ~~(1) — avoiding adverse effects on the health and safety of people,~~
- ~~(2) — avoiding significant adverse effects on matters of national importance, and~~
- ~~(3) — avoiding, remedying, or mitigating other adverse effects.~~

33. The issues raised by some submitters was that as notified MW-P4 contained three sub-provisions which Mr Anderson for ORC termed as ‘qualifiers’ of the ability to use and develop Māori lands to provide for their economic, cultural, and social aspirations. Those qualifiers were:

... while:

- (1) avoiding adverse effects on the health and safety of people,
- (2) avoiding significant adverse effects on matters of national importance, and
- (3) avoiding, remedying, or mitigating other adverse effects.

34. The concern of some submitters was that without any such ‘qualifiers’ in place there would be no constraints on the effects of Māori use and development of their lands even if those were being used for economic purposes, no matter how large or adverse the effects. The response of Kāi Tahu, and the s.42A report writer and counsel for ORC was effectively that it was incorrect to label future use and development by Māori as unconstrained, because there were other provisions limiting those uses in that they had to accord with ‘mātauraka and

tikaka'. It was said that ensured appropriate kawa was followed underpinned by mātauraka and controlled by kaumātua. Those concepts involved the application of the ethic and exercise of kaitiakitaka principles which were singularly focused on protecting environmental health. The s.42A report writer went as far as to say that in Treaty terms it was time for the general public and ORC to trust the responsible exercise of those tikaka based responsibilities.

35. As we have said in the discussion of the definition earlier of Māori land and papakāika, that trusting approach in the opinion of the Panel has its risks. It cannot be ruled out that hard-nosed commercial players, either within or outside Māori entities, will see such a lack of formal regulation as an opportunity to avoid the usual impact of RMA 'limits' or 'standards' designed to protect the environment. Through the use of a variety of legal technical holding means such as leases or joint venture management contracts which maintained an underlying façade of 'Māori' ownership, practical tikaka based control could be lost, but the unconstrained use opportunity remain. It was those concerns that led us to decide that the practical way of resolving this issue was to recognise that the major Kāi Tahu demand expressed to us was to be able to carry on customary uses and development controlled by tikaka and kawa. The changes we have recommended to the definitions of Māori land and papakāika ensure that this is what is intended, which is to allow for customary uses.
36. For other non-customary economic uses we consider that RMA considerations should apply as they do in order to control potential adverse effects by others from economic use and development of land.
37. One other change which the Panel sees as being necessary relates to the barrier posed by planning controls, particularly in the Catlins area, to the customary use of Māori land. The area of Māori land is now so limited that we propose to recommend the MW-P4 uses should be enabled even if they happen to fall within ONFL overlays.

2.2.1.1 Recommendation

38. Therefore, consistent with the approach we have taken to the definition of the terms 'Māori land' and 'papakāika' we recommend that the wording of MW-P4 be as follows:

MW-P4 – Sustainable use of Māori land Native Reserves and Māori land

Kāi Tahu are able to:

- (1) ~~protect~~, develop and use *land* and resources within native reserves and *Māori land* held under Te Ture Whenua Māori Act 1993, including within land affected by an ONFL overlay, in accordance with mātauraka and tikaka, in a way consistent with their culture and traditions and to provide for their economic, cultural and social aspirations, including for papakāika, marae related activities, while:
- (2) provide for the economic use of their Māori land or native reserves resources subject to the provisions of the RMA, this regional policy statement and any relevant plan, while:
 - (1a) avoiding adverse *effects* on the health and safety of people,
 - (2b) avoiding significant adverse *effects* on matters of national importance, and
 - (3c) avoiding, remedying, or mitigating other adverse *effects*.

2.2.2 Māori land definition – jurisdiction

39. This issue arose out of submissions that there was no jurisdiction for the ORC in any submission to change the definition of ‘Te Ture Māori land’ in the notified version to ‘Māori land’ as recommended in the s.42A report.
40. We intend to deal with this point concisely as it is fully addressed to our satisfaction in the legal submissions in reply on 29 May 2023 by Mr Anderson for ORC – at pages 23-29 – and we do not need to repeat those submissions at any length here.
41. However, one aspect of those submissions by Mr Anderson addressed the term ‘ancestral lands’ and drew our attention to the formal written submissions on the notified PORPS reference to ‘ancestral lands’. We record here once more that in our view it is beyond question that in Ōtākou all the whenua constitutes Kāi Tahu ancestral lands. Otherwise, we find ourselves in full agreement with Mr Anderson’s identification of submissions which open up scope for using this terminology for amendment to reflect the identification of lands sought to be used by Kāi Tahu to meet their customary and social aspirations, as well as their economic ones.
42. We also record our agreement both with Kāi Tahu’s planner and ORC’s counsel that the areas of Māori land will be limited, but if at district plan level it was seen as of assistance to identify them, then that was the appropriate scale at which to address the matter. Despite the concerns expressed by Dunedin City Council’s planner Mr Freeland, on the evidence we heard as to the small scale of Māori land ownership in Otago, it is not viewed as a regional scale issue by us. We agree with the Reply Report recommendation in that regard.

2.2.3 SILNA land

43. This issue is integrally part of the preceding discussion. The SILNA lands have had a tortuous path described by the Waitangi Tribunal in one report (WAI27) as a ‘cruel-hoax’ – the lands involved being particularly poor quality and remote to access. Originally intended by the Crown to be available for other South Island landless iwi members, those areas now remaining in Kāi Tahu hands, or open to being so by future vesting order were always ancestral lands of Kāi Tahu. They were originally gained by the Crown in a series of transactions which have also been acknowledged both by the Waitangi Tribunal and by Parliament in the Ngai Tahu Claims Settlement Act 1998 as having been acquired in breach of the Treaty.
44. We accordingly regard them as being lands which should fall within MW-P4. No further amendments are required to achieve that outcome than those recommended in the 10 October 2023 version. Out of caution, we have recommended the inclusion of SILNA lands at clause 7(c) of the definition of Māori lands.

2.2.4 Aquaculture

45. Two new proposed sub-clauses as policy MW-P2(8A) and method MW-M5(3A) have been sought by Kāi Tahu. Those provisions read after relevant introductory wording as follows:

MW-P2 – Treaty principles

Local authorities exercise their functions and powers in accordance with the principles of Te Tiriti o Waitangi Treaty principles,¹ by:

¹ 00226.046 Kāi Tahu ki Otago

...

(8A) *regional plans* and *district plans* recognising and providing for aquaculture settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004,² and ...

MW-M5 – Regional plans³ and district plans

Local authorities must amend their *regional plans*⁴ and *district plans* to:

...

(3A) provide for the outcomes of settlements under the Māori Commercial Claims Aquaculture Settlement Act 2004.

46. The final recommended version of the PORPS dated 10 October 2023 recommends these two provisions be adopted. In this manner Kāi Tahu seek provisions requiring regional plans to recognise and provide for aquaculture settlement outcomes under the Māori Commercial Aquaculture Claims Settlement Act 2004.
47. As counsel for ORC has pointed out to us there is no mandatory statutory obligation upon a regional council to do so either in its policy statement or in its Regional Coastal Plan. However, there is the ability to do so.
48. The Panel has heard evidence that aquaculture space settlements are of course desired by Kāi Tahu and that space will be sought to be set aside in RMA terms to enable settlement agreements to be effectively implemented. The Panel is satisfied that it is in accord with both s.6(e) considerations and s.8 as to Treaty principles for these provisions to be included in the PORPS. The only change we have made from that sought is to delete reference to district plans as the aquaculture space will be in a regional coastal plan not a district plan.

2.2.4.1 Recommendation

49. We accordingly recommend that the PORPS is amended to include as MW-P2 and MW-M5 respectively the following sub-clauses:

MW-P2 – Treaty principles

(9) *regional plans* recognising and providing for aquaculture settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004.⁵

MW-M5 – Regional plans and district plans

(4) provide for the outcomes of settlements under the Māori Commercial Claims Aquaculture Settlement Act 2004.

² 00234.008 Te Rūnanga o Ngāi Tahu

³ Clause 16(2), Schedule 1, RMA

⁴ Clause 16(2), Schedule 1, RMA

⁵ 00234.008 Te Rūnanga o Ngāi Tahu

2.2.5 MW-M4 – Introductory Words

50. In the final 10 October 2023 recommended version of the PORPS the following wording was recommended for MW-M4:

MW-M4 – Kāi Tahu rakaitirataka involvement in resource management⁶

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision making), to the extent *mana whenua* consider themselves able to accommodate,⁷ by:

- (1) including accredited Kāi Tahu commissioners including accredited commissioners approved or nominated by Kāi Tahu⁸ on hearing panels for *resource consent* applications, notices of requirements,⁹ plan changes or plans where Kāi Tahu values may be affected,
- (2) resourcing Kāi Tahu participation in resource management decision making, including funding,
- (3) joint management agreements and full or partial transfers of functions, duties or powers from *local authorities* to iwi authorities in accordance with section 33 of the RMA-1991,¹⁰ and
- (4) entering into a Mana Whakahono ā Rohe with one or more iwi authorities.

51. The original introductory wording recommended in the s.42A report suggested terminology of “to the extent desired by *mana whenua*, including by...”. Concerns were expressed that the terminology conveyed an impression Kāi Tahu could control the local authority decision-making process.

We agree with the final recommended version because as we understood matters the concern that terminology was intended to address was to avoid Kāi Tahu entities becoming swamped by RMA processes which they might be unable to accommodate.

2.2.5.1 Recommendation

52. We recommend the amendment of the opening words of MW-M4 to read:

MW-M4 – Kāi Tahu rakaitirataka involvement in resource management¹¹

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision making), to the extent *mana whenua* consider themselves able to accommodate,¹² by:

⁶ 00226.052 Kāi Tahu ki Otago

⁷ 00223.034 Ngāi Tahu ki Murihiku

⁸ Clause 16(2), Schedule 1, Resource Management Act 1991.

⁹ 00223.034 Ngāi Tahu ki Murihiku

¹⁰ Clause 16(2), Schedule 1, RMA

¹¹ 00226.052 Kāi Tahu ki Otago

¹² 00223.034 Ngāi Tahu ki Murihiku

2.2.6 MW-M4(1) – bias

53. Another matter which arose out of MW-M4 was the provision in sub-clause (1) which as notified reads as follows:

(1) including accredited Kāi Tahu commissioners on hearing panels for *resource consent* applications, notices of requirements, plan changes or plans where Kāi Tahu values may be affected,

54. The Panel was concerned that such a provision had all the hallmarks of apparent bias being possible whenever a Kāi Tahu interest was at stake. It was explained to the Panel that was not the intent but rather that Kāi Tahu have the ability to engage in decision-making by nominating accredited commissioners. If Kāi Tahu were involved in the process such Commissioners could be impartial.

55. The response by October 2023 in the final recommended version stage was that the report writer and counsel for ORC recommended an amended version as follows:

(1) ~~including accredited Kāi Tahu commissioners~~ including accredited commissioners approved or nominated by Kāi Tahu on hearing panels for *resource consent* applications, notices of requirements, plan changes or plans where Kāi Tahu values may be affected, ...

56. The Panel agrees that the amended wording resolves the concerns it had but for the sake of certainty the word ‘commissioner’ should be in the singular and the word ‘independent’ should be added because of the perception effect of this clause referring to matters where ‘Kāi Tahu values’ may be affected.

2.2.6.1 Recommendation

57. We recommend that sub-clause (1) of MW-M4 is amended to read:

(1) ~~including accredited Kāi Tahu commissioners~~ including an independent accredited commissioner approved or nominated by Kāi Tahu on hearing panels for *resource consent* applications, notices of requirements, plan changes or plans where Kāi Tahu values may be affected, ...

2.2.7 MW-M4(2) – lawfulness as to proposed funding for Kāi Tahu

58. Both as notified and as finally recommended in the 10 October 2023 version of MW-M4(2) this provision stated:

MW-M4 – Kāi Tahu rakatirataka involvement in resource management

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision making), to the extent *mana whenua* consider themselves able to accommodate, by:

...

(2) resourcing Kāi Tahu participation in resource management decision making, including funding,

....

59. The issue was initially raised by some submitters, and the Panel too, as to the validity and reasonableness of such a mandatory funding provision for Kāi Tahu when other funding processes under local government legislation appeared to control those sorts of expenditures.
60. At closing stage in May 2023 ORC still stood by the provision, but then a series of appeals involving Te Whānau a Kai and Gisborne District Council resulted in a ruling by the Court of Appeal that it was unlawful to circumvent or cut across the Local Government Act’s framework for decisions about both funding and expenditure. That litigation culminated in the dismissal of an application for leave to appeal reported as *Te Whānau a Kai v. Gisborne District Council* 2023 NZSC 77.
61. ORC’s counsel Mr Logan then filed a helpful memorandum for the Panel drawing attention to various provisions in the PORPS which would require reconsideration as a result of the Court of Appeal’s decision in that case. One of those provisions was MW-M4(2) which Mr Logan advised could “no longer stand”. That Memorandum was agreed with by memoranda filed by counsel for Kāi Tahu on 25 July 2023 and counsel for Dunedin City Council on 2 August 2023.
62. In the Memorandum by Counsel for Kāi Tahu Mr Cameron suggested change to MW-P4(2) to read as follows:
- ... (2) implementing actions to foster the development of mana whenua capacity to participate in resource management decision making,...
63. Mr Garbett as counsel for DCC accepted that change was appropriate and by memorandum of 25 September 2023 Mr Logan for ORC advised it too had no objection to that wording.
64. In the Panel’s view, as the DCC submission on the provision challenged its validity, that opened scope for an amendment addressing that concern. The amendment proposed seems to accord with the overall sound working relationship between those two authorities and Kāi Tahu rūnaka who will come under pressure in meeting their kaitiaki and rakatirataka responsibilities – and Mr Garbett in his memorandum had indicated a funding agreement was in place for DCC to assist in that regard anyway.

2.2.7.1 Recommendation

65. That MW-M4 be amended as follows:
- (2) implementing actions to foster the development of mana whenua capacity to participate resourcing Kāi Tahu participation in resource management decision making, ~~including funding,~~

3. Resource Management Issues of Significance to Iwi Authorities In the Region Chapter (RMIA)

66. The RMA provides as follows in s.62(1)(b):

62. Contents of regional policy statements

(1) A regional policy statement must state—

(a) the significant resource management issues for the region; and

(b) the resource management issues of significance to iwi authorities in the region; and ...

67. At paragraph 554 of the original s.42A report the following was stated:

554. Iwi consultancies Aukaha and Te Ao Mārama Incorporated (as agents of, and in consultation with, Otago's mana whenua) have led preparation of the corresponding section of the PORPS 2021. The issues presented represent Kāi Tahu's key concerns with resource management in Otago.

68. As a consequence of the fact that Kāi Tahu led the development of this chapter, submissions by Kāi Tahu agencies were not major and in general constituted almost a process of 'polishing' the provisions Kāi Tahu had already shaped in the preparation stage. That is unsurprising, because as Mr Adams the s.42A report writer pointed out:

553. A regional policy statement must state the resource management issues of significance to iwi authorities in the region. Only mana whenua can make such statements with authenticity in Otago.

69. That reality, and the limited room for major submission points to be raised by those other than iwi authorities in relation to issues of significance to iwi authorities, is reflected by Mr Adams' repetitive observation in recommending the rejection of various limited submission points seeking amendment to particular provisions, that the notified provision is "*a direct expression of iwi concerns.*"

70. In the closing submissions by ORC's counsel in reply, no major outstanding legal issues were identified as needing to be addressed in relation to this chapter. In the s.42A reply report some very limited further planning wording aspects were addressed which Kāi Tahu had requested. The Panel agree with the s.42A report on all those issues so no further analysis is required here.

Section 4: Significant resource management issues for the region (SRMR)

1. Introduction

1. This section sets out the Panel’s analysis and recommendations in relation to the non-Freshwater provisions for Significant resource management issues for the region. The analysis and recommendations for the Freshwater SRMR provisions can be found in Appendix Two.

2. New Issue statements

2. A number of submitters sought the introduction of a number of new significant resource management issues into the pORPS. Because Ms Todd, the s42A report author, did not recommend the addition of any new SRMRs, these issues were discussed at length at the hearing. While there was a high degree of commonality expressed by the various submitters, a range of different forms of wording were advanced, with most being relatively specific to the respective concern of each submitter. In response to this, the Panel issued Minute 6 which directed caucusing of planning experts for those submitters interested in pursuing such relief. The Panel considered that its deliberations would be assisted by any proposed wording for a new issue or issues that submitters may be able to agree upon.
3. Caucusing was undertaken by two separate groups of planning experts in March 2023, and as a result submitters are now seeking two new significant resource management issues for:
 - a. Infrastructure; and
 - b. Users of natural and physical resources, including primary production, mineral and aggregate extraction, tourism and industrial activities.
4. The parties who participated in the caucusing were identified in Ms Todd’s reply report, so we do not repeat that here. The parties involved in the infrastructure caucusing prepared a Joint Witness Statement (“JWS for Infrastructure”) which included the proposed wording for the new significant resource management issue. The following matters were agreed by parties at caucusing:
 - i. The issue should cover infrastructure in general (as defined in the pORPS and RMA), rather than Regionally Significant Infrastructure, given that the scope of the latter is yet to be determined and any distinction can be addressed at the objective and policy level in the ORPS.
 - ii. The purpose of an infrastructure issue is to acknowledge that because of functional needs and operational needs, it may not be possible to avoid sensitive environments in both rural and urban contexts.
 - iii. Infrastructure can both benefit and adversely affect Māori. The experts considered that Kāi Tahu is most appropriately placed to identify how infrastructure may affect their well-being and aspirations should they wish to do so and noted that any drafting resulting from the caucusing would be circulated to Kāi Tahu for comment (Minute 8).

5. The parties involved in the more general 'use of resources' SRMR also prepared a Joint Witness Statement ("JWS for resource users") which included proposed wording for a new significant resource management issue for users of natural and physical resources. While Fish and Game, Realnz and NZSki were a part of both caucusing groups, they still sought the inclusion of a further issue that stated the "social, cultural and economic well-being of Otago's communities depends on use and development of natural and physical resources."
6. After the caucusing occurred, all other submitters were given an opportunity to respond to the proposed new issue(s) by 21 April 2023. The only response received was from Mr Barr for QLDC. He agreed that there should be a dedicated issue for infrastructure in the SRMR chapter of the pORPS but suggested a range of amendments.
7. In her reply, Ms Todd considered the appropriateness of the two new SRMRs. She advised that *"after considering the evidence provided on this matter, discussion at the hearing, and the guidance on the Quality Planning website"*, that *"new significant resource management issues have been identified for the Otago region."* In particular, she noted that:
 - a. *The proposed new issues are consistent with the criteria on the Quality Planning website because:*
 - i. *The issues are about sustainable management of natural and physical resources, and the conflict between allowing the use of these resources to provide for the well-being of the community, while managing the adverse effects on these resources. In my opinion this is an issue that must be addressed to promote the purpose of the RMA; and*
 - ii. *The issues concern a conflict between users of resources, and effects on the environment.*
 - b. *A number of submitters participated in the caucusing and consider that these issues are significant for the region. I have considered the evidence submitted on behalf of these parties, and the drafting of the proposed new issues. Having considered these matters, and the importance of infrastructure, primary production, tourism and industry in the region, I agree that a significant resource management issue (or issues) has been identified for the region.*
8. However, Ms Todd noted in her reply report that *"the underlying issue is essentially the same across the three proposals: the conflict between using natural and physical resources, and the need to manage the adverse effects of these uses on the environment."* As a consequence of that position, she recommended one combined SRMR for the region, based on the JWS for resource users SRMR.
9. Having reviewed the three options proposed by the submitters (which included the option of Fish and Game, Realnz and NZSki), we found ourselves in agreement with Ms Todd that the issues are similar and minor changes could encompass all matters of concern. Hence, we have accepted Ms Todd's proposed SRMR as mostly appropriate, subject to the reintroduction of the JWS for resource users paragraph regarding the benefits that activities can have on the natural environment, and the direct reference to the role infrastructure will play in addressing climate address found in the infrastructure JWS issue.

2.1. Recommendation

10. The Panel recommends the addition of a new significant resource management issue for the region:

SRMR-I10A – the social, cultural and economic well-being of Otago’s communities depends on the use and development of natural and physical resources, but that use and development can compromise or conflict with the achievement of environmental outcomes

Statement

The ability to access and use natural and physical resources, including for infrastructure, primary production, mineral and aggregate extraction, tourism and industrial activities, is essential for the social, cultural and economic well-being of the region. Access to, and the ability to use, natural and physical resources can be impacted by regulatory changes, incompatible land uses, natural hazards and climate change. Equally, the use and development of the region’s natural and physical resources can have adverse effects on the environment which need to be appropriately managed.

Context

The well-being of Otago’s communities relies on the ability to access and use the region’s natural and physical resources. The quality of these resources and the ability to access them has a direct bearing on the well-being of people and communities in the region.

Failing to plan and provide for activities that contribute to the regional economy can lead to adverse socioeconomic consequences. Conversely, failure of activities to sustainably manage their impact on natural and physical resources can also lead to poor socioeconomic outcomes.

Appropriate access to and use of natural and physical resources needs a planning framework that recognises and provides for the essential operational, locational and functional requirements of activities while managing the adverse effects of these activities. The ongoing effects of climate change (addressed elsewhere in the Issues section) will have an ongoing impact on the operation of activities.

Impact snapshot

Environmental

The use of natural and physical resources can have adverse effects on the environment, which need to be appropriately managed to avoid, remedy or mitigate the adverse effects. Loss or degradation of resources can diminish their intrinsic values. Some of Otago’s resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

However, it is recognised that the natural environment can benefit as activities change how they interact with, access and use natural resources. Activities that use natural

and physical resources can achieve positive environmental outcomes, for example riparian planting, habitat restoration and enhancement, public access, and pest control activities. This can be as mitigation or compensation for the effects of activities or as contributions from economically sustainable activities in the region. Some activities, for example renewable electricity generation and other infrastructure, will have a significant role to play in addressing climate change.

Economic

Activities that rely on natural and physical resources generate direct and indirect economic benefits; therefore, their ability to operate, or to improve their operational efficiency, affects the economy of the region.

The ability to access and use natural and physical resources may impact the ability of activities to optimise the use of investments and assets and realise their potential economic value.

Activities that rely on natural and physical resources also rely on clear regulatory settings to inform investment decision-making about the use and development of natural and physical resources.

Social

The ability for activities to access and use natural and physical resources provides for the social and cultural well-being of people and communities including by supporting employment, livability, recreation, resilience, food security and investment into communities. Inappropriately located subdivision, use and development can increase the potential for harm to human health arising from incompatible activities locating in close proximity to each other.

3. SRMR – Introductory section

3.1. Discussion

11. The introduction to the SRMR chapter was discussed in section 3.8.3 of Ms Todd's s42A report. Several submissions were made on this section of the SRMR chapter. Ms Todd made some minor changes in response, but several submitters pursued other changes at the hearing which she addressed in her reply.
12. In reassessing the Transpower submission, Ms Todd agreed that identifying issues only as they relate to natural resources is inappropriately narrow and inconsistent with the purpose of the RMA, and sections 59 and 30(1) of the RMA. As a consequence, she recommended adopting the amendments suggested by Ms McLeod in her EIC. We agree this appropriate and have adopted Ms Todd's position accordingly.
13. However, we did not believe the amendments made in response to the Fish and Game, Realnz and NZSki submission appropriately reflect the new issue recommended, which does in fact recognise that social and economic well-being depends on resource use. We have made a change to reflect that, which also addressed the Federated Farmers submission.

14. With respect to Horticulture NZ submission to add ‘food production’ to the sentence in the 2nd paragraph that deals with ‘social and cultural perspective’, Ms Todd stated that she:

“...did not consider that this level of detail is necessary for the issues statement. It is covered more generally by the reference to agricultural industries in the statement about impacts from an economic perspective. I have not changed my opinion on this.”

15. However, we agree with HortNZ that food production is not just an economic resource issue but also an essential part of community well-being. As proposed, the HortNZ addition does appear out of place in this sentence because the provision does not reference ‘health’ and unfortunately, that part of s5 of the Act does not appear in the introductory text.
16. In response to the Yellow-eyed Penguin Trust, who sought the inclusion of ‘health’ benefits (as well as enabling social, economic and cultural well-being) within the introductory text, Ms Todd stated that ‘health’ is “*covered more generally by the existing text*”. We disagree with that and consider the lack of direct reference to that part of s5 of the RMA to be an oversight.
17. As a consequence, we have accepted the submission of the Yellow-eyed Penguin Trust and that of HortNZ as they more accurately reflect reality.

3.1.1. Recommendation

18. The Panel recommends the following amendments to the first three paragraphs of the Introduction section as follows:

- a. Amend paragraphs one and two:

Otago’s people and communities rely on the *natural and physical resources* that Otago’s *environment* provides to enable their social, economic, and cultural well-being. Natural resources include *freshwater* (i.e. surface and groundwater, *wetlands, estuaries*), *land and soil*, terrestrial, and *freshwater* ecosystems, coastal and marine ecosystems, and air, landscapes, vegetation and natural landforms. Physical resources include *infrastructure, buildings* and facilities.

From an economic perspective *natural and physical resources* support, and are impacted by, agricultural industries (e.g. grazing, cropping, horticulture, viticulture), urban development, industrial development, *infrastructure*, energy generation, transport, marine industries (fishing and aquaculture), tourism and *mineral* extraction. From a social, health, and cultural perspective *natural and physical resources* support and are impacted by food production, recreation, housing, and cultural activities (~~Refer Figure 2~~).

~~Figure 2 – Relationships between natural resources, resource use and strategies~~

- b. Delete Figure 2.

- c. Amend paragraph three:

This RPS identifies the ~~eleven~~ twelve most significant issues impacting the Otago region. Issues firstly considered include *natural hazards, climate change, pest species, water* quantity and quality, and *biodiversity* loss, collectively the “natural asset-based issues”. Two “place-based issues” of regional significance are then

addressed - being Otago's coast and Otago's lake areas. The use and development of resources is also recognised as being essential to the wellbeing of the community, while acknowledging that this can lead to conflicts when managing the adverse effects of this use. Finally, issues of economic and domestic pressures, cumulative impacts and *resilience* are considered.

4. SRMR-I1 – *Natural hazards pose a risk to many Otago communities*

4.1. Discussion

19. SRMR-I1 considers the risks and issues associated with natural hazards in Otago and the potential impacts of natural hazards on community, property, infrastructure and the wider environment. Eighteen submissions were received on this SRMR-I1, seeking a broad range of amendments.
20. SRMR-I1 was discussed in section 3.8.4 of Ms Todd's s42A report, revisited in her Supplementary Evidence 05A with regard to the ability of infrastructure and distribution networks to respond to natural hazard events, and further discussed in her reply report. We have reviewed her responses to the submissions, and the recommendations that have flowed from that. The Panel did not have any concerns with the amendments recommended by the s.42A reports for the reasons set out in those reports and was not persuaded at the hearings that any change to the s.42A final position was required.

5. SRMR-I2 – *Climate change is likely to impact our economy and environment*

5.1. Discussion

21. SRMR-I2 considers the potential impacts of climate change on the Otago Region. The issue addresses the tensions and risks climate change poses to environmental, economic, and social well-being. A total of 28 submissions were received, including one from CIAL which requests that SRMR-I2 be retained as notified. The remaining submissions seek a range of general and specific amendments.
22. Ms Todd discussed SRMR-I2 in section 3.8.5 of the s42A report, with her analysis in paragraphs [145] to [167]. She made a number of recommendations which we generally consider appropriate, with a number of exceptions that we discuss below.
23. In relation to HortNZ's request for amendment to the first paragraph to acknowledge the impacts of climate change on food production systems and related food supply and food security needs, Ms Todd considers that this "*is covered more generally in the Statement by the sentence acknowledging that climate change may affect the number and types of crops and animals that the land can sustain.*" We disagree. The current statement only notes that there will be a change in what the land can sustain. It does not identify one of the wider implications of that, which is the impact this may have on food supply and food security. Hence, we have accepted HortNZ's submission on this.

24. Ms Hunter, for Contact, sought the addition of two paragraphs that acknowledge the critical role that renewable electricity generation has to play in New Zealand’s decarbonisation requirement. In response, Ms Todd did not agree that it is necessary to discuss the role of Otago’s renewable energy facilities in achieving New Zealand’s climate change and decarbonisation requirements. In her view, the suggested amendments go into a much greater level of detail about the response to climate change than is necessary to outline the issue.
25. While we agree with Ms Todd that the suggested amendments are possibly too detailed for inclusion here, we do agree with Ms Hunter’s sentiment. We believe SRMR can and should state what the implications of the issue will be. In this case, it is likely to mean that human intervention will be required and that there will be effects arising from that. We have recommended amendments accordingly.
26. With respect to the change made in respect to the Fish and Game submission, we have deleted the last part of Ms Todd’s addition, where it stated it ‘may also exacerbate the original risk’, as that was not sought by the submitters, and we heard no evidence on that. Likewise, with the amendment in response to QLDC request, we have removed reference to the word ‘adversely’, which was not sought by the submitter. While we accept climate change may impact on visual and recreation values of Otago landscape, it does not necessarily follow that they will all be negative.
27. We also agree with the Trojan and Wayfare submission that the notified text needs amendment in relation to the impact on skiing to recognise the reality of the situation.

5.2. Recommendation

28. The Panel recommends the following amendments:
 - a. Amend the title of SRMR-I2 as follows:
SRMR-I2 – Climate change ~~will be likely to~~ impact our economy and environment.
 - b. In the Statement, amend the third sentence as follows:

This will be compounded by stronger winds, increased temperatures and longer dry periods, which may affect the number and types of crops and animals that the land can sustain, food production systems and related food supply and food security needs, and the potential for renewable electricity generation.
 - c. Add the following after the first paragraph in the Statement:

Our responses to climate change, whether that be mitigation or adaptation, will also impact on our economy and environment. An example of this will be the need to protect and maximise existing renewable electricity generation activities in the region, as well as providing for the development of new renewable electricity generation activities.
 - d. In the Context, add the following paragraph to the end of the subsection:

Rainfall and temperature change may result in drier soils and changes to river flow (low flow and floods), as well as increased occurrence of slips/landslides. Sea level rise will have impacts on coastal communities, infrastructure and habitats, while the risk of wildfire will also increase. Changing climate also risks increased biosecurity issues of

increased plant, fungal and animal pests and diseases.

- e. In the Impact snapshot, delete “OCCRA report”,
- f. In the Environmental impact snapshot:
 - i. Remove the word ‘native’ from the first sentence as follows:

For terrestrial ~~native~~ ecosystems and species, higher frequency of severe events (e.g. high/low temperatures, intense rainfall, drought, fire weather) could reduce *resilience* of ~~native~~ terrestrial ecosystems and species over time with adverse impacts on biodiversity.
 - ii. Add the following sentence to the end of the subsection:

Human adaptation to climate change, such as building or expanding dams or flood protection schemes, will be necessary and may give rise to adverse impacts on ecosystems, in addition to those imposed by climate change itself.
- g. In the ‘regional industry’ section, amend the last paragraph as follows:

~~For Some tourism activities may be affected. there will be negative impacts on skiing where~~ For example, the number of snow days experienced annually could decrease by as much as 30-40 days in some parts of the region. This reduction in natural snowfall will mean that ski fields will be more reliant on snowmaking. The duration of snow cover is also likely to decrease, particularly at lower elevations. This will also lead to reduced summer waterflows.
- h. In the Social impact snapshot, add the following sentence to the end of the first paragraph:

Additionally, the visual and recreational values of Otago’s landscape may be impacted on by the effects of climate change.

6. SRMR-I3 – *Pest* species pose an ongoing threat to indigenous biodiversity, economic activities and landscapes

6.1. Discussion

29. SRMR-I3 considers pest species in Otago and the significant impact these species have on the region’s environment, economy and social wellbeing. Twenty-one submissions were received on SRMR-I3, seeking a broad range of amendments.
30. SRMR-I3 was discussed in section 3.8.6 of Ms Todd’s s42A report, and further discussed in her reply report. We have reviewed her responses to the submissions, and the recommendations that have flowed from that. We generally agree with her recommendations with the following exceptions.
31. Horticulture NZ and OWRUG sought an amendment to the Statement to recognise that climate change will potentially exacerbate the impacts of existing pest species and provide opportunities for new pest species to establish, potentially threatening food production and supply. Similarly, the Yellow-eyed Penguin Trust sought that the increased risks of pests and

diseases due to climate change be acknowledged, particularly with respect to declining endemic species.

32. Ms Todd considers that climate change is covered in SRMR-I2 and that this amendment is therefore not necessary. We respectfully disagree and consider that recognition of the potential impacts of climate change on the types and density of pest species is an important matter for SRMR-I3. Climate change is recognised in other SRMRs, for example SRMR-I1 where the context states that “natural hazards may be exacerbated by climate change...”. We recommend that an additional sentence relating to climate change be added to the Statement that acknowledges the potential impact of climate change.

6.2. Recommendation

33. The Panel recommends the following amendment to SRMR-I3:

- a. Add the following sentence to the end of the Statement of SRMR-I3 as follows:

Climate change may compound the impacts of existing pest species and provide opportunities for new pest species to establish.

7. SRMR-I4 – Poorly managed urban and residential growth affects productive *land*, treasured natural assets, *infrastructure* and community well-being

7.1. Discussion

34. SRMR-I4 considers the impacts of poorly managed urban and residential growth on environmental, economic, and social well-being. A total of 20 submissions were received on this SRMR-I4, seeking a broad range of amendments.
35. SRMR-I4 was discussed in section 3.8.7 of Ms Todd’s s42A report, with a number of outstanding matters discussed in her reply report. We have reviewed her responses to the submissions, and the recommendations that have flowed from that, and are in agreement with her final position on this SRMR.

7.2. Recommendation

36. The Panel recommends the following amendments to SRMR-I4:

- a. Amend the Title:
SRMR-I4 – Poorly managed urban and residential growth affects productive *land*, treasured natural assets, *rural industry*, *infrastructure* and community well-being
- b. Amend the Statement as follows:

Natural resources used for urban development are permanently transformed – with the opportunity cost of removing urban activity being too high for land to revert to productive uses. Frequently, places that are attractive for urban growth also have landscape and productive values all of which must be balanced and where possible protected. The growth

of ~~Wanaka~~ Wānaka and Queenstown is changing the natural landscape. Mosgiel's and Cromwell's growth is occurring on some of Otago's most highly productive soil, which removes the option for agriculture. Towns like Arrowtown, Clyde and Milton experience poor air quality in winter, while experiencing pressure to grow.

c. In the Context:

i. Amend the fourth paragraph as follows:

Urban growth, especially if it exceeds infrastructure capacity (either through sheer pace and scale or by lack of planning) or if it occurs in a way or at a rate that mean that appropriate infrastructure is not provided, is lagging or is inefficient, can result in adverse impacts on the environment, existing residents, business and wider society. ~~Quality urban environments are those that maximise the positive aspects of urban areas and minimise the negative.~~

ii. Add the following paragraph to the end of the Context:

In addition, the productive *land* in Otago contributes to the social and economic well-being of the community through production of food and other rural production-based products. In some parts of Otago, *land* and soil resources are particularly valuable for food production. However, where development occurs in a place or manner that removes or reduces the potential to use productive *land*, including through *reverse sensitivity effects*, the ability of *land* to support *primary production* is compromised.

d. Amend the Environmental impact snapshot:

Urban areas and associated concentration of human activity result in adverse impacts on the natural *environment*, as a result of *land* consumption, landscape, waterway and vegetation modification for housing, industry, transport of goods and people and recreation areas, the diversion and use of *water*, and *waste* disposal and effluent and pollution *discharges* to air, *land* and *water*. Urban or rural lifestyle expansion can remove *land* and soil resources from productive uses, including for the production of food.⁵⁶ All of these can also impact *mana whenua* values. These impacts can also result in loss or impediment of access to important resources including significant *biodiversity* or natural features and landscapes. Poorly managed urban growth can lead to additional carbon emissions, this can create tensions between the need to increase residential housing stock and the need to meet carbon reduction targets.

Urban ~~development~~ growth within *rural areas* can also lead to reverse- *sensitivity effects* on existing *primary production* activities and related rural based activities, because urban activities can be sensitive to the *effects* generated by *primary production* activities and related rural based activities. whereby traditional methods of *pest* management or the undertaking of rural production activities cannot be deployed due the proximity of urban populations and the potential for adverse impacts on those populations.

...

e. Amend the Economic impact snapshot:

While potentially providing short term commercial returns, poorly managed urban growth and development may result in long term impacts including:

- the loss of land for primary production activities ~~productive land~~ (either directly though building on it, or indirectly though *reverse sensitivity effects*);
- the consequences of previous decisions (low density development, including rural residential lifestyle, in the short term can preclude higher density development in the medium to longer term);
- increased capital and operational costs for *infrastructure* which can foreclose other more suitable investments or spending, increased costs from less efficient spatial arrangements (such as increased transportation and *infrastructure* costs to both users and operators), and loss of valued natural capital and future opportunities; and
- housing affordability ~~can be~~ challenges are present in the region and are negatively affected by urban growth where demand outpaces supply.
- conflict arising from the location of incompatible activities within proximity of each other, including the potential for *reverse sensitivity effects* on the continued operation and growth of rural based activities.

~~In Otago, housing has been more affordable for homeowners than the NZ average in recent years, however house value growth has been higher in Otago (12.6% per annum) than the NZ average (7%) since 2017.~~

...

- f. Amend the third paragraph of the Social impact snapshot:

Transportation of goods and people between and within urban areas can also generate impacts on humans. For example, increased traffic congestion and lack of safe and attractive alternatives within urban areas impacts people and businesses living near to high volume traffic routes, resulting in lost time for family and other activities for those who use them, and ~~road fatalities on rural highways~~ deaths and serious injuries on the transport network.

8. SRMR-17 – Rich and varied *biodiversity* has been lost or degraded due to human activities and the presence of *pests* and predators

8.1. Discussion

37. SRMR-17 considers the issues associated with the loss of biodiversity in Otago, including habitat loss, land use change, vegetation clearance and invasive species. It addresses marine, freshwater and terrestrial environments. Twenty-four submissions were received on SRMR-17, seeking a broad range of amendments.
38. SRMR-17 was discussed in section 3.8.10 of Ms Todd's s42A report and further discussed in her reply report. We have reviewed her responses to the submissions, and the recommendations that have flowed from that. The Panel did not have any concerns with the amendments recommended by the s.42A reports for the reasons set out in those reports and was not persuaded at the hearings that any change to the s.42A final position was required.

9. SMRM-18 – Otago’s coast is a rich natural, cultural and economic resource that is under threat from a range of terrestrial and marine activities.

39. Only 10 submissions were received on SRMR – 18. With two of those supporting its retention unchanged, that left only 8 submissions seeking change. All of those submissions only sought limited changes to the Statement section following the issue and the accompanying Context section, but not to the issue wording itself.

40. The Panel did not have any concerns with the amendments recommended by the s.42A reports for the reasons set out in those reports and the Panel was not persuaded at the hearings that any change to the s.42A final position was required.

10. SRMR-I10 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause

10.1. Discussion

41. SRMR-I10 considers the issues associated with economic and domestic activities on natural resources, such as development, water abstraction, discharges, primary production, transport and tourism. A total of 29 submissions were received in relation to this SRMR, including one from Beef+ Lamb and DINZ seeking it to be retained as notified. The remaining submissions seek a broad range of amendments across the whole of SRMR-I10.

42. Ms Todd addresses SRMR-I10 in section 3.8.13 of her s42A report and again in her reply report. She recommended a small number of changes, noting that the concerns expressed by some submitters around the lack of recognition of the importance of various activities are better dealt with by the new significant resource management issue for the region. We agree with that. Had that new issue not been introduced, the Panel would have made significant changes to this issue, given how negatively it is expressed.

43. However, we do acknowledge that this issue is in fact about activities not always accounting for the effects they may cause. With that in mind, we agree with the forest companies’ submission that the words ‘poorly managed’ should be included in the statement.

44. We also had some sympathy for the submissions of Trojan and Wayfare who consider that the use of the term ‘social licence’ is not a good fit in the context of an RMA policy document. They question what it means and how its use is justified. We too do not understand the relevance of that term in an RMA document. As a consequence, we accept their opposition to this provision as a whole for the reasons they stated but prefer our amendments to theirs as it better addresses the concern.

10.2. Recommendation

45. The Panel recommends the following amendments to SRMR-I10:

- a. Amend the Statement as follows:

Sediment from poorly managed development and ~~forestry~~ primary production activities flows into streams and builds up in the coastal *environment*, smothering kelp forests and affecting rich underwater habitats. *Water* abstraction and *wastewater* and *stormwater discharges* adversely affect the natural *environment*, cultural and *amenity values*, and recreation. Agriculture, ~~fishing~~ and *minerals* extraction support employment and economic well-being but also change landscapes and habitats. Otago's port moves freight to and from Otago and Southland, but operates alongside sensitive *environments*, including the Aramoana saltmarsh. Tourism and recreation, which relies on the *environment*, can also put pressure on natural *environments*.

- b. Amend the 'Social' subsection as follows:

Damage to or loss of natural features and landscapes compromises *amenity values*. Failure of business to sustainably manage their impact on natural resources can also have social impacts. ~~compromise the social licence of a business sector to operate. This adversely impacts social capital (trust) and can create community division.~~ In extreme cases it can lead to ~~calls for~~ reduced access to resources.

11. SRMR – I11: Cumulative impacts and resilience – the environmental costs of our activities in Otago are adding up with tipping points potentially being reached

46. The issues related to the use of terminology such as 'limits' 'tipping points' and 'thresholds' were addressed in Section 1: Legal Issues of Appendix One. No further issues arise.

Section 5: Integrated Management (IM)

1. Introduction

1. The purpose of a regional policy statement is to provide an overview of the resource management issues of the region and the policies and methods to achieve integrated management of the natural and physical resources of the region. Integrated management is an approach to environmental management that seeks to manage resources together under one regime rather than creating silos by managing different areas, resources, or effects separately. The concept of integrated management is consistent with the Kāi Tahu understanding that all parts of the environment (te taiao) are interconnected, and that it is important to reflect this through holistic management. A holistic approach to managing te taiao must value all parts of the environment and recognise and reflect the interconnections between these components.
2. The National Planning Standards provide for (but do not require) an RPS to include a chapter on integrated management, within Part 2 – Resource Management Overview. This allows for provisions to be included that address integrated management of resources across domains and topics, and as such ORC has incorporated such a chapter. The pORPS 2019 has been criticised for providing limited direction on how integrated management is to be achieved, particularly in relation to providing specific direction on matters that cross domains and topics, such as freshwater management. The Council considered that including an integrated management chapter, as provided for by the National Planning Standards, would assist with ensure this regional policy statement is more explicit and direct in setting out how integrated management is expected to occur.
3. The *IM – Integrated management* chapter is to be read alongside all of the other chapters of the pORPS 2021. It directs how integrated management is to be achieved in the management of Otago’s environment and provides specific direction on climate change adaptation and mitigation. It is intended that the provisions of this chapter will assist decision-makers to resolve tensions between provisions in other chapters of the pORPS.
4. The underlying principle expressed in s.59 of the RMA bears repetition at the start of this chapter consideration:

59 Purpose of regional policy statements

The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

(our emphasis)

5. The topics addressed particularly in IM-P1 and IM-P2 as to the Integrated Approach and Decision Priorities respectively tended to dominate and permeate the whole of the hearings before us. The significance of that focus on the issue of prioritisation of ‘protection’ of natural resources is reflected in the lengthy discussion in the Legal Section in Appendix One of the differing views which we broadly termed as ‘enabling’ or ‘protectionist’ approaches.
6. We do not intend to repeat any of that legal section discussion in this chapter consideration and hence only where necessary will make reference to the findings made there.
7. The consideration of particularly IM-O1 and IM-03 and IM-P1, IM-P2 and IM-P14 in this chapter will accordingly be very limited.

8. In relation to the amendments we have suggested for those provisions, and for IM-P6, IM-P13, IM-P14 and IM-P15, there has been an underlying legal purpose. The 32AA assessment for those amendments, therefore, is that they all are intended to more accurately align the provisions involved with the purpose of the RMA in the manner directed by the Supreme Court's decisions in *NZ King Salmon, Save Our Sounds* and the *Port Otago* case.

2. IM-O1 and IM-O3

9. The notified versions of these two objectives were as follows:

IM-O1 – Long term vision

The management of natural and physical resources in Otago, by and for the people of Otago, including Kāi Tahu, and as expressed in all resource management plans and decision making, achieves healthy, resilient, and safeguarded natural systems, and the ecosystem services they offer, and supports the well-being of present and future generations, *mō tātou, ā, mō kā uri ā muri ake nei*.

IM-O3 – Environmentally sustainable impact

Otago's communities carry out their activities in a way that preserves environmental integrity, form, function, and resilience, so that the life-supporting capacities of air, water, soil, ecosystems, and indigenous biodiversity endure for future generations.

10. In essence the submissions on these objectives, as with those on IM-P1 and IM-P2, were primarily focussed on the prioritisation issues. The outcome of those considerations were affected by the Supreme Court decisions as discussed in the Legal Section of this report. The consequence is addressed in the finally recommended IM-P1 which recommended amalgamating IM-P1 and IM-P2 and creating a consent pathway utilising the 'structured analysis' approach applied by the Supreme Court in the *Port Otago* case.
11. There were some other changes which were consistent with that approach recommended by the final 10 October, 2023 reply report which we set out below:

IM-O1 – Long term vision (*mō tātou, ā, mō kā uri ā muri ake nei*)

The management of *natural and physical resources in Otago*, by and for the people of Otago, including in partnership with Kāi Tahu, and as expressed in all resource management plans and decision making, achieves a healthy, and resilient, and safeguarded natural systems environment, and including the ecosystem services they offer it provides, and supports the well-being of present and future generations, *mō tātou, ā, mō kā uri ā muri ake nei*.

IM-O3 – Environmentally Sustainable impact

Otago's communities carry out their activities in a way provide for their social, economic, and cultural well-being in ways that support or restore ~~preserves~~ environmental integrity, form, functioning, and *resilience*, so that the life-supporting capacities of air, water, soil, and ecosystems are safeguarded, and ~~indigenous biodiversity endure~~ for future generations.

12. The Panel agrees with the changes recommended with only one change to IM-O3 to amend the phrase ‘are safeguarded’ to read ‘are sustainably managed’ to be consistent with the aim of ensuring there is not an implied prioritisation, and to be closely consistent with the s.5 RMA language.

2.1. Recommendation

13. As discussed above, the 10 October, 2023 version wording for IM-O1 is recommended to be accepted, but the wording for IM-O3 is recommended to be amended as follows:

IM-O1 – Long term vision (mō tātou, ā, mō kā uri ā muri ake nei)

The management of *natural and physical resources* in Otago, by and for the people of Otago, ~~including in partnership with Kāi Tahu, and as expressed in all resource management plans and decision-making,~~ achieves a healthy, and resilient, and safeguarded natural systems *environment*, and including the ecosystem services they offer it provides, and supports the well-being of present and future generations, mō tātou, ā, mō kā uri ā muri ake nei.

IM-O3 – Environmentally Sustainable impact

Otago’s communities ~~carry out their activities in a way~~ provide for their social, economic, and cultural well-being in ways that support or restore ~~preserves~~ environmental integrity, form, functioning, and *resilience*, so that the life-supporting capacities of air, water, soil, and ecosystems are ~~safeguarded~~ sustainably managed, and indigenous ~~biodiversity~~ endure for future generations.

3. IM-P1 and IM-P2

14. In the final reply reports in May, 2023 these two policies were recommended to be amalgamated into one policy with which the Panel was in agreement.
15. Then in the aftermath of the *Port Otago* Supreme Court decision the ORC in final closing submissions of counsel outlined why the final 10 October, 2023 version of the PORPS recommended major changes to the prioritisation issue in these two policies, and recommended a ‘structured analysis’ approach to achieve intergated management.
16. In the Legal section of this report after the discussion of the *Port Otago* Supreme Court decision and the ORC change of position, we had continued on to address why the 10 October, 2023 recommended wording still required further amendment. That was because of the need to potentially resolve objective or policy differences arising between a range of various statutory instruments.

3.1. Recommendation

17. We do not propose to repeat that Legal section discussion here, but for the sake of the record as to this chapter topic we do set out below our recommendation as to the changes we recommend to the final 10 October, 2023 version of the amended and combined IM-P1 and IM-P2 by deleting those notified provisions and replacing them with the following IM-P1:

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS and other relevant statutory provisions requires decision-makers to:

- (1) consider all provisions relevant to an issue or decision and apply them purposively according to the terms in which they are expressed, and
- (2) if after (1) there is an irreconcilable conflict between any of the relevant RPS and/or statutory provisions which apply to an activity, only consider the activity if:
 - (a) the activity is necessary to give effect to a relevant policy or statutory provision and not merely desirable, and
 - (b) all options for the activity have been considered and evaluated, and
 - (c) if possible, the chosen option will not breach any other relevant policy or statutory provision, and
 - (d) if (c) is not possible, any breach is only to the extent required to give effect to the policy or statutory provision providing for the activity, and
- (3) if 2(d) applies, evaluate all relevant factors in a structured analysis to decide which of the conflicting policies or statutory provisions should prevail, or the extent to which any relevant policy or statutory provision should prevail, and
- (4) in the analysis under (1) or (2), and in the structured analysis under (3), assess the nature of the activity against the values inherent in the relevant policies or statutory provisions in the particular circumstances.

4. IM-P4 – Setting a Strategic approach to ecosystem health

18. This policy was notified as follows:

IM-P4 – Setting a strategic approach to ecosystem health

Healthy ecosystems and ecosystem services are achieved through a planning framework that:

- (1) protects their intrinsic values,
- (2) takes a long-term strategic approach that recognises changing environments,
- (3) recognises and provides for ecosystem complexity and interconnections, and
- (4) anticipates, or responds swiftly to, changes in activities, pressures, and trends.

19. Submissions on IM-P4 requested the following:

- Amendments to balance ecological health with use, development and growth;
- Several amendments to increase clarity and give the policy more ‘teeth’, for example through clause (1) seeking to enhance as well as maintain intrinsic values, promote ecological resilience, and recognise that cumulative effects often undermine ecological health.

- Clarity as to whether the policy applies to resource consent processes or only to district and regional plan preparation;
- That clause (2) refer to RMIA-MKB-I5 to acknowledge the need for a partnership approach, and references the ‘impacts of climate change’;
- Recognition of the importance of robust science and monitoring data; and
- An additional clause recognising the importance of environmental limits in ecosystem health.

20. The s.42A and reply reports by Ms Boyd recommended a number of amendments in response to these submissions, including:

- Clarifying that the policy applies to district and regional plan development and not resource consents;
- Changing ‘protects’ to ‘have particular regard’ in clause (1) to better reflect s.7(d) of the RMA;
- Recognising the impacts of climate change in clause (2);

21. We note that there are a number of provisions that are relevant to this policy, including RMIA-MKB-I5. Referring to this issue in isolation would potentially confuse matters. We also do not agree that this policy should reference resource use, as the impacts on ecosystem health are the subject of this policy. Such matters are appropriate to be addressed in the ECO chapter, and human impacts in a broader sense are addressed in IM-P14.

22. IM-P6 addresses the use of scientific data and monitoring and requires that the best available information be used. We do not consider it necessary to repeat this through recognising the importance of science and monitoring data in IM-P4, as requested by Federated Farmers. Similarly, cumulative effects are addressed by IM-P13 and environmental limits by IM-P14. We don’t consider is appropriate to address these matters in IM-P4 as well.

4.1. Recommendation

23. We recommend that the wording in the reply report version of the PORPS be adopted for IM-P4, as follows:

IM-P4 – Setting a strategic approach to ecosystem health

Healthy and resilient ecosystems and ecosystem services are achieved by developing regional plans and district plans through a planning framework that:

- (1) ~~protects~~ have particular regard to their the intrinsic values of ecosystems,
- (2) ~~takes~~ take a long-term strategic approach that recognises ~~changing environments~~ ongoing environmental change, including the impacts of climate change,
- (3) ~~recognises~~ recognise and ~~provides~~ provide for ecosystem complexity and interconnections, and
- (4) ~~anticipates~~ anticipate, or ~~responds~~ respond swiftly to, changes in activities, pressures, and trends.

5. IM-P5 – Managing environmental interconnections

24. The notified version of IM-P5 was as follows:

IM-P5 – Managing environmental interconnections

Coordinate the management of interconnected *natural and physical resources* by recognising and providing for:

- (1) situations where the value and function of a *natural or physical resource* extends beyond the immediate, or directly adjacent, area of interest,
- (2) the effects of activities on a *natural or physical resource* as a whole when that resource is managed as sub-units, and
- (3) the impacts of management of one *natural or physical resource* on the values of another, or on the *environment*.

25. In her s.42A report, Ms Boyd recommended deleting IM-P13 – Managing cumulative effects and adding a new clause (4) to IM-P5 addressing cumulative effects. This was opposed by submitters, including Kāi Tahu ki Otago and the Director General of Conservation, and Ms Boyd recommended in her reply report that IM-P13 be reinstated, albeit in an amended form. We agree with that approach, which is addressed in relation to IM-P13 later in this report, and consider that a clause addressing cumulative effects is not required in IM-P5.

26. There was concern from submitters, including Wise Response and Kāi Tahu ki Otago, as to how IM-P5 would be applied and implemented. For example, would it apply to both regulatory and non-regulatory work? Ms Boyd discussed this in her supplementary evidence and reply report, stating that she considered that it should apply to all resource management processes. Ms Boyd’s supplementary evidence recommended amending the chapeau as follows:

In resource management decision-making, manage the use and development
~~Coordinate the management~~ of interconnected *natural and physical resources* by recognising and providing for:

...

27. Ms McIntyre for Kāi Tahu questioned “why the scope of the policy has been limited to “resource management decision-making”, as recognition of environmental connections should be an integral part of all resource management processes”.¹ In her reply report, Ms Boyd stated that she considered that decision-making “occurs in a range of resource management processes, such as plan-making, consent applications, and during monitoring and enforcement”.²

28. We have some sympathy for Ms McIntyre’s view that ‘resource management decision-making’ may be too narrow to capture the breadth of resource management processes that this integrated management policy is clearly intended to capture. Ms Boyd’s list of examples only includes regulatory decision-making and, in our view, this could be a common interpretation. We prefer the following wording proposed by Ms McIntyre in Appendix 1 to her Evidence in Chief:

¹ EIC of Ms Sandra McIntyre for Kāi Tahu ki Otago, para 82(b)

² Reply Report of Ms Felicity Boyd, 23 May 2023, para 84

Manage the use and development of interconnected natural and physical resources by recognising:

...

29. Turning to other submissions, we agree with Ms Boyd’s recommendation to accept the request by Fish and Game and Kāi Tahu that clause (2) should refer to the ‘environment’ rather than ‘natural and physical resources’.

5.1. Recommendation

30. We recommend the following amendments to IM-P5:

IM-P5 – Managing environmental interconnections

~~Coordinate the management of~~ Manage the use and development of interconnected natural and physical resources by recognising ~~and providing for:~~

- (1) situations where the value and function of a *natural or physical resource* extends beyond the immediate, or directly adjacent, area of interest,
- (2) ~~the effects of activities on a natural or physical resource as a whole when that resource is managed as sub-units~~ situations where the effects of an activity extend to a different part of the environment, and
- (3) the impacts of management of one *natural or physical resource* on the values of another, or on the *environment*.

6. IM-O4 – Climate change

31. As notified, IM-O4 reads:

IM-O4 – Climate change

Otago’s communities, including Kāi Tahu, understand what *climate change* means for their future, and *climate change* responses in the region, including adaptation and mitigation actions, are aligned with national level *climate change* responses and are recognised as integral to achieving the outcomes sought by this RPS.

32. Five submitters sought to retain this provision as notified while a number sought changes. Many of the changes sought requested that the objective reference local, regional, and national objectives and targets for climate change. Wise Response requested that the objective require a reduction in the rate of resource and energy use to sufficient “fair share” and concurrently promote a shift to essential renewable energy. Manawa Energy (Manawa) sought reference to strategic actions alongside adaptation and mitigation while Contact Energy (Contact) sought better recognition of renewable energy’s role.
33. Ms Boyd, the s42A report author, made some changes in response to these submissions, and also in relation to the broader submissions on climate change. The changes did not include any recognition of the role renewable electricity generation will play in addressing climate change which, in her opinion, is the more appropriately located in the EIT-EN section is.
34. While we generally with, and accept, the changes Ms Boyd has made, we do feel that greater recognition should be provided for the role of renewable electricity generation in this provision.

We heard compelling evidence from all the REGs, particularly from Contact, on how significant this role will be. Ms Hunter, the planner for Contact, stated at paragraph 8.5 of her EIC:

Mr Hunt explains that New Zealand law sets a target for the country to reduce net emissions of greenhouse gases to zero by 2050.⁸ The Government also has an aspirational target of transitioning to 100% REG by 2030.⁹ Mr Hunt also explains that electricity demand is expected to grow substantially as New Zealand uses more electricity to decarbonise the economy.¹⁰ The ongoing use and development of new REG facilities is, therefore, a critical and significant component of climate change mitigation in New Zealand.

35. While we agree with Ms Boyd in section 6.5 of her s42A report that REGs do not need a standalone provision in the IM section, we agree with Ms Hunter that it should at least be recognised, given the IM provisions address ‘integrated management of resources across domains and topics’, as Ms Boyd stated in her introductory chapter. The development of REGs generally affects ‘resources across domains and topics’, some of which will have restrictive limits to their use. In our view, IM-P12 recognises this by acknowledging that climate mitigation/adaptation activities will potentially compromise these limits when addressing climate change. REGs projects are likely to be some of the most important of these activities in the near future.

6.1. Recommendation

36. The Panel recommends amending IM-O4 as follows:

IM-O4 – Climate change

Otago’s communities, including Kāi Tahu, understand what *climate change* means for their future, and responses to climate change responses in the region, (including climate change adaptation and climate change mitigation actions);

- (1) are aligned with national level *climate change* responses,
- (2) assist with achieving the national target for emissions reduction, including by having a highly renewable energy system, and
- (3) are recognised as integral to achieving the outcomes sought by this RPS.

7. IM-P8 – Climate change impacts

37. As notified, IM-P8 reads:

IM-P8 – Climate change impacts

Recognise and provide for *climate change* processes and *risks* by identifying *climate change* impacts in Otago, including impacts from a te ao Māori perspective, assessing how the impacts are likely to change over time and anticipating those changes in resource management processes and decisions.

38. A number of submitters sought retention of this policy as notified (CIAL, CODC, Greenpeace and Ravensdown) while others sought a range of wording changes along with the inclusion of reference to information requirements and consultation processes. Ms Boyd made some minor

changes in response to these submissions and promoted a restructuring of the policy so that its direction is more clearly expressed.

39. We have reviewed Ms Boyd’s assessment of the submissions and find ourselves in agreement with the conclusions she has reached.

7.1. Recommendation

40. The Panel recommends amending IM-P8 as follows:

IM-P8 – Effects of climate change impacts

Recognise and provide for the effects of climate change ~~processes and risks~~ by:

- (1) identifying the effects of climate change impacts in Otago, including impacts from ~~a te ao Māori~~ the perspectives of Kāi Tahu as mana whenua, assessing how the ~~impacts~~ effects²⁰⁴ are likely to change over time, and
- (2) ~~anticipating~~ taking into account²⁰⁵ those changes in resource management processes and decisions.

8. IM-P9 – Community response to climate change impacts

41. As notified, IM-P9 reads:

IM-P9 – Community response to climate change impacts

By 2030 Otago’s communities have established responses for adapting to the impacts of *climate change*, are adjusting their lifestyles to follow them, and are reducing their *greenhouse gas* emissions to achieve net-zero carbon emissions by 2050.

42. Six submitters sought retention of this policy. The Waitaki Irrigators requested that it either be deleted or that it become an anticipated environmental result. Federated Farmers also requested that it be deleted, questioning whether the policy aligned with the requirements of the RMA and suggested that it is a matter for climate change legislation or regulations. Several other submitters sought changes to the policy.

43. Ms Boyd agreed with the submitters who questioned whether IM-P9 is expressed as a policy. She felt that part of the policy is an outcome (the reference to ‘achieving net-zero carbon emissions’) with other parts being methods (that communities adjust their lifestyles and reduce greenhouse gas emissions). She recommended that it be deleted provided her recommendation to incorporate “*assist with achieving the national target for emissions reduction*” into IM-O4 is accepted.

44. We have recommended the requested amendment to IM-O4 and agree with Ms Boyd that the other parts of the provision are not appropriate for a policy and that they lack clarity. Hence, we have accepted her recommendation to delete IM-P9.

8.1. Recommendation

45. The Panel recommend as follows:

- (a) Delete IM-P9.

(b) incorporate the reference to the national target for emissions reduction into IM-O4.

9. IM-P10 – Climate change adaptation and mitigation

46. As notified, IM-P10 reads:

IM–P10 – *Climate change adaptation and mitigation*

Identify and implement *climate change* adaptation and mitigation methods for Otago that:

- (1) minimise the *effects* of *climate change* processes or *risks* to existing activities,
- (2) prioritise avoiding the establishment of new activities in areas subject to *risk* from the *effects* of *climate change*, unless those activities reduce, or are resilient to, those *risks*, and
- (3) provide Otago’s communities, including Kāi Tahu, with the best chance to thrive, even under the most extreme *climate change* scenarios.

47. Along with support to retain the policy as notified, there were numerous requests for amendments on a range of issues. No submission sought the deletion of this policy. Ms Boyd has recommended a number of changes in response to the submissions. We generally accept this recommendation with the exception of deleting the phrase ‘existing activities’ from the first clause.

48. While we agree with the addition of the wider environment to clause (1), explicit reference to ‘existing activities’ is considered appropriate by the Panel given the focus of this provision. There will be some, if not many, existing activities that will require adaption plans to be implemented to protect them against the effects of climate change. Consequently, we have recommended a modified version of Ms Boyd’s amendment as proposed in her supplementary report.

49. We also agree with Ms Boyd’s recommendation, in response to the DCC submission to include IM-P11 into IM-P10 (with the amendments made in response to Dr Freeman for OWRUG), but we again agree with both Manawa and Contact that the policy needs to recognise the role that renewable electricity generation plays in mitigation. In the Panel’s view, that activity will be critical in addressing the climate change issue. We have therefore adopted a combination of the wording proposed by Ms Styles (for Manawa) and Ms Hunter (for Contact), as follows:

Protects its existing renewable electricity facilities and provides for the development of new renewable electricity generation and infrastructure.

9.1. Recommendation

50. The Panel recommend as follows:

(a) Amend IM-P10 as follows:

IM-P10 – Climate change adaptation and climate change mitigation

Identify and implement *climate change adaptation* and *climate change mitigation* methods for Otago that:

- (1) minimise the *effects* of *climate change* ~~processes or risks~~ on existing activities and the wider environment,
- (2) ~~prioritise avoiding the establishment of new activities in areas subject to risk from the effects of climate change, unless those activities reduce, or are resilient to, those risks, and~~
- (3) provide Otago's communities, including Kāi Tahu, with the best chance to thrive, ~~even under the most extreme climate change scenarios~~ -
- (4) enhance environmental, social, economic, and cultural *resilience* to the adverse effects of climate change, including by facilitating activities that reduce those effects, and
- (5) protects Otago's existing renewable electricity facilities and provides for the development of new renewable electricity generation and infrastructure.

(b) Delete IM-P11.

10. IM-P12 – Contravening environmental bottom lines for climate change mitigation

51. As notified, IM-P12 reads:

IM-P12 – Contravening environmental bottom lines for climate change mitigation

Where a proposed activity provides or will provide enduring regionally or nationally significant mitigation of *climate change* impacts, with commensurate benefits for the well-being of people and communities and the wider *environment*, decision makers may, at their discretion, allow non-compliance with an environmental bottom line set in any policy or method of this RPS only if they are satisfied that:

- (1) the activity is designed and carried out to have the smallest possible environmental impact consistent with its purpose and *functional needs*,
- (2) the activity is consistent and coordinated with other regional and national *climate change* mitigation activities,
- (3) adverse *effects* on the *environment* that cannot be avoided, remedied, or mitigated are offset, or compensated for if an offset is not possible, in accordance with any specific criteria for using offsets or compensation, and ensuring that any offset is:
 - (a) undertaken where it will result in the best ecological outcome,
 - (b) close to the location of the activity, and
 - (c) within the same ecological district or coastal marine biogeographic region,
- (4) the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and

- (5) the activity will not contravene a bottom line set in a national policy statement or national environmental standard.

52. This provision attracted a range of submissions including several submitters seeking its retention to those requesting it be deleted. Others sought that this approach be applied to other provisions that regulate important infrastructure. Wise Response submitted that the Government would legislate for individual projects if they are important enough so sought deletion of the policy or alternatively, that approval be sought from the Minister of Conservation to breach bottom lines. OWRUG also sought deletion of the policy or that it be amended for consistency with the purpose of the RMA. They submit it is not clear whether this policy achieves the purposes of the RMA or if it can be reconciled with other highly directive provisions within relevant NPSs or the pORPS 2021 itself. Federated Farmers considers that the policy sets such a high bar for these activities that it is unlikely any activities would meet the criteria. A range of other amendments were also sought by other submitters.
53. Ms Boyd recommended a number of amendments in her s42A report but revisited this provision in her reply given the lengthy discussion in the various hearings in relation to the importance of increasing renewable electricity generation as a method for reducing greenhouse gas emissions. The REG submitters generally considered that IM-P12 provided an important pathway for developing climate change mitigation projects.
54. In response to that, Ms Boyd made further changes which led to the following provision being recommended by her:

IM-P12 – Contravening ~~environmental bottom lines~~ limits for climate change mitigation

~~Where~~ If a proposed activity provides or will provide enduring regionally or nationally significant climate change mitigation ~~mitigation of climate change impacts~~, with commensurate benefits for the well-being of people and communities and the wider *environment*, decision makers may, ~~at their discretion~~, allow non-compliance with an ~~environmental bottom line limit~~ limit set in, ~~or resulting from~~, any policy or method of this RPS only if they are satisfied that:

- (1) ~~the activity is designed and carried out to have the smallest possible environmental impact consistent with its purpose and functional needs~~
- (2) the activity is consistent ~~and coordinated~~ with other regional and national *climate change mitigation* activities, and
- (3) adverse *effects* on the *environment* ~~that cannot be~~ are avoided, remedied, or mitigated so that they are minimised to the greatest extent practicable and any residual adverse effects are offset, or compensated for, and if an offset is not possible, in accordance with any specific criteria for using offsets or compensation, and ensuring that any offset is:
 - ~~(a) undertaken where it will result in the best ecological outcome,~~
 - ~~(a) close to the location of the activity, and~~
 - ~~(b) within the same ecological district or coastal marine biogeographic region,~~

- (4) ~~the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and~~
- (5) ~~the activity will not contravene a bottom line set in a national policy statement or national environmental standard., and~~
- (6) it is demonstrated that there are no other reasonable alternatives to the activity proposed.

55. While the Panel considers this iteration of the policy to be an improvement, we are of the opinion that there are still a number of clauses that are unlikely to assist with the development of key projects that are designed to address climate change impacts. We address these below.

56. While Port Otago considered the policy a practical balancing approach to facilitate climate change mitigation projects, they sought explicit recognition of climate change adaptation because it is not clear whether this is provided for in the policy.

57. In her s42A report, Ms Boyd agreed with Port Otago that it is unclear whether the policy applies to climate change adaptation or climate change mitigation or both. But she went on to say:

“I note that the title and clause (2) refer only to climate change mitigation, but the chapeau refers to “mitigation of climate change impacts” which is more aligned with adaptation. In my opinion, environment limits are important to protecting the health of natural resources and breaches should only be provided for in limited circumstances. Climate change mitigation assists to reduce the sources or enhance the sinks of greenhouse gases, meaning that less adaptation may be required. I consider that breaching environmental limits for this purpose could be appropriate in certain circumstances due to the national and potentially international benefits of climate change mitigation. For these reasons, I consider the policy should be clearly focused only on climate change mitigation, not climate change adaptation, and therefore do not recommend accepting the submission point by Port Otago”.

58. The Panel does not understand why this provision should not be available to projects that may be critical in protecting or relocating communities and infrastructure from actual or expected climate effects. In our view, this will be just as important in the response to climate change effects as reducing the source of that change. The rate and magnitude of climate change impacts is not known with any great certainty so communities must have all options available to them for any necessary response. Hence, we agree with Port Otago and have included *climate change adaptation* within the policy.

59. Meridian considers that clause (2) is unclear in terms of how ‘consistency’ is to be determined and seeks its deletion. That clause reads *“the activity is with other regional and national climate change mitigation activities”*. The Meridian submission queried whether *“this requires the same source of renewable electricity generation (e.g., hydro, solar or wind); or consistency of technology used; or scale of electricity generation; or scale of greenhouse emissions avoided relative to electricity generated.”*

60. In her response to this matter, Ms Boyd referred to the Climate Change Response Act which sets up the policy framework for climate change action in New Zealand. The emissions reduction plan

which will flow from this legislation will describe how the country will meet emissions budgets and make progress towards achieving the 2050 target. As a consequence, Ms Boyd considers that *“it is important that the application of this policy is consistent with the broader policy framework for climate change mitigation”* and recommended against accepting the submission.

61. We agree with Meridian on this point. In our view, this clause introduces an unnecessary degree of uncertainty in its current form. But regardless of this, it is not needed given the chapeau refers to ‘regionally or nationally significant’ projects, and given the fact that it is not mandatory to apply the policy. One would expect that any applicant looking to utilise this provision would need to address the matter Ms Boyd’s report raises to convince the decision maker it is worthy.
62. On the point of it not being mandatory, several submitters requested that the decision makers must always apply the policy in such circumstances. However, we believe that where limits are being compromised, a value judgment will be required before it can be determined whether this policy should be applied or not. Hence, we have not recommended that change but do consider the word ‘only’ to be superfluous in the last line of the chapeau.
63. The remaining matter to discuss is Ms Boyd’s response to Mr Farrell (for Fish and Game), who was of the view that, as she put it, *“activity is to be provided the ability to “get around” the policies and methods of the pORPS ...then it is appropriate that this should be as a ‘last resort’ – i.e. after assessment has determined that there are no other reasonable alternatives.”* Ms Boyd accepted this proposition, given the alternative pathway this policy provides, and recommended a clause addressing this matter accordingly.
64. Again, we consider this superfluous given that the chapeau refers to ‘regionally or nationally significant’ projects, and the fact that it is not mandatory to apply the policy. It raises similar issues to that which Meridian raised in respect of clause 2. There will always be alternatives to the project, but the issue is always whether there is a proponent for these projects. Hence, we do not accept this recommendation.
65. In line with our recommendations to other provisions, we also recommend that ‘to the greatest extent practicable’ be replaced ‘to the extent reasonably practicable’.

10.1. Recommendation

66. The Panel recommends the following amendments to IM-P12 (changes compared to the Reply Report):

IM-P12 – Contravening ~~environmental bottom lines~~ limits for climate change mitigation and climate change adaptation.

~~Where~~ If a proposed activity provides or will provide enduring regionally or nationally significant climate change mitigation or climate change adaptation ~~mitigation of climate change impacts~~, with commensurate benefits for the well-being of people and communities and the wider *environment*, decision makers may, ~~at their discretion~~, allow non-compliance with an ~~environmental bottom line~~ limits set in, or resulting from, any policy or method of this RPS ~~only~~ if they are satisfied that:

- (1) ~~the activity is designed and carried out to have the smallest possible environmental impact consistent with its purpose and functional needs,~~
- (2) ~~the activity is consistent and coordinated with other regional and national~~

~~climate change mitigation activities, and~~

- (3) ~~adverse effects on the environment that cannot be~~ are avoided, remedied, or mitigated so that they are minimised to the extent reasonably practicable, and any significant residual adverse effects are offset, or compensated for, ~~and if an offset is not possible, in accordance with any specific criteria for using offsets or compensation, and ensuring that any offset is:~~
 - ~~(a) undertaken where it will result in the best ecological outcome,~~
 - ~~(b) close to the location of the activity, and~~
 - ~~(c) within the same ecological district or coastal marine biogeographic region,~~
- (4) ~~the activity will not impede either the achievement of the objectives of this RPS or the objectives of regional policy statements in neighbouring regions, and~~
- (5) ~~the activity will not contravene a bottom line set in a national policy statement or national environmental standard.~~

11. Other IM Climate Change Provisions

67. Related to the IM climate change objectives and policies, are several methods, being IM-M1(2) and (3), IM-M3(1), IM-M4 and IM-M5. IM-AER3 is also related to climate change. We have reviewed the submissions on those provisions and Ms Boyd's responses. The Panel has not identified any issue of concern with these provisions as now recommended and adopt them accordingly.
68. Ms Boyd also addressed climate change in a general sense in section 6.3.1 of her s42A report. She made several recommendations on the relevant provisions in that section. We agree with those recommendations except where a change has been recommended in our decision report on the specific provisions.

12. IM-P6 and IM-P15 – Uncertainties and Precautionary approach

69. Two policies addressed these linked issues in the notified PORPS. Policy IM-P6 was initially notified as addressing the need to use the best available information and to avoid delay in doing so. Policy IM-P15 addressed the need to reflect the NZCPS 2010 Policy 3 imperative as to a precautionary approach to decision-making, (which also appears expressly or impliedly in other forms in other national policy statements). That required that a precautionary approach was to be adopted to RMA decision-making where effects are uncertain, unknown or little understood.
70. Policy IM-P6 as notified adopted a very simplistic response to a complex issue and read:

IM-P6 – Acting on best available information

Avoid unreasonable delays in decision-making processes by using the best information available at the time, including but not limited to mātauraka Māori, local knowledge, and reliable partial data.

71. The risks of such a simplified approach can be at either end of the spectrum.

72. At the 'protectionist' end it can lead to decisions being made to always avoid effects because enough information as to those effects is not available. Particularly where an activity is new that may well always be the case. At the other end of the scale a permissive or too 'enabling' approach may lead to decisions being made to allow activities because adverse effects are not known, rather than incur delay whilst attempts are made to prove sustainable effects. If that was to occur then there is the risk that in actual practice serious adverse effects may occur, or cumulatively arise.

73. The notified version of IM-P15 addressed the precautionary principle as follows:

IM–P15 – Precautionary approach

Adopt a precautionary approach towards proposed activities whose effects are uncertain, unknown or little understood, but could be significantly adverse, particularly where the areas and values within Otago have not been identified in plans as required by this RPS.

74. The submission responses to these policies were varied. As to IM-P6 Kāi Tahu sought retention as notified; DOC sought an emphasis on the precautionary principle; DCC sought speedier albeit careful decision-making to enable evidence to be gathered; Federated Farmers and OWRUG sought that reliable data be available before decisions were made; Fonterra also sought more detailed reliable evidence before decisions were made; University of Otago and others such as Lauder Creek Farming and the Yellow-eyed Penguin Trust stressed the need for 'robust' or 'scientific' evidence. Harbour Fish and Southern Inshore Fisheries sought opportunity for stakeholder input. Wise Response sought greater emphasis on timely decision-making against reliable evidence.

75. As to IM-P15, similarly there was a wide variety of views in submissions (summarised at paragraphs 437 to 447 of the s.42A report). In the case of this policy, though, many sought that it be deleted for various reasons. One of the more compelling of those submissions was from OWRUG which asserted that where susceptible areas and values may not have been identified in the manner required by the PORPS, this policy potentially could operate as a holding pattern that prevented activities which could achieve the purpose of the RMA from commencing. It made the point that that outcome would not be reasonable or appropriate.

76. As had been demonstrated as long ago as 2014 in the Supreme Court decision in *Sustain our Sounds v. NZKS* SC 84/2013 [2014] NZSC 40, the issue of uncertainty as to effects of decision-making under the RMA has long been addressed, particularly in the aquaculture area, by a system of practical adaptive management. In large measure, as demonstrated by that case, that practice probably developed a particular impetus from the need to meet Policy 3 of the NZCPS, as well as the natural antipathy of decision-makers to grant consents when some potential adverse effects were uncertain or unknown.

77. In essence that adaptive management practice involves a proposition whereby consents are staged to enable some limited initial activity, often staged over years or seasons, where effects are closely measured and monitored, with those results being commonly compared to predictive computer-modelled outcomes. If the results of those measurements of effects demonstrates sustainable levels of effects, then the consent conditions imposed will allow movement to the next consented stage to be measured and monitored. That type of adaptive management approach was not expressly provided for in the notified PORPS. It has become standard now in many areas – particularly also as to the effects of drawdown from both surface and groundwater takes where computer-modelled outcomes are given an opportunity to be proven in practice.

78. The outcome of the submission response and inputs from the Panel during the hearings was a recommended change by the s.42A report to amend IM-P6 and other provisions to enable an adaptive management approach to be adopted by regional, coastal and district plans. The report writer also recommended that IM-P6 and IM-P15 as to the precautionary principle be amalgamated as they were addressing related issues. That amalgamation had been sought by submitters such as DOC and Mr. Highton.

79. The recommended provision was:

~~IM-P6 – Acting on best available information~~ Managing uncertainties

~~Avoid unreasonable delays in decision-making processes by using the best information available at the time, including but not limited to mātauraka Māori, local knowledge, and reliable partial data.~~

In resource management decision-making, manage uncertainties by using the best information available at the time, including scientific data and mātauraka Māori, and:

(1) taking all practicable steps to reduce uncertainty, and:

(a) in the absence of complete and scientifically robust data, using information obtained from modelling, reliable partial data, and local knowledge, with preference for sources of information that provide the greatest level of certainty, and

(b) avoiding unreasonable delays in making decisions because of uncertainty about the quality or quantity of the information available, and

(2) adopting a precautionary approach, including through use of adaptive management, towards activities whose effects are uncertain, unknown, or little understood, but potentially significantly adverse.

80. There was some resistance to that proposed amalgamation by Ms. McIntyre for Kāi Tahu on the basis that such a change would appear to emphasise the consenting aspect ahead of the precautionary principle. The report writer's view was that each aspect was important, neither was stressed as a priority, and that they sensibly could and should be in the same provision.

81. The Panel's desire to see adaptive management practices identified as an appropriate decision-making tool was recognised by the wording proposed. Therefore, the Panel was satisfied that the suggested amendments addressed the concerns of submitters, and at the same time in the same provision appropriately applied the precautionary principle.

12.1.1. Recommendation

82. That IM-P6 and IM-P15 be amalgamated into an amended IM-P6 as follows, with IM-P15 being deleted:

~~IM-P6 – Acting on best available information~~ Managing uncertainties

~~Avoid unreasonable delays in decision-making processes by using the best information available at the time, including but not limited to mātauraka Māori, local knowledge, and reliable partial data.~~

In resource management decision-making, manage uncertainties by using the best information available at the time, including scientific data and mātauraka Māori, and:

- (1) taking all practicable steps to reduce uncertainty, and:
 - (a) in the absence of complete and scientifically robust data, using information obtained from modelling, reliable partial data, and local knowledge, with preference for sources of information that provide the greatest level of certainty, and
 - (b) avoiding unreasonable delays in making decisions because of uncertainty about the quality or quantity of the information available, and
- (2) adopting a precautionary approach, including through use of adaptive management, towards activities whose effects are uncertain, unknown, or little understood, but potentially significantly adverse.

13. IM-P13 – managing cumulative effects

83. The management of cumulative effects has been one of the most vexed issues in relation to various parts of the environment. Effects such as the effects of discharges on freshwater and coastal water quality from sedimentation is a classic illustration in many parts of the country where multiple sources could potentially be contributing to the adverse effects on water quality. In the RMA itself in s.3 cumulative effects are defined as an integral part of the suite of ‘effects’ the definition including:

- any cumulative effect which arises over time or in combination with other effects, regardless of the scale, intensity, duration, or frequency of the effect.

84. Significant new such effects over recent years have been the increasing, yet often hard to perceive, effects of climate change and related sea-level rise.

85. As notified the PORPS addressed cumulative effects issues in IM-P13 as follows:

IM–P13 – Managing cumulative effects

Otago’s environmental integrity, form, function, and resilience, and opportunities for future generations, are protected by recognising and specifically managing the cumulative effects of activities on natural and physical resources in plans and explicitly accounting for these effects in other resource management decisions.

86. Once again as with other notified provisions the emphasis in the notified version contained a protectionist tone.

87. The submitter response was again diverse (and is summarised at paragraphs 403-409 of the S.42A report by Ms. Boyd). Kāi Tahu identified the omission of climate change and sea level rise; some such as Federated Farmers were concerned that terms like ‘accounting’ were impractical and not RMA related language, and OWRUG maintained such effects were impractical to definitively ‘account for’; a number sought use of the term ‘environment’ rather than natural and physical resources, as such resources fell within the definition of ‘environment’; and DCC advanced a wording which provided more balance between use and protection of the environment.

88. It is significant, though, that no submitter sought the deletion of Policy IM-P13 which probably reflects the level of concern that is felt as to the serious potential impacts of cumulative effects in some areas of the environment. That reality is reflected most significantly by the stringent terms of the NPSFM attempting to address the dual problems of cumulative effects on water

quality, and over allocation. (That observation once more highlights how nonsensical it is to attempt to address integrated management of the environment in a discussion which is not supposed to address freshwater quality and quantity issues.)

89. The report writer Ms. Boyd waxed and waned about the outcome of the submitter response initially and after hearing their evidence and submissions. In her initial report she did not think policy IM-P13 provided particularly clear direction on how it should be implemented. She addressed this policy again in a statement of supplementary evidence, where she proposed to incorporate the direction about managing cumulative effects in a new clause in IM-P5 instead. In that evidence she also concluded that IM-P13 that provided the policy direction to IM-M1(4) and without that policy, it was difficult to understand what that part of the method is implementing. As notified IM-M1(4) had stated:

(4) ensure cumulative effects of activities on natural and physical resources are accounted for in resource management decisions by recognising and managing such effects, including:

- (a) the same effect occurring multiple times,
- (b) different effects occurring at the same time,
- (c) different effects occurring multiple times,
- (d) one effect leading to different effects occurring over time,
- (e) different effects occurring sequentially over time,
- (f) effects occurring in the same place,
- (g) effects occurring in different places,
- (h) effects that are spatially or temporally distant from their cause or causes, and,
- (i) more than minor cumulative effects resulting from minor or transitory effects,

90. All of those effects are variants of cumulative effects so without a policy as a base the method would have been left swinging unsupported by a policy framework. At that stage Ms. Boyd had recommended that Policy IM-P13 be deleted and be replaced by a new additional cumulative effects clause being added to Policy IM-P5.

91. But finally, in the face of strong opposition from DOC and Kāi Tahu to such a change the Reply report in May 2023 recommended a more balanced approach by amendment to Policy IM-P13 as follows:

IM-P13 – Managing cumulative effects

~~Otago’s environmental integrity, form, function, and resilience, and opportunities for future generations, are protected by recognising and specifically managing the cumulative effects of activities on natural and physical resources in plans and explicitly accounting for these effects in other resource management decisions.~~

In resource management decision-making, recognise and manage the impact of cumulative effects on the form, functioning and resilience of Otago’s environment (including resilience to climate change) and the opportunities available for future generations.

92. Given the Supreme Court’s direction as to the need to avoid prioritisation, but also taking into account the general concern about the potential seriousness of cumulative effects, the Panel is satisfied that the policy should be retained, and that the wording finally recommended is appropriate. The reference to ‘climate change’ is possibly arguably unnecessary in this policy because that issue is subject to express policies in the final recommended version of IM-P8, IM-

P10 and IM-P12. However, as climate change is one form of cumulative effect we are not concerned about that added reference.

13.1.1. Recommendation

93. The Panel recommends that the wording for policy IM-P13 in the reply report version dated 10 October 2023 be adopted as follows:

IM-P13 – Managing cumulative effects

~~Otago’s environmental integrity, form, function, and resilience, and opportunities for future generations, are protected by recognising and specifically managing the cumulative effects of activities on natural and physical resources in plans and explicitly accounting for these effects in other resource management decisions.~~

In resource management decision-making, recognise and manage the impact of cumulative effects on the form, functioning and resilience of Otago’s environment (including resilience to climate change) and the opportunities available for future generations.

14. IM- P14 – sustaining resource potential

94. The notified form of IM-P14 read:

IM-P14 – Human impact

Preserve opportunities for future generations by:

- (1) identifying limits to both growth and adverse effects of human activities beyond which the environment will be degraded,
- (2) requiring that activities are established in places, and carried out in ways, that are within those limits and are compatible with the natural capabilities and capacities of the resources they rely on, and
- (3) regularly assessing and adjusting limits and thresholds for activities over time in light of the actual and potential environmental impacts.

95. Much of the submission response focussed on concerns at what was perceived to be a ‘protectionist’ approach by use of terminology such as ‘preserve’ in the chapeau, coupled with ‘limits’ on use for that purpose. In short much of the submission and argument about this Policy related to the prioritisation issue addressed earlier in relation to IM-P1, which was addressed as the initial major issue in the Legal section of the Introduction to this report. The removal of any aspect of prioritisation such as a start point of ‘preservation’ would necessarily require some amendment to this policy also to ensure the focus was on management of effects while addressing all relevant considerations.

96. However, much of the submission response also related to the use of the term ‘limits’ – and that issue has been addressed in the Definitions section of the Introduction to this Report. In that discussion we concluded that we could not see any difficulty with the definition and use of that term in the manner proposed. Whilst not needing to repeat that consideration here, for ease of reading the discussion related to this policy we repeat that the definition we have recommended to be adopted is:

Limit

In the LF – Land and freshwater chapter, “limit” has the meaning defined in the NPSFM, and elsewhere, “limit” has its natural and ordinary meaning.

97. The natural meaning of a ‘limit’ according to the Oxford dictionary is:

Any of the fixed points between which the possible or permitted extent, amount, duration, range of action, or variation of anything is confined; a bound which may not be passed, or beyond which something ceases to be possible or allowable.

98. In the definitions section the Panel had decided that was an entirely appropriate use of the term ‘limit’ for RMA purposes.

99. The final recommended 10 October 2023 version responded positively to the submission input seeking a more ‘enabling’ approach to activities and was worded as follows:

IM-P14 – Human impact Sustaining resource potential

When preparing regional plans and district plans, preserve opportunities for future generations by:

(1) where necessary to achieve the objectives of this RPS, identifying environmental limits to both growth and adverse effects of human activities beyond which the environment will be degraded,

(2) requiring that activities are established in places, and carried out in ways, that are within those environmental limits and are compatible with the natural capabilities and capacities of the resources they rely on, and

(3) regularly assessing and adjusting environmental limits and thresholds for the way activities are managed over time in light of the actual and potential environmental impacts, including those related to climate change, and

(4) providing for activities that reduce, mitigate, or avoid adverse effects on the environment.

100. At first sight the wording of sub-clause (4) as recommended may appear to be too ‘protective’ in tone by appearing to limit activities to those with no effects, by using the terms ‘avoid’ and ‘reduce’ adverse effects. However, on further reflection the use of ‘mitigate’ does envisage that adverse effects may not be able to be completely avoided, or reduced to any great extent. On that basis the Panel can accept that phraseology as being enabling, but appropriately requiring ‘mitigation’ of adverse effects.

101. The only other concern the Panel has with that suggested wording relates to its start point in a policy relating to human activities. The term ‘preserves’ in the chapeau is not consistent in our view with the Supreme Court’s directions as discussed in the Legal section of the Introduction to this report. Again, as for the change we recommended in relation to IM-O3 above, we recommend that a wording is used of ‘sustainably manage’ rather than ‘preserve’. As we observed above in relation to IM-O3 that phraseology better reflects s.5 RMA language and is consistent with the aim of ensuring there is not an implied prioritisation of ‘preservation’.

14.1.1. Recommendation

102. Accordingly we recommend that the wording of Policy IM-P14 is amended to read:

IM-P14 – ~~Human impact~~ Sustaining resource potential

When preparing regional plans and district plans, ~~Preserve~~ sustainably manage opportunities for future generations by:

- (1) where necessary to achieve the objectives of this RPS, identifying ~~environmental~~ limits ~~to both growth and adverse effects~~ of human activities beyond which the *environment* will be degraded,
- (2) requiring that activities are established in places, and carried out in ways, that are within those ~~environmental~~ limits and are compatible with the natural capabilities and capacities of the resources they rely on, and
- (3) regularly assessing and adjusting ~~environmental~~ limits and ~~thresholds for the way~~ activities are managed over time in light of the actual and potential environmental impacts, including those related to *climate change*, and
- (4) providing for activities that reduce, mitigate, or avoid adverse *effects* on the *environment*.

Section 6: Air

1. Introduction

1. One of the functions of the ORC is to control the discharge of contaminants to air. This function is specified in section 30(f) of the RMA and is the subject of the AIR chapter of the PORPS. While the air quality in Otago is generally good for most of the year, many communities experience poor air quality in the winter months. In addition, point source discharges to air can result in localised adverse effects if they are not appropriately managed.
2. The provisions of the AIR chapter are in part dictated by the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NESAQ) and address the significant resource management issues in the SRMR chapter. The AIR provisions address ambient air quality and discharges which can cause nuisance effects, with each provision generally dealing with one or other of these two purposes. The NESAQ applies to both purposes: it sets ambient air quality standards for some contaminants that must be achieved in defined airsheds to protect public health; and contains restrictions and prohibitions on the discharges to air from specified activities, which can have nuisance effects and/or adverse health effects. ORC has gazetted 22 airsheds in the Otago region in its Regional Plan: Air for Otago. These comprise Otago's main urban areas, with a 23rd airshed being the balance of the region.
3. Over 100 submission points were received on the AIR provisions. These submission points seek specific amendments to provisions as well as address the overall approach and direction of the provisions. There are a number of commonalities in these submission points and, where considered appropriate, we have grouped these for ease of discussion.
4. The section 42A Report, supplementary evidence and Reply Report of Ms Hannah Goslin have helped us immensely. Some of the matters raised have been resolved through the course of the hearing and these are given minimal attention in this report. Where not discussed, we have adopted the recommendations in the Reply Report.

2. General themes

5. Two general themes emerged from submissions and were addressed in the s42A report:
 - Consistency between the PORPS and the NESAQ; and
 - The inclusion of a policy to manage reverse sensitivity issues.
6. We address these two matters below prior to considering the specific provisions.
7. Ms Goslin also dealt with a number of definitions, but these are dealt with either in the context of the issue or elsewhere in the decision documents.

2.1. The PORPS and the NESAQ

8. Several submitters were concerned that some provisions are more stringent than the requirements of the NESAQ. The terms 'avoid' and 'protect' are used with little qualification, which submitters consider would place additional and unjustified restrictions on activities. They acknowledge that the RPS can go beyond the requirements of the NESAQ but consider

that extreme care should be taken in doing so and that the NESAQ provides an appropriate balance between the protection of natural resources and provisions for growth and development.

9. Updates to the NESAQ were due to be gazetted in late 2021, however these are yet to be released. There was some conjecture at the hearing as to what these updates may contain and whether we should future-proof the AIR provisions to account for the anticipated changes. We cannot, and do not want to, anticipate what amendments may be made to the NESAQ and have therefore focussed our consideration on whether the proposed provisions address the requirements of the existing NESAQ.

2.2. Reverse sensitivity

2.2.1. Introduction

10. Horticulture NZ's Ms Wharfe seeks the addition of a new policy to manage reverse sensitivity issues as follows:

Avoid locating new sensitive activities near existing activities which are permitted or consented to discharge to air.

11. The inclusion of this policy was supported by Ms Tait for Fonterra¹ and a similar provision was proffered by Mr Tuck for Silver Fern Farms. At the hearing, Mr Tuck sought an amendment to Ms Wharfe's policy to refer to "existing primary production or rural activities". Submitters provided examples of reverse sensitivity issues, particularly in the rural sector, where urban and semi-urban development can impinge on traditional rural activities that emit odour, spray drift and dust.
12. Fonterra, Horticulture NZ and NZ Pork sought to either amend AIR-M3 or include a new method to require urban spatial planning to consider reverse sensitivity effects.
13. This matter was addressed by Ms Goslin in her s42A report² and reply report,³ and by counsel for ORC, Mr Anderson. Ms Goslin considers that a policy response would be more appropriate at a regional plan level and noted that UFD-P7 and UFD-P8 address reverse sensitivity in rural areas, while UFD-P6 addresses reverse sensitivity in industrial areas. Mr Anderson considers that the Reply Report version of AIR-P5 is broad enough to address reverse sensitivity issues, although he acknowledged that AIR-P5 could be interpreted to only address discharges from activities. That amended AIR-P5 which was recommended provided:

AIR-P5 – Managing certain discharges

Manage the *effects of discharges* to air beyond the boundary of the property of origin from activities that include but are not limited to:

- (1) outdoor burning of organic material,
- (2) agrichemical and fertiliser spraying,
- (3) farming activities,

¹ *Susannah Tait for Fonterra, paras [9.28] – [9.31]*

² *S42A Report of Hannah Goslin, paras 13-14, para 151*

³ *Reply Report of Hannah Goslin, para 74*

- (4) activities that produce dust, and
- (5) industrial and trade activities.

2.2.2. Discussion

14. We do not accept Ms Goslin’s view that reverse sensitivity can be fully addressed through the regional plan. District council plan and consenting processes do not have to be consistent with a regional plan and a significant part of this issue, as we understand it, is to ensure that inappropriate development does not reversely affect existing activities that discharge to air. That is because while s.75(3) RMA requires that a district plan give effect to a regional policy statement, s.75(4)(b) only requires that a district plan not be inconsistent with a regional plan. We heard evidence from Ms Tait, Ms Wharfe and Mr Tuck that this is a particular issue in rural environments, but it is not just restricted to the urban/rural interface. A provision in a regional plan will not address the encroachment of sensitive activities, such as urban subdivisions, into rural or industrial areas.
15. Turning to AIR-P5, we consider that a long bow would need to be drawn to interpret AIR-P5 as applying to reverse sensitivity issues – a common reading would have it apply solely to managing discharges rather than managing activities which may alter the effects of those discharges.
16. We agree that UFD-P6, UFD-P7 and UFD-P8 address reverse sensitivity issues and note that UFD-M2(3)(e) directs district plans to “ensure that urban development is designed to...minimise the potential for reverse sensitivity effects to arise...”. However, we acknowledge that reverse sensitivity issues can be significant for air discharges and agree with submitters that reference in the AIR chapter is appropriate, especially in relation to territorial authority plans.
17. While we do not support a new policy, we have recommended adding an additional clause to our recommended version of AIR-P4, which incorporates notified AIR-P4 and AIR-P5. The recommended wording acknowledges that, in some cases, reverse sensitivity effects can be managed. It will be for the district and regional plans to refine this, but we were reluctant to include an outright ‘avoid’ in this context. Reverse sensitivity issues are not limited to primary production and rural activities and we do not accept Mr Tuck’s suggested addition.
18. AIR-M3 relates to territorial authorities’ roles in ‘achieving good air quality’ and we consider that reverse sensitivity issues should also be addressed here. We have recommended that wording similar to that proposed by Ms Wharfe is inserted into AIR-M3. We do not consider that reference to UFD-P6, UFD-P7 and UFD-P8 is necessary, as these provisions should be considered anyway in relation to developments.
19. Considering s.32AA, we consider that the proposed amendments address a gap in this chapter and that the proposed additions to the policy and method further clarify the intent of AIR-O1 and AIR-O2.

2.2.3. Recommendation

20. Add an additional clause to the 10 October 2023 reply report version of AIR-P4 (which merged AIR-P4 and AIR-P5) as follows:

(4) locating new sensitive activities to avoid potential reverse sensitivity effects from existing consented or permitted discharges to air, unless these can be appropriately managed.

21. Add an additional clause to AIR-M3 as follows:

(3) managing new sensitive activities to avoid reverse sensitivity effects in relation to consented and permitted activities that discharge to air.

3. AIR-O2 – Discharges to air

3.1. Introduction

22. As notified, AIR-O2 reads:

AIR-O2 – Discharges to air

Human health, *amenity* and *mana whenua* values and the life-supporting capacity of ecosystems are protected from the adverse *effects of discharges* to air.

23. Only QLDC sought to retain AIR-O2 as notified, while many submitters sought amendments on the basis of concerns that ‘protection’ is unqualified⁴ and similar to avoidance⁵. ‘Protected’ in this policy is used very broadly and applies to a broad range of environmental facets. Those submitters in opposition expressed a preference for management rather than avoidance.

24. Ms Wharfe proposed the following amended wording for AIR-O2 in her rebuttal evidence, which was generally supported by the planners for Fonterra, Horticulture NZ, Ravensdown and Silver Fern Farms:

The localised adverse effects of discharges on human health, amenity values and mana whenua values and the life-supporting capacity of ecosystems are appropriately managed protected from the adverse effects of discharges to air.⁶

25. The options, as identified by Ms Goslin at paragraph 14 of her reply report, are to retain the goal of ‘protecting human health, amenity values and mana whenua values and the life-supporting capacity of ecosystems’; soften the objective to include a qualifier to the goal of protection; or redraft the objective to relate to the managing of adverse effects. Ms Tait and Ms Wharfe preferred the latter option and suggested wording.

26. We consider that there is also a further option, whereby protection only applies to some of the matters listed. For example, should amenity values be protected from the adverse effects of air discharges in the same way as human health?

27. More minor amendments were also sought to AIR-O2, including clarifying that AIR-O2 relates to the localised effects from discharges to air, rather than ambient air quality which is

⁴ Lynette Wharfe for Horticulture NZ, para [34] – [35]; Steve Tuck for Silver Fern Farms Limited, para [6.1]

⁵ Susannah Tait for Fonterra, paras [9.2] – [9.4]

⁶ Rebuttal evidence of Lynette Wharfe for Horticulture NZ, para [41]

addressed by AIR-O1.⁷ This request was supported by other submitters⁸ and recommended by Ms Goslin in her reply report.⁹

3.2. Discussion

28. We agree with submitters that the term ‘protected’ in AIR-O2 goes too far. Ms Goslin states¹⁰ that: “I do not consider that ‘protection’ is akin to ‘avoid’ or infers prohibition of discharges to air as stated by Ms Tait. As I understand it the goal of ‘protection’ of particular values can be achieved in a number of ways which are expressed by the policies (particularly AIR-P3 to AIR-P5).”
29. We are unconvinced by Ms Goslin’s approach, whereby AIR-O2 requires wide-ranging protection but associated policies AIR-P3 and AIR-P4 take a more enabling approach. We refer back to our discussion in the legal section of our recommendation report, where we discussed ‘protection’ and ‘maintaining’. This discussion was primarily in relation to indigenous biodiversity but it is also relevant here. We acknowledged that protection of particular areas or values from adverse effects is appropriate in some situations and is consistent with s.5(2). However, there is a need to be specific about what those areas or values are being protected from. In the case of AIR-O2, we would be protecting the specified values from all localised adverse effects of discharges to air. We consider that this is akin to avoid.
30. This is especially the case for amenity values, which can be problematic to determine given their subjective nature. Section 7(c) requires that we “shall have particular regard to” “the maintenance and enhancement of amenity values” (our emphasis). We consider that the protective approach to AIR-O2 goes beyond s.7(c). In addition, the recommended change to AIR-P4(3)¹¹ requires that the amenity effects listed are to be avoided, remedied or mitigated. The policy appears consistent with s.7(c) however there is a disconnect between AIR-P4(3) and AIR-O2.
31. We agree with Ms Goslin that ‘appropriately managed’, as requested by Ms Wharfe and Ms Tait, is too subjective and provides little clarity. That said, we agree with submitters that ‘protected’ is not appropriate. There will likely be situations where discharges will adversely affect amenity values and mana whenua values, and even perhaps human health and the life-supporting capacity of ecosystems, but these effects may be determined appropriate. We consider that ‘not compromise’ signals the importance of the attributes and values listed, while providing some flexibility to provide for such discharges if the level of adverse effects is acceptable.
32. In terms of s32AA, we consider the revised wording of AIR-O2 is more appropriate to achieve the purpose of the RMA as it:
- a. Clarifies the outcome sought by the policy framework; and
 - b. More clearly responds to parts of the issues of regional significance, including SRMR-I4.

⁷ Para 5.23 of the EIC for Ravensdown (Carmen Taylor)

⁸ Para [37] – [41] of the Rebuttal Statement of Evidence for Horticulture NZ (Lynette Wharfe)

⁹ Para 16 of the Reply Report of Hannah Goslin

¹⁰ Para 15 of the Reply Report of Hannah Goslin

¹¹ Para 60 of the Reply Report of Hannah Goslin recommends AIR-P4 and AIR-P5 are amended and merged

3.3. Recommendation

33. That Objective AIR-O2 be amended as follows:

AIR-O2 – Discharges to air

The localised adverse effects of discharges to air do not compromise human health, amenity values, and mana whenua values and the life-supporting capacity of ecosystems. are protected from the adverse effects of discharges to air.

4. AIR-P1 – Maintain good ambient air quality

4.1. Introduction

34. AIR-P1 was notified as follows:

AIR-P1 – Maintain good ambient air quality

Good ambient air quality is maintained across Otago by:

- (1) ensuring *discharges* to air comply with ambient air quality limits where those limits have been set, and
- (2) where limits have not been set, only allowing *discharges* to air if the adverse *effects* on ambient air quality are no more than minor.

35. AIR-P1 was discussed in Section 7.7 of the section 42A report and in section 3 of Ms Goslin’s reply report. Three submitters sought that AIR-P1 be retained as notified, while other submitters expressed concerns about the consistency of the policy with the NESAQ¹² and use of the phrase ‘no more than minor’.¹³ QLDC and Ravensdown also expressed concern about use of ‘good’ in relation to ambient air quality, which Ms Goslin has since recommended be deleted in the heading and policy wording.

36. AIR-P1 and AIR-P2 support AIR-O1, with AIR-P1 seeking to maintain ambient air quality where it is within the NESAQ standards, and AIR-P2 seeking to improve air quality that is degraded – that is, not meeting the relevant NESAQ standards. In relation to ambient air quality, the wording in AIR-P1 refers to ‘limits’ while the NESAQ uses ‘standards’. Ms Tait for Fonterra and Ms Taylor for Ravensdown consider this is unclear, with Ms Taylor stating that:

In addition, for other contaminants, there are a range of international guidelines that are used by air quality specialists when considering the ‘health’ of ambient air quality and the effect of an activity or activities (i.e., guidelines provide guidance and thus absolute compliance is not always appropriate). On this basis, the development of new regional ‘limits’ within regional plans is not appropriate or required.¹⁴

37. Ravensdown, Silver Fern Farms and Fulton Hogan oppose use of the term ‘no more than minor’ in AIR-P1, with both Ms Taylor and Ms Tait considering that the term has specific

¹² Susannah Tait for Fonterra, para [9.9]

¹³ Susannah Tait for Fonterra, para [9.11]; Carmen Taylor for Ravensdown, para [5.8]

¹⁴ Carmen Taylor for Ravensdown, para [5.7]

application under the RMA that should not be applied here.¹⁵ In response. Ms Goslin's response is that:

In circumstances where there have been no limits set for a particular contaminant, I consider an assessment to ensure that adverse effects on ambient air quality are no more than minor is appropriate as the future Regional Air plan is unlikely to provide an exhaustive list of all contaminants that could be discharged into air.¹⁶

38. Ms Tait and Ms Taylor request that the existing wording for AIR-P1 is replaced with the following:

Otago's ambient air quality is, at a minimum, maintained, where ambient air quality standards are complied with, by allowing discharges to air where the discharge complies with relevant air quality standards, limits or guidelines.¹⁷

39. The final recommended version of this provision in the 10 October 2023 version is as follows:¹⁸

AIR-P1 – Maintain ~~good~~ ambient air quality

~~Good~~ Ambient air quality is, at a minimum, maintained across Otago by:

- (1) ensuring *discharges* to air comply with ambient air quality limits where those limits have been set, and
- (2) where limits have not been set, only allowing *discharges* to air if the adverse *effects* on ambient air quality are no more than minor.

4.2. Discussion

40. Considering whether the policy should refer to 'limits' or 'standards and guidelines', we agree with Ms Goslin's position that using the broader term 'limits' allows the Council to include standards and guidelines in the Air Plan, with additional flexibility for the future. This is an important consideration given that the NESAQ is currently under review.

41. We understand that the NESAQ includes 'ambient air quality standards' and that guidelines are also commonly used in air quality assessments and regional plans. We acknowledge the submitters' concerns that 'limits' is not a term commonly used in air quality and therefore recommend that the wording is amended to clarify that 'limits' include 'ambient air quality standards' and 'guidelines'. The term 'ambient air quality standards' is defined in the PORPS, with reference to the NESAQ definition. We do not think that 'guideline' needs to be defined – if and how a guideline is used would need to be considered for each airshed.

42. We note that the word 'limits' is also used in AIR-M2. As recommended in the Reply Report, this method requires the Council to "*prepare or amend and maintain its regional plans to (1A) set limits (including ambient air quality standards) to maintain ambient air quality in accordance with AIR-P1, and improve ambient air quality in accordance with AIR-P2*". To be consistent with our recommendation for AIR-P1, we recommend a consequential amendment to AIR-M2 to refer to 'ambient air quality standards and guidelines'.

¹⁵ Carmen Taylor for Ravensdown, para [5.8]; Susannah Tait for Fonterra, para [9.11]

¹⁶ Para 27 of the Reply Report of Hannah Goslin

¹⁷ Carmen Taylor for Ravensdown, para [5.19]; Susannah Tait for Fonterra, para [9.13]

¹⁸ Para 29 of the Reply Report of Hannah Goslin

43. Turning to the use of ‘no more than minor’ in clause (2), we agree with submitters that the term is not used appropriately in this policy. However, the alternate wording proposed by Ms Taylor and Ms Tait would only apply where air quality standards have been set. The policy as proposed by ORC also importantly includes maintaining air quality for parameters where such standards have not been set. We consider that it is important that the policy continues to cover both scenarios.
44. A key concern about the inclusion of ‘no more than minor’ is that it would provide for the incremental addition of small discharges which could, over time, degrade air quality. We agree with Ms Tait and Ms Taylor that some deterioration of ambient air quality may be acceptable in situations where air quality is good. We agree with the intent of the policy to maintain Otago’s air quality but recommend that discharges to air should only be allowed “if the adverse *effects* on ambient air quality are ~~no more than minor~~ avoided, remedied or mitigated”.
45. In terms of s32AA, we consider the change is more effective in achieving the outcome sought as:
- a. It aligns with the outcomes sought in AIR-O1 and AIR-O2;
 - b. There has been no technical evidence provided during the course of this hearing that indicates a more stringent regime than that set out in the NESAQ is required in the Otago Region; and
 - c. The amended wording provides flexibility for the future Air Plan to set limits that are not prescribed in the NESAQ currently or that may be set in the future.

4.3. Recommendation

46. That Objective AIR-P1 be amended as follows:

AIR-P1 – Maintain ~~good~~ ambient air quality

~~Good~~ Ambient air quality is, at a minimum, maintained across Otago by:

- (1) ensuring *discharges* to air comply with ambient air quality limits, including ambient air quality standards and guidelines, where those have been set as limits have been set, and
- (2) where limits, including ambient air quality standards and guidelines, have not been set, only allowing *discharges* to air if the adverse *effects* on ambient air quality are avoided, remedied or mitigated ~~no more than minor~~.

5. AIR-P3 – Providing for discharges to air, AIR-P4 – Avoiding certain discharges and AIR-P5 – Managing certain discharges

5.1. Introduction

47. As notified, AIR-P3 reads:

AIR-P3 – Providing for discharges to air

Allow discharges to air provided they do not adversely affect human health, amenity and mana whenua values and the life supporting capacity of ecosystems.

48. As notified, AIR-P4 reads:

AIR-P4 – Avoiding certain discharges

Generally avoid discharges to air that cause offensive, objectionable, noxious or dangerous effects.

49. The reply report version dated 10 October 2023 of AIR-P5 currently reads:¹⁹

AIR-P5 – Managing certain discharges

Manage the *effects of discharges* to air beyond the boundary of the property of origin from activities that include but are not limited to:

- (1) outdoor burning of organic material,
- (2) agrichemical and fertiliser spraying,
- (3) farming activities,
- (4) activities that produce dust, and
- (5) industrial and trade activities.

50. Policies AIR-P3, AIR-P4 and AIR-P5 address direct discharges to air and implement AIR-O2. Ms Goslin states that the “*intent of AIR-P3 is to provide a bookend for how effects are to be managed at the lower end of the effects spectrum*”.²⁰ This essentially provides for a permitted activity rule, although Ms Goslin acknowledges that this may not be appropriate in all situations. AIR-P4 and AIR-P5, as notified, address discharges as they progress along the effects spectrum with AIR-P4 addressing those discharges with significant and potentially unacceptable adverse effects, and AIR-P5 setting out what effects can be managed.

51. Submitters proposed wording changes to AIR-P3 to clarify the terminology and intent.²¹ These were accepted by Ms Goslin in her right of reply.²² Submitters on AIR-P4 sought outcomes ranging from deleting the policy²³, to requesting less stringency for offensive or objectionable effects²⁴, to redrafting to remove ‘avoid’.²⁵ Submitters on AIR-P5 sought removal of the phrase ‘beyond the boundary of the property of origin’,²⁶ and the acknowledgement of lifeline utilities and infrastructure.²⁷

52. Policies AIR-P4 and AIR-P5 were a focus at the hearing and a range of alternatives were discussed. These included alternatives for ‘avoid’ in AIR-P4, including ‘avoid, as a first priority’

¹⁹ This version includes the recommendations from the hearing reports prepared under s42A of the RMA

²⁰ Para 40 of the Reply Report of Hannah Goslin

²¹ Susannah Tait for Fonterra, para [9.16]; Carmen Taylor for Ravensdown, para [5.29]

²² Para 42 of the Reply Report of Hannah Goslin

²³ Including: James Taylor for Dunedin City Council, para [16]; Lynette Wharfe for Horticulture NZ, para [49]

²⁴ Including: Claire Hunter for Oceana Gold, para [9.3]; Steve Tuck for Silver Fern Farms, para [6.7]; Susannah Tait for Fonterra, para [9.17]

²⁵ Carmen Taylor for Ravensdown, para [5.21]

²⁶ Carmen Taylor for Ravensdown, para [5.23]

²⁷ James Taylor for Dunedin City Council, para [18]; Luke Peters for Queenstown Lakes District Council, para [4.7]

or 'avoid, where reasonably practicable'. While 'avoid' was accepted for noxious or dangerous effects, it was considered by submitters to be too restrictive for the more subjective offensive or objectionable effects. In response, the Chair suggested that AIR-P4 and AIR-P5 are merged into one policy which addresses the management of discharges to air. This was considered by Ms Goslin and recommended in her reply report, as follows:²⁸

AIR-P4 – Managing Avoiding certain discharges:

~~Avoid discharges to air that cause offensive, objectionable, noxious or dangerous effects.~~

Manage the adverse effects of discharges to air by:

- (1) avoiding noxious or dangerous effects,
- (2) ensuring discharges to air do not cause offensive or objectionable effects,
- (3) avoiding, remedying or mitigating other adverse effects from discharges to air, including but not limited to discharges arising from:
 - (a) outdoor burning of organic material,
 - (b) agrichemical and fertiliser applications,
 - (c) primary production activities,
 - (d) activities that produce dust, and
 - (e) industrial and trade activities.

5.2. Discussion

53. We agree with evidence and discussions at the hearing that some redrafting is required to clarify the intent of these policies. We generally agree with Ms Goslin's recommendations in her reply report and consider that these go a long way to addressing the submitters' concerns. We adopt her recommendations for AIR-P3, AIR-P4 and AIR-P5, with the exception of the additional clause in AIR-P4, discussed above, to address reverse sensitivity.
54. In relation to offensive or objectionable effects in AIR-P4(2), Ms Goslin accepted Ms Taylor's request to replace 'avoid' with 'ensure discharges to air do not cause', although noted that she considers there to be little difference between the two phrases.²⁹ We agree that avoid is too restrictive and could infer a prohibited activity status. While we acknowledge that such effects will generally be unacceptable, we do not consider that a blanket 'avoid' is justified. We consider that the wording proposed by Ms Taylor softens 'avoid' and opens the door to further consideration of activities with such effects, even if this is via a non-complying activity rule. We note that methods to assess the extent of offensive or objectionable effects are well established, and discharges with potentially offensive or objectionable effects may be able to be located in appropriate locations.
55. Turning to S32AA, we consider the recommended changes will be more efficient at achieving the outcome sought in AIR-O2, are consistent with Part 2 and will better provide for section 17 of the RMA.

²⁸ Para 60 of the Reply Report of Hannah Goslin

²⁹ Para 57 of the Reply Report of Hannah Goslin

5.3. Recommendation

56. Amend AIR-P3 as follows:

AIR-P3 – Providing for discharges to air

~~Provide for Allow discharges to air that provided they do not adversely affect human health, amenity values, and mana whenua values and the life supporting capacity of ecosystems.~~

57. Amend AIR-P4 as follows:

AIR-P4 – Managing certain discharges

~~Generally avoid discharges to air that cause offensive, objectionable, noxious or dangerous effects.~~

~~Manage the adverse effects of discharges to air by:~~

- ~~(1) avoiding noxious or dangerous effects,~~
- ~~(2) ensuring discharges to air do not cause offensive or objectionable effects,~~
- ~~(3) avoiding, remedying or mitigating other adverse effects from discharges to air, including but not limited to discharges arising from:
 - ~~(a) outdoor burning of organic material,~~
 - ~~(b) agrichemical and fertiliser applications,~~
 - ~~(c) primary production activities,~~
 - ~~(d) activities that produce dust, and~~
 - ~~(e) industrial and trade activities.~~~~
- ~~(4) locating new sensitive activities to avoid potential reverse sensitivity effects from existing consented or permitted discharges to air, unless these can be appropriately managed.~~

58. Delete AIR-P5:

AIR-P5 – Managing certain discharges

~~Manage the effects of discharges to air beyond the boundary of the property of origin from activities that include but are not limited to:~~

- ~~(1) outdoor burning of organic material,~~
- ~~(2) agrichemical and fertiliser spraying,~~
- ~~(3) farming activities,~~
- ~~(4) activities that produce dust, and~~
- ~~(5) industrial and trade activities.~~

6. AIR-M2 – *Regional plans*

6.1. Introduction

59. The notified version of AIR-M2 reads as follows:

AIR-M2 – Regional plans

No later than 31 December 2024, Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) avoid offensive, objectionable, noxious or dangerous *discharges* to air,
- (2) include provisions to mitigate the adverse *effects* from *discharges* to air beyond the boundary of the property of origin,
- (3) implement the prioritisation of actions set out in AIR-P2,
- (4) mitigate the adverse *effects* of *discharges* to air in areas adjacent to *polluted airsheds* where the *discharge* will adversely affect air quality in the *polluted airshed*, and
- (5) give effect to the Air Quality Strategy for Otago and any subsequent amendments or updates.

60. Several submitters sought amendments to AIR-M2, while QLDC sought that it be retained as notified. Some of the suggested amendments were to align AIR-M2 to the respective submitters' objective and policy amendments.

61. Cosy Homes Charitable Trust sought to advance the timeline for the regional plan from 2024 to 2023, while Ms Goslin noted in her reply report that ORC do not intend to notify the future Regional Air Plan until 30 June 2025.³⁰

62. Ms Goslin recommended the addition of clause (1A) as a consequential change to provide for AIR-P4. She also recommended consequential changes to clauses (1) and (2) to reflect changes she recommended to the policy framework.

63. Both Ms Wharfe and Ms Tait raised concerns at the hearing about the requirement in clause (5) to require territorial authorities to 'give effect to' the Air Quality Strategy for Otago. Ms Tait requested that the clause be deleted, and Ms Wharfe sought to replace 'give effect to' with 'have regard to'.³¹ Ms Wharfe considered that a date for the Strategy should be included.³² We were told that this is a non-statutory document and, upon review, we could not find a date reference on the document.

6.2. Discussion

64. We recommend the version of AIR-M2 that is included in Ms Goslin's Reply Report, with a consequential amendment from AIR-O2 to include reference to '*ambient air quality standards and guidelines*' in AIR-M2(1A).

³⁰ Reply Report of Hannah Goslin, para 89(a).

³¹ Lynette Wharfe for Horticulture New Zealand, paras [78]-[79] Susannah Tait for Fonterra, para [9.33](d)

³² Lynette Wharfe for Horticulture New Zealand, para [77]

65. We agree with Ms Goslin that the date for the Regional Air Plan should be aligned with the Council's intentions signalled in the draft Annual Plan 2021-2031, and we do not have the justification to bring this forward, as sought by the Cosy Homes Charitable Trust. The date that they sought has already past and we consider that the Regional Air Plan should be prepared to give effect to this RPS.
66. Ms Goslin has recommended deleting clause (5) in response to the evidence of Ms Wharfe and Ms Tait. We support this and do not consider it appropriate to refer to a non-statutory and undated document in an RPS.
67. In relation to s32AA, several of the suggested changes are consequential to the recommended changes to policy direction set out above and in Ms Goslin's Reply Report. Therefore, we consider the amendments will be more efficient and effective at achieving AIR-O1 and AIR-O2.

6.3. Recommendation

68. Amend AIR-M2 as follows:

AIR-M2 – Regional plans

~~No later than 31 December 2024,~~ Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1A) set limits (including *ambient air quality standards and guidelines*) to maintain ambient air quality in accordance with AIR-P1, and improve ambient air quality in accordance with AIR-P2,
- (1) manage the adverse effects of discharges to air by avoiding noxious or dangerous effects and ensuring discharges to air do not cause offensive or objectionable effects, ~~avoid offensive, objectionable, noxious or dangerous discharges to air,~~
- (2) include provisions to avoid, remedy or mitigate other the adverse effects from *discharges* to air ~~beyond the boundary of the property of origin,~~
- (3) ~~implement the prioritisation of~~ prioritise the actions set out in AIR-P2 to reduce PM_{10} and $PM_{2.5}$ concentrations in *polluted airsheds*,
- (4) mitigate the adverse *effects* of *discharges* to air in areas adjacent to *polluted airsheds* where the *discharge* will adversely affect air quality in the *polluted airshed*, and
- ~~(5) give effect to the Air Quality Strategy for Otago and any subsequent amendments or updates.~~
- (5) include measures to ensure that discharges to air do not adversely affect *mana whenua* values.

Section 7: Coastal Environment (CE)

1. Introduction

1. The coastal environment of the Otago region is some 480 kilometres long and encompasses a range of differing types of environments including open coast, harbours, estuaries and terrestrial features and ecosystems which together comprise the coastal marine area and areas adjacent to it. The coastal marine area is defined in s.2 of the RMA as being the area that extends as its seaward boundary from the outer limit of the territorial sea inshore to the line of mean high water springs. That inner boundary is extended where it crosses a river at which locations the inland line is drawn at the lesser point of one kilometre upstream from the river mouth, or a point five times the width of the river mouth. In other words fully or partially estuarine areas are included in the coastal marine area.
2. The term 'coastal environment' itself is not defined, either in the RMA or in the PORPS. Nor is it specifically defined even in the NZCPS 2010 which repetitively applies its objectives and policies to the 'coastal environment'. That repetitive reference in the NZCPS to the 'coastal environment' is of course consistent with the expression in Part 2 of the RMA that the protection of the 'coastal environment' is a matter of national importance. The provisions of s.6(a) of the RMA commence as follows:

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development: ...*

(Panel's emphasis)

3. However, Policy 1(2) of the NZCPS does describe the extent of the coastal environment in very broad terms. That description includes, amongst other matters, coastal lakes and wetlands and their margins, as well as features of coastal vegetation and landscapes, and other inter-related coastal marine and terrestrial systems. Policy 1 provides:
 - (1) *Recognise that the extent and characteristics of the coastal environment vary from region to region and locality to locality; and the issues that arise may have different effects in different localities.*
 - (2) *Recognise that the coastal environment includes:*
 - (a) the coastal marine area;*
 - (b) islands within the coastal marine area;*
 - (c) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;*
 - (d) areas at risk from coastal hazards;*

- (e) *coastal vegetation and the habitat of indigenous coastal species including migratory birds;*
- (f) *elements and features that contribute to the natural character, landscape, visual qualities or amenity values;*
- (g) *items of cultural and historic heritage in the coastal marine area or on the coast;*
- (h) *inter-related coastal marine and terrestrial systems, including the intertidal zone; and*
- (i) *physical resources and built facilities, including infrastructure, that have modified the coastal environment.*

4. Against that broad background description of the coastal environment the PORPS as notified identified a range of significant resource management issues for the coastal environment listed in the SRMR chapter. The issue most directly identified in this chapter related to the coastal environment is also identified in SRMR-I8 as follows:

SRMR-I8 – Otago’s coast is a rich natural, cultural and economic resource that is under threat from a range of terrestrial and marine activities

- 5. SRMR-I1 as to natural hazard effects; SRMR-I2 as to climate change impacts; SRMR-I3 as to pest species; SRMR-I7 as to effects of predators and pests; and SRMR-I10 as to environmental impacts of activities, also relate in varying degrees to the coastal environment.
- 6. In addition in the RMIA chapter as to resource management issues of significance to iwi authorities in the region, the section under the sub-header RMIA-CE identified 5 issues arising from: a lack of integrated management across the land-water interface RMIA-CE-I1; the degradation of water quality from discharges RMIA-CE-I2; the effects of activities on Kāi Tahu ability to access and harvest kaimoana RMIA-CE-I3; the decline in species as a result of habitat disturbance and modification RMIA-CE-I4; and the poor recognition and protection of wāhi tapu and wāhi tūpuna values RMIA-CE-I5.
- 7. In relation to most of those issues the hearing panel accepted the reasoning and conclusions advanced by the s.42A reports as they developed, which in large part particularly as to the coastal environment accepted propositions advanced by Kāi Tahu submitters and DOC. As we observed in the overall Introduction to the joint reports ORC made every effort to liaise with Kāi Tahu and the outcome was often an agreed position which the panel accepted. Therefore, only a few limited issues related to Kāi Tahu’s relationship with the coastal environment need specific discussion in this chapter.
- 8. As discussed in the legal section of this report the preservation of the natural character of the coastal environment, wetlands and lakes and rivers required by s.6(a) of the RMA is qualified by the additional words “*and the protection of them from inappropriate subdivision, use and development*”. The NZCPS consequently has a range of policies aimed at providing that level of preservation and protection, while at the same time it contains other policies aimed at enabling activities, which must be taken as being recognised by the NZCPS as being appropriate in some settings within that coastal environment. It is in those activity areas in the coastal environment where potential conflicts between protection and activity policies may arise, and where, unsurprisingly, emphasis arose in the PORPS submissions process and hearings.
- 9. The start point of that consideration of the NZCPS policies has to be s.62(3) of the RMA which requires that an RPS “*must give effect*” to a New Zealand coastal policy statement.

10. Examples of the NZCPS objectives and policies which provide for activities include Objective 6 which includes direction enabling certain forms of subdivision, use, and development in the coastal environment. In particular, bullet points 1 and 2 of Objective 6 acknowledge that:

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- *some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*

Then bullet point 3 recognises that: *'functionally some uses and developments can only be located on the coast or in the coastal marine area'*: with bullet point 4 acknowledging that:

- *the coastal environment contains renewable energy resources of significant value;*

11. More specifically, there are then a range of policies in the NZCPS supportive of the enabling of activities, or in some cases requiring provisions for them. They include Policy 6 as to provision of infrastructure and extraction of minerals; Policy 7 as to varying types of urban activity; Policy 8 as to aquaculture; Policy 9 as to ports; and Policy 10 as to closely limited circumstances for reclamations providing significant regional or national benefit.

12. Another area of activity identified in the NZCPS which is particularly relevant to the evidence called by Kāi Tahu entities is Policy 6(d) which provides:

Policy 6: Activities in the coastal environment

1. In relation to the coastal environment:

- (a) ...*
- (b) ...*
- (c) ...*
- (d) recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them; ...*

13. The reason why Policy 6(1)(d) is so crucial to Kāi Tahu communities in Otago is because their evidence was clear that in gross historical breaches of the Treaty they have lost almost all of their lands, and have been left with only a few pockets of Māori lands or Māori-owned general lands which are commonly near the coast. Their marae are in or near the coastal environment in Otago.

14. In terms of other Part 2 RMA considerations we will not repeat here the conclusions reached in the legal section of this report other than to emphasise what is now the clear legal outcome, that no general priority is to be afforded to directive protection policies over other directive policies which enable activities. In the legal section of this report, and in the Integrated Management chapter topic discussion, particularly of IM-P1, we have also taken up the direction of the Supreme Court in the Port Otago case to ensure consent pathways exist to enable a consideration of activity applications for consent in a structured analysis approach.

15. An example of where a general prioritisation has been recommended is in a new CE-P3(1A) as follows:

CE-P3 – Coastal water quality

Manage water quality in the coastal environment by:
(1A) prioritising the restoration of coastal water quality where it is considered to
have deteriorated to the extent described within CE-P2(2), ...

For reasons described in the legal section and summarised above this wording is not in accord with the Supreme Court’s judgment in the *Port Otago* case and we do not accept that aspect of the suggested new policy. The issue of restoration will be one of the factors needing to be assessed in a structured way.

16. In terms of s.32AA of the RMA the wording we recommend below is necessary to ensure that the policy is the most appropriate way to achieve the purpose of this Act.

1.1 Recommendation

17. That can be achieved by rewording the suggested new subclause 1A as follows:

CE-P3 – Coastal water quality

Manage water quality in the coastal environment by:
(1A) restoring coastal water quality where it is considered to have deteriorated to
the extent described within CE-P2(2), ...

18. In some respects, for example as to wetland protection, the coastal chapter is treated somewhat differently in the PORPS provisions, often because of the application of NZCPS or exclusionary definitions in the NPSFM and NPSIB as to coastal wetlands. The challenge for this part of the report on the Coastal Environment topic chapter is to ensure that a consistent approach is adopted for the vexed protection and enabling provisions in response to submissions.

19. We agree with the nearly all of the summary of the primary issues needing consideration in respect of this chapter provided in the reply report of 23 May 2023 by the s.42A report writer Mr Andrew McLennan. That summary was as follows:

- a. Kāi Tahu relationship with the coastal environment
- b. Identifying biodiversity in the coastal environment
- c. Providing for infrastructure in the coastal environment
- d. Connections to other chapters within the pORPS21
- e. Identifying the extent of the coastal environment
- f. Providing for aquaculture

20. We propose to address each of those issues other than (e) in that order, as we do not consider that we need to address issue (e). We do, however, also address in this section a legal funding issue, and regional surf breaks.

2. Kāi Tahu relationship with the coastal environment

21. The relationship of Kāi Tahu with the coastal environment in the notified version of the PORPS in its coastal environment chapter was encompassed primarily in Objective CE-O1:

CE-O1 – Safeguarding the coastal environment

The integrity, form, functioning and resilience of Otago's coastal environment is safeguarded so that:

- (1) the mauri of coastal water is protected, and restored where it has degraded,
- (2) coastal water quality supports healthy ecosystems, natural habitats, water-based recreational activities, existing activities, and customary uses, including practices associated with mahika kai and kaimoana, ...

22. That objective was supported by a more specific objective CE-O4 as follows:

CE-O4 – Kāi Tahu associations with Otago's coastal environment

The enduring cultural association of Kāi Tahu with Otago's coastal environment is recognised and provided for, and mana whenua are able to exercise their kaitiaki role within the coastal environment.

23. The relevant policies included first a requirement in Policy CE-P2(2) and (3) to identify areas where adverse effects on coastal water was restricting mahika kai practices, and areas of particular interest to mana whenua (using that term for takata whenua for reasons discussed in the MW chapter). In addition, other policies of relevance to mana whenua included CE-P3 as to water quality requiring protection against adverse effects on the identified areas of particular interest to mana whenua; CE-P5 as to indigenous biodiversity requiring avoidance of significant adverse effects on habitats of importance for cultural purposes; CE-P8 as to public access, which at subclause (5) excepted the right for unimpeded public access where required to '*protect places or areas of significance to takata whenua, including wāhi tūpuna*'; CE-P11 as to aquaculture which sought to enable this activity at appropriate locations taking into account, inter alia, potential '*..cultural benefits associated with the operation and development of aquaculture activities*'.

24. The most specific policy, however, was CE-P13 as follows:

CE-P13 – Kaitiakitaka

Recognise and provide for the role of Kāi Tahu as kaitiaki of the coastal environment by:

- (1) involving mana whenua in decision making and management processes in respect of the coast,
- (2) identifying, protecting, and improving where degraded, sites, areas and values of importance to Kāi Tahu within the coastal environment, and managing these in accordance with tikaka,
- (3) providing for customary uses, including mahika kai and the harvesting of kaimoana,
- (4) incorporating the impact of activities on customary fisheries in decision making, and
- (5) incorporating mātauraka Māori in the management and monitoring of activities in the coastal environment.

25. In submissions by mana whenua submitters a more specific objective and policy suite was sought principally seeking greater flexibility for mana whenua to carry out activities which

were either in or affected the coastal environment. The particular objective was sought as a primary objective, rather than as a sub-clause to CE-O1 as notified, but was finally recommended to be adopted in the reply report by Mr MacLennan in the following restricted form. (We observe in passing that the title to this new provision emanated from mana whenua submitters):

CE-O1A – Te Mauri o te Moana

The mauri, health and well-being of Otago’s coastal water is protected, and restored where it is degraded, including through enhancing coastal water quality where it has deteriorated from its natural condition.

26. This recommended provision effectively adapts a highly protective concept very similar to that utilised in the NPSFM for Te Mana o te Wai. We accept the evidence and reasoning advanced in support of such an objective seeking to protect the health and wellbeing of coastal waters, and the enhancement of them where degraded, because that will protect the mauri of the coastal waters. We do have, though, two reservations.

27. The first is that there is an important, albeit subtle, difference in the wording proposed here, as compared to the wording used in the NPSFM. In the NPSFM the fundamental concept of ‘Te Mana o te Wai’ is described by recognising that *‘protecting the health of freshwater protects the health and wellbeing of the wider environment. It protects the mauri of the wai. ...’* As we discussed in the legal section of this report that approach neatly avoids any need to define what is ‘mauri’, whereas this proposed wording will require that ‘mauri’ is closely defined because it is specifically required to be protected. That wording arose from the notified version of subclause (1) of CE-O1, which was worded in a manner that emphasised the protection of ‘mauri’ even more specifically, as follows:

(1) the mauri of coastal water is protected, and restored where it has degraded,

28. The second problem is that as recommended once again there is a failure in this provision to recognise the qualifier in s.6(a) of the RMA that protection of the coastal environment is only required against inappropriate activities.

29. Once again in terms of s.32AA of the RMA the wording we recommend below is needed to ensure that the objective is worded in a manner that ensures it is the most appropriate way to achieve the purpose of this Act.

2.1 Recommendation

30. In our view those two problems can be overcome by some small but important changes as follows:

CE-O1A – Te Mauri o te Moana

The mauri, health and well-being of Otago’s coastal water is:

(a) protected from inappropriate activities so as to protect the health and well-being of the wider environment and the mauri of coastal waters, and

(b) restored where it is degraded, including through enhancing coastal water quality where it has deteriorated from its natural condition.

31. A consequential change would also need to be made to the final recommended version of CE-P2 (2)(a)(i) as to identification of degraded quality water areas which was recommended in the following form:

CE-P2 – Identification

Identify the following in the coastal environment: ...

(2) areas of water quality in the coastal marine area that are considered to have deteriorated so that:

(a) it is having a significant adverse effect on:

(i) the mauri of coastal water

2.2 Recommendation

32. Consistency would require that provision to read:

(i) the ~~mauri~~ health of coastal water

33. Other provisions in the coastal environment chapter which directly relate to Kāi Tahu's relationship with the coastal environment included Policies CE-P9 and CE-P10 as to activities respectively on land and otherwise in the coastal environment. Kāi Tahu through its planning witness Mr Bathgate particularly sought inclusion of specific policy provision enabling mana whenua to provide for their needs for papakāika, marae and associated developments. The final s.42A report response (at paragraph 149) was that CE-M3 and CE-M4 (1)-(3) already addressed location issues. However, Policy 6 of the NZCPS specifically stated in this regard as follows:

Policy 6 Activities in the coastal environment

(1) In relation to the coastal environment:

...

(d) recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them;

34. We do not consider that mention of activities in methods CE-M3 and CE-M4 (1)-(3) specifically apply to that goal or are at all sufficient to meet that specific directive in the NZCPS. CE-M4(9) by contrast does make that provision in respect of district plans when it says:

(9) recognise takata whenua needs for papakāika, marae and associated developments within the coastal environment and make appropriate provision for them,

35. However, that is a method which rather 'hangs' out on its own at the moment as there is no policy support for it.

2.3 Recommendation

36. We agree with Mr Bathgate that a new clause is required in CE-P9 as follows:

(7) enabling mana whenua to provide for their cultural and social needs for papakāinga, marae and associated developments and make appropriate provision for them.

2.4 Recommendation

37. Finally, in accordance with the conclusions reached in the Mana Whenua chapter consideration we accept that all references to ‘takata whenua’ in this coastal chapter should be changed to ‘mana whenua’.
38. In terms of s.32AA of the RMA that two recommendations are respectively required first to ensure the policy support for the method is the most appropriate way to achieve the purpose of this Act, and secondly is required for consistency.

3. Identifying biodiversity in the coastal environment

39. The first point to be noted in respect of indigenous biodiversity in the coastal environment chapter is that the new NPSIB specifically acknowledges that it only applies in the ‘terrestrial environment’ (clause 1.3(1) of the NPSIB) and that while both NPSs apply in the terrestrial coastal environment that in the event of conflict between the two “*the New Zealand Coastal Policy Statement prevails.*” (clause 1.4(1) and (2) NPSIB).
40. The base problem faced in both terrestrial and coastal environments is the identification and mapping of areas of significant indigenous biodiversity or natural character that may be under threat. That problem is often capable of being at least reduced in scope in the terrestrial environment by means of recourse to desktop reviews of aerial photography, and doubtless in future assisted by drone footage – all of which can be readily available at relatively low cost for large areas with follow-up ground research in addition being practical by using the assistance of vehicles on a broad basis.
41. In the coastal environment those low-cost methods of identification on a broad basis are not available. Marine biological research is a painstakingly slow process involving divers carrying out benthic assessments, aided in deeper waters to some extent by submersibles operated from larger surface vessels but again with only short distance viewing available and at huge cost. Moreover, for a large stretch of unprotected coast as in the Otago region off-shore weather and visibility conditions have a major impact.
42. These concerns were raised by the hearing panel repetitively during the coastal hearings as it seemed that the massive cost and time span required to identify and map indigenous biodiversity and natural character in the marine environment may not have been properly appreciated. The panel was concerned at that cost factor given the provisions of CE-P5 which as notified stated:

CE-P5 – Coastal indigenous biodiversity

Protect indigenous biodiversity in the coastal environment by:

(1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:

(a) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists,

- (b) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened,
- (c) indigenous ecosystems and vegetation types in the coastal environment that are threatened or are naturally rare,
- (d) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare,
- (e) areas containing nationally significant examples of indigenous community types, and (f) areas set aside for full or partial protection of indigenous biodiversity under other legislation, and

(2) identifying and avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on the following ecosystems, vegetation types and areas:

- (a) areas of predominantly indigenous vegetation in the coastal environment,
- (b) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species,
- (c) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable,
- (d) areas sensitive to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh,
- (e) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes,
- (f) habitats, including areas and routes, important to migratory species, and
- (g) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

43. The method that flowed from Policy CE-P5 was CE-M3 which required that local authorities must work collaboratively together to:

3) identify areas and values of indigenous biodiversity within their jurisdictions in accordance with CE-P5, map the areas and describe their values in the relevant regional and district plans, and

44. One of the major concerns expressed by some submitters was a concern at how workable or practical the policy was when it required ‘avoidance’ of effects with all its near prohibitive connotations on areas that it would be well-nigh impossible physically and financially to have identified during the life of the coastal plan.

45. The Panel itself was not so concerned about the cost imposition on applicants for resource consent because as a matter of preparation on their assessment of environmental effects, they would have to carry out benthic research which would disclose what types of species were present and estimate effects and propose mitigation measures if warranted anyway. The concern was more at the overall cost to councils of imposing those mapping burdens – and particularly on ORC itself in respect of the marine environment.

46. Moreover, adding to that concern was the fact that the NZCPS did not require such a detailed level of identification and mapping for indigenous biodiversity in Policy 11 as it did for areas

of high natural character in Policy 13(1)(c) and for natural features and landscapes in Policy 15(d). Counsel for ORC in closing opined that the reason for that mapping not being required for Policy 11 purposes in the NZCPS was because it seemed likely that the Board of Inquiry into the NZCPS was contemplating DOC would provide the requisite mapping. That has not occurred.

47. The cost and practical concerns were raised by the hearing panel with ORC's counsel who in closing on 29 May 2023 formally responded as follows:

332. The concern was that, at least in the marine environment, little work had been done and ORC was imposing upon itself a significant and costly obligation.

333. Substantial progress had in fact been made by the Regional Council through the NIWA report, Identification of Significant Ecological Areas for the Otago Coastal Marine Area, June 2022; although the report does identify gaps in available information and makes recommendations for cost-effective ground-truthing and monitoring programmes.

334. ORC does not resile from the task of identifying important and vulnerable biodiversity in the coastal environment

48. The marine area involved is so vast, (including as it does the whole of the territorial sea area out to 12 nautical miles or approximately 22 kilometres off-shore), the task required by CE-P5 so detailed, and the costs potentially so large that the panel still holds serious concerns as to its practicality. However, faced with that formal response by ORC through its counsel the panel is unable to gainsay such a formal assurance by ORC. As it can take the matter no further, no change is recommended.

49. One other related matter that we need to address is the recommended move of CE-P5 to replace the notified version of ECO-P7 which as notified stated:

ECO-P7 – Coastal indigenous biodiversity

Coastal indigenous biodiversity is managed by CE-P5, and implementation of CE-P5 also contributes to achieving ECO-O1.

50. We struggle to understand why that change is recommended.

51. Other changes that were recommended to us for the ECO chapter in the final 10 October 2023 version included the insertion of the phrase "*Outside the coastal environment*". That occurs now in the final recommended version at the start of ECO-P3 as to protection of significant natural areas and taoka, and ECO-P4 as to consent pathways for certain new activities. Plainly in those important areas in the ECO chapter those exclusionary words mean it is recommended that the CE chapter provisions will apply to the coastal environment and the ECO chapter outside it. Even more relevant is the fact that in the final recommended version of ECO-P6 as to management of effects on indigenous biodiversity the same qualifier appears - that it only applies "*Outside the coastal environment*". We fail to understand why one would then follow those provisions in the ECO chapter with a provision applying only to the coastal environment, particularly when it opens with the words:

Protect indigenous biodiversity in the coastal environment by:

52. Finally, as to this recommended move, we wonder if the s.42A report writer considered clause 9 of the National Planning Standards which provides:

8. Excluding the provisions in Part 2, provisions that apply to the coastal marine area must be located in the Coastal marine area section.

53. The provisions in Part 2 (of Table 2 in the National Planning Standards) relate to overview matters being:

Significant resource management issues for the region

Resource management issues of significance to iwi authorities in the region

Integrated management

54. In other words, all other coastal marine area provisions, such as CE-P5, must be in the CE chapter as we read clause 8 of the National Planning Standards.

55. In terms of s.32AA of the RMA the discussion above describes sufficiently the factors that have led us to the recommendation that CE-P5 remains in the coastal chapter.

3.1 Recommendation

56. As a consequence of all those considerations we recommend that CE-P5 remains in the coastal chapter. (In the discussions below on provision for infrastructure and aquaculture development we look again in more detail at the extent of the protective wording of CE-P5).

3.2 Scientific Uncertainty

57. The final issue we need to discuss as to indigenous biodiversity in the coastal environment chapter related to methods CE-M3(6) and CE-M4(6). Those provisions require a precautionary approach in assessing the effects of activities where “*there is scientific uncertainty*”. The concern raised was whether that was broad enough to cover actual gaps in knowledge because many such gaps exist or may not have been filled in sufficient detail, i.e. where there was no or inadequate information available.

58. The response in closing by ORC’s counsel was that “*Deficits in knowledge do create uncertainty*” on the basis that “*When there are information shortfalls, there is scientific uncertainty.*” (paras 337-338). Whilst we can see the force of those arguments we would still prefer to see the precautionary approach broadened to include the phrase “*or a lack of relevant knowledge*” in both those methods so that no arguments can arise, as we fear that lack of relevant knowledge will be the most likely scenario for years to come.

59. Again, in terms of s.32AA of the RMA that recommendation is the most appropriate way to achieve the purpose of this Act.

3.2.1 Recommendation

60. That methods CE-M3(6)(a) and CE-M4(6)(a) be amended to read:

(a) there is scientific uncertainty or a lack of relevant knowledge, or ...

4. Providing for infrastructure in the coastal environment

61. The concerns of infrastructure providers in terrestrial settings were echoed in the coastal chapter hearings. In short infrastructure submitters who took part in the coastal chapter hearings were concerned that the same overly protectionist objectives and policies framework also applied in the coastal environments chapter as applied on land. In the Panel's view those Part 2 RMA issues are in principle guided by the Supreme Court's decisions in *King Salmon* and *Port Otago* – both of which of course related to and arose out of provisions in the NZCPS. We do not need, therefore, to repeat the discussion canvassed in the legal section of this report here.
62. Rather it is a matter of standing back and considering whether the protectionist prioritisation complained of in terrestrial settings applies in the coastal environment chapter, and whether there is a consent pathway providing for the 'structured analysis' approach specified by the Supreme Court in the event of an apparent conflict between applicable policies.
63. In that regard there are two areas of policy and methods which immediately come to attention. The first is that CE-P4 as to natural character does not contain the qualifier of protection from inappropriate use development and subdivision that occurs in s.6(a) RMA and also in Policy 13(1) of the NZCPS.
64. Another aspect of concern in the PORPS is that CE-M3 (5)(a) as to regional plan content in the notified version controlled the use and development of the coastal marine area, in order to:
- (a) preserve natural character; natural features, landscapes and seascapes; and indigenous biodiversity of the coastal marine area in accordance with CE-P4, CE-P5 and CE-P6.
- (Our emphasis)
65. Again, no qualifier appeared in that provision as to protection from inappropriate activities. (We also record that no qualifier appears in the chapeau to CE-P6, which it should do, to be consistent with the s.6 RMA approach.)
66. Finally, the term 'prioritising', (which given the *Port Otago* case must raise flags), appears again in the recommended final version of Policy CE-P3 as we have discussed above.
67. These protective provisions in the coastal environment chapter have been sought to be reconciled as to provision for infrastructure in the coastal environment by the provision of Objective CE-O5 and Policies CE-P9 as to activities on land within the coastal environment; and CE-P10 as to activities within the coastal marine area; (with CE-P11 being enabling as to aquaculture). The NZCPS at Policy 6(1)(a) and other provisions requires a recognition of the vital need for enabling some crucial energy related infrastructure and mining activities in some settings:

Policy 6 Activities in the coastal environment

(1) In relation to the coastal environment:

(a) recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities; ...

68. The most crucial policy in the coastal marine area in the PORPS for infrastructure is Policy CE-P10. It opens with wording that is directive. However, as notified, it was most difficult to accept it as being truly enabling when it commenced with the use of the word ‘must’ allied with ‘maintain or improve’ in subclause (2):

CE-P10 – Activities within the coastal marine area

Use and development in the coastal marine area must:

- (1) enable multiple uses of the coastal marine area wherever reasonable and practicable, and
- (2) maintain or improve the health, integrity, form, function and resilience of the coastal marine area, or and
- (3) have a functional need or operational need to be located in the coastal marine area, or
- (4) have a public benefit or opportunity for public recreation that cannot practicably be located outside the coastal marine area.

69. The construction of infrastructure, such as for example a main state highway armouring or a telecom tower or some renewable energy construction such as for tidal or wind power capture, simply cannot always ‘*maintain or improve the health, integrity, form, function and resilience of the coastal marine area*’. Construction of such infrastructure is always going to have some adverse effect. This wording as notified was too prescriptive to meet the needs recognised in Policy 6(1)(a) of the NZCPS, but the recommended addition of the alternative between subclauses (1) and (2) and sub-clauses (3) and (4) by the use of the word ‘or’ instead of the word ‘and’ resolves that issue.

70. Once more in terms of s.32AA of the RMA that recommended wording which we agree with is the most appropriate way to achieve the purpose of this Act by enabling a realistic consent pathway.

4.1 Recommendation

The chapeau to CE-P6 should be amended to read:

Protect natural features, and landscapes ~~and~~ (including seascapes) in the coastal environment from inappropriate activities by:

...

71. The recommended use of ‘or’ after subclause (2) of CE-P10 as in the recommended 10 October 2023 version is adopted providing consent pathways through subclauses (3) and (4).

5. Connections to other chapters within the pORPS21

72. In para 61 of the opening legal submissions on the CE chapter Mr Logan counsel for ORC said:

61. The National Planning Standards provide that if specific provisions relating to the coastal environment are located in other chapters, they must be cross-referenced to the coastal environment chapter.”

73. As authority for that he cited clause 7 of the National Planning Standards. It provides:

7. Any specific provisions relating to the coastal environment which are located in other topic chapters must be cross-referenced in the Coastal environment chapter.)

74. In other parts of the PORPS which are addressed in other sections of this report other views may be expressed as to the need or otherwise for such cross-referencing. However, in the CE chapter we accept that the National Planning Standards do require such cross-references and we do not therefore recommend any removal from that chapter of cross-referencing that has occurred.

6. Providing for aquaculture

75. The major submitters in the aquaculture area were Kāi Tahu, DOC and Sanford Limited. At the time of our hearings Sanford had under active development a concept for a series of consents to enable major off-shore marine structures for salmon farming. While this process plainly does not involve decision-making on that proposal, it was a useful example against which to test the assertions made by Sanford that the PORPS notified provisions made appropriate provision for aquaculture consent pathways as required by Policy 8 of the NZCPS and should not be significantly changed. Policy 8 of the NZCPS provides:

Policy 8 Aquaculture

Recognise the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities by:

(a) including in regional policy statements and regional coastal plans provision for aquaculture activities in appropriate places in the coastal environment, recognising that relevant considerations may include:

(i) the need for high water quality for aquaculture activities; and

(ii) the need for land-based facilities associated with marine farming;

(b) taking account of the social and economic benefits of aquaculture, including any available assessments of national and regional economic benefits; and

(c) ensuring that development in the coastal environment does not make water quality unfit for aquaculture activities in areas approved for that purpose.

(Panel’s emphasis)

76. The propositions advanced by some of DOC’s and Kāi Tahu’s planning witnesses which caused concern for Sanford related to requests to effectively strengthen the protective provisions of the RPS in relation to indigenous biodiversity and as to significant natural areas. We have discussed above in relation to infrastructure our concerns about the level of protection for natural character in CE-P4 failing to adopt the qualifier of protection from inappropriate activities contained in s.6(a) of the Act. We have also discussed in the legal section of this

report the distinction between s.6(a) and (b) protection with that qualifier, as compared to s.6(c) as to indigenous biodiversity which does not have that qualifier.

77. The difference in protection levels by the two subclauses (1) and (2) of CE-P5 are that in subclause (1) protection is required to avoid effects on ecosystems within the tightly described types of at-risk species or fauna habitats in subclause (1). In other words that is a strong ‘avoid’ directive as to all effects, based squarely on s.6(c). By contrast in subclause (2) the requirement is worded as follows:

(2) identifying and avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on the following ecosystems, vegetation types and areas:

78. The difference in protection levels reflects what is found between Policies 11(a) and 11(b), 13(a) and 13(b), and 15(a) and 15(b) of the NZCPS.
79. What that distinction highlights is the necessity to ensure a provision like CE-P5 does not extend beyond the s.6(c) protection which bears repeating:

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

(Panel’s emphasis)

80. Both the notified and recommended versions of CE-P5 distinguished between the protection offered by subclauses (1) and (2). The list of matters protected under subclause (1) as notified were all matters which it is unlikely could be challenged as being “*significant indigenous vegetation and significant habitats of indigenous fauna*”. In fact they echo those in Policy 11(1) of the NZCPS. The initial s.42A response to the DOC and Kāi Tahu planning evidence seeking additional protection for more species or habitats was to suggest addition of a subclause to CE-P5(1) that added in areas identified in accordance with APP2. That caused concern for Mr Low, the Sanford planning witness. However, in his final recommendations Mr Maclennan the s.42A report writer sought to ensure that concern was removed by moving down the recommended reference to: “(h) *significant natural areas identified in accordance with APP2 that are not included in (1) above*” from the subclause (1) level of protection to subclause (2) level.

81. In our view that amendment would have been appropriate on the recommended wording of the definition of ‘*significant natural area*’ in the PORPS as it was at the coastal environment hearings in May 2023 prior to the promulgation of the NPSIB. In that form it was recommended as follows:

Significant natural area means areas of significant indigenous vegetation and significant habitats of indigenous fauna ~~that are located outside the coastal environment.~~

82. However, the definition of SNA or significant natural area has now changed in the October 2023 recommended version to read:

Significant natural area¹

~~means areas of significant indigenous vegetation and significant habitats of indigenous fauna that are located outside the coastal environment.~~

has the same meaning as in the Interpretation in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below):

means:

(a) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1; and

(b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant *habitat* of indigenous fauna (regardless of how it is described); in which case it remains as an *significant natural area* unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant *habitat* of indigenous fauna.

83. There is a need to amend that definition as the NPSIB definition refers to APP 1, whereas in the PORPS APP 1 is headed 'APP 1- Criteria for identifying outstanding water bodies' with APP 2 containing 'Criteria for identifying areas that qualify as significant natural areas (SNAs)'. That definition in (a) needs correction so that we can recommend that the final recommended version of CE-P5 is adopted.

6.1 Recommendation

84. Accordingly, we need to recommend the definition of SNA in (a) is amended to delete the reference to APP 1 and for it to read APP 2 as follows:

Significant natural area

~~means areas of significant indigenous vegetation and significant habitats of indigenous fauna that are located outside the coastal environment.~~

has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (except with a reference to Appendix 2 rather than Appendix 1) as set out below:

means:

(a) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 2; and

(b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant *habitat* of indigenous fauna (regardless of how it is described); in which case it remains as an *significant natural area* unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant *habitat* of indigenous fauna.

85. With that amendment to the definition of an SNA the wording of CE-P5 does leave open a consent pathway for aquaculture which will have to address any potential for conflict between the protective CE-P5 and the enabling policies in Policy 8 of the NZCPS and Policy CE-P11 of the PORPS, as to provision for aquaculture. That will have to occur in a structured analysis approach reconciling the relevant policies in their particular factual setting in accordance with the *Port Otago* case.

¹ 00139.129 DCC, 00237.049 Beef & Lamb NZ

86. The enabling Policy CE-P11 as to aquaculture was recommended in the October 2023 final version to provide:

CE-P11 – Aquaculture

Provide for the development and operation of aquaculture activities ~~within appropriate locations and limits~~ where this is in accordance with CE-P3 to CE-P12, taking into account:

- (1) the need for high quality water required for an aquaculture activity,
- (2) the need for land-based facilities and infrastructure required to support the operation of aquaculture activities, and
- (3) the potential social, economic and cultural benefits associated with the operation and development of aquaculture activities.

87. We do have a concern, though, with the words “*where this is in accordance with*”. From one point of view that phrase potentially gives rise to the possibility of an argument that failure to comply with any provision in CE-P3 to CE-P12 would mean consent cannot be given. We do not understand that that is what was intended. Rather what we take those words to be intended to mean is that any consideration of particular aquaculture proposals has to take into account all of the relevant policies in the particular factual context involved. Some of those policies have an ‘avoid’ approach, and some have an ‘enabling’ approach.

6.2 Recommendation

88. We consider it is necessary instead to adapt the Supreme Court approach in the Port Otago case of specifying that all relevant matters have to be considered. As a consequence, we recommend an amended wording as follows for the opening words of CE-P11:

CE-P11 – Aquaculture

Provide for the development and operation of aquaculture activities ~~within appropriate locations and limits~~ taking into account policies CE-P3 to CE-P12, and:

- (1) the need for high quality water required for an aquaculture activity,
- (2) the need for land-based facilities and infrastructure required to support the operation of aquaculture activities, and
- (3) the potential social, economic and cultural benefits associated with the operation and development of aquaculture activities.

89. In terms of s.32AA of the RMA that recommendation is needed to ensure the policy provides for the most appropriate way to achieve the purpose of this Act

7. Funding Issue

90. In the Mana Whenua chapter, we discussed the effect of the litigation involving Te Whānau a Kai v. Gisborne District Council which culminated in an exchange of memoranda between counsel for ORC and Kāi Tahu and DCC accepting that provisions requiring mandatory funding of resources in an RPS was not in accordance with relevant Local Government Act provisions

controlling funding processes for local governments. One of the PORPS provisions of that nature identified by Mr Logan for ORC was CE-M1A(2). As recommended in the final 10 October 2023 version it provided:

(2) implementing actions to foster the development of *mana whenua* capacity to contribute to the Council’s decision-making processes, including resourcing,

91. In the ORC memorandum on this issue Mr. Logan as counsel for ORC observed that this provision could not stand. The panel agrees but only as to the last phrase ‘including resourcing.’ Otherwise the balance wording is the same as the wording proposed by Kāi Tahu’s counsel on 25 July and accepted by ORC’s counsel on 25 September, 2023.

92. We have also considered CE-M5 which is worded differently with its opening wording stating:

“Local authorities shall consider the use of other mechanisms or incentives to assist in achieving Policies CE-P2 to CE-P12~~3~~, including” and there then follow a range of possible actions including *“(4) funding assistance for restoration projects (for example, through Otago Regional Council’s ECO Fund).”*

(Panel’s emphasis)

93. We agree with Mr Logan who classed such provisions as being discretionary, and that being so, they are able to comply with local government funding requirements before being adopted. That provision in our view does not offend the Te Whānau a Kai judicial direction.

94. In terms of s.32AA this change to CE-M1A(2) is needed to respond to a legal clarification made of the restrictions imposed on RMA funding commitments by the need to observe other local government funding legislation.

7.1 Recommendation

95. We recommend that CE-M1A(2) be amended to read:

(2) implementing actions to foster the development of *mana whenua* capacity to contribute to the Council’s decision-making processes

8. Surf breaks – CE-P2, CE-P7, and CE-M3(2), CE-M3(5)(b), CE-M4(10) and CE-M5(6)

96. These provisions as notified provided, (with only relevant parts quoted):

CE–P2 – Identification

Identify the following in the coastal environment:

...

(5) the nationally significant surf breaks at Karitane, Papatowai, The Spit, and Whareakeake ~~and any regionally significant surf breaks.~~

CE–P7 – Surf breaks

Manage Otago's nationally ~~and regionally~~ significant surf breaks so that:

- (1) nationally significant surf breaks are protected by avoiding adverse effects on the surf breaks, including on access to and use and enjoyment of them, and
- ~~(2) the values of and access to regionally significant surf breaks are maintained.~~

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its regional plans no later than 31 December 2028 to:

- (1) map areas of deteriorated water quality in the coastal environment, in accordance with CE-P2(2) and CE-P2(3),
- (2) map the areas and characteristics of, and access to, nationally ~~and regionally~~ significant surf breaks,

...

- (5) control the use and development of the coastal marine area, in order to:
 - (a) preserve the natural character; natural landscapes, features, and seascapes; and indigenous biodiversity of the coastal marine area in accordance with CE-P4, CE-P5 and CE-P6, and
 - (b) manage Otago's nationally ~~and regionally~~ significant surf breaks in accordance with CE-P7,

CE-M4 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

...

- (10) provide access to nationally ~~and regionally~~ significant surf breaks, and

97. Submissions were made in support by Kāi Tahu, Wise Response, Forest & Bird, and in opposition as to the regional aspect by DCC and Port Otago. The s.42A report concluded no change needed to be made, and no recommendation was made to delete the reference to regional surf breaks.
98. The thrust of the opposition was that while the NZCPS in Policy 16 specifically directed protection for national significant surf breaks, it did so by specific identification of those in Schedule 1. Four of those listed in Schedule 1 of the NZCPS are located in the Otago Region. They are identified for protection by that specific method as being expressly identified as being of national significance.
99. In the PORPS in the Environmental section of the Impact Snapshot for SRMR-I8 surf breaks are referred to in the second paragraph, but only at a nationally significant level:

Natural features, landscapes, seascapes, and surf breaks of national significance can be affected by human activity, climate change, and natural hazards.

100. In the notified objectives CE-O1(5) specifically seeks to protect surf breaks but only those of national significance:

CE–O1 – Safeguarding the coastal environment

The integrity, form, functioning and resilience of Otago's coastal environment is safeguarded so that:

...

(5) surf breaks of national significance are protected.

101. Then the policy in CE-P2(5), already cited above, specifically identifies where those national significance surf breaks are located:

(5) the nationally significant surf breaks at Karitane, Papatowai, The Spit, and Whareakeake and any regionally significant surf breaks.

102. The problem raised in opposition submissions was that there is no method specifying how surf breaks qualify to be identified as regional surf breaks, and no criteria exist in the PORPS to assist in that regard.

103. The s.42A response to that problem at paragraph 291 was to refer to the provisions of Policy 13(2)(c) of the NZCPS and Policy CE-P4 of the PORPS which each together might enable identification of areas of natural character requiring protection from inappropriate development. The conclusion reached was:

Therefore, in a general sense there is a mechanism within CE – P4 of the pORPS to identify and preserve surf breaks within the region that are not identified as nationally significant within Schedule 1 of the NZCPS. However, there is a growing body of research that highlights the need to provide greater protection of surf breaks within the RMA framework. This research has also developed a methodology for identifying surf breaks of regional significance (Atkin, Bryan, Hume, Mead, & Waiti, 2019).

104. However, that research methodology is not specified in the PORPS and no submission we are aware of sought its inclusion.

105. We are of the view that with no such mechanism or criteria for identification existing in the PORPS for regionally significant surf breaks, that it is not appropriate to have policies and methods providing for their protection and identification.

8.1 Recommendation

106. That all references to regionally significant surf breaks in CE-P2, CE-P7, and CE-M3(2), CE-M3(5)(b), CE-M4(10) and CE-M5(6) as follows:

CE–P2 – Identification Identify the following in the coastal environment:

...

(5) the nationally significant surf breaks at Karitane, Papatowai, The Spit, and Whareakeake and any regionally significant surf breaks.

CE-P7 – Surf breaks

Manage Otago’s nationally and regionally significant surf breaks so that:

- (1) nationally significant surf breaks are protected by avoiding adverse effects on the surf breaks, including on access to and use and enjoyment of them, and
- ~~(2) the values of and access to regionally significant surf breaks are maintained.~~

CE-M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its regional plans no later than 31 December 2028 to:

- (1) map areas of deteriorated water quality in the coastal environment, in accordance with CE-P2(2) and CE-P2(3),
- (2) map the areas and characteristics of, and access to, nationally and regionally significant surf breaks,
- ...
- (5) control the use and development of the coastal marine area, in order to:
 - (a) preserve the natural character; natural landscapes, features, and seascapes; and indigenous biodiversity of the coastal marine area in accordance with CE-P4, CE-P5 and CE-P6, and
 - (b) manage Otago’s nationally and regionally significant surf breaks in accordance with CE-P7,

CE-M4 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

- ...
- (10) provide access to nationally and regionally significant surf breaks, and

Section 8: Land and Freshwater (LF)

1. LF-FW – Fresh water

1.1. Integrated catchment management

1.1.1. Introduction

1. Beef + Lamb and DINZ, through the legal submissions of Dr Somerville and the opening statement of Ms Perkins, proposed a new policy on integrated catchment management be inserted in the LF-WAI section of the PORPS. Their proposed wording is as follows:

LF-WAI-P3A – Integrated Catchment Management

- (1) When developing and implementing planning instruments to give effect to the objectives and policies in this policy statement through integrated management of land and freshwater, Otago Regional Council must actively engage with local communities and tangata whenua, at the rohe and catchment level,
- (2) Provide for integrated management at a catchment level by supporting the establishment of Integrated Catchment Management Groups that incorporate Otago Regional Council with local community and tangata whenua representatives, and
- (3) Progress and implement integrated management of catchments through the preparation of Catchment Action Plans by the Integrated Catchment Groups, in accordance with clause 3.15 of the NPSFM that:
 - (a) develop visions, identify values and environmental outcomes for Otago’s catchments and the methods to achieve those outcomes, including as required by the NOF process,
 - (b) develop and implement actions that may be adapted over time with trigger points where additional regulatory and/or non-regulatory intervention is required,
 - (c) make recommendations on amendments that may be required to the provisions of this policy statement, including the visions and timeframes in the parent FMU, and any other changes necessary to achieve integrated catchment management pursuant to clauses 3.2(2) and 3.5(2) of the NPSFM
 - (d) at a local catchment level, encourage community initiatives to maintain or improve the health and well-being of waterbodies and their freshwater ecosystems, to meet the health needs of people, and enable the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

2. This proposed policy reflected the evidence from these submitters, along with those of OWRUG, that there is a substantial amount of freshwater improvement work being done across the region by established catchment groups. As we have previously discussed, we were impressed by the commitment and achievements of these groups. We heard that ORC staff already support and work with many of these groups and the submitters wanted these catchment-based approaches to be recognised through the PORPS.
3. Ms Boyd provided additional information in her reply report that discussed ORC's commitment to integrated catchment management through its Long term Plan 2021-31.¹ A pilot Catlins Integrated Catchment Group is underway and more groups are proposed to follow. From the information we received, this ORC-led approach is different to the more 'grass-roots', community-led approach that we heard about from the submitters. We consider that there is a place for both types of approaches.
4. Ms Boyd supports including a provision that addresses integrated management and considered whether the proposed provision should be a policy or a method. The Panel support her view that a method is more appropriate. The method proposed by Ms Boyd in her reply report is as follows:

LF-FW-M8AA – Integrated catchment management

Otago Regional Council may:

- (1) develop and implement an integrated catchment management programme for the region, and
- (2) work in partnership with *mana whenua* and in collaboration with communities to develop catchment action plans that:
 - (a) collate and build on existing work in the catchment,
 - (b) incorporate science and mātauraka Māori, and
 - (c) identify and target effective environmental management actions.

5. The method recommended by Ms Boyd captures the catchment action plan approach included in the Long-term Plan but would not capture the established community-led groups that may not fit with the Council-led catchment action plan approach. We consider that the PORPS should acknowledge the role of both approaches and note that community initiatives at a local catchment level are recognised in the submitters' proposed clause (d). This is in part done through Ms Boyd's proposed clause (2)(a) but this is in relation to development of catchment action plans rather than on-the-ground delivery of these plans.
6. We propose adding the following clause to Ms Boyd's recommended wording to ensure that both approaches are captured:

- (3) Encourage and support community initiatives, at varying catchment levels, that help to deliver catchment action plans.

7. This work will be dependent on funding and interest by mana whenua and local communities. The chapeau of this method includes the word 'may' which we consider is appropriate given these potential limitations.

¹ FPI Reply Report of Ms Felicity Boyd, 15 September 2023, from para 78

1.1.2. Recommendation

8. We recommend the following new method be added to the LF-FW section:

LF-FW-M8AA – Integrated catchment management

Otago Regional Council may:

- (1) develop and implement an integrated catchment management programme for the region,
- (2) work in partnership with mana whenua and in collaboration with communities to develop catchment action plans that:
 - (a) collate and build on existing work in the catchments,
 - (b) incorporate science and mātauraka Māori, and
 - (c) identify and target effective environmental management actions, and
- (3) encourage and support community initiatives, at varying catchment levels, that help to deliver catchment action plans.

1.2. Wetland management

1.2.1. Introduction

9. We addressed the legal issues around wetland definitions in the Legal Issues section of Appendix Two. While we are not going to revisit that discussion in detail, a summary is needed here to put the discussion that follows into context. The issues primarily arise due to a requirement to address the RMA's broad approach to wetland protection and the NPSFM's more narrow approach through its focus on 'natural inland wetlands'.

10. The RMA has broadly defined 'wetland' in s.2 as:

***wetland** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions*

11. Section 6(a) recognises and provides for 'the preservation of the natural character of ... wetlands ... from inappropriate subdivision, use and development' as a matter of national importance.

12. In addition to s.6 recognition in the RMA, the NZCPS includes provisions that apply to wetlands in the coastal environment, most specifically Policy 11(b). While earlier versions of the NPSFM included general, protective provisions which related to 'wetlands', the NPSFM 2020 contained more specific provisions with definitions of 'natural wetlands' and 'natural inland wetlands'.

13. The PORPS was notified under the original 2020 version of the NPSFM and later amended in response to the 2023 amendments to the NPSFM. As discussed in the Legal Issues section, the NPSFM amendments amalgamated the previous definitions of 'natural wetland' and 'natural inland wetland' into one definition of 'natural inland wetland'. The definition of 'natural inland wetland' introduced to the NPSFM in the 2023 amendments reads as follows:

natural inland wetland means a wetland (as defined in the Act) that is not:

(a) in the coastal marine area; or

(b) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural inland wetland; or

(c) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or

(d) a geothermal wetland; or

(e) a wetland that:

(i) is within an area of pasture used for grazing; and

(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless

(iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply

14. Policy 6 of the NPSFM places a strong emphasis on the protection of ‘natural inland wetlands’, as follows:

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

15. Policy 6 is in part implemented by clause 3.22 of the NPSFM, which directs that a policy is included in regional plans with wording the same or similar to that provided in the clause. The opening wording of this policy states:

The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:...

16. The policy enables a ‘loss of extent or values’ in a natural inland wetland where that arises from a wide-ranging list of activities. The activities are, with one exception, subject to there being a functional need to locate the activity in the specified area and the effects of the activity being managed through applying the NPSFM effects management hierarchy (defined in clause 3.21).

17. Following some debate through the hearing process, we concluded in the ‘Legal Issues’ section of Appendix Two that there is no difference in stringency between the principles for the effects management hierarchies in the NPSFM and the NPSIB.

18. Turning back to the definition of ‘natural inland wetland’, as we stated in the ‘Legal Issues’ section of Appendix Two,

That new combined definition is intended to exclude some RMA defined wetlands from the detailed level of protection and restoration otherwise required by the NPSFM, and to provide a base for a closely controlled consent pathway in clause

3.22(1) of the NPSFM for some types of activities which are described in that sub-clause.

19. In response to what the report writers perceived as a gap between the NPSFM 'natural inland wetlands' and the RMA definition, the ORC officers proposed a definition for 'natural wetland' that is broader than the NPSFM 'natural inland wetland' definition, as follows:

Natural wetland means a wetland (as defined in the Act) that is not:

- (a) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland; or
- (b) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body.

20. The officers considered that the RMA definition arguably includes constructed wetlands, which can be built for purposes including stormwater or wastewater detention and treatment, and that such wetlands should be excluded from the pORPS provisions.
21. Ms Hunter for Oceana Gold expressed concern that the definitions, coupled with amendments to LF-FW-P9, "would likely result in a more onerous policy environment for activities where there may be 'natural wetlands' present, and likely result in significant costs to resource users which have not been properly quantified."² She considers that, as recommended, a broader level of protection would apply to 'natural wetlands' than to 'natural inland wetlands', which are proposed to be managed under clause 3.22 of the NPSFM and have the accompanying exemptions for activities. Ms Hunter considers that a "more appropriate approach would see the policy framework responding more specifically to the distinction between higher value "natural inland wetlands" and "natural wetlands"."³
22. The extent of wetland loss in Otago was not a matter of contention, with both historical losses and more recent losses being highlighted by Ms Boyd, Mr Couper for Fish and Game, Mr McKinlay for the Director General of Conservation, and numerous witnesses for Kāi Tahu. We heard evidence about the extent of loss of both wetland extent and condition. This has resulted from drainage predominantly for farmland as well as the introduction and spread of invasive species.
23. Submitters, including the Director General of Conservation and Fish and Game, highlighted the different types of high value wetlands that fall outside of the NPSFM definition of 'natural inland wetland'. The evidence in chief of Mr McKinlay for the Director General of Conservation addressed the importance of Otago's ephemeral wetlands and the values that they can hold.
24. Mr McKinlay drew our attention to the Upper Taiari and Paerau Wetland Scroll Plain complex, which he stated is unique in New Zealand and is 'the largest intact scroll plain complex in the Southern Hemisphere'⁴. The complex provides habitat for a wide range of indigenous flora and fauna. He goes on to state that there are three distinct categories of wetland within the complex: permanent river and lagoon, semi-permanent shallow, marshy areas, and temporary/ephemeral wetlands which exist for two months or less on average a year. Some categories would be considered as 'natural inland wetland' while others would not, potentially leading to inconsistent and inadequate management.

² Supplementary evidence of Ms Claire Hunter for Oceana Gold, 18 August 2023, para 15.

³ Ibid., para 22.

⁴ Evidence in Chief of Mr Bruce McKinlay for the Director General of Conservation, 23 November 2022, para 63.

25. Mr McKinlay also highlighted Otago’s nationally significant inland saline ecosystems and referred us to a Wildlands Consultants report prepared for ORC.⁵ He discussed the geology of these areas and the threatened plant, lichen and lepidoptera species that these areas support.⁶

26. We stated in the Legal Issues section that:

As we understand the concerns of the DOC witnesses and Ms Boyd, it is that areas like the Taiari scroll plain and other locations with ephemeral wetlands which are grazed will likely have significant aspects of ecological and hydrological importance which are exposed to potential degradation unless the RPS recognises those risks. In our view, the s.6 protection and the protection intended by policies 5 and 9 of the NPSFM is still able to be provided by the requirement for protection from inappropriate activities. The RPS can assist by the LF and/or the ECO chapter identifying particular values where development activities may be inappropriate. We consider that a better mechanism than attempting to insert a new definition of ‘natural wetlands’.

27. We went on to conclude that:

“... the ‘natural wetland’ definition is superfluous, and worse that it is potentially raising the level of protection of all wetlands as defined to a level of absolute preservation and restoration through recommended Objective LF-FW-09(3) and recommended policies LF-FW-P9 and LF-FW-P10 which are beyond the outcomes intended by s.6(a) of the RMA. The recommended objective and the two recommended policies do not provide the qualifier of protection from inappropriate use and development that s.6(a) provides. Nor do they provide the consent pathways and the application of the effects management hierarchy that the provisions relating to natural inland wetlands apply. We are concerned that that strict absolute outcome provides a higher level of protection for wetlands exempted from the ‘natural inland wetland’ definition in the NPSFM than the protection level accorded to those falling within that definition. That means that the recommended PORPS provisions have the potential to be considered as being contrary to the overall scheme in the 2023 NPSFM as to the manner of treatment of non-coastal wetlands through the ‘natural inland wetland’ terminology and effects management hierarchy provisions.

28. We accept that constructed wetlands should not be subject to the same level of protections as ‘natural’ wetlands, however constructed wetlands would arguably not support “*a natural ecosystem of plants and animals that are adapted to wet conditions*” (Panel’s emphasis) as per the RMA definition of ‘wetland’. We also consider it unlikely that constructed wetlands would have a level of natural character that would justify being preserved as per s.6(a) of the RMA. We therefore do not consider that an exclusion for constructed wetlands is necessary.

⁵ Evidence in Chief of Mr Bruce McKinlay for the Director General of Conservation, 23 November 2022, para 79.

⁶ Ibid, para 80-85.

29. With these conclusions in mind, we turn to addressing the specific wetland management provisions of the LF-FW section. As notified, these provisions fall in both the non-FPI and FPI processes, as follows.

- a. LF-FW-O9 – Natural wetlands
- b. LF-FW-P8 – Identifying natural wetlands
- c. LF-FW-P9 – Protecting natural wetlands
- d. LF-FW-P10 – Restoring natural wetlands
- e. LF-FW-AER – AER11

1.2.2. LF-FW-O9

30. As notified, LF-FW-O9 reads as follows:

LF-FW-O9 – Natural wetlands

Otago's natural wetlands are protected or restored so that:

- (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,
- (2) there is no decrease in the range and diversity of indigenous ecosystem types and habitats in natural wetlands,
- (3) there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and
- (4) their flood attenuation capacity is maintained.

31. Four submitters supported LF-FW-O9 as notified, one sought its deletion and several submitters sought amendments. The amendments sought to include the following:

- (a) Oceana Gold considered that the objective is unclear on what is to be achieved – what the reference to the range of values means, what needs to be enhanced, and what the endpoint of enhancement is.
- (b) The Director General of Conservation sought that ephemeral wetlands are specifically referenced, for the reasons discussed above.
- (c) The Director General also sought that 'protect or restore' is replaced with 'protect and restore', although the planning evidence of Mr Brass accepted that this does not need to be pursued.
- (d) DairyNZ sought that wetlands only be restored only where they are degraded, and Oceana Gold sought that wetlands are 'protected, improved or restored'.
- (e) Beef + Lamb and DINZ, Kāi Tahu ki Otago, and Ballance seek that 'range' be replaced with 'extent' in clause (2).

- (f) Ballance, NZSki, Realnz, Silver Fern Farms, and Fulton Hogan sought varying amendments to clauses (2) and (3) to reduce their stringency.
- (g) Beef + Lamb and DINZ sought that ‘amenity values’ be deleted from clause (3), considering that wetlands do not need to be aesthetically pleasing.
- (h) Wise Response sought that wetland flood attenuation capacity in clause (4) should be steadily improved rather than just maintained, while Kāi Tahu ki Otago sought reference to water storage capacity alongside flood attenuation capacity in clause (4).
- (i) DOC sought the addition of a new clause to recognise the importance of wetlands in providing habitat to mobile species such as waterfowl and rails.

32. Federated Farmers sought that the objective be deleted, as it is inconsistent with the NPSFM and a duplication of provisions located in *ECO – Ecosystems and indigenous biodiversity* chapter. We have dealt with these matters above and in the Legal Issues section.
33. Consistent with our determinations above, we are recommending that the PORPS does not use the term ‘natural wetlands’. We agree with Oceana Gold that the objective is unclear, particularly as there are no benchmarks to guide whether it is being achieved.
34. We also find that LF-FW-09, as notified, is not consistent with s.6(a) of the RMA through seeking protection or restoration of all ‘natural wetlands’, therefore not necessarily providing for appropriate subdivision, use and development. Our recommended amendments seek to clarify this.
35. We carefully considered whether to remove ‘amenity values’ from clause (3), as requested by Beef + Lamb and DINZ. Ms Boyd’s s.42A report directs us to the RMA definition of ‘amenity value’ and, more importantly, to the definition of ‘loss of values’ in clause 3.21(1) of the NPSFM which the PORPS adopts. The latter definition includes ‘amenity values’ in the list of values in clause (b). While this definition applies to natural inland wetlands and rivers, we consider it appropriate to apply to the broader consideration of wetlands in LF-FW-09.

1.2.2.1. Recommendation

36. The Panel recommends the following amendments to LF-FW-09:

~~Natural~~ LF-FW-09 – Natural Wetlands

Otago’s ~~natural~~ wetlands are protected from inappropriate subdivision, use and development and, where degraded, or restored restoration is promoted so that:

- (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,
- (2) there is no net decrease, and preferably an increase, in the range extent and diversity of wetland indigenous ecosystem types and habitats ~~in natural wetlands, and~~
- (3) there is no reduction and, where degraded, there is an improvement in their wetland ecosystem health, hydrological functioning, amenity values, extent or water quality, ~~and if degraded they are improved, and~~
- (4) their flood attenuation and water storage capacity is maintained or improved.

37. As a consequential amendment, we recommend deleting the definition of 'natural wetland' from the PORPS. We note that the RMA definition of 'wetland' was included in the notified PORPS and it is appropriate that this remains.
38. As a further consequential amendment, we recommend deleting 'natural' from 'natural wetland' or wetlands' in other provisions in the PORPS, specifically LF-FW-M6(7), LF-VM-E2 paragraph 3 and LF-FW-AER11.

1.2.3. LF-FW-P8

39. As notified, LF-FW-P8 reads as follows:

LF-FW-P8 – Identifying *natural wetlands*

Identify and map *natural wetlands* that are:

- (1) 0.05 hectares or greater in extent, or
- (2) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral *wetland*) and known to contain threatened species.

40. QLDC, DCC, Kāi Tahu ki Otago, and CODC support LF-FW-P8 and seek to retain it as notified. Forest and Bird also support LF-FW-P8 but submitted that the policy should specify that mapping is to be completed by 2030.
41. Submissions by PWCG and Lloyd McCall sought that the wetland area in (2) is increased from 0.05 hectares to 1 hectare, while City Forests sought that it be increased to 0.25 hectares to be consistent with the NESPF. The 0.05 hectare area included in LF-FW-P8(1) is consistent with clause 3.23(1) of the NPSFM and we consider that increasing this area would result in the policy being inconsistent with the NPSFM.
42. As outlined above, the NPSFM approach to managing wetlands was amended after the s42A report and evidence in chief were prepared. The 2023 amendments to the NPSFM deleted the definition of 'natural wetland' and introduced a new definition of 'natural inland wetland' that is provided in paragraph 384 above. The amended definition of 'natural inland wetland' is narrower than that included in the NPSFM 2020 (and RMA) and is accompanied by an additional suite of clauses which provide consent pathways for urban development, mining, quarrying and landfills and clean-fills, in addition to specified infrastructure activities (which were provided for in the NPSFM 2020).
43. LF-FW-P8(1) and (2) replicate Clause 3.23(1)(a) and (b) of the NPSFM which did not change through the 2023 amendments. What did change in the PORPS is the recommended amendment in clause (1) from 'natural wetland' to 'natural inland wetland'. As discussed above, we consider that there are differences between the two.
44. Ms Boyd's supplementary evidence on the NPSFM 2023 amendments addressed the difference in the definitions but did not specifically consider the implications for LW-FW-P8. This policy was also not addressed in Ms Boyd's reply report, however was amended under Clause 16(2) of Schedule 1 of the RMA to apply to 'natural inland wetlands' rather than 'natural wetlands'.
45. The relevant portion of the 2023 NPSFM definition of 'natural inland wetland' for LF-FW-P8 is:

Means a wetland (as defined in the Act) that is not:

...

(e) a wetland that:

(i) is within an area of pasture used for grazing; and

(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless

(iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply

46. The Director General of Conservation and Otago Fish and Game raised concerns about the large number of wetlands that would fall outside of the ‘natural inland wetland’ definition, many of which may provide habitat for threatened species. However, we point out that the presence of threatened species is one of the double negatives that is in the provision to ensure these are natural inland wetlands.
47. Ms Boyd, in her supplementary evidence for the FPI process on the implications of the NPSIB, recognised that some wetlands will “fall through the cracks” due to not being mapped or due to the prevalence of exotic pasture species. We agree with the Director General and Fish and Game that mapping is an important precursor to managing wetlands and will help to reduce the likelihood of some wetlands falling through the cracks. Broader mapping would also mean that the Council would be better able to give effect to s.6(a) of the RMA and Policies 5, 13 and 14 of the NPSFM.
48. A Wildland Consultants report on ecosystem mapping was provided as Appendix 13 to the s.32 report⁷. This Wildland report details the mapping of potential and actual natural terrestrial and wetland ecosystems using a methodology agreed to by regional councils across New Zealand. In relation to mapping of ephemeral wetlands, the report states at section 2.6:
49. Ephemeral wetlands were poorly mapped in existing layers such as LCDB and FENZ, as they generally occur at much smaller areas than the minimum mapping units of these classifications. However, ephemeral wetlands are in most cases easily distinguished in aerial imagery, and were mapped by hand digitisation across all parts of Otago where ephemeral wetlands occur. Almost 3,000 ephemeral wetlands were ultimately mapped. Very shallow ephemeral wetlands would be less easy to distinguish and are not likely to have been mapped, and other ephemeral wetlands where the wetland boundary is not sharp.
50. This section of the Wildland report goes onto conclude that:
- The end result of these wetland ecosystem mapping approaches is wetland mapping of significantly better spatial and thematic resolution than any other existing regional scale mapping of wetlands.*
51. It therefore appears that a comprehensive mapping exercise has been completed to a high level for all wetlands and not just ‘natural inland wetlands’.
52. While we understand Ms Boyd’s reason for recommending that LF-FW-P8 apply solely to ‘natural inland wetlands’, given the 2023 amendments to the NPSFM, we do not accept that the proposed change can be justified under Clause 16(2) of Schedule 1 of the RMA. Such an

⁷ Lloyd, K. (2020) Mapping of potential natural ecosystems and current ecosystems in Otago Region. Wildlands Consultants Contract Report No. 5015a prepared for Otago Regional Council.

amendment changes the intent of the policy through the use of a narrower definition, which we do not consider is of 'minor effect' or corrects a 'minor error' as per s.16(2).

53. As we explained in the Legal section to the Introduction to this Appendix Two report the legal situation is that a 'wetland' not falling within the definition of 'natural inland wetland' does not magically lose all RMA protection. It will still remain a defined 'wetland' under the RMA and the protective policies in the NPSFM still apply to it. What that means in practice is that for such wetlands falling outside the 'natural inland wetland' definition any proposed activity will still at law have to be assessed as to whether it is an inappropriate use or development under s.6(a) RMA. Moreover, it will have the protective policies applying to it under the NPSFM such as policies 5 and 9. The manner in which we have recommended the adoption of the RMA 'wetland' definition above, and the use of only that term in the heading and chapeau to the objective LF-FW-09 ensures that level of protection is addressed in both plan and consenting processes.
54. Care is needed in considering what is required by the NPSFM for both identification and mapping of wetlands and how that is reflected in the PORPS. Identification in the NPSFM is required by regional councils of both 'natural inland wetlands', (see cl.3.8(3)(e)), and importantly of 'the location of habitats of threatened species', (see cl.3.8(3)(c)).
55. However, sub-clause 3.23(1) of the NPSFM refers to both identifying and mapping and commences by requiring:
- (1) Every regional council must identify and map every natural inland wetland in its region that is:
 - (a) *0.05 hectares or greater in extent; or*
 - (b) *of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral wetland) and known to contain threatened species.*
56. In other words as the chapeau of cl. 3.23 in sub-clause(1) commences with reference only to identifying and mapping of every 'natural inland wetland' then sub-clauses (a) and (b) only appear to apply to 'natural inland wetlands'. That at first sight also appears to mean that in terms of cl.23(1) of the NPSFM those wetlands falling outside the definition of 'natural inland wetland' are not required to be identified or mapped.
57. But that becomes confused even further in that sub-clause 3.23(4) then states that all mapping must be completed within 10 years of commencement date and specifies the regional council must:
- ...prioritise its mapping, for example by:*
 - (a) *first, mapping any wetland at risk of loss of extent or values; then*
 - (b) *mapping any wetland identified in a farm environment plan, or that may be affected by an application for , or a review of, a resource consent; then*
 - (c) *mapping all other natural inland wetlands of the kind described in subclause (1).*
58. Whilst we acknowledge that the priority provided is stated in cl.23 (4) as being 'by way of example' it is still a mandatory requirement to carry out the mapping. The word used is 'must.' In the absence of any other priority being suggested in our view it must be followed.

59. The result is an unhappy state of confusion as to whether wetlands not falling within the definition of 'natural inland wetlands' are required to be mapped, but sub-clause 3.23(4) appears to expressly require that to be done.
60. Given that confusing statutory background we do recognise that in respect of policies like LF-FW-P8 as to both identification and mapping of wetlands, if that policy is restricted only to identification pursuant to cl.3.23(1) of the NPSFM as to 'natural inland wetlands', then some significant wetlands that fall within the exclusion of 'natural inland wetlands' may be overlooked in plan formulation and consenting processes. That is because an assumption may be made by some planners that the *R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316* decision means that higher level protection issues have been addressed in the RPS with no identification or mapping process needed for those sensitive areas. That would not be legally correct because as we have explained any 'wetland' still has the higher level protection as described above. Moreover, sub-clause 3.23(4) (a) also expressly requires them to be mapped. Therefore, out of an excess of caution to safeguard against that possibility we consider this identification and mapping policy in LF-FW-P8 needs another limb in addition to requiring identification and mapping solely of 'natural inland wetlands' as apparently required by cl.3.23(1) of the NPSFM.

1.2.3.1. Recommendation

61. In the amended wording we have recommended below we have addressed two other areas of significance – one as to threatened species and another as to extent. That recommended wording reflects the priority and wording specified in clause 3.23(4) of the NPSFM, which the regional council is bound at law to comply with, (but subject to the area limitations for 'natural inland wetlands' in sub-clause 3.23(1)). LF-FW-P8 should read:

LF-FW-P8 – Identifying ~~natural~~ wetlands

By 3 September 2030, identify identify and map ~~natural wetlands~~ that are:

1. any wetland at risk of loss of extent or values,
2. any wetland identified in a farm environment plan, or that may be affected by an application for, or a review of, a resource consent, and
3. all other natural inland wetlands that are:
 - (i) 0.05 hectares or greater in extent, or
 - (ii) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral *wetland*) and known to contain threatened species.

62. We make the closing observation that in terms of the s.32AA analysis we had earlier expressed concerns in the Legal section about not having enough information to decide cost issues as to identification and mapping if a 'natural wetlands' definition was adopted and applied in the PORPS. That issue does not arise with this recommended change above. The regional council is bound at law to comply with the NPSFM. What we have finally recommended for LF-FW-P8 is taken expressly from a combination of clauses 3.23(1) and (4) of that statutory instrument the NPSFM. We do not consider there is any discretion to depart from that legal obligation.

1.2.4. LF-FW-P9 and LF-FW-P10

63. As notified, LF-FW-P9 reads as follows:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

- (1) avoiding a reduction in their values or extent unless:
 - (a) the *loss of values* or extent arises from:
 - (i) the customary harvest of food or resources undertaken in accordance with tikaka Māori,
 - (ii) restoration activities,
 - (iii) scientific research,
 - (iv) the sustainable harvest of sphagnum moss,
 - (v) the construction or maintenance of *wetland utility structures*,
 - (vi) the maintenance of operation of *specific infrastructure*, or *other infrastructure*,
 - (vii) natural hazard works, or
 - (b) the Regional Council is satisfied that:
 - (i) the activity is necessary for the construction or upgrade of *specified infrastructure*,
 - (ii) the *specified infrastructure* will provide significant national or regional benefits,
 - (iii) there is a *functional need* for the *specified infrastructure* in that location,
 - (iv) the *effects* of the activity on indigenous *biodiversity* are managed by applying either ECO-P3 or ECO-P6 (whichever is applicable), and
 - (v) the other *effects* of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the *effects management hierarchy*, and
- (2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:
 - (a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v) will be applied to the *loss of values* or extent of the *natural wetland*, and
 - (b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v).

64. LF-FW-P10 was notified as follows:

LF-FW-P10 – Restoring *natural wetlands*

Improve the ecosystem health, hydrological functioning, *water* quality and extent of

natural wetlands that have been degraded or lost by requiring, where possible:

- (1) an increase in the extent and quality of habitat for indigenous species,
- (2) the restoration of hydrological processes,
- (3) control of pest species and vegetation clearance, and
- (4) the exclusion of stock.

65. As notified, LF-FW-P9 largely reflected clause 3.22 of the 2020 version of the NPSFM. The key differences are: the split between protection in LF-FW-P9 and restoration in LF-FW-P10, whereas clause 3.22 addresses both; and the reference in LF-FW-P9 to the biodiversity effects management hierarchy in the ECO chapter rather than the NPSFM effects management hierarchy. The 2023 amendments to the NPSFM resulted in LF-FW-P9 becoming more stringent than the updated requirements, with the addition of Clause 3.22(1)(c)-(f) in the NPSFM. Following consideration of submissions and evidence, including in the context of the 2023 NPSFM amendments, Ms Boyd recommended substantial amendments to LF-FW-P9 as follows:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

- (1) in the coastal environment, managing them in accordance with the NZCPS in addition to (2) or (3) below,
- (2) except as provided for by (3), managing activities to ensure they maintain or enhance the ecosystem health, indigenous biodiversity values, and hydrological functioning of *natural wetlands*,
- (3) for *natural inland wetlands*, implementing clause 3.22(1) to (3) of the NPSFM.

66. Clause (2) of the revised recommended LF-FW-P9 was developed through discussions between Mr Farrell for Fish and Game, Mr Brass for the Director-General of Conservation, Ms McIntyre for Kāi Tahu ki Otago, Ms Bartlett for Ngāi Tahu ki Murihiku, and Ms Boyd for ORC. The intent of the clause is to provide flexibility for the LWRP to manage different activities in different ways, provided activities are collectively achieving a common outcome. We acknowledge the collaborative efforts of the parties.

67. Parties including Oceana Gold raised concerns that LF-FW-P9 was stricter for wetlands that are not considered to be natural inland wetlands. We acknowledge that this could be the case and consider that the wording proposed in clause (2) is problematic. This clause could be interpreted to directly link an activity to its effects on a specific wetland and require the listed values of that wetland to be managed. This would close the door to approaches such as compensation and offsetting. In addition, clause (2) would apply to all activities without having the exceptions provided by clause 3.22 of the NPSFM, or the s.6(a) of the RMA qualifier of protection “*from inappropriate subdivision, use, and development*”.

68. The Panel considers that, for the reasons discussed above, the exceptions in clause 3.22 should also apply to those wetlands that aren't ‘natural inland wetlands’. This would provide for the effects management hierarchy to apply to proposed activities that could affect such wetlands, for such activities to need to demonstrate a functional need to be in the proposed location, and for there to be significant national or regional benefits from these activities.

69. It is also important here to refer to Policy 5 and Policy 9 of the NPSFM, which we discussed in the Legal Issues section. These refer to water bodies and freshwater ecosystems, and habitats of freshwater indigenous species, respectively. The RMA definition of ‘water body’ includes ‘freshwater’ in a ‘wetland’, with ‘freshwater’ including ‘all water except coastal water and geothermal water’.
70. Given that a water body includes a wetland, we also have to give effect to Policy 5 and Policy 9 of the NPSFM. In short, wetland health needs to be improved where it is degraded and otherwise maintained, and the habitats of freshwater indigenous species are to be protected. Policies 5 and 9 of the NPSFM are implemented through LF-FW-P7 clauses (1) and (2) respectively, which we discuss later in this section of our report, but we must ensure that the wetland provisions are consistent with these national directions.
71. Whereas LF-FW-P9 deals with protecting natural wetlands, LF-FW-P10 addresses restoring natural wetlands. Both protecting and restoring are part of Policy 6 and clause 3.22(1) of the NPSFM, in relation to ‘natural inland wetlands’. Policy 6 reads:

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

72. The ‘no further loss of extent’ component of Policy 6, which is largely mirrored by clause 3.22(1), is implemented through clause (3) of LF-FW-P9 which refers to clause 3.22(1) to (3) and only applies to ‘natural inland wetlands’. Clause (2) of LF-FW-P9 also indirectly addresses the ‘no further loss of extent’ through its expression to ‘maintain or enhance’. We are therefore satisfied that policies LF-FW-P9 and LF-FW-P10 give effect to the NPSFM.
73. We do question whether there needs to be separate protect and restore policies, or whether the same could be achieved through one policy relating to managing natural wetlands. LF-FW-P9 is not strictly about natural wetland protection given the reasonably long list of exceptions that are provided through clause 3.22(1) of the NPSFM. Similarly, LF-FW-P10 is not restricted to restoration but is also about managing wetlands to retain their existing values (for example, through controlling pest species and vegetation clearance in clause (3)).
74. Ms Boyd notes in her s.42A report that some aspects of clause 3.22(4) of the NPSFM are not addressed through LF-FW-P9 and LF-FW-P10, namely Māori freshwater values, and amenity values. Clause 3.22(4) of the NPSFM states:

Every regional council must make or change its regional plan to include objectives, policies, and methods that provide for and promote the restoration of natural inland wetlands in its region, with a particular focus on restoring the values of ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values.

75. While this clause applies to a regional plan and not a regional policy statement, we note that all the matters of focus that are listed are addressed in LF-FW-O9. These matters will also need to be considered where the NPSFM effects management hierarchy applies to a proposed activity. Ms Boyd advises⁸ that no submitter sought amendments to add Māori freshwater values and amenity values to LF-FW-P9 and LF-LW-P10. However, as these provisions are part of the freshwater process, we can recommend amendments that are outside the scope of

⁸ S.42A report of Ms Felicity Boyd, para 1475.

submissions. We consider that addition of Māori freshwater values and amenity values would aid to implement LF-FW-O9 and ensure that the PORPS is consistent with the NPSFM.

76. Some submitters sought changes to the chapeau of LF-FW-P10 to either reduce or increase its stringency. Policy 6 and clause 3.22(1) of the NPSFM require that restoration of natural inland wetlands is ‘promoted’, while clause 3.22(4) requires regional plans to include provisions that “provide for and promote” restoration. The notified version of LF-FW-P10 uses the term ‘requiring, where possible’ and, following consideration of submissions and evidence, Mr Boyd recommended that this be amended to ‘requiring, to the greatest extent practicable’. It is important to note that LF-FW-P10 applies to improving the values and extent of wetlands that have been degraded or lost and is likely to be applied through non-regulatory methods. It will not apply to more intact, high value wetlands.
77. Policy 6 of the NPSFM requires a halt to the loss of extent and the protection of values (of natural inland wetlands) but there is no requirement to increase wetland extent. We are concerned about a potentially strict interpretation of ‘requiring’ in a regulatory sense and, while we acknowledge the importance of wetland restoration, we consider that ‘promoted’ is an appropriate term to use in the PORPS. It’s relevant here to note that Policy 5 of the NPSFM is to improve the health and well-being of water bodies “if communities choose”.
78. Turning to clause (4)(d) of LF-FW-P10, Beef + Lamb and DINZ, Federated Farmers and John Highton consider that some sheep grazing can be beneficial to wetland health and referenced the Stock Exclusion Regulations as already managing this issue (sheep were deliberately excluded from the regulations). We accept these submissions and refer particularly to the evidence of Emma Crutchley for OWRUG and Federated Farmers, who considers that stock access “*can cause water quality issues but they also control aggressive pasture species and weeds – enhancing natural character and hydrology*”. From the evidence, we accept that sheep grazing in certain circumstances can be a useful tool for managing pasture and weed species, and we do not consider that the door should be shut to this. No wording has been proposed so we have recommended an amendment in line with the evidence.

1.2.4.1. Recommendation

79. We recommend deleting LF-FW-P9 and LF-FW-P10 as notified and replacing it with the following:

LF-FW-P10A – Managing wetlands

Otago’s wetlands are managed:

- (1) in the coastal environment, in accordance with the NZCPS in addition to (2) and (3) below,
- (2) by applying clause 3.22(1) to (3) of the NPSFM to all wetlands, and
- (3) to improve the ecosystem health, hydrological functioning and extent of wetlands that have been degraded or lost by promoting:
 - (a) an increase in the extent and condition of habitat for indigenous species,
 - (b) the restoration of hydrological processes,
 - (c) control of pest species and vegetation clearance, and
 - (d) the exclusion of stock, except where stock grazing is used to enhance wetland values.

1.2.5. LF-FW-08 – Fresh water and LF-FW-P7 – Fresh water

80. As notified, LF-FW-08 reads:

LF-FW-08 – Fresh water

In Otago’s *water bodies* and their catchments:

- (1) the health of the wai supports the health of the people and thriving mahika kai,
- (2) water flow is continuous throughout the whole system,
- (3) the interconnection of *fresh water* (including *groundwater*) and *coastal waters* is recognised,
- (4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and
- (5) the significant and outstanding values of Otago’s *outstanding water bodies* are identified and protected.

81. Ms Boyd recommended deleting LF-FW-08 and moving most of its content to LF-FW-01A. We accepted the addition of LF-FW-01A, albeit with some amendments, and agree that retaining LF-FW-08, with the exception of clause (5), would result in unnecessary duplication. We therefore accept Ms Boyd’s recommendation to delete LF-FW-08.

82. As notified, LF-FW-P7 reads:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target *attribute states*) and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous species associated with *water bodies* are protected, including by providing for fish passage,
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of rivers and 98% of lakes, and
 - (b) by 2040, 95% of rivers and 100% of lakes, and
- (4) mahika kai and *drinking water* are safe for human consumption,
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, and
- (6) *fresh water* is allocated within environmental limits and used efficiently.

83. After considering the submissions and evidence, Ms Boyd recommended the following amendments in her s.42A report:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target attribute states), environmental flows and levels, and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous freshwater species associated with water bodies are protected and sustained, including by providing for fish passage,
- (2A) the habitats of trout and salmon are protected insofar as this is consistent with (2).
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
 - (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) resources harvested from water bodies including mahika kai and drinking water are safe for human consumption, and
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, ~~and~~
- (6) ~~fresh water is allocated within environmental limits and used efficiently.~~

84. A number of submitters raised concerns about the phrase ‘protected and sustained’ in clause (2). Meridian and Oceana Gold considered that this clause should only apply to ‘significant indigenous species, with Oceana Gold also requesting that the protection requirement be replaced with ‘maintain and enhance. Similarly, Horticulture NZ suggests ‘maintain and improve’. Conversely, Fish and Game consider that restoration should be required as well as protection, and Contact and Kāi Tahu favour habitats to be sustained as well as protected.

85. We agree with Ms Boyd’s assertion that use of the word ‘protection’ is consistent with the NPSFM, specifically Policy 9 which reads:

Policy 9: *The habitats of indigenous freshwater species are protected.*

86. We do not accept the submitters’ requests to remove reference to ‘protected’, as softening this policy would result in the PORPS being less stringent than Policy 9.

87. Continuing with clause (2), Ballance seeks an amendment to refer to ‘indigenous freshwater species’, rather than the broader reference to ‘indigenous species associated with water bodies’. Ballance consider this terminology to be more consistent with Policy 9 and Clause 3.26 of the NPSFM, which we acknowledge that it is.

88. This proposed amendment was challenged in the evidence of Ms McIntyre from Kāi Tahu. Ms McIntyre considers that such a rewording “*could exclude species such as water and wading birds that do not spend all their time in the water but are still reliant on the health of the water body for some part of their life stages*”.⁹ We consider this is an important point and, similar to the view of Ms Boyd, irrespective of the wording in Policy 9 we favour Ms McIntyre’s evidence. We support the amendment that Ms Boyd has recommended to clause (2) in this regard.

⁹ Evidence in chief of Ms McIntyre for Kāi Tahu, para 78(a).

89. Considering other submissions, we adopt the recommendations and reasoning of Ms Boyd. There were a number of submissions on clauses (5) and (6) requesting additional direction on the allocation and use of water. Ms Boyd has recommended deleting these clauses and that an additional policy, LF-FW-P7A, be inserted to address water allocation and use. We support this recommendation and discuss LF-FW-P7A below.

1.2.6. LF-FW-P7A –Water allocation and use

90. LF-FW-7A was recommended by Ms Boyd in the Freshwater Hearing s.42A report as follows:¹⁰

LF-FW-P7A – Water allocation and use

Within *limits* and in accordance with any relevant environmental flows and levels, the benefits of using *fresh water* are recognised and *over-allocation* is either phased out or avoided by:

(1) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within *limits*, including for:

- (a) community drinking water supplies,
- (b) renewable electricity generation, and
- (c) land-based primary production,

(2) ensuring that no more *fresh water* is abstracted than is necessary for its intended use,

(3) ensuring that the efficiency of *freshwater* abstraction, storage, and conveyancing *infrastructure* is improved, including by providing for off-stream storage capacity, and

(4) providing for spatial and temporal sharing of allocated *fresh water* between uses and users where feasible.

91. As highlighted above, LF-FW-P7A was recommended in response to submissions on LF-FW-P7(5) and (6). Given its late introduction through the s42A report, there was substantial discussion on this policy at the hearing. Some of these submitters sought amendments that would prioritise allocation to specific uses or uses based on efficiency of water use. These submitters were essentially asking that LF-FW-P7A specify what uses would be considered as priority (2) of Te Mana o Te Wai. We have addressed this previously in the Legal Issues section where we determined that it is not appropriate for the PORPS to determine what activities are to be considered as priority (2) or (3). We therefore do not accept submissions for such determinations in LF-FW-P7A.

92. Ms Styles for Manawa Energy has requested additional recognition of the use of water for REG in LF-FW-P7A to give effect to the NPS-REG.¹¹ In response to questions from the Panel, Ms Styles amended her proposed wording in clause (1) as follows (amendments in addition to those in her EIC are in red):

(1) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within *limits*, including **prioritising**

¹⁰ S.42A report prepared for the Freshwater Hearings, para 1417.

¹¹ Evidence in Chief of Ms Styles for Manawa Energy, para 8.21-8.27.

allocation of available fresh water for:

(a) community drinking water supplies, and

(b) **maintaining existing generation output and capacity and future generation from existing** renewable electricity generation schemes, and then

(c) land-based primary production, **and then (d) other commercial and industrial uses, ...**

93. We do not support including the phrase “prioritising allocation of available fresh water” in clause (1), as we consider that this is akin to the prioritisation that was discussed in the previous paragraph. In addition, such a phrase as proposed would apply to all uses listed in clause (1) and not just to REG. We note that LF-FW-P7A would need to be considered alongside the provisions in the EIT chapter which give effect to the enabling stance of the NPS-REG for REG activities. We do support Ms Styles’ amendments to clause (1)(b), as we consider that limiting this provision to existing REG is consistent with the visions.
94. The policy as proposed in the s.42A report did not address water harvesting and storage. In response to submissions by Horticulture NZ, the Chair invited them to file a memorandum that suggests policy wording to address this gap.¹² Mr Hodgson for Horticulture NZ proposed amendments to LF-FM-P7A, LF- VM-M3, and LF-FW-M6. However, LF-VM-M3 is not an FPI provision and Ms Boyd did not recommend a consequential amendment through the non-FPI process, as it occurred prior. Ms Boyd accepted Mr Hodgson’s proposed amendments to LF-FM-P7A and LF-FW-M6, with some amendments to ensure consistency with other provisions. We accept these changes and the reasoning of Horticulture NZ and Ms Boyd. We consider that LF-VM-M3 should also be amended to ensure consistency and address this in relation to this method.
95. The Panel is unclear how water would be allocated for ‘aspirations’ in clause (2)(c). We consider that ‘aspirations’ does not provide sufficient certainty and recommend that this clause read as “mana whenua customary or cultural needs and activities”. We consider that this amendment is consistent with the relief sought by Kāi Tahu ki Otago.
96. Ms Hunter for Oceana Gold requested that ‘land based primary production’ in clause (2)(d) be amended to ‘primary production’ so that it also includes mining and quarrying and associated processing and production.¹³ Ms Boyd considers that in community feedback on the freshwater visions, such activities “were not highlighted as being important region-wide in the way that pastoral, arable and horticultural activities were”.¹⁴ While we accept this, we acknowledge the importance of mining and quarrying at a regional level and the requirement of these activities for water. For these reasons, we accept Ms Hunter’s proposed amendment.

1.2.6.1. Recommendation

97. We recommend the following wording for LF-FW-P7A:

LF-FW-P7A – Water allocation and use

Within limits and in accordance with any relevant environmental flows and levels, the benefits of using fresh water are recognised and over-allocation is either phased out or avoided by:

(1) managing over-allocation as set out in LF-FW-M6,

¹² Memorandum of counsel for Horticulture NZ dated 13 September 2023.

¹³ Evidence in Chief of Ms Hunter for Oceana Gold, paras 48-49.

¹⁴ FPI Reply Report of Ms Boyd, para 144.

- (2) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities, including for:
 - (a) community drinking water supplies,
 - (b) maintaining generation output and capacity from existing *renewable electricity generation schemes*,
 - (c) *mana whenua* customary or cultural needs and activities, and
 - (d) primary production,
- (3) ensuring that no more *fresh water* is abstracted than is necessary for its intended use,
- (4) ensuring that the efficiency of *freshwater* abstraction, storage, and conveyancing *infrastructure* is improved,
- (5) providing for the harvesting and storage of *fresh water* to meet increasing demand for *water*, to manage *water* scarcity conditions and to provide resilience to the *effects of climate change*, and
- (6) providing for spatial and temporal sharing of allocated *fresh water* between uses and users where feasible.

98. We recommend the follow consequential change to LF-FW-M6:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* ~~no later than 31 December 2023~~ and, after it is made operative, maintain that *regional plan* to:

...

(5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A, including for *water* harvesting and storage,

...

1.3. Outstanding water bodies

1.3.1. LF-FW-P11 – Identifying outstanding water bodies

99. Outstanding water bodies are addressed through LF-FW-P11 and LF-FW-P12 and LF-FW-M5. LF-FW-P11 and LF-FW-M5 refer to the criteria for identifying outstanding water bodies that are provided in APP1. We discuss each of these provisions in turn below.

100. LF-FW-P11 was notified as follows:¹⁵

LF-FW-P11 – Identifying *outstanding water bodies*

Otago’s *outstanding water bodies* are:

- (1) the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997,
- (2) Lake Wanaka and the outflow and tributaries described in the Lake Wanaka

¹⁵ S.42A report prepared for the Freshwater Hearings, para 1417.

Preservation Act 1973,

- (3) any *water bodies* identified as being wholly or partly within an outstanding natural feature or landscape in accordance with NFL-P1, and
- (4) any other *water bodies* identified in accordance with APP1.

101. Once again confusion arises in this LF-FW area between the two processes in respect of these related water body provisions now under consideration here. LF-FW-P11 as to outstanding water bodies, LF-FW-P12 as to identifying and managing those water bodies, LF-FW-P13 as to protecting instream values, LF-FW-P14 as to instream values, and LF-FW-M5 as to outstanding water bodies are not shaded blue as FPI provisions. (Nor was the definition of 'effects management hierarchy' in the notified version shaded blue as part of the FPI, despite it specifically adopting the NPSFM definition in that respect.) These are so integrally freshwater issues located in the LF-FW chapter, (even the very title used is 'FW' i.e. freshwater), that we have dealt with the subject matter in this Appendix Two report. This is a classic illustration of the reason why, out of caution, because of the lack of shading, we have also formally included this consideration of those provisions in the non-freshwater report in Appendix One as well.

102. There were several submissions on LF-FW-P11, including three in support and several seeking amendments. Ms Boyd recommended deleting clause (3) in response to submissions by Beef + Lamb and DINZ and Federated Farmers. We consider this to be appropriate and agree with the submitters that being wholly or partly in an outstanding natural feature or landscape does not necessarily mean that a waterbody is outstanding. We agree with Ms Boyd's amendments and reasoning provided in her s.42A report and Reply Report and do not discuss LF-FW-P11 further.

1.3.1.1. Recommendation

103. We recommend the following amendments to LF-FW-P11:

LF-FW-P11 – Identifying Otago's outstanding water bodies

Otago's *outstanding water bodies* are:

- (1) the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997,
- (2) Lake Wanaka and the outflow and tributaries described in the Lake Wanaka Preservation Act 1973, and
- ~~(3) any *water bodies* identified as being wholly or partly within an outstanding natural feature or landscape in accordance with NFL-P1, and~~
- (4) any other *water bodies* identified in accordance with APP1.

1.3.2. LF-FW-P12 – Protecting outstanding water bodies

104. Turning to LF-FW-P12, as notified this provision reads:

LF-FW-P12 – Protecting outstanding water bodies

The significant and outstanding values of outstanding water bodies are:

- (1) identified in the relevant regional and district plans, and

(2) protected by avoiding adverse effects on those values.

105. Forest and Bird and Federated Farmers expressed concern that LF-FW-P12 was not well aligned with Policy 8 of the NPSFM, which reads:

Policy 8: *The significant values of outstanding water bodies are protected.*

106. As notified, LF-FW-P12 requires the significant and outstanding values of outstanding water bodies to be identified, rather than identifying outstanding water bodies and protecting their significant values. We agree with the submitters that there are differences between the two provisions. We also agree with Ms Boyd that “*if significant values must be protected then to my mind it is consistent to apply the same requirement to outstanding values*”.

107. We do not agree with Meridian Energy who considers there is no difference between outstanding values and significant values. They sought to delete references to “outstanding values” in LF-FW-P12 and LF-FW-M5. The Panel’s view is that outstanding is a ‘higher’ classification than significant and therefore, by default, any value that is outstanding would also be significant and therefore requiring protection under Policy 8 of the NPSFM.

108. Several submitters sought a way through the ‘protected’ restriction in Policy 8 of the NPSFM, requesting varying relief to qualify the protection or manage effects to a certain level. Similarly, OWRUG, Aurora Energy, Waka Kotahi, and Transpower sought a pathway for infrastructure that may have an operational and functional need to operate in a way that would affect an outstanding waterbody. We consider that the ‘protective’ direction of Policy 8 of the NPSFM is clear and do not consider that we can ‘water down’ the requirements in the ways proposed by submitters.

109. Relevant to this, the NPSFM defined ‘outstanding waterbody’ as follows:

outstanding water body means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values.

110. It therefore follows that outstanding values have to be identified in order to determine whether a waterbody is outstanding. To achieve Policy 8 of the NPSFM, significant values would also have to be identified for such waterbodies to enable the protection of those significant values.

1.3.2.1. Recommendation

111. We accept Ms Boyd’s final recommended wording for LF-FW-P12 in her Reply Report and recommend the following amendments:

LF-FW-P12 – ~~Protecting~~ Identifying and managing outstanding water bodies

The significant and outstanding values of *outstanding water bodies* are:

- ~~(1) identified in the relevant regional and district plans, and~~
- ~~(2) protected by avoiding adverse effects on those values.~~

Identify *outstanding water bodies* and their significant and outstanding values in the relevant *regional plans* and *district plans* and protect those values.

1.3.3. LF-FW-M5 – Outstanding water bodies

112. LF-FW-M5 sets out the process for identifying outstanding waterbodies and was notified as follows:

LF-FW-M5 – Outstanding water bodies

No later than 31 December 2023, Otago Regional Council must:

- (1) undertake a review based on existing information and develop a list of *water bodies* likely to contain outstanding values, including those *water bodies* listed in LF-VM-P6,
- (2) identify the outstanding values of those *water bodies* (if any) in accordance with APP1,
- (3) consult with the public during the identification process,
- (4) map *outstanding water bodies* and identify their outstanding and significant values in the relevant *regional plan(s)*, and
- (5) include provisions in *regional plans* to avoid the adverse effects of activities on the significant and outstanding values of *outstanding water bodies*.

113. We generally agree with the analyses of submissions and Ms Boyd's recommended amendments as per her Reply report and the 10 October 2023 version of the PORPS. We note that the date in the chapeau has not been recommended to change, and our understanding is that the work to identify outstanding waterbodies has largely been completed by ORC. That said, clauses (4) and (5) of LF-FW-M5 are to map outstanding waterbodies in the relevant regional plan and include provisions to protect the significant and outstanding waterbodies, respectively. Our understanding is that the date that the regional plan will be publicly notified is uncertain and we consider it appropriate to delete the date requirement in the chapeau to reflect this. This would be consistent with other references in the PORPS that refer to regional plan requirements, including LF-FW-M6.

1.3.3.1. Recommendation

114. We recommend the following amendments to LF-FW-M5:

LF-FW-M5 – Outstanding water bodies

~~No later than 31 December 2023,~~ Otago Regional Council must:

- (1) ~~in partnership with Kāi Tahu,~~ undertake a review based on existing information and develop a list of *water bodies* likely to contain outstanding values, including those *water bodies* listed in ~~LF-VM-P6~~ LF-FW-P11,
- (2) identify the outstanding values of those *water bodies* (if any) in accordance with APP1,
- (3) consult with the public and relevant local authorities during the identification process,
- (4) map *outstanding water bodies* and identify their outstanding and significant values in the relevant *regional plan(s)*, and

- (5) include provisions in *regional plans* that protect to avoid the adverse effects of activities on the significant and outstanding values of *outstanding water bodies*.

1.3.4. APP1 – Criteria for identifying outstanding waterbodies

115. Turning to APP1, several submissions were received on APP1 which sought to improve the clarity of the criteria. In her s.42A report Ms Boyd recommended accepting Manawa Energy’s submission to replace the notified APP1 criteria with those adopted in Hawke’s Bay Regional Council’s Plan Change 7. Following responses by parties in evidence and at the hearing, Ms Boyd changed her recommendation to that of amending the notified APP1 criteria rather than adopting the Hawkes Bay criteria.
116. Concerns were raised by submitters in evidence about use of the Hawkes Bay criteria, particularly by the Director General for Conservation and Fish and Game. The evidence of Dr Richarson for the Director General considered that the notified APP1 provided for more expert evaluation and interpretation.¹⁶ She expressed concern about the ecological considerations in the Hawke’s Bay criteria and considered that aspects weren’t relevant to the Otago region. Her recommendations were supported by Mr Brass for the Director General, who helpfully provided suggested amendments to APP1.
117. The evidence of Mr Couper and Mr Paragreen for Fish and Game discussed their concerns with the Hawke’s Bay criteria for recreation¹⁷ and, in his statement to the LF hearing, Mr Paragreen also helpfully provided tracked amendments to APP1 to address their concerns.¹⁸
118. As mentioned previously, Ms Boyd also explained to us, both at the hearing and in her Reply Report, that ORC staff have done a considerable amount of work to determine outstanding waterbodies against the notified criteria and that changing to the Hawkes Bay criteria would mean that at least some of this work would need to be redone. We support her recommendation to retain and modify the notified APP1, rather than adopting the Hawkes Bay criteria.
119. Of importance, Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku sought that the reference to cultural and spiritual values be deleted, as ranking waterbodies does not reflect the relationship of Kāi Tahu with water. The two submitters sought different relief: Kāi Tahu ki Otago sought an addition to Table 4 to ensure that the cultural and spiritual values are recognised and protected for the waterbodies that are identified using APP1; while Ngāi Tahu ki Murihiku sought to separate the outstanding waterbody process from the process for developing wāhi tupuna relevant to waterbodies, noting that wāhi tūpuna should be identified through APP7 – identifying wāhi tūpuna.
120. The Hawkes Bay criteria do not include consideration of cultural and spiritual values and Ms McIntyre stated at the hearing that:

The s. 42A report recommendation to change the criteria for identification of outstanding waterbodies resolved this problem by adopting a set of criteria that does not include cultural and spiritual values ... If the recommendation is reversed, then the Kai Tahu submissions on this matter will also need to be considered.

¹⁶ Dr Marine Richarson for DOC, para 123-127

¹⁷ Jayde Couper for Fish and Game, paras [146]-[157]; Nigel Paragreen for Fish and Game, para [125]

¹⁸ Opening statement of Nigel Paragreen for LF hearing, Appendix 2

121. We note that in the absence of a values criterion for cultural and spiritual values, LF-FW-P12 (and NPSFM Policy 8) would still require that significant cultural and spiritual values are protected for each waterbody that is identified as outstanding – the criteria in APP1 are only for identifying outstanding waterbodies and are not to be used to identify the significant values of those outstanding waterbodies. It is Policy 8 of the NPSFM that requires that significant values of outstanding waterbodies are protected, i.e. there will be more significant values for a waterbody that is identified as outstanding through APP1. Therefore, while the absence of a criterion would mean that waterbodies would not be ranked according to their cultural and spiritual values, it would not mean that such values would go unprotected. We recognise the importance of APP7 in assisting to identify these significant values, as part of the process of identifying wāhi tūpuna.

122. Ms Boyd has recommended amendments to APP1 following consideration of submissions and evidence. We accept these recommendations, with the following amendments:

(a) For landscape values, deletion of ‘high’ in clause (2), as criteria should relate to outstanding rather than high values;

(b) Similarly, for natural character values, delete ‘high’ from the introductory sentence in the description.

1.3.4.1. Recommendation

123. We recommend the following amendments to APP1 – Criteria for outstanding waterbodies, which are consistent with those recommended in the 10 October 2023 version of the PORPS.

APP1 – Criteria for identifying outstanding water bodies

Outstanding water bodies include any *water body* with one or more of the following outstanding values, noting that sub-values are not all-inclusive:

Table 1 - Values of outstanding water bodies

Values	Description	Example sub-values
Cultural and spiritual	A <i>water body</i> which has outstanding cultural and spiritual values.	Wāhi tapu, wāhi taoka, wai tapu, rohe boundary, battle sites, pa, kāika, tauraka waka, mahika kai, pa tuna; and acknowledged in korero tuku iho, pepeha, whakatauki or waiata
Ecology	A <i>water body</i> which has outstanding ecological value as a habitat for: <ul style="list-style-type: none"> • Native birds • Native fish • Salmonid fish • Other aquatic species 	Native birds, native fish, native plants, aquatic macroinvertebrates
Landscape	A <i>water body</i> that: <p>(1) is an essential which forms a key component of a landscape or natural feature that is “conspicuous, eminent, remarkable or iconic” within the region, and or is critical to an outstanding natural feature.</p>	Scenic, association, natural characteristics (includes hydrological, ecological and geological features)

	(2) <u>has landscape, wild and/or scenic values that contain distinctive qualities which are outstanding in the context of the region.</u>	
Natural character	A <i>water body</i> with high naturalness that: (1) <u>exhibits an exceptional combination of natural processes, natural patterns and natural elements with low levels of modification to its form, ecosystems and the surrounding landscape that is exceptional in the context of the region, and</u> (2) <u>has little to no human modification to its form, ecosystems, and the surrounding landscape.</u>	Natural characteristics (includes hydrological, ecological and geological features)
Recreation	A <i>water body</i> which is recognised as providing an outstanding recreational experience for an activity which is directly related to the <i>water</i> .	Angling, fishing, kayaking, rafting, jetboating
Physical	A <i>water body</i> which has an outstanding geomorphological, geological or hydrological feature which is dependent on the <i>water body's</i> condition and functioning.	Science

1.4. Natural character and instream values

124. Natural character and instream values are addressed through LF-FW-P13 and LF-FW-P14. We discuss each of these provisions in turn below.

1.4.1. LF-FW-P13 – Preserving natural character and in stream values

125. LF-FW-P13 was notified as follows:

LF-FW-P13 – Preserving natural character

Preserve the natural character of *lakes* and *rivers* and their *beds* and margins by:

- (1) avoiding the *loss of values* or extent of a *river*, unless:
 - (a) there is a *functional need* for the activity in that location, and
 - (b) the *effects* of the activity are managed by applying:
 - (i) for *effects* on indigenous *biodiversity*, either ECO-P3 or ECO-P6 (whichever is applicable), and
 - (ii) for other effects, the effects management hierarchy,
- (2) not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:
 - (a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b) will be applied to the *loss of values* or extent of the *river*, and

- (b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b),
- (3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*,
- (4) wherever possible, sustaining the form and function of a *water body* that reflects its natural behaviours,
- (5) recognising and implementing the restrictions in Water Conservation Orders,
- (6) preventing the impounding or control of the level of Lake Wanaka,
- (7) preventing modification that would reduce the braided character of a *river*, and
- (8) controlling the use of *water* and *land* that would adversely affect the natural character of the *water body*.

126. This provision attracted over 40 submission points which have some common themes. These include:

- (a) That the policy should recognise instream values alongside natural character;
- (b) Concerns about clause (1)(b) which refers to ‘functional need’;
- (c) How the effects management hierarchy is referred to in clause (2);
- (d) Exclusions for regionally significant infrastructure;
- (e) Requests to have a separate policy for environmental flows and levels (clause (3));
- (f) Providing for some modification of natural character, particularly if it is associated with mitigating risks to health and safety; and
- (g) An additional clause that addresses the values of riparian margins.

127. Ms Boyd recommended a number of amendments to LF-FW-P13, which are presented in the PORPS version dated 10 October 2023 and with reasoning in her s42A report, supplementary evidence and reply report.¹⁹ Barring one exception which we address below, we agree with her recommendations and reasons and recognise that some of the amendments are discussed elsewhere in our report. These include amendments to the reference to the effects management hierarchy in clause (2), which we address in Legal Issues section, and the provision for regional infrastructure which we address in the EIT section of our report.

128. Kāi Tahu ki Otago’s requested addition of a new clause that specifically related to riparian margins was discussed in Ms Boyd’s Reply Report.²⁰ Ms Boyd recommended:

... I am not convinced that listing the specific outcomes to be achieved from maintaining or enhancing the values of riparian margins is necessary. In my view, there are many

¹⁹ S42A Report 1: Introduction and general themes, para 1095-1124; Fourth brief of supplementary evidence of Felicity Ann Boyd, LF – Land and freshwater (NPSFM amendments), dated 24 February 2023; Reply Report from para 170.

²⁰ Paras 174-175 and 178-179

reasons to implement this action and they are not necessary to specify in this policy. I recommend ending this clause after ‘riparian margins.’²¹

129. This recommendation is not incorporated into the recommended amendment to clause (9) in Ms Boyd’s Reply Report or in the PORPS version dated 10 October 2023. In any event, we prefer the additional phrase ‘supporting natural flow behaviour’ that Ms McIntyre for Kāi Tahu proposed at the hearing.²² We consider that the addition of this phrase, and retaining the proposed wording after ‘riparian margins’, will assist to clarify the intent of the clause.
130. We have considered the appropriateness of LF-FW-P13(2)(c) referring to ‘Appendix 6 and 7 of the NPSFM’ rather than these appendices being included as appendices in the PORPS. Our view is that these should be included as PORPS appendices, both to provide additional certainty to the policy and to be consistent with the ECO chapter, where Appendix 3 and 4 of the NPSIB are included as APP3 and APP4 of the PORPS. Therefore we have recommended that Appendix 6 and 7 of the NPSFM are included in the PORPS as APP4A and APP4B, with the wording of LF-FW-P13(2)(c) amended accordingly.

1.4.1.1. Recommendation

131. We recommend the following amendments to LF-FW-P13:

LF-FW-P13 – Preserving natural character and instream values

Preserve the natural character and instream values of *lakes* and *rivers* and the natural character of their *beds* and margins by:

- (1) avoiding the *loss of values* or extent of a *river*, unless:
 - (a) there is a *functional need* for the activity in that location, and
 - (b) the *effects* of the activity are managed by applying:
 - (i) ~~for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and~~
 - (ii) ~~for other effects~~ the *effects management hierarchy (in relation to natural inland wetlands and rivers)*,
- (2) not granting *resource consent* for activities in (1) unless ~~Otago Regional Council~~ the consent authority is satisfied that:
 - (a) the application demonstrates how each step of the ~~effects management hierarchies in (1)(b)~~ effects management hierarchy (in relation to natural inland wetlands and rivers) will be applied to the *loss of values* or extent of the *river*, and
 - (b) any consent is granted subject to conditions that apply the ~~effects management hierarchies in (1)(b)~~ effects management hierarchy (in relation to natural inland wetlands and rivers) in respect of any *loss of values* or extent of the *river*,

²¹ Para 178

²² Sandra McIntyre for Kāi Tahu ki Otago, Appendix 2

- (c) if aquatic offsetting or aquatic compensation is applied, the applicant has complied with principles 1 to 6 in APP4A and APP4B, and has had regard to the remaining principles in APP4A and APP4B, as appropriate, and
 - (d) if aquatic offsetting or aquatic compensation is applied, any consent granted is subject to conditions that will ensure that the offsetting or compensation will be maintained and managed over time to achieve the conservation outcomes,
- (3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*,
 - (4) ~~wherever possible to the extent practicable,~~ sustaining the form and function of a *water body* that reflects its natural behaviours,
 - (5) recognising and implementing the restrictions in Water Conservation Orders,
 - (6) preventing the impounding or control of the level of Lake Wanaka,
 - (7) preventing modification that would permanently reduce the braided character of a *river*, ~~and~~
 - (8) controlling the use of *water* and *land* that would adversely affect the natural character of the *water body*, and
 - (9) maintaining or enhancing the values of riparian margins to support habitat and biodiversity, reduce *contaminant* loss to *water bodies* and support natural flow behaviour.

132. We also recommend that Appendix 6 of the NPSFM is included in the PORPS as APP4A and Appendix 7 of the NPSFM is included in the PORPS as APP4B.

1.4.2. LF-FW-P14 – Restoring natural character and instream values

133. LF-FW-P14 was notified as follows:

LF-FW-P14 – Restoring natural character

Where the natural character of *lakes* and *rivers* and their margins has been reduced or lost, promote actions that:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems,
- (4) improve *water body* margins by naturalising bank contours and establishing indigenous vegetation and habitat, and
- (5) restore *water* pathways and natural connectivity between *water* systems.

134. Submissions on LF-FW-P14 varied from support for the notified provision, to requests to make the provision more directive by replacing 'promote' with 'require', to relaxing the provision by replacing 'promote' with 'support' or 'encourage' or adding 'where practicable'.
135. We consider that 'promoting' is appropriate for a restoration policy such as LF-FW-P14. Instances where restoration is required should be determined through the regional plan, for example where restoration is needed to meet desired environmental outcomes. We do not have the information before us to determine such requirements and do not consider that a blanket requirement is appropriate. Conversely, we do not see a material difference between 'promoting' and 'supporting' or 'encouraging', and consider that 'where practicable' is more appropriate for directive provisions.
136. Many of the submission points have been accepted by Ms Boyd, either in full or in part, and we consider that these amendments strengthen the intent and clarity of the policy. The submission points that have not been accepted seek, in many instances, to soften the policy. For example, Contact and OWRUG consider that restoring some waterbodies would result in significant adverse effects. We acknowledge that restoring a highly modified waterway such as the Clutha-Mata-au would not be a feasible proposition, however the policy is not determinative and there would likely be actions that could improve the natural character and instream values of the Clutha-Mata-au. We discussed this earlier in relation to LF-VM-O2 – Clutha Mata-au vision.

1.4.2.1. Recommendation

137. We recommend the following amendments to LF-FW-P14:

LF-FW-P14 – Restoring natural character and instream values

Where the natural character or instream values of *lakes* and *rivers* ~~and~~ or the natural character of their margins has been reduced or lost, promote actions that, where practicable:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems and, where necessary and appropriate, creating fish barriers to prevent incursions from undesirable species,
- (4) improve *water body* margins by naturalising bank contours and establishing *indigenous vegetation* and habitat, and
- (5) restore ~~water pathways and~~ natural connectivity between and within *water* systems.

1.5. Stormwater, animal effluent and wastewater

138. LF-FW-P15 was notified as follows:

LF-FW-P15 – Stormwater and wastewater discharges

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* and *wastewater* to *fresh water* by:

(1) except as required by LF-VM-O2 and LF-VM-O4, preferring *discharges* of *wastewater* to *land* over *discharges* to *water*, unless adverse *effects* associated with a *discharge* to *land* are greater than a *discharge* to *water*, and

(2) requiring:

(a) all sewage, industrial or trade waste to be *discharged* into a reticulated *wastewater* system, where one is available,

(b) all *stormwater* to be *discharged* into a reticulated system, where one is available,

(c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated *stormwater* and *wastewater* systems,

(d) on-site *wastewater* systems to be designed and operated in accordance with best practice standards,

(e) *stormwater* and *wastewater discharges* to meet any applicable water quality standards set for *FMUs* and/or *rohe*, and

(f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse *effects* of *contaminants* on receiving *water bodies* from the *subdivision*, use or development of *land*, wherever practicable, and

(3) promoting the reticulation of *stormwater* and *wastewater* in urban areas.

139. DOC, Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago sought that LF-FW-P15 be split into two policies. The submitters' requests varied, with Fonterra considering that industrial and trade waste should be included in the direction on *stormwater*, while DCC, Ravensdown, and Kāi Tahu ki Otago considering that it should be included with *wastewater*. Ms Boyd's s.42A report recommended that LF-FW-P15 address *stormwater*, while a new policy LF-FW-P16 be included to address animal effluent, sewage and industrial and trade waste.²³ Ms Tait for Fonterra considered that this split was appropriate but sought that the title and wording of LF-FW-P16 should also include *greywater*.

140. We agree with the general proposition that *stormwater* and *wastewater* should be the subject of separate policies. Ms Boyd's s.42A report directed us to the National Planning Standards definition of industrial and trade waste, which reads:

liquid waste, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes sewage and greywater.

141. We agree with Ms Boyd that the contaminants and treatment associated with industrial and trade waste are more closely aligned with *wastewater* than *stormwater* and support their inclusion in LF-FW-P16.

²³ At para 1552.

142. Turning to greywater, we note that ‘wastewater’ is defined by the National Planning Standards and in the PORPS as follows:

Means any combination of two or more the [sic] following wastes: sewage, greywater or industrial and trade waste.

143. The proposed policy split sees LF-FW-P16 addressing animal effluent, sewage, and industrial and trade waste, in place of wastewater that was included alongside stormwater in the notified LF-FW-P15.

144. Industrial and trade waste is defined in the National Planning Standards, and in the pORPS, as:

liquid waste, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes sewage and greywater.

[Panel’s emphasis]

145. Sewage is defined in the National Planning Standards, and in the pORPS, as:

Means human excrement and urine.

146. The definition of sewage therefore also excludes greywater.

147. We consider that Ms Tait for Fonterra has a justified concern that greywater is excluded. We support her recommended amendments to include greywater in the heading and in the chapeau of LF-FW-P16.²⁴ We note that greywater would be addressed by the policy wording by its inclusion in the definition of ‘wastewater’, a term which is used in clauses (2)(d) to (e) and clause (3). We agree with Ms Tait that a consequential change is required to include greywater in LF-FW-M6(8). A further consequential change is needed to insert the National Planning Standard definition of greywater into the Interpretation section of the PORPS.

148. Unsurprisingly, there was considerable discussion in evidence and at the hearing about whether there should be some provision for direct wastewater overflows to surface water. We heard from Kāi Tahu ki Otago witnesses that direct discharges of human or animal effluent to surface water are unacceptable, with Mr Ellison stating that:

The discharge of human waste to water is contrary to tikaka and kawa and renders affected waterways inaccessible for customary practices such as harvesting and eating mahika kai or using water for cultural purposes and rituals.²⁵

149. Mr Ellison provided the example of wastewater discharging from the Waihola wastewater treatment plant into the Waihora (Lake Waihora) outflow channel. Ms McIntyre for Kāi Tahu told us that change in practice away from direct discharge has been slow in Otago and she considers that the qualifier “to the greatest extent possible” in clause (1) of LF-FW-P16 “does not recognise the strength of the concern about the impact of these discharges on mauri”.²⁶ She sought that this phrase be deleted from clause (1).

²⁴ Evidence in chief of Ms Susannah Tait for Fonterra, para 7.15.

²⁵ Evidence in chief of Mr Edward Ellison for Kāi Tahu ki Otago, para. 71.

²⁶ Evidence in chief of Ms Sandra McIntyre for Kāi Tahu ki Otago, para. 73.

150. We heard from DCC about the degraded state of their three waters infrastructure, with Ms Moffat (DCC 3 Waters Planning Manager) providing a useful overview.²⁷ She stated that over 50 per cent of DCC's infrastructure is expected to require renewal by 2060. She discussed the Council's 3 Waters Strategic Direction Statement 2010-2060 and told us that \$3.6 billion would need to be invested in the next 30 years to maintain the existing levels of service.
151. The DCC operates seven wastewater treatment plants and hold four resource consents to discharge wastewater overflow to waterways or the coast. These overflows operate during heavy rain when stormwater and/or groundwater enters wastewater pipes. The overflows are part of the system design, with the alternative being the back-up of wastewater onto private property. While Ms Moffat outlined the Council's commitment to reducing direct discharges to freshwater, we acknowledge that this is a long-term project.
152. Mr Simon Mason from QLDC informed us that the four wastewater plants in the Queenstown district discharge to land, although he acknowledged that the Shotover treatment plant discharges into gravels in close proximity to the river. Waitaki District Council, Clutha District Council and Central Otago District Council did not submit on the FPI however Ms Boyd's Table 1 of her Opening Statement provided a useful summary of municipal wastewater discharges in the Otago Region.²⁸ It shows that these smaller councils all have consented wastewater discharges to freshwater, with Clutha and Central Otago District Councils each having several.
153. We also heard from Fonterra about the importance of their Stirling processing plant and the difficulties they have disposing of wastewater. Mr Watt's evidence stated that Fonterra are consented to discharge up to 3,700 m³/day of treated wastewater from the plant into the Clutha Mata-Au, with the consent expiring in 2043.²⁹ Mr Watt told us that, while discharge volumes and contaminant concentrations have reduced with upgrades to the plant and Fonterra continue to investigate improvement options, the steep topography and wet soils surrounding the site make land disposal challenging.³⁰
154. We support phasing out direct discharges of wastewater to surface water and acknowledge the impact that these discharges have on Kāi Tahu values. Ms McIntyre pragmatically acknowledged at the hearing that only a certain amount of progress can be made in 10 years and, from the evidence that we have received from DCC and Fonterra, we have concluded that full removal of such discharges is not feasible within the lifetime of this RPS.
155. That said, we consider that the PORPS should send a clear signal that such discharges are to be phased out. We consider that this is achieved by clause (1). Some submitters suggested that 'to the greatest extent possible' be replaced with 'to the greatest extent practicable'. We consider that the use of 'to the extent practicable' is appropriate, primarily to ensure consistency with LF-FW-O1A(8) which we have discussed earlier.
156. Turning to the LF-FW-M6, our understanding is that the date that the regional plan is to be publicly notified is uncertain and we consider it appropriate to delete the date requirement in the chapeau to reflect this. This is consistent with our approach to LF-FW-M5 and LF-LS-M11.

²⁷ Evidence in chief of Ms Zoe Moffat for DCC, paras. 47-52.

²⁸ Opening Statement of Ms Felicity Boyd, 28 August 2023.

²⁹ Evidence in chief of Mr Morgan Watt for Fonterra, para. 18.

³⁰ Evidence in chief of Mr Morgan Watt for Fonterra, para. 29

1.5.1. Recommendation

157. Other than the points discussed above, we adopt the recommendations and reasoning of Ms Boyd. We recommend the following amendments to LF-FW-P15:

LF-FW-P15 – ~~Stormwater and wastewater discharges~~

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* and ~~wastewater~~ to *fresh water* by:

(1) ~~except as required by LF-VM-O2 and LF-VM-O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and~~

(2) requiring:

(a) ~~all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,~~

(ab) integrated catchment management plans for management of stormwater in urban areas,

(b) all *stormwater* to be discharged into a reticulated system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in the same or improved outcomes for fresh water,

(c) implementation of methods to progressively reduce unintentional stormwater inflows to the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,

(d) ~~on-site wastewater systems to be designed and operated in accordance with best practice standards,~~

(e) that any stormwater and wastewater discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe, and

(f) the use of water sensitive urban design techniques ~~to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and~~

(3) promoting the reticulation of stormwater and wastewater in urban areas where appropriate, and

(4) promoting source control as a method for reducing contaminants in discharges and the use of good practice guidelines for managing stormwater.

1.5.2. Recommendation

158. We recommend the following amendments to new LF-FW-P16 recommended in the Reply Report:

LF-FW-P16 – Discharges containing animal effluent, sewage, greywater and industrial and trade waste

Minimise the adverse effects of direct and indirect discharges containing animal effluent, sewage, greywater and industrial and trade waste to fresh water by:

- (1) phasing out existing discharges containing sewage or industrial and trade waste directly to water to the extent practicable,
- (2) requiring:
 - (a) new discharges containing sewage or industrial and trade waste to be to land,
 - (b) discharges of animal effluent from land-based primary production to be to land,
 - (c) that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for fresh water,
 - (d) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring from reticulated wastewater systems,
 - (e) on-site wastewater systems and animal effluent systems to be designed and operated in accordance with best practice standards,
 - (f) that any discharges do not prevent water bodies from meeting any applicable water quality standards set for FMUs and/or rohe,
- (3) to the greatest extent practicable, requiring the reticulation of wastewater in urban areas, and
- (4) promoting source control as a method for reducing contaminants in discharges.

1.5.3. Recommendation

159. We recommend a consequential change to include the definition of greywater in the Interpretation section as follows:

Greywater	has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below) <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"><p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include <i>sewage</i>, or <i>industrial and trade waste</i>.</p></div>
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1.5.4. Recommendation

160. We recommend a further consequential change is required to include 'greywater' in LF-FW-M6(8) as follows:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* ~~no later than 31 December 2023~~ and, after it is made operative, maintain that *regional plan* to:

...

(8) manage the adverse *effects* of *stormwater* and ~~wastewater discharges~~ containing animal effluent, sewage, greywater or industrial and trade waste in accordance with LF-FW-P15 and LF-FW-P16, and-

...

1.6. LF-VM-M3 – Community involvement

161. LF-VM-M3 was notified as follows:

LF-VM-M3 – Community involvement

Otago Regional Council must work with communities to achieve the objectives and policies in this chapter, including by:

- (1) engaging with communities to identify *environmental outcomes* for Otago's *FMUs* and *rohe* and the methods to achieve those outcomes,
- (2) encouraging community stewardship of *water* resources and programmes to address *freshwater* issues at a local catchment level,
- (3) supporting community initiatives that contribute to maintaining or improving the health and well-being of *water bodies*, and
- (4) supporting industry-led guidelines, codes of practice and environmental accords where these would contribute to achieving the objectives of this RPS.

162. This method is intended to implement provisions that are part of the freshwater process, including the vision objectives, LF-FW P7, LF-FW-P7A and some wetland provisions, and non-freshwater process, for example natural character and outstanding water body provisions.

163. Some submitters sought amendments to clause (1) to more directly reference the requirements of the NPSFM National Objectives Framework, including in identifying attributes, target attribute states, timeframes for achieving target attribute states, limits, and action plans. The notified clause (1) refers to environmental outcomes, which are defined in the NPSFM and the PORPS as follows:

means, in relation to a value that applies to an FMU or part of an FMU, a desired outcome that a regional council identifies and then includes as an objective in its regional plan.

164. Environmental outcomes are expressed in Clause 3.9 of the NPSFM, whereby regional councils must identify values that apply to an FMU or part of an FMU (clauses (1) and (2)) and identify an environmental outcome for each of these values (clause 3). These are to be expressed as an objective(s) in the regional plan (clause (4)). Once the values and environmental outcomes are determined, the NPSFM requires attributes and their baseline states to be identified

(clause 3.10), target attribute states set (clause 3.11), limits set (clause 3.12) and action plans prepared (clause 3.15).

165. We agree with Ms Boyd that there is no need to specify these requirements, but that reference to 'values' in clause (1) alongside 'environment outcomes' is appropriate. This better reflects clause 3.9 of the NPSFM which then applies to the next steps in the NOF process.
166. The Panel is in agreement with Ms Boyd's recommended amendments and reasons for LF-VM-M3.
167. We also addressed LF-VM-M3 in the FPI report in our discussion on LF-FW-P7A. We considered that a consequential amendment to LF-VM-M3 to add clause (4A) is appropriate for consistency with recommended amendments to freshwater provisions LF-FW-P7A and LF-FW-M6. These amendments were in response to a request by Mr Hodgson for Horticulture NZ as part of the freshwater process.

1.6.1. Recommendation

168. We therefore recommend the following consequential change to LF-VM-M3.

LF-VM-M3 – Community involvement

Otago Regional Council must work with Kāi Tahu and communities to achieve the objectives and policies in this chapter, including by:

- (1) engaging with Kāi Tahu, communities and stakeholders to identify values and environmental outcomes for Otago's *FMUs* and rohe and the methods to achieve those outcomes,
- (2) encouraging community stewardship of *water* resources and programmes to address *freshwater* issues at a local catchment level, including through catchment groups,
- (3) supporting community initiatives, industry-led guidelines, codes of practice and environmental accords that contribute to maintaining or improving the health and well-being of *water bodies*, and
- ~~(4) supporting industry-led guidelines, codes of practice and environmental accords where these would contribute to achieving the objectives of this RPS.~~
- (4A) education, advocacy and co-ordination to encourage efficient use of freshwater, including water harvesting, use of storage and consideration of alternative water supply.

1.7. LF-FW-M6 – Regional plans

169. LF-FW-M6 was notified as follows:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

- (1) identify the compulsory and, if relevant, other values for each *Freshwater*

Management Unit,

- (2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,
- (3) identify *water bodies* that are *over-allocated* in terms of either their *water* quality or quantity,
- (4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that give effect to *Te Mana o te Wai* and provide for:
 - (a) the behaviours of the *water body* including a base flow or level that provides for variability,
 - (b) healthy and resilient mahika kai,
 - (c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*,
 - (d) the hydrological connection with other *water bodies*, estuaries and coastal margins,
 - (e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and
 - (f) community *drinking water* supplies, and
- (5) include limits on resource use that:
 - (a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available *water*,
 - (b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,
 - (c) control the *effects* of existing and potential future development on the ability of the *water body* to meet, or continue to meet, *environmental outcomes*,
 - (d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and
- (6) provide for the off-stream storage of surface *water* where storage will:
 - (a) support *Te Mana o te Wai*,
 - (b) give effect to the objectives and policies of the LF chapter of this RPS, and
 - (c) not prevent a surface *water body* from achieving identified *environmental outcomes* and remaining within any limits on resource use, and
- (7) identify and manage *natural wetlands* in accordance with LF–FW–P7, LF–FW–P8 and LF–FW–P9 while recognising that some activities in and around *natural wetlands* are managed under the NESF, and
- (8) manage the adverse *effects* of *stormwater* and *wastewater* in accordance with LF–FW–P15.

170. This method pertains to the regional plan which is the main regulatory document that will implement the land and water provisions in the PORPS. A number of amendments were requested through submissions and evidence, many of which are consequential to requested changes to objective and/or policy wording, to plug gaps in references to policies, or to improve consistency with the NPSFM. We have discussed many of these matters already in this section. The s.42A recommended changes in response include:

- (a) Deleting notified clauses (1), (2), (4) and (5) and replacing them with a new clause (1A) to “implement the required steps in the NOF process in accordance with the NPSFM”;
- (b) Amending clause (3) to better reflect the methods to address over-allocation;
- (c) Adding a new clause (5A) to implement the new recommended policy LF-FW-P7A regarding allocation and use of water;
- (d) Amending the policy references in clause (7) to delete LF-FW-P8 and include LF-FW-P10, and include reference to the NPSFM in this clause; and
- (e) Consequential amendments to clause (8) to add reference to LF-FW-P16 to reflect the splitting of LF-FW-P15.

171. Some submitters, for example McArthur Ridge and COWA, sought amendments that would result in allocation priority for certain water use activities based on water use efficiency or industry type. We consider that such considerations are better addressed through the NOF process with resulting provisions included in a regional plan. Such submissions are also dangerously close to seeking what uses would be considered as priority (2) of Te Mana o Te Wai. We have addressed this previously in this section in relation to LF-FW-P7A and in the Legal Issues section, where we determined that it is not appropriate for the PORPS to determine what activities are to be considered as priority (2) or (3). We therefore do not accept submissions for such determinations in LF-FW-M6.

1.7.1. Recommendation

172. We recommend the following amendments to LF-FW-M6:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* ~~no later than 31 December 2023~~ and, after it is made operative, maintain that *regional plan* to:

- (1A) implement the required steps in the NOF process in accordance with the NPSFM,
- ~~(1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,~~
- ~~(2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,~~
- ~~(3) identify *water bodies* that are *over-allocated* in terms of either their *water quality or quantity* and the methods and timeframes for phasing out that *over-*~~

allocation (including through environmental flows and levels and limits) within the timeframes required to achieve the relevant freshwater vision,

~~(4) include environmental flow and level regimes for water bodies (including groundwater) that give effect to Te Mana o te Wai and provide for:~~

- ~~(a) the behaviours of the water body including a base flow or level that provides for variability,~~
- ~~(b) healthy and resilient mahika kai,~~
- ~~(c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the water body,~~
- ~~(d) the hydrological connection with other water bodies, estuaries and coastal margins,~~
- ~~(e) the traditional and contemporary relationship of Kāi Tahu to the water body, and~~
- ~~(f) community drinking water supplies, and~~

~~(5A) provide for the allocation and use of fresh water in accordance with LF-FW-P7A, including by providing for off-stream water storage,~~

~~(5) include limits on resource use that:~~

- ~~(a) differentiate between types of uses, including drinking water, and social, cultural and economic uses, in order to provide long term certainty in relation to those uses of available water,~~
- ~~(b) for water bodies that have been identified as over-allocated, provide methods and timeframes for phasing out that over-allocation,~~
- ~~(c) control the effects of existing and potential future development on the ability of the water body to meet, or continue to meet, environmental outcomes,~~
- ~~(d) manage the adverse effects on water bodies that can arise from the use and development of land, and~~

~~(6) provide for the off-stream storage of surface water where storage will:~~

- ~~(a) support Te Mana o te Wai,~~
- ~~(b) give effect to the objectives and policies of the LF chapter of this RPS, and~~
- ~~(c) not prevent a surface water body from achieving identified environmental outcomes and remaining within any limits on resource use, and~~

~~(7) identify and manage natural wetlands in accordance with LF-FW-P7, LF-FW-P8 and LF-FW-P9 and LF-FW-P10 while recognising that some activities in and around natural wetlands are managed under the NESF and the NESPF, and~~

- (8) manage the adverse *effects* of *stormwater* and ~~wastewater discharges~~ containing animal effluent, sewage, or industrial and trade waste in accordance with LF-FW-P15 and LF-FW-P16, and-
- (9) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments.

1.8. LF-FW-M7 –District plans

173. LF-FW-M7 was notified as follows:

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026 to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
- (2) include provisions to avoid the adverse *effects* of activities on the significant and outstanding values of *outstanding water bodies*,
- (3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing the *subdivision*, use or development of *land*, and
- (4) reduce the adverse *effects* of *stormwater discharges* by managing the *subdivision*, use and development of *land* to:
 - (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,
 - (b) minimise adverse *effects* on *fresh water* and *coastal water* as the ultimate receiving environments, and the capacity of the *stormwater* network,
 - (c) encourage on-site storage of rainfall to detain peak *stormwater* flows, and
 - (d) promote the use of permeable surfaces.

174. Similar to LF-FW-M6 for regional plans, LF-FW-M7 is the method for district councils to implement the policies in the LF-FW section through their district plans. Similar to LF-FW-M6, some of the issues raised by submitters are consequential to submissions on other provisions in this section and have been addressed previously. For example, submissions requesting amendments to clauses (1) and (2) have been addressed above in our discussion of the outstanding waterbody provisions.

175. The Panel agrees with Ms Boyd’s proposed amendments and her reasons. While some of the requested amendments have merit, we agree that they are too detailed for an RPS and should be left for the district plan to address. The key recommended amendment to LF-FW-M7 is the addition of a new clause (2A) that addresses the natural character of the margins and surface of lakes and rivers. We consider that this addresses a gap in this method and reflects the functions of territorial authorities. It also implements LF-FW-P13 which is part of the non-freshwater process.

1.9. LF-FW-M8 –Action plans

176. LF-FW-M8 was notified as follows:

LF-FW-M8 – Action plans

Otago Regional Council:

- (1) must prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2B of the NPSFM,
- (2) may prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2A of the NPSFM, and
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

177. This method reflects the NPSFM requirement to prepare action plans as part of the NOF process, specifically clause 3.15. Action plans can be appended to a regional plan or published separately, and so are not necessarily covered by LF-FW-M6 – Regional plans.

178. LF-FW-M8 largely reflects the requirements of the NPSFM and, for that reason, DairyNZ sought that it be deleted. We can understand the reasons for this request, however action plans are a key requirement under the NPSFM in some circumstances and sit alongside regional plans as the ORC's means to achieve target attribute states. The requirements of the NPSFM are reflected through other provisions in this section and we consider it appropriate to include a method to reflect the requirement for action plans.

179. This method sits alongside LF-VM-M3 which provides for community involvement and reflects the requirements of clause 3.7(1) to engage with communities and tangata whenua.

180. The Panel considers that this method should be retained, with the addition of clause (2A) sought by The Fuel Companies to better reflect clause 3.15 of the NPSFM, as recommended by the Reply Report.

1.10. New method –Identifying and managing species interactions between trout and salmon and indigenous species

181. Fish and Game sought the addition of a new method to manage the interactions between trout and salmon and indigenous species through both the freshwater and non-freshwater processes. Such a method would give effect to LF-FW-P7 as well as Policies 9 and 10 of the NPSFM.

182. The legal submissions of Ms Baker-Galloway, Fish and Game's counsel, addressed this method through both processes however expressed a preference for the provision to be included as a freshwater provision. Ms Baker-Galloway submitted that the new method would implement LF-FW-O8 and LF-FW-P7 which are freshwater provisions, and that the full suite of trout and salmon habitat provisions should be considered together.

183. Ms Boyd considered the proposed method in her non-freshwater s.42A report and reply report. She recommended that such a method be included in the PORPS and recommended

wording based on that proposed by Mr Paragreen from Fish and Game. Ms Boyd considered the requested method again in her freshwater s.42A report, where she stated:³¹

Fish and Game made a similar request in its submission on the non-FPI part of the pORPS. Legal advice confirmed that was the appropriate process for including the new method, therefore I have recommended the method sought be included in the non-FPI part of the pORPS.

184. We respectfully disagree with the ORC's advice and consider that the appropriate place for such a method to be considered is through the freshwater process. We have found the split between freshwater and non-freshwater provisions particularly difficult to decipher where related provisions are split between the two processes. In our view, the proposed method would qualify for inclusion as a freshwater provision and we consider that there are distinct advantages of it being in the same process as its associated objectives and policy, in particular if these provisions should be appealed.

185. We support the wording proposed and acknowledge the collaborative way in which it was developed with input from Fish and Game, ORC, DoC and Kāi Tahu.

1.10.1. Recommendation

186. We recommend that a new LF-FW-M8A be included as a freshwater provision:

LF-FW-M8A – Identifying and managing species interactions between trout and salmon and indigenous species

(1) When making decisions that might affect the interactions between trout and salmon and indigenous species, local authorities will have particular regard to the recommendations of the Department of Conservation, the Fish and Game Council for the relevant area, Kāi Tahu, and the matters set out in LF-FW-M8A(2)(a) to (c), and

(2) Otago Regional Council will work with the Department of Conservation, the relevant Fish and Game Council and Kāi Tahu to:

(a) describe the habitats required to provide for the protection of indigenous species for the purposes of (2)(a), (b), and (c),

(b) identify areas where the protection of the habitat of trout and salmon, including fish passage, will be consistent with the protection of the habitat of indigenous species and areas where it will not be consistent,

(c) for areas identified in (b), develop provisions for any relevant action plans(s) prepared under the NPSFM, including for fish passage, that will at minimum:

(i) determine information needs to manage the species,

(ii) set short, medium and long-term objectives for the species involved,

(iii) identify appropriate management actions that will achieve the objectives determined in (ii), including measures to manage the

³¹ Freshwater s.42A report, para 1654.

adverse effects of trout and salmon on indigenous species where appropriate, and

(iv) consider the use of a range of tools, including those in the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, as appropriate.

1.11. LF-FW-M9 – Monitoring

187. LF-FW-M9 attracted three submissions, with QLDC in support and DCC and Kāi Tahu seeking amendments. Ms Boyd discussed these requests at paragraphs 1315 to 1316 of her s.42A report and recommended amendments to address the submitters' concerns. We agree with Ms Boyd's recommendations and consider that they address the submitters' concerns.

1.12. LF-FW-M10 – Other methods

188. QLDC and Kāi Tahu ki Otago submitted in support of LF-FW-M10, while the Director General of Conservation sought amendments to recognise that the methods in the ECO chapter also apply. As notified, the LF chapter comprised four sections. This has been reduced to three, LF-WAI, LF-FW and LF-LS, and LF-FW-M10 aims to ensure that the three sections are treated as a coherent whole. We agree with Ms Boyd that referring to the ECO chapter methods is not consistent with the intent of this method. There are a number of methods in other chapters that would assist with achieving the policies in the LF chapter and which would need to be considered if we were to refer to the ECO chapter.

189. We support Ms Boyd's recommendation in the 10 October 2023 reply version of the PORPS to delete the reference to LF-VM, the provisions of which we are recommending be incorporated into the LF-FW section.

1.13. LF-VM-E2 - Explanation and LF-FW-E3 - Explanation

190. We recommended that the LF-VM and LF-FW sections be combined, as recommended by Ms Boyd. As a consequence, LF-VM-E2 and LF-FW-E3 were recommended to be combined in the 10 October 2023 reply version of the PORPS with the combined version being numbered LF-VM-E2. We agree with this recommendation.

191. OWRUG sought consequential amendments to LF-VM-E2 to reflect relief sought elsewhere that we have not accepted.³² Similarly, Ngāi Tahu ki Murihiku sought consequential amendments to LF-FW-E3 to reflect relief sought to LF-FW-M5. We did not accept the relief sought elsewhere by either of these submitters, therefore we do not accept the relief they seek for this explanation.

192. Ms Boyd recommended accepting what we consider to be reasonably minor amendments requested by Kāi Tahu ki Otago. We agree that these better reflect the policy direction and aid in consistency with the remainder of the PORPS.

193. Some of the paragraphs in this explanation are shaded blue as freshwater provisions and some are non-freshwater. We consider this to be a good example of the nonsensical way that the freshwater and non-freshwater provisions are split. The amendments that we are recommending are all in the third paragraph of the 10 October 2023 version of the PORPS, which is a freshwater paragraph. However for ease of digestion, we are duplicating the

³² For example, *Uncoded submission point – p.54 of submission by OWRUG*

discussion and recommendation for LF-VM-E2 (that is, the combined LF-VM-E2 and LF-FW-E3) in both the freshwater and non-freshwater sections of our recommendation report. Those paragraphs that are part of the freshwater planning instrument are shaded blue.

1.13.1. Recommendation

194. We recommend that LF-FW-E3 is incorporated into LF-VM-E2 and that the combined LF-VM-E2 is amended as follows:

LF-VM-E2 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM. [Note to reader: originally LF-FW-E3 para 1]

Implementing the NPSFM requires Council to identify *Freshwater Management Units (FMUs)* that include all *freshwater bodies* within the region. Policy LF-VM-P5 identifies Otago's five *FMUs*: Clutha Mata-au *FMU*, *Tāieri Taiari FMU*, North Otago *FMU*, Dunedin & Coast *FMU* and Catlins *FMU*. The Clutha Mata-au *FMU* is divided into five sub-*FMUs* known as 'rohe'. Policy LF-VM-P6 sets out the relationship between *FMUs* and rohe which, broadly, requires rohe provisions to be no less stringent than the parent *FMU* provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the *FMU* to achieve its stated outcomes.

The outcomes sought for *natural wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *natural wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of *takata mana whenua* and the community that *fresh and coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where *natural wetlands* have been *degraded* or lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of *wetlands* in Otago and the indigenous biodiversity and hydrological values of wetland systems. [Note to reader: originally LF-FW-E3 para 2]

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse effects. [Note to reader: originally LF-FW-E3 para 3]

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the

NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character. [Note to reader: originally LF-FW-E3 para 4]

The impact of *discharges* of *stormwater* and *wastewater* on *freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water* quality issues in some *water bodies*. The policies set out a range of actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse *effects* on receiving environments.

1.14. LF-VM-PR2 – Principal reasons and LF-FW-PR3 – Principal reasons

195. For the same reasons as LF-VM-E2 and LF-FW-E3, Ms Boyd recommended that LF-FW-PR3 be incorporated into LF-VM-PR2. We agree with amalgamation of these principal reasons and also with the amendments and reasons recommended by Ms Boyd. Some of these amendments are in response to direct submissions while others are consequential to amendments to other provisions in the LF chapter.
196. Similar to the explanation discussed previously, two of the paragraphs in LF-VM-PR2 are shaded blue as freshwater provisions and one is non-freshwater, LF-FW-PR3 is solely freshwater and the resulting combined principal reason comprises both freshwater and non-freshwater provisions. Again, for ease of digestion, we are duplicating the discussion and recommendation for LF-VM-PR2 (that is, the combined LF-VM-PR2 and LF-FW-PR3) in both the freshwater and non-freshwater sections of our recommendation report. Those paragraphs that are part of the freshwater planning instrument are shaded blue.

1.14.1. Recommendation

197. We recommend that LF-FW-PR3 is incorporated into LF-VM-PR2 and that the combined LF-VM-PR2 is amended as follows:

LF-VM-PR2 – Principal reasons

To support the implementation of the NPSFM, the Council is required to develop long-term visions for *fresh water* across the Otago region. *Fresh water* visions for each *FMU* and *rohe* have been developed through engagement with Kāi Tahu and communities. They set out the long-term goals for the *water bodies* (including *groundwater*) and *freshwater* ecosystems in the region that reflect the history of, and environmental pressures on, the *FMU* or *rohe*. They also establish ambitious but reasonable timeframes for achieving these goals. The Council must assess whether each *FMU* or *rohe* can provide for its long-term vision, or whether improvement to the health and well-being of *water bodies* (including *groundwater*) and *freshwater* ecosystems is required to achieve the visions. The result of that assessment will then inform the development of *regional plan* provisions in the *FMU*, including *environmental outcomes*, *attribute states*, *target attribute states* and *limits (in relation to freshwater)*.

Otago's *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. They support people and communities to provide for their social, economic, and cultural well-being. A growing population combined with increased *land* use intensification has heightened demand for *water*, and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago's historical mining privileges, coupled with contemporary urban and rural land uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects. [Note to reader: originally LF-FW-PR3 para 1]

This section of the LF chapter ~~contains more specific direction on managing fresh water to give effect to Te Mana o te Wai and contributes to achieving the long term freshwater visions for each FMU and rohe.~~ It also reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council's *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes*, *attribute states*, *target attribute states* and *limits*. [Note to reader: originally LF-FW-PR3 para 2]

1.15. Anticipated environmental results: LF-VM-AER3

198. LF-VM-AER3 is the only anticipated environmental result that is not part of the freshwater planning instrument. This seems highly unusual and counter-intuitive to us given that the freshwater visions to which it refers are all part of the freshwater planning instrument. Thankfully we do not wish to make any consequential amendments to LF-VM-AER3 resulting from changes to the freshwater vision objectives – concerningly, we would have been unable to do so had this been the case.
199. We support the recommendation and reasoning provided by Ms Boyd at paragraph 696 of her s.42A report to amend LF-VM-AER3 in response to a submission by Ngāi Tahu ki Murihiku.
200. The remaining anticipated environmental result provisions, LF-FW-AER4 to LF-FW-AER11, are part of the freshwater planning instrument and are discussed in the freshwater planning instrument section of our report.

1.16. Anticipated environmental results: LF-FW-AER4 to LF-FW-AER11

201. LF-FW-AER4 to LF-FW-AER11 are all part of the freshwater planning instrument, with LF-VM-AER3 being the sole non-freshwater anticipated environmental result. LF-FW-AER4 to LF-FW-AER11 were notified as follows:

LF-FW-AER4 *Fresh water* is allocated within limits that contribute to achieving specified *environmental outcomes* for *water bodies* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF-VM section of this chapter.

LF-FW-AER5 *Specified rivers and lakes* are suitable for primary contact within the timeframes set out in LF-FW-P7.

- LF-FW-AER6** *Degraded water* quality is improved so that it meets specified *environmental outcomes* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF–VM section of this chapter.
- LF-FW-AER7** *Water* in Otago’s aquifers is suitable for human consumption, unless that *water* is naturally unsuitable for consumption.
- LF-FW-AER8** Where *water* is not *degraded*, there is no reduction in *water* quality.
- LF-FW-AER9** The frequency of *wastewater* overflows is reduced.
- LF-FW-AER10** The quality of *stormwater discharges* from existing *urban areas* is improved.
- LF-FW-AER11** There is no reduction in the extent or quality of Otago’s *natural wetlands*.

202. There were few submissions on these AERs and many of these were to ensure consistency with other requested relief. We agree with the amendments recommended by Ms Boyd and her reasoning in paragraphs 1688 to 1696 of her freshwater s.42A report, including the addition of a new AER, labelled LF-FW-AER11A in the 10 October 2023 version of the PORPS.

203. The one exception to this is in relation to LF-FW-AER11 where, in response to Silver Fern Farms’ submission, Ms Boyd has recommended the following amendment:

- LF-FW-AER11** There is ~~no reduction~~ an improvement in the extent or quality condition of Otago’s *natural wetlands*.

204. With the replacement of ‘no reduction’ with ‘an improvement’, the ‘or’ should change to ‘and’. It was appropriate for there to be no reduction ‘in the extent or condition’, but to be consistent with the objectives and policies in the LF chapter, improvement should be sought in both.

1.16.1. Recommendation

205. We recommend the following amendments and the addition of a new AER, as follows:

- LF-FW-AER4** *Fresh water* is allocated within limits that contribute to achieving specified *environmental outcomes* for *water bodies* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF-VM section of this chapter.
- LF-FW-AER5** *Specified rivers* and *lakes* are suitable for primary contact within the timeframes set out in LF-FW-P7.
- LF-FW-AER6** *Degraded water* quality is improved so that it meets specified *environmental outcomes* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the ~~LF–VM~~ objectives in the LF-FW section of this chapter.
- LF-FW-AER7** *Water* in Otago’s aquifers is suitable for human consumption, unless that *water* is naturally unsuitable for consumption.
- LF-FW-AER8** Where *water* is not *degraded*, there is no reduction in *water* quality.

- LF-FW-AER9** Direct *discharges* of *wastewater* to *water* are phased out to the greatest extent practicable and the ~~The~~ frequency of *wastewater* overflows is reduced.
- LF-FW-AER10** The quality of *stormwater discharges* from existing *urban areas* is improved.
- LF-FW-AER11** There is ~~no reduction~~ an improvement in the extent and ~~or~~ quality condition of Otago's ~~natural~~ *wetlands*.
- LF-FW-AER11A** The economic, social, and cultural well-being of communities is sustained.

2. LF-LS – Land and soils

2.1. Introduction

206. This section of the LF – Land and freshwater chapter is focused on the management of land and soils, including for soil quality and conservation purposes as well as in relation to the management of fresh water. The Otago region contains a land area of 31,186 square kilometres (Stats NZ, 2022). The region has a diverse and varied range of land types and landscapes, from mountains and drylands in the western and central parts of the region to coastline and rainforests in the east.

207. This section of the report addresses the following provisions:

LF-LS-O11 – Land and soil

LF-LS-O12 – Use of land

LF-LS-P16 – Integrated management

LF-LS-P17 – Soil values

LF-LS-P18 – Soil erosion

LF-LS-P19 – Highly productive land

LF-LS-P20 – Land use change

LF-LS-P21 – Land use and freshwater

LF-LS-P22 – Public access

LF-LS-M11 – Regional plans

LF-LS-M12 – District plans

LF-LS-M13 – Management of beds and riparian margins

LF-LS-AER14 – Other methods

LF-LS-E4 – Explanation

LF-LS-PR4 – Principal reasons

LF-LS-AER12

LF-LS-AER13

LF-LS-AER14

2.2. Objectives: LF-LS-O11 – Land and soil and LF-LS-O12 – Use of land

2.2.1. Discussion

208. As notified, the Land and Soil chapter had two objectives as follows:

LF-LS-O11 – Land and soil

The life-supporting capacity of Otago's soil resources is safeguarded and the availability and productive capacity of highly productive land for *primary production* is maintained now and for future generations.

LF-LS-O12 – Use of land

The use of *land* in Otago maintains soil quality and contributes to achieving *environmental outcomes for fresh water*.

209. The submissions on these provisions addressed a range of issues including how productivity is provided for, including highly productive land; provision for supporting activities; the links to achieving freshwater outcomes; the balance with urban development; and the biophysical capacity of soils. New objectives in relation to biodiversity were also sought.
210. A number of these issues were addressed by the restructuring of the UFD chapter. This led to amendments to UFD-O4 and the recommendation that it is included in the LS chapter, which we accepted in our decision on the UFD chapter. The focus of UFD-O4 is on development (including urban) that occurs in the rural area, and it reads as follows:

UFD-O4 – Development in rural areas

Development in Otago's *rural areas* occurs in a way that:

- (4) provides for the ongoing use of *rural areas* for *primary production* and *rural industry*, and
- (4A) does not compromise the *productive capacity* and long-term viability of *primary production* and rural communities.

211. The 'highly productive land' issue was complicated by the fact the pORPS was notified in 2021, well before the NPSHPL was gazetted in September 2022. Several of the reporting officers, in particular Ms White and Ms Boyd, prepared supplementary evidence on the content of the NPSHPL and its implications for the pORPS. A number of amendments were recommended as a result. This matter is dealt with later in this decision.
212. The objectives above went through a number of iterations through the hearings process, including a standalone objective dealing specifically with highly productive land. A final consideration of these provisions was undertaken in Ms Boyd's 'Introduction and General Themes' reply report, dated 23 May 2023.
213. In that report, Ms Boyd advised that some submitters still sought additions to the objectives. She identified these as follows:
- a. *The availability of rural land for primary production (Fulton Hogan),*
 - b. *Recognition of the role of resource use and development in the region and its contribution to enabling people and communities to provide for their social, economic, and cultural well-being (Oceana Gold),*
 - c. *Land environments support healthy habitats for indigenous species and ecosystems (DOC), and*
 - d. *Manage land use activities to recognise and protect terrestrial, freshwater, and coastal values which may be affected by these activities (DOC).*

214. In addressing these matters, Ms Boyd took the approach of re-drafting the “objectives to address these matters in a more integrated way ...preferable to simply inserting a range of additional objectives”. In her opinion, “*listing a series of separate objectives does not assist with attempting to address ... tension and runs the risk of ‘trading off’ objectives against one another.*” In addition to recommending the inclusion of the amended UFD-O4 (which we have previously accepted), she recommended the two existing objectives be redrafted as follows:

LF-LS-O11 – Land and soil

~~The life-supporting capacity of Otago’s soil resources is safeguarded and the availability and productive capacity of highly productive land for *primary production* is maintained now and for future generations.~~

Otago’s land and soil resources support healthy habitats for indigenous species and ecosystems.

LF-LS-O12 – Use, development, and protection of land

~~The use of *land* in Otago maintains soil quality and contributes to achieving *environmental outcomes for fresh water.*~~

The use, development, and protection of *land* and soil:

(1) safeguards the life-supporting capacity of soil,

(2) contributes to achieving *environmental outcomes for fresh water*, and

(3) recognises the role of these resources in providing for the social, economic, and cultural well-being of Otago’s people and communities.

215. Ms Boyd considered that Fulton Hogan’s request was provided for by UFD-O4(1) while the concerns of Oceana Gold and other submitters with an interest in mineral and aggregate extraction are addressed in the amended LF-LS-O12 and its reference to the importance of resource use to well-being. While she initially considered DOC’s requested objectives to be inappropriate in this chapter, given these matters are specifically addressed in the ECO chapter, Ms Boyd specifically provided for them within the amended LF-LS-O11. She also recommended deleting reference to ‘highly productive land’ in LF-LS-O11 as she considers it to be adequately addressed in her recommended LF-LS-P19.
216. While we do not necessarily agree with Ms Boyd that ‘separate’ objectives will run the risk of creating scenarios where objectives are traded off against one another, the drafting style of this RPS is particularly broad and it is difficult to now adopt a different approach of including objectives relating to specific activities. In the Panel’s view, the changes proposed to the issues by the inclusion of SRMR-I10A and now these provisions, corrects the balance of the pORPS by providing recognition that resource use is essential to the wellbeing of people and communities, where previously the provisions tended to have a more protectionism focus.
217. Hence, we are comfortable with amended LF-LS-O12. However, as with Ms Boyd in her s42A report, we do not agree that the new LF-LS-O11 is appropriate in this chapter. In managing the use of land and soil, regard will need to be given to the provisions of the ECO chapter. Hence, the new LF-LS-O11 provision is not required in this chapter.
218. As we will discuss in section 2.4 below, nor we are comfortable with the deletion of that part of LF-LS-O11 which deals with highly productive land.

2.2.2. Recommendation

219. Our recommendation is therefore to delete the notified LF-LS-O12 and the reference to life supporting capacity of soil in LF-LS-O11, and replace both of those provisions with the following objective:

LF-LS-O12 – Use, development, and protection of land

~~The use of *land* in Otago maintains soil quality and contributes to achieving *environmental outcomes for fresh water*.~~

The use, development, and protection of *land* and soil:

(1) safeguards the life-supporting capacity of soil,

(2) contributes to achieving *environmental outcomes for fresh water*, and

(3) recognises the role of these resources in providing for the social, economic, and cultural well-being of Otago’s people and communities.

2.3. LF-LS-P18 – Soil erosion

2.3.1. Introduction

220. As notified LF-LS-P18 reads:

LF-LS-P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (1) implementing effective management practices to retain topsoil in situ and minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure,
- (2) maintaining vegetative cover on erosion-prone *land*, and
- (3) promoting activities that enhance soil retention.

221. While no submitters opposed LF-LS-P18 in its entirety, there were a range of amendments requested as follows:

- changes to chapeau of the policy to include an element of ‘practicability’ (Oceana Gold, Contact, Ravensdown).
- clause (1): removal of the term “effective” (DairyNZ); addition of reference to “appropriate and effective management practices” (Ravensdown); and clarity around “scale” (Fed Farmers).
- clause (2): include reference to re-establishing, as well as maintaining, vegetative cover (Silver Fern Farms), and add reference to enhancing (QLDC) to
- clause (3): reference to soil structure alongside soil retention (Wise Response).

222. Ms Boyd did not support the introduction of a practicability test on the basis that the notified wording provides flexibility for resource users to adopt practices based on the activity being undertaken. She was also of the opinion that the use of “appropriate” as well as “effective”

would introduce uncertainty into the policy. Ms Boyd did agree that maintaining vegetative cover as required by (2) will not always be possible or practicable. Her solution was to reverse the order of clauses (1) and (2) so that maintaining vegetative cover is the first step (current clause (2)), and where that is not possible, effective management practices (current clause (1)) are required to be implemented.

223. That initial amendment still required topsoil to be retained in-situ, which Ms. Hunter for both Contact and Oceana Gold took issue with at the hearing, highlighting the fact that it this is not always possible. She also considers the changes made did not make grammatical sense and suggested an amendment to remove the reference to 'retain topsoil in situ'.

224. We note that in the final recommended version of this policy, 'in situ' has been removed by Ms Boyd as a 'minor' change in response to Ms Hunter's evidence. However, we agree with Ms. Hunter that the rest of that phrase should also be removed. This provision is about minimising soil erosion and loss of soil to water, not retaining topsoil per se. Not all activities will retain topsoil and it is not always possible to completely reinstate topsoil once an activity is finished (for example, Oceana Gold's mining operation). With this phrase removed, there is no need to include Ms Boyd's proposed change.

225. We also agree with DairyNZ that the word 'effective' is unnecessary in this provision. The management practice is required to minimise the potential soil for loss to water. It is Implicit that this be 'effective'.

226. We do agree with Ms Boyd that the amendment sought by QLDC to include reference to enhancement is not needed as clause (2) does not prevent this from occurring. We would also note that 'enhancement' may be promoted under clause (3). We also agree with Ms Boyd's response to the Wise Response's submission. Improving soil structure is also an activity that can be promoted under clause (3) to enhance soil retention.

2.3.2. Recommendation

227. We recommend that LF-LS-P18 be amended as follows:

LF-LS-P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (2) maintaining vegetative cover on erosion-prone *land*, to the extent practicable,
~~and~~
- (1) implementing ~~effective~~ management practices to ~~retain topsoil in situ~~ and minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure, and
- (3) promoting activities that enhance soil retention.

2.4. Highly Productive Land

2.4.1. Discussion

228. As notified, highly productive land was referenced in LF-LS-O11 (as discussed above) and LF-LS-P19 which, as notified, reads as follows:

LF–LS–P19 – Highly productive *land*

Maintain the availability and productive capacity of highly productive *land* by:

- (1) identifying highly productive *land* based on the following criteria:
 - (a) the capability and versatility of the *land* to support primary production based on the Land Use Capability classification system,
 - (b) the suitability of the climate for primary production, particularly crop production, and
 - (c) the size and cohesiveness of the area of *land* for use for primary production, and
- (2) prioritising the use of highly productive *land* for primary production ahead of other *land* uses, and
- (3) managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD–P4, UFD–P7 and UFD–P8.

229. As noted in the previous discussion, the NPSHPL came into force after the pORPS was notified. Section 62(3) of the RMA requires that a regional policy statement must give effect to a national policy statement. However, as Mr Logan for the ORC advised, the ability to make changes to the RPS is constrained by the submissions received as the NPSHPL has been introduced ‘mid-process’.

230. Ms Boyd carefully reviewed the submissions received and identified where the NPSHPL can be given effect to, within the scope of those submissions. She advised that:

“several submitters acknowledged the proposed NPSHPL in their submissions and sought that the provisions of the pORPS better align with the (then draft) NPSHPL. The New Zealand Cherry Corp sought any further relief necessary to give effect to the NPSHPL when it is gazetted while Beef and Lamb + DINZ sought that the LF Chapter be better aligned with the NPSHPL when it is made operative.”

231. While the Panel considers this particular NPS to be a very blunt instrument, which creates a number of issues with the inclusion of LUC 3 land (particularly in the Clutha District context, where most of their flat land is LUC 3), along with its lack of flexibility and recognition of reality, we consider we are obligated to give effect to it as far as possible. The new government has signalled that there will be changes to the national planning framework, and we anticipate any review that precedes those change may include this NPS. Hence, the issues that concern us may well be addressed in due course but not in time for this process.

232. To align these provisions as closely as possible with the NPS, Ms Boyd has proposed a range of amendments, where submissions allow. Some of those amendments were supported by submitters and some were not. Ms Boyd advised that the key matters still in contention are as follows:

- a. *whether the ‘interim’ identification of highly productive land in the NPSHPL will protect land in Otago valued for horticulture and viticulture and, if not, whether (and how) the pORPS should ‘fill the gap’.*
- b. *Whether highly productive land is to be maintained or protected,*

c. *Use of the term 'productive capacity'.*

233. We first discuss the matter of 'maintain' or 'protect', which is also relevant to LF-LS-O11. Horticulture NZ sought that "the outcome related to the protection of [highly productive land] is focused on protecting the productive capacity of highly productive land from inappropriate subdivision, use and development" and Ms Wharfe provided some amendments to achieve that. In her initial s42A report, Ms Boyd agreed that it would be preferable to adopt the same wording as the NPSHPL but did not consider there is scope to make this amendment. However, in her final reply she accepted there was scope and recommended the following change to the title and chapeau of the policy:

LF-LS-P19 – Rural land and highly productive land

~~Maintain~~ Protect the availability of rural land and the *productive capacity of highly productive land* by:

234. In her supplementary evidence on the NPSHPL, she recommended the standalone objective "the availability and productive capacity of highly productive land for land-based primary production is maintained now and for future generations", which is the second part of the original LF-LS-O11. Her final reply amendments recommended deleting this phrase altogether.

235. The changes recommended, however, do not reflect what HortNZ requested. Ms Wharfe's use of 'protection' was in relation to highly productive land (not rural land in general) in the previously recommended LF-LS-O11A and she did not request a change to the chapeau of LF-LS-P19. Furthermore, the change to that chapeau proposed by Ms Boyd significantly widens the application of the policy because it captures all rural land for protection.

236. We believe Ms Boyd's recommended LF-LS-O11A, with the changes proposed by Ms Wharfe, more appropriately reflects the NPS and we have adopted them accordingly. We note this approach to splitting the original LF-LS-O11 was also requested by Fulton Hogan. In terms of Fulton Hogan's other concerns, the request to maintain the availability of rural land for primary production is addressed by UFD-O4 while the reference to the NPS-HPL in LF-LS-P19 (2) (and UFD-P7(3)) acknowledges the consent pathway for mining activities.

237. With this change to LF-LS-O11, no change is required to the chapeau of LF-LS-P19.

238. In relation to the interim identification criteria, the issue related to the view of several submitters that some land in Otago valued for horticulture and viticulture will not be considered 'highly productive land' in the interim period because it is not located on LUC 1, 2, or 3. Ms Boyd agreed that this is problematic and was of the opinion that productive land outside LUC classes 1, 2, and 3 should be protected until such time as the mapping process is undertaken. Ms Boyd stated "that many of these areas are under pressure from urban development, which makes their protection even more important" although no evidence was produced to back up this statement.

239. However, Horticulture NZ raised concern with the amendments recommended in Ms Boyd's supplementary evidence. They felt that land valued for horticulture and viticulture that would have been identified as highly productive land using notified LF-LS-P19, would not be identified as such under the recommended amendments.

240. Ms Boyd took this onboard in her reply but was reluctant to support either of Ms Wharfe's proposed amendments. Being mindful of Mr Logan's legal submissions, she did not attempt to redefine criteria or definitions from the NPSHPL, but rather recommended a simpler

amendment to LF-LS-P19 to protect additional areas of land that are valuable for horticulture and viticulture as follows:

(2A) until clause 3.5(1) of the NPSHPL has been implemented, protecting land that is suitable for horticulture or viticulture from uses that are not *land-based primary production or rural industry*.³⁵

241. We were presented with a significant volume of evidence throughout the hearings from Otago's agriculture, horticulture, and viticulture industry about the importance of the region as a primary producer. We have accepted that and have made changes to the pORPS to provide more recognition of what a significant contributor this sector is to not only the local economy, but also the national economy as the country's most significant export.
242. However, as with our concern over the inclusion of LUC 3 land in the NPS, we are now being asked to widen a protectionist/prioritisation approach further, through the proposed amendment. Mr Ford for HortNZ went so far as suggesting LUC 4 and 5 land should be included in the definition of HPL, while Mr Dicey for OWRUG stated that grapevines flourish on LUC 1 to LUC 6 land. Ms Wharfe's first suggested amendments would have had a region wide effect although her supplementary evidence restricted its application to central Otago (a restriction that would be difficult to define).
243. Our concern is that while submitters spoke broadly about urban and lifestyle encroachment on this land, very limited evidence was provided as to any reality about such a threat, where it was occurring, and what form it was taking. Nor was any cost benefit analysis provided on the effect of widening this restriction as requested, in terms of the impact it may have on other land uses (for example, the activities of Matakanui Gold) that look to operate, or can only operate, in rural areas. Furthermore, the issue does not appear to be a regional issue, being confined to certain parts of central Otago (in the geographic sense as opposed to local authority boundaries) so it does not seem to meet the threshold test of being a significant resource management issue for the region.
244. We do not necessarily agree with Ms Wharfe and Ms Boyd that it can be said, with any certainty, that the notified provision would provide protection for LUC 4 and 5 land, as that has not historically been seen as highly productive land (and we observe in passing the same can be said about LUC 3 land). Hence, the Panel does not think it appropriate to extend interim RPS protection this far, when the implications of it are unclear to us. However, there is nothing stopping the relevant District Council from initiating its own process to address the issue raised by HortNZ and the viticulture industry, if they think it is significant in the context of their district.
245. We do, however, accept Ms Boyd's recommendations in relation Ms Wharfe's concerns about the use of the term 'productive capacity' in the pORPS and where it should be deleted.
246. We also agree with the consequential amendments to the methods proposed by Ms Boyd in her supplementary evidence on the NPSHPL which require the identification and mapping of highly productive land.

2.4.2. Recommendation

247. As a consequence of the foregoing, the Panel recommend the following amendments:

1. In SRMR-I10 – Economic, replacing 'productive capacity of agricultural land' with 'the ability of land to support primary production'.

2. Amend LF-LS-O11 to read as follows:

LF-LS-O11 – Land and soil

~~The life-supporting capacity of Otago’s soil resources is safeguarded and~~ The availability and productive capacity of highly productive land for land based *primary production* is ~~maintained~~ protected now and for future generations.

3. Amend LF-LS-P19 as follows:

LF-LS-P19 – Highly productive land

Maintain the availability and the *productive capacity of highly productive land* by:

- (1) identifying *highly productive land* based on the following criteria:
- ~~(a) the capability and versatility of the land to support primary production based on the Land Use Capability classification system,~~
 - ~~(b) the suitability of the climate for primary production, particularly crop production, and~~
 - ~~(c) the size and cohesiveness of the area of land for use for primary production, and~~
 - (d) land must be identified as *highly productive land* if:
 - (i) it is in a general rural zone or rural production zone, and
 - (ii) it is predominantly LUC 1, 2, or 3 land, and
 - (iii) it forms a large and geographically cohesive area,
 - (e) land may be identified as *highly productive land* if:
 - (i) it is in a general rural zone or rural production zone, and
 - (ii) it is not LUC 1, 2, or 3 land, and
 - (iii) it is or has the potential to be highly productive for *land-based primary production* in Otago, having regard to the soil type, the physical characteristics of the land and soil, and the climate.
 - (f) land must not be identified as *highly productive land* if it was *identified for future urban development* on or before 17 October 2022, and
- (2) prioritising the use of *highly productive land* for *land-based primary production* in accordance with the NPSHPL ahead of other *land* uses, and
- (3) managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD P4, UFD P7 and UFD P8.

4. Add a new method as follows:

LF-LS-M11A – Identification of *highly productive land*

- (1) In collaboration with *territorial authorities* and in consultation with *mana whenua*, Otago Regional Council must identify *highly productive land* in Otago in accordance with LF-LS-P19(1), and
- (2) Otago Regional Council must include maps of the *highly productive land*

identified in accordance with (1) in the Regional Policy Statement by the date specified in the National Policy Statement for Highly Productive Land.

5. Add the following new clause to LF-LS-M12:

(4) maintain the availability and productive capacity of highly productive land identified and mapped under LF-LS-M11A in accordance with LF-LS-P19, and

2.5. LF-LS-P16 – Integrated management

2.5.1. Discussion

248. As notified, LF-LS-P16 reads:

LF-LS-P16 – Integrated management

Recognise that maintaining soil quality requires the integrated management of *land* and *freshwater* resources including the interconnections between soil health, vegetative cover and *water* quality and quantity.

249. While most submitters supported this policy, Ravensdown opposes the provision in its entirety, because of duplication. Kāi Tahu ki Otago submitted that the policy direction should be stronger. Ms Boyd originally rejected the submissions of both Ravensdown and Kāi Tahu, but after further discussion with them, she recommended changes to ensure there is no duplication, and that maintaining soil quality requires managing land and freshwater was specifically highlighted as suggested by Kāi Tahu.

250. We agree with her changes and recommend them accordingly.

2.5.2. Recommendation

251. That LF-LS-P16 be amended as follows:

~~LF-LS-P16 – Integrated management~~ Maintaining soil quality

~~Recognise that maintaining~~ Maintain soil quality ~~requires the integrated management of~~ by managing both *land* and *freshwater* resources, including the interconnections between soil health, vegetative cover and *water* quality and quantity.

2.6. LF-LS-P17 – Soil values

2.6.1. Introduction

252. As notified, LF-LS-P17 reads:

LF-LS-P17 – Soil values

Maintain the mauri, health and productive potential of soils by managing the use and development of *land* in a way that is suited to the natural soil characteristics and that sustains healthy:

- (1) soil biological activity and *biodiversity*,
- (2) soil structure, and
- (3) soil fertility.

253. No submitters oppose the provision in its entirety with several supporting it. The DCC submitted that urban development cannot avoid effects on soil and also requested clarity on how forestry fits within this. They suggested replacing the term ‘maintain’ with “minimise to the degree practical, considering other objectives in the RPS”. OWRUG sought the reference to ‘mauri’ be replaced with well-being, and that the word “natural” is deleted. Tōitu Te Whenua seeks that the soil characteristics and values listed in the policy are replaced with the national soil quality indicators, and soil biology. J Griffin requested that the policy promote management systems that build soil carbon, which will in turn improve soil biodiversity, structure and fertility, and provide some degree of climate remediation.
254. In relation to the DCC submission, Ms Boyd considered the policy provides flexibility for a range of actions to occur, so no changes were required. She recommended rejecting the OWRUG submission because clauses (1)-(3) of LF-LS-P17 are considered to provide clear guidance on this. With respect to the Toitū Te Whenua and Griffin submissions, she felt the factors they discuss are already provided for under the three clauses of the policy as notified. In addition, she was of the view that specific details relating to target ranges, if any, are best placed in a regional plan.
255. While the DCC did not address their submission at the hearing, the Panel has some sympathy for their position. Quite clearly, many activities that people and communities carry out will not maintain the productive potential of soils. Urban development is one such example, but mining is another. Hence, we consider the phrase to ‘the extent reasonably practical’ is also appropriate in this policy.
256. While we agree with Ms Boyd in relation to the Toitū Te Whenua and Griffin submissions, we do not agree with her position in relation to ‘mauri’. We have discussed this elsewhere in our decision, and the same reasoning applies here. As we said there, “‘mauri’ is not readily definable as it relates to a combination of physical and ecological elements which are scientifically demonstrable, as well as amenity aspects which are far less capable of precise description. In addition, it can involve a range of te ao Māori concepts, both physical and metaphysical.” We agree with OWRUG that the focus should be on the health and productive potential of soil which, if taken care of, will maintain mauri.
257. We also agree with OWRUG that the reference to ‘natural’ should be removed as this suggests soils that might have improved fertility compared to their natural state, would need to revert back. It also suggests any improvement in fertility may not be possible.

2.6.2. Recommendation

258. The Panel recommends that LF-LS-P17 be amended as follows:

LF-LS-P17 – Soil values

Maintain the ~~mauri~~, health and productive potential of soils, to the extent reasonably practicable by managing the use and development of *land* in a way that is suited to the ~~natural~~ soil characteristics and that sustains mauri through healthy:

- (1) soil biological activity and *biodiversity*,

- (2) soil structure, and
- (3) soil fertility.

2.7. LF-LS-P20 – Land use change

2.7.1. Discussion

259. As notified, LF-LS-P20 reads:

LF-LS-P20 – Land use change

Promote changes in *land* use or *land* management practices that improve:

- (1) the sustainability and efficiency of *water* use,
- (2) resilience to the impacts of *climate change*, or
- (3) the health and quality of soil.

260. There were several submissions on this policy, including two in support and one seeking its deletion. Several submitters sought amendments ranging from minor adjustments to the addition of new clauses addressing a range of matters.

261. Ms Boyd made two small changes to the policy in her s42A report. We agree with her response to the submissions and have accepted her recommendations accordingly.

2.7.2. Recommendation

262. The Panel recommends LF-LS-P20 be amended as follows:

LF-LS-P20 – Land use change

Promote changes in *land* use or *land* management practices that support and improve:

- (1) the sustainability and efficiency of *water* use,
- (2) resilience to the impacts of *climate change*, ~~or~~
- (3) the health and quality of soil, ~~or~~
- (4) *water* quality.

2.8. LF-LS-P21 – Land use and fresh water

2.8.1. Introduction

263. As notified LF-LS-P21 reads:

LF-LS-P21 – Land use and fresh water

Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:

- (1) reducing direct and indirect discharges of contaminants to water from the use and development of land, and
- (2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge on groundwater.

264. A wide range of submissions were received on this provision, with Beef + Lamb and DINZ seeking that the policy be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter. Ms. Boyd disagreed with this, and we accept her position as the policy is addressing land use activities.
265. Several submitters sought changes to the chapeau of the policy and Ms Boyd agreed that the chapeau wording of the could be simplified. She adopted the amendment sought by Contact and others, as she considered this consistent with the wording of LF-FW-P7 and that gives effect to policy 5 of the NPSFM. This amendment also included changing ‘fresh water’ to ‘water bodies’. This was in response to the DairyNZ submission to ensure ‘coastal water’ is not addressed within this policy, as that would be inconsistent with the NPSFM.
266. The amendment promoted did not include the request from Kāi Tahu ki Otago and DOC which seeks to include reference to ecosystem values. While she agreed with their reasoning for the change, she was unsure what is meant by the term ‘ecosystem values’. In response to this, Ms McIntyre for Kai Tahu noted that *“other amendments recommended to the chapeau align wording more closely to that in the sole NPSFM objective, but without the reference to freshwater ecosystems included in that sole objective.”* In her view including reference to freshwater ecosystems in this policy would give better effect to the NPSFM objective.
267. We agree with Ms McIntyre and have included reference to ‘freshwater ecosystems’ in the chapeau. This change will also better reflect Policy 5 of the NPSFM.
268. Several submitters also sought amendments to clause (1) to recognise that it is not necessary to reduce discharges of contaminants to water, and that there are often circumstances where management of discharges may be more appropriate than their reduction or avoidance. Ms Boyd agreed with these submitters and promoted a change to the wording to include “or otherwise managing” after “reducing”. This wording was generally accepted by submitters who presented evidence at the hearing, with the exception of Kai Tahu who felt this change does not provide clear guidance. We disagree with Ms McIntyre as the reason for the management of adverse effects is clear – it is to maintain the health and well-being of water bodies and freshwater ecosystems. Hence, we agree with Ms Boyd’s approach to this matter and recommend her changes accordingly.
269. Ms Boyd did not recommend any changes to clause (2). In relation to DairyNZ’s request to delete “may” from clause (2), she considered a more cautious approach to managing those activities is required on the basis that it may not be certain if some land uses will have adverse effects on freshwater. Given such land uses could be for long time periods (e.g. production forestry), the Panel agrees that caution is warranted in catchments that may be susceptible to this.
270. Three submitters sought the addition of a new clause regarding the maintenance and enhancement of riparian margins. Ms Boyd agreed that healthy riparian margins contribute to the wider health and well-being of freshwater bodies and that this should be recognised in the policy. However, she did not consider it necessary to identify specific reasons for this in the policy (such as reducing sedimentation, improving the functioning of catchment processes

etc. as requested) because there may be many reasons for this action. We agree and have accepted her recommended amendment as appropriate.

271. In the Reply Report, a recommended subclause (2A) was advanced which we believe may have emanated from DOC's submission on the FMU Vision objectives. We are comfortable with the recommended wording in that subclause say for the wording being amended to refer to some catchments. To avoid any issues about scope for its inclusion, we rely upon clause 49(2)(b) of the First Schedule.

2.8.2. Recommendation

272. We recommend that LF-LS-P21 is amended as follows:

LF-LS-P21 – Land use and fresh water

~~Achieve the improvement or maintenance of fresh water quantity, or quality~~ The health and well-being of water bodies and freshwater ecosystems is maintained to meet environmental outcomes set for Freshwater Management Units and/or rohe by:

- (1) ~~reducing~~ reducing or otherwise managing the adverse effects of direct and indirect discharges of contaminants to water from the use and development of land, and
- (2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater-, and
- (2A) recognising the drylands nature of some of Otago's catchments and the resulting low water availability, and
- (3) maintaining or, where degraded, enhancing the values of riparian margins.

2.9. LF-LS-P22 – Public access

2.9.1. Discussion

273. As notified, LF-LS-P22 reads:

LF-LS-P22 – Public access

Provide for public access to and along lakes and rivers by:

- (1) maintaining existing public access,
- (2) seeking opportunities to enhance public access, including by *mana whenua* in their role as kaitiaki and for gathering of mahika kai, and
- (3) encouraging landowners to only restrict access where it is necessary to protect:
 - (a) public health and safety,
 - (b) significant natural areas,
 - (c) areas of outstanding natural character,
 - (d) outstanding natural features and landscapes,

- (e) places or areas with special or outstanding *historic heritage* values, or
- (f) places or areas of significance to *takata whenua*, including wāhi tapu and wāhi tūpuna.

274. This policy was supported by four submitters while several others sought amendments to, and clarification of, the notified wording. A number of submitters sought the addition of sub-clauses in (3) to include other values or circumstances where access should be restricted. These included:

- Areas of establishing vegetation/restoration projects, on the basis that access should be restricted to avoid or minimise damage to young and establishing vegetation,
- Against negative impacts of public access on farming business, to ensure negative impacts from public access on farming businesses can be mitigated.
- Protect against interruption of business operations, for health and safety matters, and for animal welfare issues, in order to provide for landowner’s interests.
- Critical farming activities including lambing, fawning, mustering and the movement of stock.
- Biosecurity.
- To ensure a level of security with the operational requirements of a lawfully established activity.

275. Ms Boyd recommended several changes to the policy including an addition to clause (3) to restrict access to reflect the operational requirements of an activity. Overall, we are comfortable with the recommendations made by Ms Boyd and have adopted them accordingly.

2.9.2. Recommendation

276. The Panel recommends that LF-LS-P22 be amended as follows:

LF-LS-P22 – Public access

Provide for public access to and along *lakes* and *rivers* by:

- (1) maintaining existing public access,
- (2) seeking opportunities to enhance public access, including access by *mana whenua* in their role as kaitiaki and for gathering of ~~mahika kai~~ *mahika kai*, and
- (3) encouraging landowners to ~~only~~ avoid restricting access ~~where~~ unless it is necessary to protect:
 - (a) ~~public~~ health and safety,
 - (b) significant natural areas,
 - (c) areas of outstanding natural character,
 - (d) outstanding natural features and landscapes,

- (e) places or areas with special or outstanding *historic heritage* values,
or
- (f) places or areas of significance to ~~takata whenua~~ Kāi Tahu, including wāhi taoka, wāhi tapu and wāhi tūpuna;
- (g) establishing vegetation, or
- (h) a level of security consistent with the operational requirements of a lawfully established activity.

2.10. Pest species (including wilding conifers)

2.10.1. Discussion

277. As notified, the pORPS contains two policies focused on managing the impacts of wilding conifers on outstanding natural features and landscapes and significant natural areas through NFL-P5 and ECO-P9. These were as follows:

ECO-P9 – Wilding conifers

Reduce the impact of *wilding conifers* on indigenous *biodiversity* by:

- (1) avoiding *afforestation* and *replanting of plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as *significant natural areas*, and
 - (b) buffer zones adjacent to *significant natural areas* where it is necessary to protect the *significant natural area*, and
- (2) supporting initiatives to control existing *wilding conifers* and limit their further spread.

NFL-P5 – Wilding conifers

Reduce the impact of *wilding conifers* on outstanding and *highly valued natural features and landscapes* by:

- (1) avoiding *afforestation* and *replanting of plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as outstanding natural features or landscapes, and
 - (b) buffer zones adjacent to outstanding natural features and landscapes where it is necessary to protect the outstanding natural feature or landscape, and
- (2) supporting initiatives to control existing *wilding conifers* and limit their further spread.

278. A number of submitters sought inclusion of new provisions, or amendments to existing provisions, to provide clear policy direction on pest control. DOC sought a new policy in the ECO chapter addressing pests to complement ECO-P9. However, their planning witness, Mr Brass, suggested this would be better placed in LF-LS section. Ms Lynette Baish for Ernslaw One also sought a new policy, focused specifically on wilding conifers. At the hearing, many of the witnesses who appeared for OWRUG, Federated Farmers, and DairyNZ noted the impacts of pests on productive land while Mr Brass for DOC also highlighted the need to enable pest control activities such as the use of pesticides. Associated with this issue was the request from some submitters to include in the pORPS, the definition of ‘pest’ from the Biosecurity Act 1993.

279. In her opening statement for the LF hearing, Ms Boyd addressed this issue, stating that she “was not opposed to incorporating this type of direction in the pORPS and that the LF-LS section was the appropriate place for this given its focus on land resources.” After hearing the evidence presented at the various hearings, Ms Boyd’s final assessment of the matter was carried out in her reply report on ‘Introduction and General Theme’ matters. She noted that the evidence confirmed that “biodiversity has been lost or degraded due to human activities and the presence of pests and predators” and that “the direction on managing pest species in the pORPS is unnecessarily narrowed to only managing the effects of specific wilding conifer species on outstanding natural features and landscapes and significant natural areas.” As a consequence, she recommended a new policy for inclusion in the LS chapter that addressed both pests and wilding conifers, which incorporate the direction from ECO-P9 and NFL-P5, as generally supported by submitters.
280. A number of submitters sought to expand the scope of ECO-P9 and APP5, which currently just lists conifers prone to spread, to apply to all invasive/wilding tree species, not only wilding conifers. Others sought the restriction of such plantings in not just plantation forests but in shelterbelts and amenity plantings also.
281. While Ms Boyd accepted that there are other tree species that may result in wilding spread, she did not make any changes to the policy or APP5. Nor did she recommend widening the framework to include smaller plantings. While she considered it appropriate for the pORPS to contain broader direction on the management of pests, she was concerned that this should not duplicate the requirements of the Biosecurity Act 1993 or the Otago Regional Pest Management Plan 2019-2029 (Otago PMP). Furthermore, she was unsure if this was a region wide concern. Despite this, she felt that her recommendation to incorporate additional direction on pest species will assist with addressing the concerns of the submitters. As a part of that, she accepted the need for the definition of pest as requested.
282. Having reviewed Ms Boyd’s recommended policy, and other evidence the Panel is of the view that pest species, particularly wilding conifers, are a region-wide issue. The Panel are comfortable that Ms Boyd’s recommended wording addresses the issue appropriately. While the policy framework does not identify other wilding tree species, there is nothing stopping local authorities from addressing these concerns in lower order planning documents. That is in fact what currently occurs in District Plans.

2.10.2. Recommendation

283. The Panel recommends as follows:
- (1) the deletion of ECO-P9 and NFL-P5 and their replacement with the following new policy in the LF-LS chapter:

LF-LS-P16A – Managing pests

Reduce the impact of pests, including wilding conifers, by:

- (1) avoiding afforestation and replanting of plantation forests with wilding conifer species listed in APP5 within:
- (a) areas identified as outstanding natural features, outstanding natural landscapes, or significant natural areas, and
- (b) buffer zones adjacent to the areas listed in (a) where it is necessary to protect those areas,

- (2) outside *plantation forests*, avoiding the planting of *wilding conifer* species listed in APP5 and any other *pests* in a way that is consistent with the Otago Regional Pest Management Plan 2019-2029,
- (3) enabling the control of *pests* on *land*, and
- (4) supporting initiatives to control *pests* and limit their further spread.

- (2) Include the following new clause in LF-LS-M12 (District plans):

LF-LS-M12 – District plans

- (1) manage *land* use change by:
 - (aa) avoiding the planting of *pest* plants in accordance with LF-LS-P16A,

- (3) Include reference to the policies of the LF chapter seeking to ‘reduce the impacts of pests’ in the first line of LF-LS-E4 (Explanation).
- (4) Including the following new paragraph at the beginning of LF-LS-PR4 (Principal Reasons):

*Pests, including *wilding conifers*, pose a range of threats to Otago’s environment. While the regional pest management plan is the primary tool for controlling *pests* under the Biosecurity Act 1993, it is important that the management of land works alongside that tool to reduce the impacts of *pests*.*

2.11. LF-LS-M12, LF-LS-M13, Explanation and Principal Reasons

284. In addition to the consequential amendments already discussed, Ms Boyd has recommended several other relatively minor amendments to these provisions, generally to reflect amendments in the policy approach. We have reviewed the submissions and Ms Boyd’s final response to those, and are generally comfortable with the position she reached, with one exception in relation to LF-LS-M12.
285. City Forests Limited opposes clause 1(a), which requires “controlling the establishment of new or any spatial extension of existing plantation forestry activities or permanent forestry activities where necessary to give effect to an objective developed under the NPSFM” and requested that it be deleted. Rayonier and Ernslaw One also raised concern with this provision while the Waitaki DC sought two new sub-clauses that would provide guidance for managing water short catchments.
286. Mr Peter Oliver for City Forests and Ms Lynette Baish for Ernslaw One addressed this issue at the hearing. Mr Oliver and Ms Baish did not consider the evidence was as clear as Ms Boyd suggested in her s42A report when she said that afforestation can affect water yield and “*given the dry nature of some of Otago’s catchments and recent increases in forestry expansion, it may be necessary to control forestry activities in order to give effect to environmental outcomes established under the NPSFM.*”
287. In this context, Ms Boyd highlighted regulation 4(1)(a) of the NESPF that specifically allows plan rules to be more stringent than the NES if those rules give effect to an objective

developed to give effect to the NPSFM. However, we note that LF-LS-P21 (2) requires the management of land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater. This provision does not identify specific activities and in our view, nor should the method.

288. Hence, we agree with Ms Baish that the method “is overly directive and narrowly targeted” and as a consequence, we prefer her recommended amendment, as follows:

“controlling the establishment of new or any spatial extension of existing land use activities where necessary to give effect to an objective developed under the NPSFM;”

2.12. LF-LS-M11 – Regional plans

2.12.1. Discussion

289. As notified LF-LS-M11 reads:

LF-LS-M11 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans* as required by the RMA and any regulations,
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of effluent storage and applications systems, and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient allocation and use of *fresh water*, and
- (3) implement policies LF-LS-P16 to LF-LF-P22.

290. There were several submissions received on this provision, with Beef + Lamb and DINZ again seeking that it be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter. Ms. Boyd disagreed with this, and we again accept her position given the policy is addressing land use activities.

291. Ms Boyd agreed with Fish & Game and Kāi Tahu ki Otago that the clause (1)(a) reference to the ‘RMA and any regulations’ is not necessary and recommended its removal. She did not recommend any further amendments to the method in her s42A report except in relation to a consequential amendment to enable implementation of a new policy (LF-LS-P16A) that was recommended during the non-freshwater process.

292. The proposed sub-clause 2A addition by way of an amendment to LF-LS-M11 is required because this method specifies how the full suite of LF-LS policies will be implemented in regional plans, and therefore needs to reflect any amendments to non-FPI provisions as well as FPI provisions. The proposed wording is “enable the discharge of contaminants to land for pest control”. Ms Boyd notes that “although arising from the non-FPI part, I consider this also responds to DOC’s FPI submission.” We agree the amendment is appropriate and have recommended the change accordingly.
293. Ms. Boyd did, however, make some further amendments in response to submissions in her opening statement. However, these were not discussed but were merely referred to as ‘minor’ changes. We do not consider them to be minor as they broaden the impact of the provisions. One such change was to clause (1)(b), where ‘reduce’ was deleted and replaced with ‘avoid or minimise’ in response to a submission from Fish & Game, who sought reference to avoiding land uses which result in any pugging in critical source areas and limiting high risk activities on steep slopes. Given the direction in LF-LSP18 and 21 (which refer to ‘minimising’ and ‘reducing’), we consider ‘reduce’ to be the appropriate word in this instance so have not recommended that change.
294. Ms Boyd initially rejected Kāi Tahu ki Otago’s request to amend clause (2) to delete ‘efficient allocation’ and instead reference reducing demand on freshwater resources to give effect to objectives developed under the NPSFM. She subsequently made this amendment as a ‘minor’ change. While we do not agree that it is a minor change, we do agree that the change is appropriate based on Ms McIntyre’s reasoning in her evidence for Kai Tahu. She advised that Kai Tahu sought that:

this method refer to the ability for regional plans to provide for changes in land use that reduce demand for water by methods other than simply improving efficiency of use. This has not been accepted in the section 42A report, but no clear reason is given for this. I consider that in areas where there is a need to reverse over-allocation, a broad range of tools must be available to ORC to achieve this. In some areas I consider that improvements in water use efficiency alone are unlikely to achieve this. In such circumstances, controls on water demanding land uses should be a tool that ORC can consider in development of the LWRP.

295. We agree with Ms McIntyre so have recommended the change accordingly.
296. As discussed above in relation to LF-FW-M5 and LF-FW-M6, our understanding is that the date that the regional plan is to be publicly notified is uncertain and we consider it appropriate to delete the date requirement in the chapeau to reflect this.
297. The Panel has carefully considered Ms Boyd’s response to the other submissions made on this provision. We are comfortable with her conclusions so adopt them accordingly.
- 2.12.2. **Recommendation**
298. We recommend that LF-LS-M11 is amended as follows:

LF-LS-M11 – Regional Plans

Otago Regional Council must publicly notify a Land and Water Regional Plan ~~no later than 31 December 2023~~ and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans*, ~~as required by the RMA and any regulations,~~
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of effluent storage and application systems, and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient ~~allocation and~~ use of *fresh water* and that reduce water demand where there is existing over-allocation, and
- (2A) enable the *discharge* of *contaminants* to *land* for *pest* control, and

Section 9: Ecosystems and indigenous biodiversity (ECO)

1. Introduction

1. This chapter presents our recommendations on the Indigenous Ecosystems and Biodiversity (ECO) chapter of the PORPS. All of the provisions of this chapter are part of the non-freshwater process.
2. The “*protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*” is a matter of national importance under section 6(c) of the RMA. Also of relevance are sections 7(d), (f) and (g) which require the panel to have particular regard to the ‘intrinsic values of ecosystems’, maintenance and enhancement of the quality of the environment’, and ‘any finite characteristics of natural and physical resources’ respectively. Section 30(1)(ga) requires regional council to establish “*objectives, policies and methods for maintaining indigenous biological diversity*”. The directions in the RMA underpinned the development of the PORPS and the evidence we received.
3. Biodiversity means the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems. The Otago region contains a varied biological diversity, from albatrosses and yellow-eyed penguins on the Otago Peninsula to endangered skinks of Central Otago and kea of the Southern Alps, as well as internationally rare, braided rivers. The Otago region, like other areas in New Zealand, has experienced significant loss of indigenous biodiversity, including mahika kai and taoka species, and continues to be subject to significant pressure.
4. Indigenous biodiversity is present in terrestrial, freshwater and marine environments. Section 62(1)(i)(iii) of the RMA requires that the RPS sets out which local authority is responsible for specifying provisions that control the use of land to maintain indigenous biodiversity. Local authorities have duties under sections 30 and 31 of the RMA 1991 to have objectives, policies and methods to maintain indigenous biological biodiversity. This creates a need to be clear about the responsibilities for each local authority, as well as ensuring an integrated approach is taken across the policy statement.

1.1 The National Policy Statement for Indigenous Biodiversity

5. After many years of gestation and two draft iterations, the National Policy Statement for Indigenous Biodiversity 2023 (NPSIB) was gazetted on 7 July 2023 and came into force on 4 August 2023. The hearings on the non-freshwater parts of the pORPS were adjourned on 29 May 2023, so there was no opportunity during the formal hearing process for parties to address the NPSIB.
6. The Panel issued Minute 15 on 13 July 2023 which directed a timetable (later amended by Minute 19 issued on 13 September 2023) for the circulation of material by ORC and submitters to address the implications of the NPSIB for the non-freshwater process. ORC officers were invited to provide evidence and supporting submissions, with submitters then provided time to respond, and the ORC officers provided a final response. The Panel considered this material

on the papers and the hearing was not reconvened. Any implications for the freshwater process were addressed through those hearings.

7. Over 416 submission points were received on the ECO chapter provisions and related appendices. Many of the submission points have since become redundant by the gazettal of the NPSIB, which has complicated some matters and simplified others. It is important to note that the Panel can only amend a provision to be consistent with the NPSIB if a submission provides the scope to do so.
8. In response to the NPSIB, the ORC officers have recommended substantial changes to the ECO chapter, the PORPS definitions and related Appendices 2, 3 and 4. Some of the key issues addressed at the hearing have been superseded by the NPSIB, and the Panel has had to reconcile the information presented in submissions and evidence with the subsequent NPSIB and supporting material.
9. In addition to the NPSIB, the NZCPS and the NPSFM contain direction relating to the management of indigenous biodiversity in coastal and freshwater environments respectively.
10. There are commonalities between many of the submission points, as there are between some of the provisions. We have grouped topics and provisions where appropriate for ease of discussion, after first addressing the general themes. We discuss below where key matters that arose during the submissions and hearing have been superseded by the NPSIB.
11. The Panel received a helpful s42A report and reply report from Ms Melanie Hardiman, with statements on the implications of the NPSIB being prepared by Mr Andrew Maclellan. Given the technical nature of this chapter, we received technical advice from a number of ecologists and we acknowledge their efforts at caucusing on Appendix 2 of the RPS, on identifying significant biodiversity. To say that the ECO chapter has been complicated is an understatement and we particularly thank Mr Maclellan and Dr Lloyd for ORC for their advice and recommendations on the implications of the NPSIB, and the submitters who provided supplementary submissions or evidence on this matter.

2. General themes

12. The following general themes emerged:
 - Maintaining and protecting
 - Effects management hierarchies, biodiversity offsetting and biodiversity compensation;
 - Nationally and regionally significant infrastructure; and
 - Significant natural areas.
13. We address these matters below prior to considering definitions and the specific provisions.

2.1 Maintaining and protecting

14. This was the subject of much debate and the legal position was discussed in detail in our Legal Issues section. We revisit this briefly here, as it is an integral part of the position we take in our recommendations. As stated above, we interpreted s 30(1)(ga) as requiring the regional council to maintain the region-wide values of indigenous biodiversity. This means that the PORPS provisions cannot have the result of worsening the region-wide state of indigenous biodiversity. The emphasis here is on region-wide, which does not mean that activities cannot have some level of adverse effect on indigenous biodiversity. It means that, if they do, an equivalent improvement needs to be made elsewhere.

15. The concept of protection fits within the region-wide requirement to maintain, whereby s6(c) directs specific protection of “*significant indigenous vegetation and significant habitats of indigenous fauna*”. This applies to areas or circumstances where the values mark them apart from the general indigenous values in the region, and the level of significance warrants protection.

16. We also note here the sole objective of the NPSIB, which is as follows:

The objective of this National Policy Statement is:

(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

(b) to achieve this:

(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and

(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and

(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and

(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

[Panel’s emphasis]

17. The PORPS must therefore maintain indigenous biodiversity to ensure that there is no overall loss, as per clause (a), while also protecting significant natural areas (SNAs) as required by s.6(c) and Policy 7 of the NPSIB. This protection in s.6(c) is definitive, and it is important to note that s.6(c) does not have the qualifier of protection ‘from inappropriate subdivision, use and development’. Policy 7 requires that ‘SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development’.

18. This is addressed in the PORPS in ECO-O1, which we consider reflects well the direction outlined above. ECO-O1 was notified as follows:

ECO-O1 – Indigenous *biodiversity*

Otago’s indigenous *biodiversity* is healthy and thriving and any decline in quality, quantity and diversity is halted.

19. This evolved through the process to the final recommended ECO-O1 which reads:

ECO-O1 – Indigenous *biodiversity*

Otago’s indigenous *biodiversity* is healthy and thriving and any overall decline in quality condition, quantity and diversity is halted.

20. The addition of ‘overall’ reflects the direction of the NPSIB. We note that ‘indigenous biodiversity’ is defined in the NPSIB and that the Panel later recommend that this definition is included in the PORPS. We therefore recommend that ‘indigenous’ should also be italicised to refer to this definition.
21. The NPSIB also includes a definition of ‘maintenance of indigenous biodiversity’ which is relevant to ECO-P6 – Maintaining indigenous biodiversity. Mr MacLennan’s NPSIB Reply Report recommends that this definition be included and referenced in ECO-P6. We agree that this is appropriate to give effect to the NPSIB.

2.1.1 Recommendation

22. We recommend that the following definition be inserted into the Interpretation section of the PORPS:

Maintenance of indigenous biodiversity

has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below):

means:

(a) the maintenance and at least no overall reduction of all the following:

(i) the size of populations of *indigenous species*:

(ii) indigenous species occupancy across their natural range:

(iii) the properties and function of ecosystems and *habitats* used or occupied by *indigenous biodiversity*:

(iv) the full range and extent of ecosystems and *habitats* used or occupied by *indigenous biodiversity*:

(v) connectivity between, and buffering around, ecosystems used or occupied by *indigenous biodiversity*:

(vi) the resilience and adaptability of ecosystems; and

(b) where necessary, the restoration and enhancement of ecosystems and *habitats*.

23. We recommend that ECO-O1 be amended as follows:

ECO-01 – Indigenous *biodiversity*

Otago's *indigenous biodiversity* is healthy and thriving and any overall decline in condition, ~~quality~~ quantity and diversity is halted.

2.2 The effects management hierarchy, biodiversity offsetting and biodiversity compensation

24. The legal aspects of biodiversity offsetting and compensation were also addressed in our Legal Issues section. Mr. Christensen, for Oceana Gold, had submitted that there is a mandatory need to provide a consent pathway involving the s.104(1)(ab) methodology of offsetting or compensation. We did not accept this, considering that “*the mandatory aspect is only triggered at resource consent stage, and is a mandatory requirement to give genuine consideration to the offsetting or compensation which has been proposed as part of the application for resource consent. That does not convert it into a mandatory matter at the regional policy statement stage*”.

25. Principles for biodiversity offsetting and compensation are provided in Appendix 3 and Appendix 4 of the NPSIB respectively, and these are applied through the application of an effects management hierarchy. The effects management hierarchy is defined in the NPSIB as follows and directions for its applications are in clauses 3.10, 3.11 and 3.16:

effects management hierarchy means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

- (a) *adverse effects are avoided where practicable; then*
- (b) *where adverse effects cannot be avoided, they are minimised where practicable; then*
- (c) *where adverse effects cannot be minimised, they are remedied where practicable; then*
- (d) *where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then*
- (e) *where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then*
- (f) *if biodiversity compensation is not appropriate, the activity itself is avoided.*

26. Appendix 3 and Appendix 4 of the PORPS also provide for biodiversity offsetting and compensation. These attracted considerable debate through submissions and evidence, which we consider has been superseded by the NPSIB. Mr Maclennan recommended that these appendices be replaced with those in the NPSIB. In his reply report relating to additional evidence as to the NPSIB (the NPSIB Reply Report), he accepted amendments requested by the Director General of Conservation and Oceana Gold to amend the heading from ‘criteria’ to ‘principles’ and clarify the requirements of clause 3.10(4)(b) of the NPSIB to comply with principles (1) to (6) and have regard to the remaining principles.

27. We accept these amendments and consider that in the case of biodiversity offsetting and compensation, the clearest way to implement the requirements of the NPSIB is through replicating its requirements.
28. The notified PORPS defined ‘effects management hierarchy’ in the Interpretation section, and effectively replicated it in ECO-P6, which was then cross-referenced in ECO-P3 and ECO-P4. The notified PORPS applied the NPSFM definition of effects management hierarchy to the ECO chapter. Through submissions, the NPSIB and subsequent evidence, the NPSIB Reply Report recommended adopting the definition of ‘effects management hierarchy’ in the NPSIB. While we consider there to be little difference between this definition and the NPSFM definition, we consider it to be a preferable and more appropriate approach to implement the NPSIB definition which is specifically aimed at this aspect of the general environment rather than the NPSFM which has a prioritised base to it.
29. As a consequence, the Reply Report version of the PORPS recommends that
- The NPSIB definition of ‘effects management hierarchy’ be included in the Interpretation section titled ‘effects management hierarchy (in relation to indigenous biodiversity)’ to distinguish it from the NPSFM definition which is also included;
 - ECO-P6 refers to the definition in the Interpretation section rather than replicating the definition; and
 - ECO-P3 and ECO-P4 utilise the definition rather than referring to ECO-P6.
30. We consider that this approach is simpler, clearer and better reflects the requirements of the NPSIB.

2.2.1 Recommendation

31. We recommend that:
- The versions of APP3 – Principles for biodiversity offsetting and APP4 – Principles for biodiversity compensation contained in the PORPS reply version dated 10 October 2023 be adopted; and
 - The NPSIB definition of ‘effects management hierarchy’ be included in the Interpretation section titled ‘effects management hierarchy (in relation to indigenous biodiversity)’.
32. Amendments to ECO-P3, ECO-P4 and ECO-P6 are discussed later in this section.
33. Considering s.32AA, we consider that these amendments are necessary to implement the NPSIB.

2.3 Nationally and regionally significant infrastructure

34. A number of submitters raised concerns about the implications of the ECO chapter provisions for nationally and regionally significant infrastructure. These included extensive submissions

and evidence from Waka Kotahi, Oceana Gold, Contact Energy and Manawa Energy. Provisions ECO-P3, ECO-P4 and ECO-P6 are relevant here, and we also note that EIT-INF-P13 directs new nationally and regionally significant infrastructure to avoid locating in SNAs as a first priority.

35. Clause 1.3(3) of the NPSIB is of particular relevance to renewable electricity generation and electricity transmission networks and states:

Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not “specified infrastructure” for the purposes of this National Policy Statement.

36. The Government is preparing replacements for the current NPSREG and NPSET and we understand that the draft releases of these documents each contained an effects management hierarchy for these activities. As these documents are draft, they have no weight in these proceedings, and we have not considered them further.

37. In response to clause 1.3(3) of the NPSIB, Mr Maclennan recommended a new ECO-P6A to address renewable electricity generation and electricity transmission networks. This in effect amended the effects management hierarchy for these activities. This approach was not supported by submitters for varying reasons, and in response, Mr Maclennan recommended in his NPSIB Reply Report to delete ECO-6A and references to it. He recommended to amend the definition of ‘effects management hierarchy (in relation to indigenous biodiversity)’ to reflect the direction in clause 1.3(3) and add an additional clause to ECO-P6 to reflect the different approach for renewable electricity generation and electricity transmission networks.

38. We agree with Mr Maclennan’s recommended approach and consider it preferable to what was a complex ECO-P6A. We consider that the exclusion in brackets in the introductory sentence of ECO-P6 should be part of the main text.

39. We return to nationally and regionally significant infrastructure that is not for renewable electricity generation or electricity transmission networks in relation to the specific relevant provisions.

2.3.1 Recommendation

40. We recommend that the following definition is inserted into the Interpretation section of the PORPS:

Effects management hierarchy (in relation to indigenous biodiversity)	<u>means an approach to managing the adverse effects of an activity on <i>indigenous biodiversity</i> that requires that:</u> <u>(a) adverse effects are avoided where practicable; then</u> <u>(b) where adverse effects cannot be avoided, they are minimised where practicable; then</u>
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- (c) where adverse effects cannot be minimised, they are remedied where practicable; then
- (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, *biodiversity offsetting* is provided where possible; then
- (e) where *biodiversity offsetting* of more than minor residual adverse effects is not possible, *biodiversity compensation* is provided; then
- (f) if *Biodiversity compensation* is not appropriate, the activity itself is avoided, unless the activity is *regionally significant infrastructure* and *nationally significant infrastructure* that is either *renewable electricity generation* or the *National Grid* then:
- (g) if compensation is not appropriate to address any residual adverse effects:
 - (i) the activity must be avoided if the residual adverse effects are significant; but
 - (ii) if the residual adverse effects are not significant, the activity must be enabled if the national significance and benefits of the activity outweigh the residual adverse effects.

41. We recommend that ECO-P6 be amended as follows:

ECO-P6 – Maintaining indigenous *biodiversity*

Outside the coastal environment and excluding areas managed protected under ECO-P3, Maintain manage Otago’s indigenous biodiversity (excluding the coastal environment and areas managed under ECO-P3) by:

- (1) applying the following *biodiversity effects management hierarchy (in relation to indigenous biodiversity)* to manage significant adverse effects on indigenous biodiversity, and
- (2) requiring the *maintenance of indigenous biodiversity* for all other adverse effects of any activity, and
- (3) notwithstanding (1) and (2) above, for *regionally significant infrastructure* and *nationally significant infrastructure* that is either *renewable electricity generation* or the *National Grid* avoid, remedy, or mitigate adverse effects to the extent practicable.

in decision-making on applications for *resource consent*, and notices of requirement:

- (1) avoid adverse effects as the first priority,
- (2) where adverse effects demonstrably cannot be completely avoided, they are remedied,
- (3) where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,
- (4) where there are residual adverse effects after avoidance, remediation, and mitigation, then the residual adverse effects are offset in accordance with APP3, and
- (5) if *biodiversity offsetting* of residual adverse effects is not possible, then:

- ~~(a) the residual adverse effects are compensated for in accordance with APP4, and~~
- ~~(b) if the residual adverse effects cannot be compensated for in accordance with APP4, the activity is avoided.~~

2.4 Significant natural areas

42. As stated above, s.6(c) of the RMA provides for the “*protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*” as a matter of national importance. This is implemented through the following NPSIB policies:

Policy 6: *Significant indigenous vegetation and significant habitats of indigenous fauna are identified as SNAs using a consistent approach.*

Policy 7: *SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.*

Policy 9: *Certain established activities are provided for within and outside SNAs.*

43. Part 3 Subpart 2 of the NPSIB sets out how to identify and manage SNAs and Appendix 1 provides the criteria for identifying SNAs. Mr Maclennan’s evidence on the implications of the NPSIB helpfully summarises the relevant provisions in Part 3 Subpart 2 and we do not repeat these here.

44. Clause 3.8 requires territorial authorities to assess land to identify areas that qualify as SNAs, and clause 3.9 dictates how these areas are to be included in district plans. These clauses are given effect to in the PORPS by ECO-P2 and ECO-M2 which were notified as follows:

ECO-P2 – Identifying significant natural areas and taoka

Identify:

- (1) the areas and values of *significant natural areas* in accordance with APP2, and
- (2) indigenous species and ecosystems that are taoka in accordance with ECO-M3.

ECO-M2 – Identification of significant natural areas

Local authorities must:

- (1) in accordance with the statement of responsibilities in ECO-M1, identify the areas and values of *significant natural areas* as required by ECO-P2, and
- (2) map the areas and include the values identified under (1) in the relevant *regional* and *district plans*,
- (3) recognise that indigenous *biodiversity* spans jurisdictional boundaries by:
 - (a) working collaboratively to ensure the areas identified by different *local authorities* are not artificially fragmented when identifying *significant natural areas* that span jurisdictional boundaries, and
 - (b) ensuring that indigenous *biodiversity* is managed in accordance with this

RPS,

- (4) require ecological assessments to be provided with applications for resource consent and notices of requirement that identify whether affected areas are *significant natural areas* in accordance with APP2,
- (5) in the following areas, prioritise identification under (1) no later than 31 December 2025:
 - (a) intermontane basins that contain indigenous vegetation and habitats,
 - (b) areas of dryland shrubs,
 - (c) braided *rivers*, including the Makarora, Mātukituki and Lower Waitaki Rivers,
 - (d) areas of montane tall tussock grasslands, and
 - (e) limestone habitats.

45. There were 15 submissions on ECO-P2, ranging from Fish and Game who sought that the policy is retained as notified, to Fulton Hogan who sought its deletion. Concerns about APP2 emerged here as well, with concerns expressed that ECO-P2 combined with APP2 could see large areas of Otago classified as SNAs. The NPSIB requirements largely override these submissions and, in response, the NPSIB Reply Report of Mr MacLennan recommended a substantial rewording of clause (1) to refer to the SNA assessment criteria in APP2. We consider this to be appropriate, with minor amendments to correct italicising.
46. Additional clauses were recommended to be added to ECO-M2 and amendments made to existing clauses to obtain consistency with clauses 3.8 and 3.9 of the NPSIB. We have reviewed the supplementary submissions and evidence received from submitters, along with Mr MacLennan's recommendations and consider that the recommended amendments are appropriate, with minor amendments to correct italicising.
47. NPSIB clause 3.10 sets out the requirements for managing adverse effects of new subdivision, use or developments on SNAs. Adverse effects specified in clause 3.10(2) must be avoided unless provided for by the exceptions in clause 3.11 whereby the effects are to be managed by applying the effects management hierarchy.
48. In the PORPS ECO-P3 is to protect SNAs and taoka and ECO-P4 provides the exemptions for new activities. ECO-P3 and ECO-P4 were notified as follows:

ECO-P3 – Protecting *significant natural areas* and taoka

Except as provided for by ECO-P4 and ECO-P5, protect *significant natural areas* and indigenous species and ecosystems that are taoka by:

- (1) avoiding adverse *effects* that result in:
 - (a) any reduction of the area or values (even if those values are not themselves significant) identified under ECO-P2(1), or
 - (b) any loss of Kāi Tahu values, and

- (2) after (1), applying the *biodiversity effects management hierarchy* in ECO–P6, and
- (3) prior to *significant natural areas* and indigenous species and ecosystems that are taoka being identified in accordance with ECO–P2, adopt a precautionary approach towards activities in accordance with IM–P15.

ECO–P4 – Provision for new activities

Maintain Otago’s indigenous *biodiversity* by following the sequential steps in the effects management hierarchy set out in ECO–P6 when making decisions on plans, applications for resource consent or notices of requirement for the following activities in *significant natural areas*, or where they may adversely affect indigenous species and ecosystems that are taoka:

- (1) the development or upgrade of *nationally* and *regionally significant infrastructure* that has a *functional* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect indigenous species or ecosystems that are taoka,
- (2) the development of *papakāika*, marae and ancillary facilities associated with customary activities on Māori land,
- (3) the use of Māori land in a way that will make a significant contribution to enhancing the social, cultural or economic well-being of *takata whenua*,
- (4) activities that are for the purpose of protecting, restoring or enhancing a *significant natural area* or indigenous species or ecosystems that are taoka, or
- (5) activities that are for the purpose of addressing a severe and immediate *risk* to public health or safety.

49. Again, substantial amendments were recommended to these policies. The supplementary evidence from Mr Brass for the Director General of Conservation recommended that the adverse effects listed in clause 3.10(2) be included in clause (1) of ECO-P3. These contain more prescriptive ecological criteria, and we agree that these are necessary inclusions to ensure consistency with the NPSIB. Mr MacLennan recommended accepting Mr Brass’s addition and we consider that the resulting amended ECO-P3 is appropriate with the following exception.

50. ECO-P3 as notified excluded those matters covered by ECO-P4 and ECO-P5. As we soon discuss, we consider it appropriate to delete ECO-P5 and we support a replacement ECO-P5A to implement the requirements of the NPSIB. We consider that ECO-P5A should be referred to as an exclusion in ECO-P3, replacing the reference to ECO-P5.

51. It is important to note the ‘except as provided for by ECO-P4...’ in the chapeau of ECO-P3 as this provides for the exemptions in ECO-P4 to apply.

52. Turning to ECO-P4, again substantial amendments were recommended to ensure that the exemptions are consistent with those in clause 3.11 of the NPSIB, and the approach to managing effects is consistent with clause 3.10(3) and (4). We note here that clause 3.11(1)(a)(i) includes the term ‘specified infrastructure’ which is defined as:

specified infrastructure means any of the following:

- (a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002):
- (b) regionally or nationally significant infrastructure identified as such in a National Policy Statement, the New Zealand Coastal Policy Statement, or a regional policy statement or plan:
- (c) infrastructure that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority, in an urban environment (as defined in the National Policy Statement on Urban Development 2020):
- (d) any public flood control, flood protection, or drainage works carried out:
 - (i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or
 - (ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908:
- (e) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990.

52. This new definition of specified infrastructure is broader than the definitions of regionally significant infrastructure and nationally significant infrastructure in the PORPS. Mr Maclennan has appropriately recommended that this definition be included, and we consider that the breadth of submissions on this policy provide the scope for this amendment.

53. A new ECO-P5A is recommended to replace notified ECO-P5. Concerns were raised by submitters as to whether ECO-P5 would conflict with activities which had existing use rights under s.10 of the RMA. We shared the submitters' concerns and were pleased to see that Ms Hardiman recommended in her reply report to delete ECO-P5. This left a gap for managing the effects of existing activities on SNAs.

54. **Policy 9** of the NPSIB states that:

Certain established activities are provided for within and outside SNAs.

This policy is implemented within SNAs through clause 3.15 of the NPSIB which manages the effects of activities established within or affecting an SNAs. Clause 3.15(2) requires that local authorities include provisions in policy statements and plans:

...to enable specified established activities, or specified types of established activities, to continue where the effects of the activity on an SNA (including cumulative effects):

- (a) *are no greater in intensity, scale, or character over time than at the commencement date; and*
- (b) *do not result in the loss of extent, or degradation of ecological integrity, of an SNA.*

55. It is a mandatory requirement to include provisions in a policy statement in accordance with clause 3.15 and, with the deletion of ECO-P5, this requirement was not met. ECO-P5A was therefore recommended by Mr Maclennan as follows:

ECO-P5A – Managing adverse effects of established activities on *significant natural areas*

Enable the maintenance, operation, and upgrade of established activities (excluding activities managed under ECO-P3 and ECO-P4), where the *effects* of the activity, including cumulative *effects*, on a *significant natural area*:

- (1) are no greater in intensity, scale, or character over time than at 4 August 2023, and
- (2) do not result in the loss of extent or degradation of *ecological integrity* of an *significant natural area*.

56. We consider that the wording of proposed ECO-P5A appropriately reflects the requirements of clause 3.15 of the NPSIB however, consistent with the approach taken to managing activities through ECO-P3, ECO-P4 and ECO-P6, we consider that it should not apply to the coastal environment. Accordingly, we do not accept the addition of the officer’s proposed clause (3A). There were broad submissions requesting amendments to ECO-P5 which provide scope for the addition of ECO-P5A.
57. APP2 of the PORPS as notified contained ‘significant criteria for indigenous biodiversity’ which were referenced through ECO-P2 and ECO-M2. While not labelled as such, these criteria were essentially to be used to determine SNAs. They were the subject of a large number of submissions and expert evidence, with some submitters requesting that the criteria for identifying SNAs that was included in the draft NPSIB be included in the PORPS. These matters were largely but not completely resolved through expert caucusing and a joint witness statement. We thank the submitters’ respective ecological experts for their engagement in this process.
58. Appendix 1 of the NPSIB contains criteria for identifying SNAs and clause 3.8(2) provides a set of six principles that must be used for SNA assessments. Mr MacLennan has recommended that the Appendix 1 NPSIB criteria replace APP2 and that the principles in clause 3.8(2) are included in APP2 prior to the criteria. He notes that a key distinction between Appendix 1 of the NPSIB and APP2 of the PORPS is that APP2 applies not only to ecological districts but also to freshwater and marine bioregions.
59. One key amendment to the criteria is recommended by Dr Lloyd and supported by Mr MacLennan. Dr Lloyd recommended that an additional criterion for Otago addressing fauna habitat be added as an attribute to the Ecological Context Criterion. Dr Lloyd stated at paragraph 28 of his evidence:¹

Both the PORPS and NPS-IB criteria sets contain attributes for buffering and connectivity, but the NPS-IB criterion does not capture important indigenous fauna habitats. The PORPS criterion for indigenous fauna habitats is particularly important in an Otago context, providing a basis for the recognition and protection of indigenous

¹ Prepared for ORC and dated 8 September 2023.

fauna habitats across many species groups.² The joint witness statement includes the following agreed fauna habitat criterion:

An area that is important for a population of indigenous fauna during a critical part of their life cycle, either seasonally or permanently, e.g. for feeding, resting, nesting, breeding, spawning, or refuges from predation.³

60. This recommended addition was not supported by Ms Justice for the EDBs or by Mr Christensen for Oceana Gold. Mr Christensen's view is informed by clause 3.1(2) of the NPSIB which, states:

Nothing in this Part:

(a) prevents a local authority adopting more stringent measures than required by this National Policy Statement..."

Mr Christensen maintains that this clause "does not allow a local authority to include more stringent matters in a RPS or plan, and cannot override a statutory requirement in the RMA to "give effect to the NPS".⁴

61. While we acknowledge the distinction between these clauses in the NPSFM and NPSIB, we struggle to agree with Mr Christensen that clause 3.1(2) of the NPSIB prevents us from including a more stringent and Otago-focussed addition. If this were the intent, we would have expected it to be explicitly stated. In our view the wording of clause 3.1(2) is permissive, i.e. if a local authority for a particular reason in a particular contextual setting saw it as its duty to protect the maintenance of indigenous biodiversity by use of a particular provision applicable to that setting, it is open to it to adopt such a provision even if it is not in the NPSIB.
62. We acknowledge the conclusions reached in the joint witness statement and agree that the additional criterion proposed by Dr Lloyd is appropriate in the Otago context.

2.4.1 Recommendations

63. We recommend the following amendments to ECO-P2:

ECO-P2 – Identifying significant natural areas and taoka

Identify and map:

- (1) the areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as significant natural areas using the assessment criteria in APP2 and in accordance with ECO-M2, and values of significant natural areas in accordance with APP2 and
- (2) where appropriate, indigenous species and ecosystems that are taoka, including those identified by mana whenua as requiring protection, in accordance with ECO-M3.

64. We recommend the following amendments to ECO-M2:

² Paragraphs 13, 14 and 20 of Dr Lloyd's evidence, dated 8 September 2023.

³ Joint Witness Statement of Ecologists dated 31 March 2023 at page 10

⁴ Submissions on behalf of Oceana Gold prepared by Mr Stephen Christensen, paragraph 13

ECO-M2 – Identification of *significant natural areas*

Local authorities must:

- (1) in accordance with the statement of responsibilities in ECO-M1, identify the areas and *indigenous biodiversity* values of *significant natural areas* as required by ECO-P2, and
- (2) map and verify the areas and include the *indigenous biodiversity* values identified under (1) in the relevant *regional plans* and *district plans*, no later than 31 December 2030,
- (3) recognise that *indigenous biodiversity* spans jurisdictional boundaries by:
 - (a) working collaboratively to ensure the areas identified by different *local authorities* are not artificially fragmented when identifying *significant natural areas* that span jurisdictional boundaries, and
 - (b) ensuring that *indigenous biodiversity* is managed in accordance with this RPS,
- (4) until *significant natural areas* are identified and mapped in accordance with (1) and (2), require ecological assessments to be provided with applications for *resource consent*, *plan changes* and notices of requirement that identify whether affected areas are *significant natural areas* in accordance with APP2, and
- (5) in the following areas, prioritise identification under (1) ~~no later than 31 December 2025~~:
 - (a) intermontane basins that contain *indigenous vegetation* and habitats,
 - (b) areas of dryland shrubs,
 - (c) braided *rivers*, including the ~~Makarora~~ Makarora, Mātukituki Mātakitaki and Lower Waitaki Rivers,
 - (d) areas of montane tall tussock grasslands, and
 - (e) limestone habitats.
- (6) when identifying *significant natural areas*, ensuring that:
 - (a) if the values or extent of a proposed *significant natural area* are disputed by the landowner, the local authority:
 - (i) conducts a physical inspection of the area,
 - (ii) or, if a physical inspection is not practicable, uses the best information available to it at the time, and
 - (b) if requested by a territorial authority, the regional council will assist the territorial authority in undertaking its district-wide assessment, and
 - (c) where a territorial authority has identified a *significant natural area* prior to 4 August 2023, and prior to 4 August 2027, a suitably qualified ecologist is engaged by the territorial authority to confirm that the methodology originally used to identify the area as a *significant natural area*, and its application, is consistent with the assessment approach in APP2, and

- (d) if a territorial authority becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant indigenous vegetation or significant habitat of indigenous fauna that qualifies as a significant natural area, the territorial authority:
 - (i) conducts an assessment of the area in accordance with APP2 as soon as practicable, and
 - (ii) if a new significant natural area is identified as a result, includes it in the next appropriate plan or plan change notified by the territorial authority, and
- (e) when a territorial authority does its 10-yearly plan review, it assesses its district in accordance with ECO-P2 and APP2 to determine whether changes are needed, and
- (7) allow an area of Crown-owned land to qualify as a significant natural area without the need for the assessment required by ECO-P2, using APP2, if:
 - (a) the land is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act, and
 - (b) the territorial authority is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as a significant natural area under APP2, and
 - (c) the area is:
 - (i) a large and more-or-less contiguous area managed under a single protection classification (such as a national park), or
 - (ii) a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park), or
 - (iii) a well-defined landscape or geographical feature (such as an island or mountain range), or
 - (iv) a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.

65. We recommend the following amendments to ECO-P3:

ECO-P3 – Protecting significant natural areas and taoka

Outside the coastal environment, and ~~E~~except as provided for by ECO-P4 and ~~ECO-P5~~ ECO-P5A, protect significant natural areas and indigenous species and ecosystems that are taoka by:

- (1) first avoiding adverse effects that result in:

- ~~(a) any reduction of the area or values (even if those values are not themselves significant identified under ECO-P2(1), or~~
- ~~(aa) loss of ecosystem representation and extent,~~
- ~~(ab) disruption to sequences, mosaics, or ecosystem function,~~
- ~~(ac) fragmentation of significant natural areas or the loss of buffers or connections within an SNA,~~
- ~~(ad) a reduction in the function of the significant natural area as a buffer or connection to other important habitats or ecosystems, or~~
- ~~(ae) a reduction in the population size or occupancy of Threatened or At Risk (declining) species that use an significant natural area for any part of their life cycle, or~~
- ~~(b) any loss of Kāi Tahu taoka values identified by mana whenua as requiring protection under ECO-P2(2), and~~
- (2) after (1), applying the ~~biodiversity~~ effects management hierarchy (in relation to indigenous biodiversity) in ECO-P6 to areas and values other than those covered by ECO-P3(1), and
- (3) prior to significant natural areas and indigenous species and ecosystems that are taoka being identified and mapped in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with ~~IM-P15~~ IM-P6(2).

66. We recommend the following amendments to ECO-P4:

ECO-P4 – Provision for new activities

Outside of the coastal environment, ~~M~~maintain Otago's indigenous biodiversity by following the sequential steps in the effects management hierarchy (in relation to indigenous biodiversity) ~~set out in ECO-P6~~ when making decisions on plans, applications for *resource consent* or notices of requirement for the following activities in *significant natural areas*, or where they may adversely affect *indigenous species* and ecosystems that are taoka that have been identified by mana whenua as requiring protection:

- (1) the development, operation, maintenance or upgrade of specified infrastructure nationally significant infrastructure and regionally significant infrastructure that provides significant national or regional public benefit that has a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka, and there are no practicable alternative locations,
- (1A) the development, operation and maintenance of mineral extraction activities that provide a significant national public benefit that could not otherwise be achieved within New Zealand and that have a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka, and there are no practicable alternative locations,

- (1B) the development, operation and maintenance of aggregate extraction activities that provide a significant national or regional benefit that could not otherwise be achieved within New Zealand and that have a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka,
- (1C) the operation or expansion of any coal mine that was lawfully established before August 2023 that has a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka, and there are no practicable alternative locations; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal,
- (2) the development of *papakāika*, marae and ancillary facilities associated with customary activities on Native reserves and Māori land,
- (2A) the sustainable use of *mahika kai* and kaimoana (seafood) by *mana whenua*,
- (3) the use of *Native reserves and Māori land* in a way that will make a significant contribution to enable *mana whenua* to maintain their connection to their *whenua* and enhancing the social, cultural or economic well-being, of ~~*takata whenua*~~,
- (4) activities that are for the purpose of protecting, maintaining, restoring or enhancing a *significant natural area* or *indigenous species* or ecosystems that are taoka, ~~or~~
- (5) activities that are for the purpose of addressing a severe ~~and~~ or immediate risk to public health or safety, ~~z~~
- (6) activities that are for the purpose of a developing a single residential dwelling on an allotment that was created before 4 August 2023, and can demonstrate there is no practicable location within the allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed, or
- (7) activities that are for the purpose of harvesting indigenous tree species from an *significant natural area* carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

67. We recommend that notified ECO-P5 be deleted and that an additional policy, ECO-P5A, be inserted as follows:

ECO-P5A – Managing adverse effects of established activities on *significant natural areas*

Outside of the coastal environment, Enable the maintenance, operation, and upgrade of established activities (excluding activities managed under ECO-P3 and ECO-P4), where the *effects* of the activity, including cumulative *effects*, on a *significant natural area*:

- (1) are no greater in intensity, scale, or character over time than at 4 August 2023, and

(2) do not result in the loss of extent or degradation of *ecological integrity* of a *significant natural area*.

68. We recommend that APP2 be amended as per the Reply Report version of the PORPS dated 10 October 2023.

3. Definitions

69. There are a range of submissions relating to the terms defined in the ECO chapter. There are also a number of terms that are defined in the NPSIB that are used in the PORPS. Officers have recommended that definitions be amended to reflect the NPSIB, or that NPSIB definitions be included for terms used in the PORPS that were not defined. We consider that this is an appropriate approach and note that, in some cases, submitters requested definitions be introduced that are now defined by the NPSIB. It is important to note that were NPSIB-defined terms not to be included in the PORPS, the definitions would apply anyway.

70. We recommend below that NPSIB definitions are adopted in the PORPS. In some cases, this means an amendment to refer to the NPSIB rather than any material change to the definition.

3.1 Recommendation

71. We recommend that the NPSIB definitions of the following terms are included in the Interpretation section of the PORPS, in addition to those discussed and recommended previously. Where terms are already included in the PORPS, they are to be replaced with the NPSIB definition of these terms:

- Biodiversity compensation
- Biodiversity offset
- Depositional landform
- Ecological district
- Ecosystem function
- Exotic pasture species
- Habitat
- Improved pasture
- Indigenous biodiversity
- Maintenance of improved pasture
- Restoration (in relation to indigenous biodiversity)
- SNA or significant natural area, but with the reference to “Appendix 1” changed to “APP2”
- Specified infrastructure
- Threatened or At Risk, and Threatened or At Risk (declining)

4. ECO-O2 – Restoring or enhancing and ECO-P8 – Enhancement

72. ECO-O2 seeks an increase in Otago’s indigenous biodiversity through restoration and enhancement, while ECO-P8 sets out the actions to achieve this. These provisions were notified as follows:

ECO–O2 – Restoring or enhancing

A net increase in the extent and occupancy of Otago’s indigenous *biodiversity* results from restoration or enhancement.

ECO–P8 – Enhancement

The extent, occupancy and condition of Otago’s indigenous *biodiversity* is increased by:

- (1) restoring and enhancing habitat for indigenous species, including taoka and mahika kai species,
- (2) improving the health and *resilience* of indigenous *biodiversity*, including ecosystems, species, important ecosystem function, and *intrinsic values*, and
- (3) buffering or linking ecosystems, habitats and ecological corridors.

73. These two provisions implement Policy 13 and Policy 14 of the NPSIB which are included below:

Policy 13: Restoration of indigenous biodiversity is promoted and provided for.

Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments.

74. We also note here Policy 8:

Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.

75. Ngāi Tahu ki Murihiku and Fulton Hogan were unsure what the term ‘occupancy’ meant in ECO-O2 and requested either that it be deleted or defined.⁵ In response, Ms Hardiman recommended the following definition of occupancy be included in the Interpretation section:

Means, in relation to measuring indigenous biodiversity, the number of units per area occupied by a species or taxa.

76. Other submitters, including QLDC and Forest and Bird, sought additional clarity with Forest and Bird requesting consistency with the language used in ECO-O1. We note that the final recommended version of ECO-O1 refers to the ‘condition, quality and diversity’ of indigenous biodiversity, whereas ECO-P2 uses ‘extent and occupancy’.

⁵ Refer p25 of s.42A

77. We also observe that the final recommendation for ECO-O1 uses the term ‘overall decline’ while ECO-O2 uses ‘net increase’. ‘Net’ was recommended by Ms Hardiman in her reply report prior to the release of the NPSIB, and this was recommended to be replaced by ‘overall’ to ensure consistency with the objective of the NPSIB.
78. We consider that consistency of language between provisions is important unless there is a good reason not to. This is primarily to avoid future debates about what different phrases mean and whether the difference in phraseology is significant. It also makes regulatory documents much easier to digest.
79. While we acknowledge Forest and Bird’s desire for consistency, we accept Ms Hardiman’s position in her Reply Report that ‘extent’ and ‘occupancy’ are ecological terms that relate to restoration outcomes. We accept that in this instance it is appropriate to use different terms and, as we discuss below, we also consider it appropriate to use these terms in ECO-P8.
80. We consider that ‘overall increase’ is a suitable phrase to use in ECO-O2 to ensure consistency with the NPSIB and ECO-O1. In our view it has the same meaning as net in this context and we recommend that this is a consequential amendment from ECO-P1.
81. Restoration is defined in the NPSIB and we have earlier recommended that this definition be included in the PORPS. This is not reflected in the recommended ECO-O2 through italicising ‘restoration’ and we recommend this as a consequential amendment. Similarly, we consider that ‘indigenous’ should be italicised to reflect the new definition of ‘indigenous biodiversity’.
82. Clause 3.21 of the NPSIB promotes the restoration of indigenous biodiversity and is relevant to ECO-P8. Sub-clause (1) of clause 3.21 of the NPSIB requires the PORPS to include provisions “to promote the restoration of indigenous biodiversity, including through reconstruction of areas” and sub-clause (2) states that:
- The objectives, policies and methods must prioritise all the following for restoration:*
- (a) SNAs whose ecological integrity is degraded:*
 - (b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:*
 - (c) areas that provide important connectivity or buffering functions:*
 - (d) natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:*
 - (e) areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners:*
 - (f) any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.*
83. Sub-clause (2)(d) is implemented through LF-FW-P10, whereas the remaining sub-clauses are implemented through the ECO chapter. As notified, ECO-P8 falls short of achieving the above directive through setting out actions but not prioritising areas for restoration. Mr MacLennan recommends that the above prioritised areas in clause 3.21(2) of the NPSIB be included in ECO-P8. We agree that this is necessary with the exception of clause (2)(d) which is addressed in the LF chapter through LF-FW-P10.

84. Turning to submissions on ECO-P8, we agree with the submission of Kāi Tahu ki Otago and Forest and Bird to include the term 'restoration' in the heading. Forest and Bird consider the term 'enhancement' to be too subjective and preferred 'improving'. We agree with Ms Hardiman that 'enhancement' is a well understood term that is used throughout the PORPS in a similar context.
85. QLDC requested that 'intrinsic values' be added to the chapeau of ECO-P8 to more clearly link to clause (2). Ms Hardiman recommended accepting this amendment but we consider that this is unnecessary duplication with clause (2).

4.1 Recommendation

86. We recommend that ECO-O2 be amended as follows:

ECO-O2 – Restoring ~~or~~ and enhancing

Restoration and enhancement activities result in an A net overall increase in the extent and occupancy of Otago's indigenous biodiversity results from restoration or enhancement.

87. We recommend the following amendments to ECO-P8:

ECO-P8 – Restoration and eEnhancement

The extent, occupancy and condition of Otago's *indigenous biodiversity* is increased by:

- (1) restoring and enhancing *habitat* for *indigenous species*, including taoka and *mahika kai* species,
- (2) improving the health and *resilience* of *indigenous biodiversity*, including ecosystems, species, ~~important~~ ecosystem function, and *intrinsic values*, ~~and~~
- (3) buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai and
- (4) prioritising all the following for restoration:
 - (a) significant natural areas whose ecological integrity is degraded,
 - (b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems,
 - (c) areas that provide important connectivity or buffering functions,
 - (d) areas of indigenous biodiversity on native reserves and Māori land where restoration is advanced by the Māori landowners,
 - (e) any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration.

5. ECO-O3 – Kaitiakitaka stewardship and ECO-P1 - Kaitiakitanga

88. ECO-O3 and ECO-P1 were notified as follows:

ECO–O3 – *Kaitiakiaka* and stewardship

Mana whenua are recognised as kaitiaki of Otago’s indigenous *biodiversity*, and Otago’s communities are recognised as stewards, who are responsible for:

- (1) te hauora o te koiora (the health of indigenous *biodiversity*), te hauora o te taoka (the health of species and ecosystems that are taoka), and te hauora o te taiao (the health of the wider *environment*), while
- (2) providing for te hauora o te takata (the health of the people).

ECO–P1 – Kaitiakitaka

Recognise the role of Kāi Tahu as kaitiaki of Otago’s indigenous *biodiversity* by:

- (1) involving Kāi Tahu in the management of indigenous *biodiversity* and the identification of indigenous species and ecosystems that are taoka,
- (2) incorporating the use of mātauraka Māori in the management and monitoring of indigenous *biodiversity*, and
- (3) providing for access to and use of indigenous *biodiversity* by Kāi Tahu, including mahika kai, according to tikaka.

89. We note that NPSIB Policy 2 contains similar direction to ECO-O3 and ECO-P1, stating:

Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:

- (a) *managing indigenous biodiversity on their land; and*
- (b) *identifying and protecting indigenous species, populations and ecosystems that are taonga; and*
- (c) *actively participating in other decision-making about indigenous biodiversity.*

90. We have considered the submissions and amendments recommended by Ms Hardiman and Mr MacLennan. We have put particular weight on the NPSIB and the submissions of Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago. We found the supplementary evidence of Mr Bathgate for iwi submitters on the NPSIB particularly helpful, as was the discussion in the NPSIB Reply Report of Mr MacLennan. We do not repeat the key points of those discussions here and support the final recommendations for these provision, with minor amendments to italicise ‘indigenous’ and ‘biodiversity’ in ECO-P1(3).

5.1 Recommendation

91. We recommend that ECO-03 be amended as follows:

ECO-03 – ~~Kaitiaki~~ Kaitiakitaka and stewardship

Mana whenua exercise their role ~~are recognised~~ as kaitiaki of Otago's *indigenous biodiversity*, and Otago's communities are recognised as stewards, who are responsible for:

- (1) te hauora o te koiora (the health of *indigenous biodiversity*), te hauora o te taoka (the health of species and ecosystems that are taoka), and te hauora o te taiao (the health of the wider *environment*), while
- (2) providing for te hauora o te takata (the health of the people).

ECO-P1 – Kaitiakitaka

~~Recognise the role of~~ Enable Kāi Tahu to exercise their role as kaitiaki of Otago's *indigenous biodiversity* by:

- (1) ~~involving~~ partnering with Kāi Tahu in the management of *indigenous biodiversity* to the extent desired by *mana whenua*,
- (1A) working with Kāi Tahu to identify ~~and the identification of~~ *indigenous species* and ecosystems that are taoka,
- (2) incorporating the use of mātauraka Māori in the management and monitoring of *indigenous biodiversity*, and
- (3) ~~providing for~~ facilitating access to and use of *indigenous biodiversity* by Kāi Tahu, including *mahika kai*, according to tikaka.

6. Coastal indigenous biodiversity

92. The PORPS as notified contained ECO-P7 as follows:

ECO-P7 – Coastal indigenous *biodiversity*

Coastal indigenous *biodiversity* is managed by CE-P5, and implementation of CE-P5 also contributes to achieving ECO-O1.

93. The final recommendation from the officers was to move CE-P5 to the ECO chapter and delete ECO-P7. We considered this in the CE chapter where we rejected that change, recommending that CE-P5 remain in the CE chapter. Part of our consideration in this regard was clause 9 of the National Planning Standards, which states:

8. Excluding the provisions in Part 2, provisions that apply to the coastal marine area must be located in the Coastal marine area section.

94. The NPSIB applies to indigenous biodiversity in the terrestrial environment. 'Terrestrial environment' is described as follows:

terrestrial environment means land and associated natural and physical resources above mean high-water springs, excluding land covered by water, water bodies and freshwater ecosystems (as those terms are used in the National Policy Statement for Freshwater Management 2020) and the coastal marine area.

95. We interpret this as meaning that the NPSIB applies to land in the coastal environment that is above mean high water springs and is not covered by water, water bodies and freshwater ecosystems. Therefore, there may potentially be some overlap with the provisions of the NZCPS where Policy 11 starts with:

To protect indigenous biological diversity in the coastal environment

and 'coastal environment' is given a rather broad and indistinct description of its extent and characteristics in Policy 1 of the NZCPS.

96. Any potential for conflict between the provisions of the NPSIB and the NZCPS is helpfully resolved by clause 1.4(2) of the NPSIB which states:

If there is a conflict between the provisions of this National Policy Statement and the New Zealand Coastal Policy Statement 2010 (or any later New Zealand Coastal Policy Statement issued under the Act), the New Zealand Coastal Policy Statement prevails.

97. CE-P5 is intended to implement Policy 11 of the NZCPS in an Otago context. If there is any conflict between the provisions of the ECO and CE chapters, it is likely that this will be resolved through consideration of the higher order NZCPS and NPSIB, where the NZCPS will prevail.

98. Of note, some provisions in the ECO chapter do not apply to the coastal environment, including ECO-P3, ECO-P4 and ECO-P6. The identification of SNAs under ECO-P2 does apply to the coastal environment and we consider that this is consistent with the NPSIB and CE-P5.

99. This takes us back to considering ECO-P7 and whether such a policy that cross-references to CE-P5 is necessary. We consider that it is, especially due to the close association and, on occasion, potentially overlapping provisions of the ECO and CE chapters. We consider that the s.42A recommended wording of ECO-P7 should be reinstated with amendments to reflect ECO-P5A replacing ECO-P5. Some submitters, including Port Otago, considered the CE-ECO split unclear. We agree and hope that the recommended version aids users by specifying which provisions apply and which are excluded from consideration in the coastal environment.

6.1 Recommendation

100. We recommend that ECO-P7 be amended as follows:

ECO-P7 – Coastal indigenous biodiversity

Coastal indigenous biodiversity in the coastal environment is managed by CE-P5, in addition to all objectives and policies of the ECO chapter except ECO-P3, ECO-P4, ECO-P5A and ECO-P6 and implementation of CE-P5 also contributes to achieving ECO-O1.

7. Wilding conifers

101. We heard from submitters, including the Director General of Conservation and DCC, who requested broader policy direction on pest species recognising that their impacts are not only on indigenous biodiversity but also on other matters including primary production and landscape values. This also linked with submissions we received from OWRUG and other primary sector groups who sought increased recognition and direction for impacts on primary production.
102. This was addressed in the reply report with Ms Hardiman and Ms Boyd recommending that ECO-P9 be replaced with a new policy in the LF-LS chapter which also incorporates NFL-P5. We accepted this recommendation and discuss the new policy and associated changes in the LF-LS section of this report. As a consequence ECO-M5(6), paragraph 3 of ECO-E1, and ECO-AER4 become redundant.

7.1 Recommendation

103. We recommend that the following are deleted: ECO-P9, ECO-M5(6), paragraph 3 of ECO-E1, and ECO-AER4.

8. ECO-P10 – Integrated management and ECO-M6 – Engagement

104. Subpart 1 of Part 2 of the NPSIB details the approach to implementing the objective and policies. Of relevance here is clause 3.4 which requires local authorities *“to manage indigenous biodiversity and the effects on it from subdivision, use and development in an integrated way, which means:*
- (a) recognising the interconnectedness of the whole environment and the interactions between the terrestrial environment, freshwater, and the coastal marine area; and*
 - (b) providing for the coordinated management and control of subdivision, use and development, as it affects indigenous biodiversity across administrative boundaries; and*
 - (c) working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to indigenous biodiversity.*
105. This is implemented in part in the PORPS through ECO-P10 and ECO-M6 which were notified as follows:

ECO–P10 – Integrated management

Implement an integrated and co-ordinated approach to managing Otago’s ecosystems and indigenous *biodiversity* that:

- (1) ensures any permitted or controlled activity in a *regional* or *district plan* rule does not compromise the achievement of ECO–O1,
- (2) recognises the interactions *ki uta ki tai* (from the mountains to the sea)

between the terrestrial *environment, fresh water, and the coastal marine area*, including the migration of fish species between *fresh and coastal waters*,

- (3) promotes collaboration between individuals and agencies with *biodiversity* responsibilities,
- (4) supports the various statutory and non-statutory approaches adopted to manage indigenous *biodiversity*,
- (5) recognises the critical role of people and communities in actively managing the remaining indigenous *biodiversity* occurring on private *land*, and
- (6) adopts regulatory and non-regulatory regional pest management programmes.

ECO-M6 – Engagement

Local authorities, when implementing the policies in this chapter, will:

- (1) work collaboratively with other *local authorities* to adopt an integrated approach to managing *Otago’s biodiversity* across administrative boundaries,
- (2) engage with individuals (including landowners and *land* occupiers), community groups, government agencies and other organisations with a role or an interest in *biodiversity* management, and
- (3) consult directly with landowners and *land* occupiers whose properties potentially contain or are part of *significant natural areas*.

106. ECO-P10 goes a long way to implement clause 3.4 of the NPSIB but focuses on managing ecosystems and indigenous biodiversity rather than “*indigenous biodiversity and the effects on it from subdivision use and development*”. We agree with Mr Maclennan that the chapeau of ECO-P10 should be amended to reflect the broader scope of clause 3.4.

107. Similarly, Mr Maclennan recommends amending clauses (3) and (4) of ECO-P10 to reflect the wording in subclauses (b) and (c) of clause 3.4 of the NPSIB. We consider this to be appropriate.

108. Turning to submissions, there were 11 submissions on ECO-P10 with two submitters seeking it be retained as notified. Some of the submission points have been superseded by the requirements of the NPSIB. Kāi Tahu ki Otago sought that clause (2) better reflects the connection between the terrestrial and coastal environments. Ms Hardiman has recommended amendments in response to that submission and, while we consider that these strengthen the intent of the policy, we also note that these matters are addressed in a more general sense in the IM chapter.

109. Kāi Tahu ki Otago also sought an additional clause to acknowledge the effects of climate change on indigenous biodiversity and we agree with Ms Hardiman that this is an important consideration in this policy. We recommend a minor wording change below to refer to activities which ‘may’ exacerbate the effects of climate change and also note that this assists to implement Policy 4 and clause 3.6 of the NPSIB.

110. We note that the final recommended reply report version of the PORPS has an amendment to the title of ECO-P10 from ‘integrated management’ to ‘Co-ordinated approach’. This was requested by Kāi Tahu ki Otago. Given the focus of the policy is on integration rather than co-ordination, we are reluctant to accept this change. Our preference is for a hybrid title of ‘Integrated approach’ which reflects the title of clause 3.4 of the NPSIB.
111. Turning to ECO-M6, we agree with Mr MacLennan’s assessment that this method is consistent with clause 3.4(1)(b) of the NPSIB and that no amendments are required to ensure consistency with the NPSIB.
112. There were seven submissions on ECO-M6 with five of these seeking that it be retained as notified. Kāi Tahu ki Otago sought that the provision be clarified with respect to how Kāi Tahu will be involved in the management of indigenous biodiversity. Ms Hardiman considered that this was addressed in the MW chapter, specifically MW-M3 and MW-M4. We consider that this matter should also be addressed in the ECO chapter methods and note the recommended addition of ECO-M4D – Native reserves and Māori land and ECO-M7A – Kāi Tahu kaitiakitaka in response to the NPSIB. We consider that these address Kāi Tahu’s concerns.

8.1 Recommendation

113. We recommend that ECO-P10 be amended as follows:

ECO-P10 – Integrated management approach

Manage indigenous biodiversity and the effects on it from subdivision, use and development in an integrated way, which means: ~~Implement an integrated and co-ordinated approach to managing Otago’s ecosystems and indigenous biodiversity that:~~

- (1) ensuresing any permitted or controlled activity in a *regional plan* or *district plan* rule does not compromise the achievement of ECO-O1,
- (2) recognisesing the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial *environment*, *fresh water*, and the *coastal marine area*, including:
 - (a) the migration of fish species between *fresh* and *coastal waters*, and
 - (b) the effects of land-use activities on coastal biodiversity and ecosystems,
- (2A) acknowledging that *climate change* will affect *indigenous biodiversity* and managing activities which may exacerbate the *effects of climate change*,
- (3) providing for the coordinated management and control of subdivision, use and development, as it affects *indigenous biodiversity* across administrative boundaries, ~~promotes collaboration between individuals and agencies with *biodiversity* responsibilities,~~
- (4) working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to *indigenous biodiversity*, ~~supports the various statutory and non-statutory approaches adopted to manage indigenous *biodiversity*,~~

- (5) recognising the critical role of people and communities in actively managing the remaining *indigenous biodiversity* occurring on private *land*, and
- (6) adopting regulatory and non-regulatory regional *pest* management programmes.

114. We recommend that ECO-M6 be retained as notified.

9. New policies ECO-P11 and ECO-P12

115. In his NPSIB evidence Mr Maclennan recommended two new policies to address matters in the NPSIB that are not addressed in the PORPS.

116. The first of these is resilience to climate change. Policy 4 of the NPSIB states:

Policy 4: Indigenous biodiversity is managed to promote resilience to the effects of climate change.

117. Clause 3.6 of the NPSIB addresses resilience to climate change and implements Policy 4. It reads as follows:

(1) *Local authorities must promote the resilience of indigenous biodiversity to climate change, including at least by:*

(a) *allowing and supporting the natural adjustment of habitats and ecosystems to the changing climate; and*

(b) *considering the effects of climate change when making decisions on:*

(i) *restoration proposals; and*

(ii) *managing and reducing new and existing biosecurity risks; and*

(c) *maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes.*

(2) *Local authorities must recognise the role of indigenous biodiversity in mitigating the effects of climate change.*

118. Mr Maclennan has recommended wording for ECO-P11 that closely mirrors that above and we consider his recommendation is appropriate and that there is scope in submissions to include this additional policy.

119. The second matter is the management of the effects of plantation forestry activities on SNAs. This is addressed in the NPSIB through Policy 12 and clause 3.14. Policy 12 reads as follows:

Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities.

120. Clause 3.14 reads as follows:

(1) *Except as provided in subclause (2), the adverse effects of plantation forestry activities in any existing plantation forest on any SNA must be managed in a manner that:*

(a) maintains indigenous biodiversity in the SNA as far as practicable; while

(b) providing for plantation forestry activities to continue.

(2) Despite clause 3.10, any part of an SNA that is within an area of an existing plantation forest that is planted, or is intended to be, replanted in trees for harvest must be managed over the course of consecutive rotations of production in the manner necessary to maintain the long-term populations of any Threatened or At Risk (declining) species present in the area.

(3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.

121. Similar to his recommendation for ECO-P11, Mr MacLennan has recommended wording for ECO-P12 that closely mirrors the wording of clause 3.14. We consider that this is appropriate and that there is scope in submissions to include this additional policy.

9.1 Recommendation

122. We recommend the addition of two new policies, numbered ECO-P11 and ECO-P12 as follows:

ECO-P11 – Resilience to *climate change*

Promote the resilience of *indigenous biodiversity to climate change*, including at least by:

(1) allowing and supporting the natural adjustment of *habitats* and ecosystems to the changing climate, and

(2) considering the *effects of climate change* when making decisions on:

(a) *restoration proposals*, and

(b) managing and reducing new and existing biosecurity risks, and

(3) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential *habitats*, to enable migrations so that species can continue to find viable niches as the climate changes, and

(4) recognising the role of *indigenous biodiversity* in mitigating the *effects of climate change*.

ECO-P12 – Plantation forestry activities

Manage:

(1) the adverse *effects of plantation forestry activities* in any existing *plantation forest* on any *significant natural area* in a manner that:

(a) maintains *indigenous biodiversity* in the *significant natural area* as far as practicable, while

(b) provides for *plantation forestry activities* to continue, and

(2) over the course of consecutive rotations of production, any part of a significant natural area that is within an area of an existing plantation forest that is planted, or is intended to be, replanted in trees for harvest in the manner necessary to maintain the long-term populations of any Threatened or At Risk (declining) species present in the area.

10. Other provisions

123. We have reviewed the submissions and recommendations of the officers for the following remaining methods that have not been addressed above:

- ECO-M1 – Statement of responsibilities
- ECO-M3 – Identification of taoka
- ECO-M4 – Regional plans
- New recommended ECO-M4A – Increasing indigenous vegetation cover in response to Policy 14 and clause 3.22 of the NPSIB
- New recommended ECO-M4B – Specified highly mobile fauna in response to Policy 15 and clause 3.20 of the NPSIB
- New recommended ECO-M4C – Maintenance of improved pasture for farming in response to clause 3.17 of the NPSIB
- New recommended ECO-M4D – Native reserves and Māori land in response to clause 3.18 of the NPSIB
- ECO-M5 – District plans
- New recommended ECO-M7A – Kāi Tahu kaitiakitaka in response to clause 3.3 of the NPSIB
- New recommended ECO-M7B – Information requirements in response to Policy 17 and clause 3.24 of the NPSIB
- ECO-M7 – Monitoring
- ECO-M8 – Other incentives and mechanisms
- New recommended ECO-M9 – Regional Biodiversity Strategy in response to clause 3.23 and Appendix 5 of the NPSIB

124. There are several new methods proposed to implement the requirements of the NPSIB and, similar to those discussed earlier, the proposed wording generally mirrors that of the respective NPSIB provisions. We consider that the amendments in response to the NPSIB are appropriate and support the additional recommendations and reasoning in the reply report for those amendments that are not in response to the NPSIB.

125. Turning to ECO-E1 – Explanation, there are consequential amendments which follow from our recommendations above. We have not accepted moving CE-P5 to the ECO chapter and therefore do not accept Ms Hardiman’s recommendation to amend ECO-P1 to reflect this. We

are referring to her recommendation to add a sentence referring to protecting coastal indigenous biodiversity at the end of the first paragraph, and her recommendation to delete the first sentence of the second paragraph. We consider that the first and second paragraphs should remain as notified.

126. The third paragraph of ECO-E1 refers to wilding conifers, which we addressed earlier in our discussion and recommendation to delete ECO-P9.
127. ECO-PR1 – Principal reasons is recommended to remain largely as notified, with a minor correction to italicise ‘Mahika kai’ and an additional reference to ‘coastal indigenous biodiversity’ at the end of the second bullet point. As for ECO-E1 and given that we have not accepted the recommendation to move CE-P5 to the ECO chapter, we do not support this addition. We also recommend a minor amendment to italicise ‘indigenous’ when referring to ‘indigenous biodiversity’.
128. Ms Hardiman has recommended minor amendments to ECO-AER1 and ECO-AER2 to replace ‘quality’ with ‘condition’. This is consistent with our recommended wording for ECO-O1 as well as other provisions in the ECO chapter. We therefore accept this recommendation. Ms Hardiman has also recommended deleting ECO-AER4 which addressed wilding pines and which we have addressed earlier in relation to the deletion of ECO-P9.

10.1 Recommendation

129. Adopt the Reply version of the PORPS dated 10 October 2023 for the following provisions:
- ECO-M1 – Statement of responsibilities
 - ECO-M3 – Identification of taoka
 - ECO-M4 – Regional plans
 - ECO-M4A – Increasing indigenous vegetation cover
 - ECO-M4B – Specified highly mobile fauna
 - ECO-M4C – Maintenance of improved pasture for farming
 - ECO-M4D – Native reserves and Māori land
 - ECO-M5 – District plans
 - ECO-M7A – Kāi Tahu kaitiakitaka
 - ECO-M7B – Information requirements
 - ECO-M7 – Monitoring
 - ECO-M8 – Other incentives and mechanisms
 - ECO-M9 – Regional Biodiversity Strategy
130. We recommend that ECO-E1 be retained as notified except for the deletion of the third paragraph commencing “*Wilding conifers are a particular issue...*”.

131. We recommend that ECO-PR1 be retained as notified with minor corrections to italicise 'indigenous' when referring to 'indigenous biodiversity', and the italicisation of 'Mahika kai'
132. We recommend that the anticipated environmental results are amended as follows:

ECO-AER1 There is no further decline in the condition ~~quality~~, quantity or diversity of Otago's indigenous *biodiversity*.

ECO-AER2 The condition ~~quality~~, quantity and diversity of indigenous *biodiversity* within Otago improves over the life of this Regional Policy Statement.

ECO-AER3 Kāi Tahu are involved in the management of indigenous *biodiversity* and able to effectively exercise their *kaitiakitaka*.

~~**ECO-AER4** Within *significant natural areas*, the area of land vegetated by *wilding conifers* is reduced.~~

Section 10: Energy, Infrastructure and Transport (EIT)

1. Introduction

1. The Otago region includes nationally and regionally significant renewable energy resources, infrastructure, and transport networks, as well as other infrastructure that is important at a local level. There are overlapping responsibilities between regional and district councils for managing the effects from energy, infrastructure, and transport networks in accordance with their functions under the RMA. In addition, there is a suite of regulations under several other statutes which interface with RMA functions. Many of the energy, transport and infrastructure matters also traverse the coastal environment, both within the coastal marine area and adjacent to it and interact with urban form and development.
2. The EIT chapter addresses these matters in three sub-chapters as follows:
 - Energy,
 - Infrastructure, and
 - Transport.
3. The original reporting officer on the EIT chapter was Mr Peter Stafford, who was at the time a Senior Policy Analyst at the Otago Regional Council. Mr Stafford left the Council before the hearing on the EIT chapter. Mr Marcus Langman, an independent planning consultant, was engaged by the Council to take over the reporting on the EIT chapter. Mr Langman produced several supplementary reports, including a final reply report that addressed outstanding matters.
4. This Recommendation Report largely follows the format of Mr Langman's reply report although not entirely. We also address a number of other matters that were not considered in Mr Langman's reply. As has been our approach in other chapters, we have not addressed provisions where we agree with the recommendation of the officer, although we have made some recommendations in the SODR table on some minor changes requested by submitters.

2. Chapter structure

5. As we noted above, Mr Langham was not the author of the s42A report but became involved prior to the pre-hearing meetings on the EIT chapter. In his supplementary evidence, he addressed the structure of the EIT chapter. He advised that the format of the chapter followed the specific order of the National Planning Standards, being Energy, then Infrastructure, then Transport. Mr Langham considered this to be a mandatory chapter in the National Planning Standards, although we note it must only be included if it is relevant to the regional policy statement. Quite obviously it is relevant to this RPS as these matters are significant resource management issues for the region, particularly the management of renewable energy resources and the activities that utilise them.
6. After reviewing the chapter, he came to the conclusion it would be better arranged if it began with the general infrastructure provisions followed by the more specific provisions relating to energy and transport. This has resulted in the structure of the chapter changing significantly, but the Panel agrees that it is a more logical layout.

7. As a part of that review, Mr Langman also agreed with the electricity transmission and distribution companies that better alignment could be achieved by including the electricity distribution and transmission activities in the EIT-EN – Energy sub-chapter (alongside renewable electricity generation), rather than in the EIT-INF – Infrastructure section. Again, we agree given that distribution and transmission are solely associated with energy.
8. In response to submissions from the REGs, Mr Langman also considered whether standalone provisions (or “carve out” provisions) are required to address separately the management of the effects of REG infrastructure and of electricity transmission and distribution infrastructure. In his opinion, there would need to be a clear justification for treating this type of infrastructure differently from other regionally or nationally significant infrastructure, particularly if EIT-INF-P13 was not to apply. He concluded that standalone or carve-out provisions for this infrastructure is not appropriate and would not give effect to or address the various bottom-line approaches of the relevant NPSs or other section 6 matters.
9. We largely deal with this issue in the next section of this report, but given the style of this particular RPS, we agree that standalone provisions are not necessary for these types of infrastructure. However, throughout the PORPS we have strengthened the recognition of how important this infrastructure will be in addressing the climate change issue.

3. Definition of regionally significant infrastructure

3.1. Discussion

10. As notified, the definition of Regionally significant infrastructure reads:

Regionally significant infrastructure

means:

- (1) roads classified as being of regional importance in accordance with the One Network Road Classification
- (2) electricity sub-transmission infrastructure,
- (3) renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility,
- (4) telecommunication and radiocommunication facilities
- (5) facilities for public transport, including terminals and stations,
- (6) the following airports: Dunedin, Queenstown, Wanaka Alexandra, Balclutha, Cromwell, Oamaru, Taieri.
- (7) navigation *infrastructure* associated with airports and commercial ports which are nationally or regionally significant,
- (8) defence facilities
- (9) community drinking water abstraction, supply treatment and distribution *infrastructure* that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution *infrastructure* (excluding delivery systems or infrastructure primarily deployed for the delivery of

water for irrigation of land or rural agricultural drinking-water supplies)

- (10) community stormwater *infrastructure*,
- (11) *wastewater* and sewage collection, treatment and disposal *infrastructure* serving no fewer than 25 households, ~~and~~
- (12) Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes.

11. A number of submitters requested the addition of other types of infrastructure, or amendments to the definitions of regionally significant infrastructure (RSI), or nationally significant infrastructure (NSI). The s42A report author accepted a number of these requests which led to the inclusion of Dunedin's oil terminals and bulk fuel storage facilities in the RSI list along with some other amendments for clarification.
12. Those submitters whose submission points were not recommended for acceptance, addressed their concerns at the hearing. A number of other submitters were concerned with the recommendations that were made to broaden the definition because the framework for RSI and NSI is more enabling than for general infrastructure, which they believe could lead to an inappropriate level of effects on s6 matters.
13. Mr Langman revisited this issue in his reply report. In reviewing the submissions, he applied a number of qualitative matters that he considered would qualify the infrastructure for inclusion into the definition of RSI. These were:
 - a. The infrastructure serves a regional or national benefit;
 - b. There will often be operational or functional constraints in terms of the location of the infrastructure;
 - c. The infrastructure may include lifeline utilities;
 - d. The infrastructure is at a scale that could result in the potential for significant adverse effects on significant environmental values;
 - e. The infrastructure is generally of a physical nature, being 'hard infrastructure' and does not support living, social or commercial activities; and
 - f. Similar activities are provided for in the definition of RSI in adjacent regions, in particular where there are cross boundary issues where different management regimes may give rise to difficulties with implementation.
14. These matters are wider than the opinion expressed by Ms McIntyre for Kai Tahu that RSI should be limited to infrastructure that has a lifeline utility function. To broaden the definition would, in Ms McIntyre's view, "*give inappropriate priority to the needs of infrastructure over the life-supporting capacity of the environment and the matters to be recognised and provided for in section 6 of the RMA*". While we agree that lifeline utilities will be RSI, and most RSI will be lifeline utilities, we do not agree that RSI should be solely restricted to lifeline utilities. Hence, we agree with Mr Langman that the matters he identifies provide useful guidance in this context.

15. Assessing the submissions against this criteria, Mr Langman recommended changes in respect to the following activities:
 - a. Significant electricity distribution infrastructure (SEDI) (RSI);
 - b. Municipal landfills (RSI);
 - c. Established community scale irrigation and stockwater infrastructure (RSI);
 - d. Ski area infrastructure (RSI);
 - e. The expression of facilities for public transport (RSI); and
 - f. Changes to how airports might be included within the definition of regionally significant infrastructure (RSI).
16. He advised that those additions/amendments sought by a submitter that he did not address was on the basis that he did not recommend any change for the reasons stated in the s42A report.
17. In relation to municipal landfills, both the DCC and QLDC sought the inclusion of these within the RSI definition. This was initially rejected by the s42A report author, but Mr Langman accepted the amendment proposed by Mr Barr to be appropriate and consistent with the matters outlined above. The amendment links the landfill to a local authority ownership or operation. While we accept that landfills are regionally significant infrastructure, we do have some apprehension around the qualifier as landfills are now often privately owned facilities even though they may serve a region. A good example of that is the AB Lime landfill near Winton, Southland. That facility is privately owned but takes most of the waste from the Southland region. It is also the only Class 1 landfill south of Christchurch.
18. However, no evidence was provided that dealt with this issue, so we are comfortable with Mr Langman's final recommendation.
19. In relation to SEDI, Mr Langman recommended in his supplementary evidence the inclusion of this infrastructure in the RSI definition, along with a framework for electricity distribution. We agree. The evidence from Ms Justice, Mr Zweis, and Ms Dowd on behalf of distribution companies was significant in this regard. They outlined some of the practical challenges to the network in light of growth and increased demand for electricity. These challenges are compounded by the fact that such infrastructure often needs to locate within sensitive environments. While we understand the concern expressed by HortNZ, we do not think it outweighs the need to recognise such critical infrastructure. Reverse sensitivity issues can still be dealt with, regardless of the infrastructure classification.
20. Mr Langman was also comfortable with including established community-scale stockwater and irrigation infrastructure as RSI (sought by Federated Farmers and Waitaki Irrigators), largely on the basis of the cross-boundary issue with the Canterbury RPS, which classifies them as RSI. We were swayed by the evidence of Ms Soal (for Waitaki Irrigators) on this matter, who highlighted the fact that a number of water schemes in Otago serve a dual purpose (community water supply and irrigation) but that the notified definition would mean that only part of the system was RSI. We agree that this addition should be made to the RSI definition.
21. With respect to the inclusion of ski area infrastructure, we agree with Mr Langman's approach of aligning the definition with that included in the NPSFM. That definition is confined to the

actual infrastructure required for the operation of the ski area as opposed to the ski field itself, or commercial activities associated with it. We note that Ms Galloway-Baker’s legal submission highlighted the addition of this definition to the NPSFM and did not address the definition sought by Trojan and Wayfare.

22. With respect to Ms McIntyre’s (for Kāi Tahu ki Otago) requested amendments to the definition of public transport facilities, Mr Langman agreed with the suggested deletions but not to the insertion of “rail lines”. That was because the rail network is identified as nationally significant infrastructure (NSI), and as a result, is also automatically identified as RSI.
23. We therefore question why the definition of ‘airport’ needs to be amended to recognise other airports that are serviced by aeroplanes capable of carrying more than 30 passengers. Such airports are recognised as NSI and are also automatically identified as RSI. With the exception of the Dunedin and Queenstown, the listed airports would not meet the nationally significant threshold but are regionally important.
24. Hence, while we agree with Mr Langman in relation to public transport, we do not agree with the amendment proposed to the airport clause within the RSI definition. It is already provided for in the appropriate definition, as it is included in the NSI definition.
25. One issue that Mr Langman did not address in his reply was the DCC’s concern with the amendment made to the ‘road’ entry in the RSI definition. In his evidence on behalf of the DCC, Mr Taylor was concerned that the use of the ‘One Network’ terminology required consequential adjustment to refer to which of the specific One Network categories are Regionally Significant Infrastructure. In Mr Taylor’s opinion the variability and flexibility of classifications within the One Network Framework mean that it is possible that some roads that have regional importance are not classified with a sufficiently high road order. He gave examples of lower order roads that provide lifeline connections to communities to illustrate this concern.
26. To overcome this issue, he recommended an amendment to recognise “roads which provide a lifeline connection for a community” within the RSI definition. In the Panel’s opinion, this raises an issue similar to that explained to us by the distribution companies in relation to some of their lines that service remote communities such as Makarora and Glenorchy. Accordingly, we recommend that Mr Taylor’s submission be accepted on this point.

3.2. Recommendation

27. The Panel recommends that the definition of RSI is amended as follows:

**Regionally
significant
infrastructure**

- (1) roads which provide a lifeline connection for a community OR roads classified as being of regional importance in accordance with the ~~One Network Road Classification~~ One Network Framework,
- (2) electricity sub-transmission infrastructure,
- (2A) significant electricity distribution infrastructure,
- (3) renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility,

- (4) telecommunication and radiocommunication ~~facilities,~~
networks,
- (5) ~~facilities for public transport, including terminals and stations,~~
- (6) the following airports: Dunedin, Queenstown, ~~Wanaka~~
Wānaka, Alexandra, Balclutha, Cromwell, ~~Ōamaru~~ Ōamaru,
~~Taiari, Taiari,~~
- (7) navigation *infrastructure* associated with airports and commercial ports which are nationally or regionally significant,
- (8) defence facilities for defence purposes in accordance with the Defence Act 1990,
- (8A) established community-scale irrigation and stockwater infrastructure,
- (9) community drinking water abstraction, supply treatment and distribution *infrastructure* that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution *infrastructure* (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking-water supplies)
- (10) community stormwater *infrastructure,*
- (11) *wastewater* and sewage collection, treatment and disposal *infrastructure* serving no fewer than 25 households, ~~and~~
- (11A) oil terminals, bulk fuel storage and supply infrastructure, and ancillary pipelines at Port Chalmers and Dunedin,
- (12) Otago Regional Council's hazard mitigation works including flood protection *infrastructure* and drainage schemes₂,
- (13) landfills and associated solid waste sorting and transfer facilities which are designated by, or are owned or operated by a local authority,
- (14) ski area infrastructure, and
- (15) any infrastructure identified as nationally significant infrastructure.

Ski area
infrastructure

has the same meaning as in the clause 3.21(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)

infrastructure necessary for the operation of a ski area and includes: transport mechanisms (such as aerial and surface lifts, roads, and tracks); facilities for the loading or unloading of passengers or goods; facilities or systems for water, sewerage, electricity, and gas; communications networks; and snowmaking and snow safety systems

4. EIT-INF-P11

4.1. Discussion

28. As notified, EIT-INF-P11 reads:

EIT-INF-P11 – Operation and maintenance

Except as provided for by ECO-P4, allow for the operation and maintenance of existing *nationally and regionally significant infrastructure* while:

- (1) avoiding, as the first priority, significant adverse *effects* on the *environment*, and
- (2) if avoidance is not practicable, and for other adverse *effects*, minimising adverse *effects*.

29. There were a range of submissions on EIT-INF-P11, with some seeking it be retained as notified and others seeking its deletion. Others sought amendments to clarify its intent, and to make it more enabling.

30. In relation to those who sought deletion of the policy or amendment to merely ‘allow’ infrastructure (Contact, Network Waitaki and PowerNet and NZIC), Mr Stafford (the original s42A report author) was of the view that:

“the present policy wording provides better direction for the treatment of adverse effects. **Removal of the wording as proposed would effectively permit development of infrastructure without consideration of its effects** and would not represent sustainable management of natural and physical resources or recognise and provide for the matters set out in s6 RMA. The alternative provided through the amendments requested would have a similar effect. I also refer to my consideration of the Aurora submission in relation to removal of reference of ECO-P4...”. **(Panel emphasis)**

31. In her evidence for the EDBs, Ms Justice raised concern about the implementation of the policy (as did others), particularly with the fact that it only relates to existing nationally and regionally significant infrastructure. This, too, is of concern to the Panel. Mr Stafford’s statement repeated above suggests that it would apply in a consenting scenario. However, we agree with Ms Justice’s interpretation, and struggled to understand the intention of the policy, when existing use rights will as a matter of law allow for operation and maintenance of existing activities without the qualifier in this policy. The only benefit we can see is the recognition of ‘maintenance’ but again that is all part of operating an existing, consented activity.

32. As a consequence of the forgoing, we recommend that the policy be deleted as requested by Contact, Network Waitaki and PowerNet and NZIC.

4.2. Recommendation

33. The Panel recommends that EIT-INF-P11 be deleted.

5. REG Policy Framework

5.1. Discussion

34. The Panel notes that a similar provision to EIT-INF-P11 is included in the Energy sub-chapter. EIT-EN-P1 reads “the operation and maintenance of existing renewable electricity generation activities is provided for while minimising its adverse effects”. We have similar concerns about this provision although we note in this context, Policy E2 of the NPS-REG requires plans to include objectives, policies, and methods to provide for the operation of these facilities as well as their development, maintenance and upgrading. The likely application of the policy is when REGs that utilise water are being re-consented.

35. There are a number of submissions on this provision, with some requesting upgrading and expansion be included in its scope while the DCC request that it be combined with P3 (Development and upgrade of REG activities) and P4 (Identifying new sites or resources), and that the management of effects clause is moved into EIT-EN-P6. As recommended, P3 and P4 read as follows:

EIT-EN-P3 – Development and upgrade of renewable electricity generation activities

The security of renewable electricity supply is maintained or improved in Otago through appropriate provision for the development or upgrading of *renewable electricity generation activities* and diversification of the type or location of renewable electricity generation activities.

EIT-EN-P4 – Identifying new sites or resources

Provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation* and, when selecting a site for new *renewable electricity generation*, prioritise those where adverse *effects* on highly valued *natural and physical resources* and *mana whenua* values can be avoided or, at the very least, minimised.

36. Similar submissions have been made on EIT-EN-P3 but the s42A report author advised that the focus of this policy is on security and diversification, which is consistent with Policy A(a) of the NPSREG. While we accept that, we do agree with submitters that EIT-EN-P1 (and EIT-EN-02) require amendment to better reflect the NPSREG around the maintenance and increase of electricity generation capacity. We have commented numerous times throughout our recommendation reports on the importance of REGs in addressing the climate issue. As a consequence, we agree with the REG submitters that the policy framework should not only provide for the protection of generation capacity but also for its increase where appropriate.

37. We also accept the DCC's submission that these provisions do not need to address effects management as that is dealt with in EIT-EN-P6 and P13. In the same context, we agree with the REG submitters who sought to remove the 'prioritisation' requirements of EIT-EN-P4 and other similar provisions. As the Contact Energy submission noted, *"it is not clear whether this policy is targeted towards resource developers, district and regional plan developers or decision makers."* The Panel is also unsure how the policy will be implemented and who will be responsible for that prioritisation. We agree with Contact that it would not be appropriate for the RPS (or any other local authority for that matter) to have a role in site selection given the range of locational, operational, environmental, commercial, and economic considerations involved in that process. We also agree that the second part of the policy is a duplication and is not necessary given the requirements of EIT-EN-P6 and P13.
38. In relation to EIT-EN-P6, Meridian Energy request a number of amendments that we consider appropriate. However, we do not agree that alternatives should not at least be considered when there are potentially significant or irreversible effects. A consequential amendment is required to the third paragraph of EIT-EN-E1 to change 'residual adverse effects' to 'significant residual adverse effects'.
39. A number of submitters also sought the deletion or clarification of this requirement in EIT-INF-M4 and M5 of the INF sub-chapter (for example, the DCC, Jim Hopkins, Trojan, and Wayfare) for similar reasons. We also agree that is not necessary in these provisions given they already contain provisions to manage effects of infrastructure.
40. We also take the opportunity at this point to discuss EIT-INF-M5(6) which was essentially opposed by the DCC, in particular the 'avoid' approach which they say could be read as requiring a plan to prohibit any development that cannot connect to infrastructure. They also questioned the broad definition of 'infrastructure' and its use in this clause, presumably because not all development will need all types of infrastructure. They also highlight the fact that there are various ways infrastructure is funded, including by the developer. Kai Tahu also opposed this clause given that marae and whanau housing is often located in unreticulated areas. They requested that this provision be deleted.
41. The s42A report author disagreed with both Kai Tahu and the DCC submission as in his view the clause does not preclude the use of private on-site provision of infrastructure and nor does it determine methods of funding. However, the Panel shares the concern of both the Kai Tahu and the DCC given this provision is broadly worded to apply to all development and uses the 'avoid' directive. We do not consider that appropriate in the context of what is largely a rural region, but more importantly as we discussed in the Legal section of the Introduction to this report, such a broad-sweeping prioritisation does not accord with Supreme Court decisions. The Panel also notes that the provisions of both the UFD and LF chapters contain provisions that address the servicing of development with infrastructure and EIT-INF-P17 directly refers to the relevant UFD policies in this regard.
42. In our view, EIT-INF-M5(6) merely needs to ensure that development is adequately served with infrastructure. We have recommended such a change accordingly.
43. The Panel also notes that QLDC sought amendment to EIT-EN-2(7) so that it is not a requirement in all instances, rather it is required when there is an opportunity to connect with an existing transport infrastructure network. The DCC seek clarification on what is being 'required'. We agree with the approach proposed by QLDC. It is highly unlikely that it will be possible to provide multi-nodal transport options in rural lifestyle areas.

44. QLDC also request that EIT-EN-2(7) be located to either the infrastructure or transport sub-sections. We are of the view that it should be relocated to EIT-TRAN-M8 in the transport sub-section.

5.2. Recommendation

45. As a consequence of the foregoing, the Panel recommends the following amendments to the REG provisions:

EIT-EN-O2 – Renewable electricity generation

The generation capacity of *renewable electricity generation activities* in Otago:

- (1) is protected and maintained, and, if ~~practicable~~ maximised, within environmental limits, where appropriate, increased, and
- (2) contributes to meeting New Zealand’s national target for *renewable electricity generation*.

EIT-EN-P1 – Operation, ~~and~~ maintenance and upgrade

The operation, ~~and~~ maintenance, and upgrade of existing *renewable electricity generation activities* is provided for including the maintenance of generation output and protection of operational capacity while minimising its adverse effects.

EIT-EN-P3 – ~~Development and upgrade of~~ The security of renewable electricity generation ~~activities~~ supply

The security and installed capacity of renewable electricity supply is maintained or improved in Otago through appropriate provision for the development or upgrading of *renewable electricity generation activities* and diversification of the type or location of renewable electricity generation activities.

EIT-EN-P4 – Identifying new sites or resources

Provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*, ~~and, when selecting a site for new renewable electricity generation, prioritise those where adverse effects on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised.~~

EIT-EN-P6 – Managing effects

Manage the adverse *effects* of *renewable electricity generation activities* by:

- (1) applying EIT-INF-P13,
- (2) having particular regard to:
 - (a) the *functional need* to locate *renewable electricity generation activities* where resources are available,

(b) the *operational need* to locate where it is possible to connect to the *National Grid* or *electricity sub-transmission infrastructure*, and

- (3) having regard to ~~(e)~~ the extent and magnitude of adverse *effects* on the *environment* and the degree to which unavoidable adverse *effects* can be remedied or mitigated, or significant residual adverse *effects* are offset or compensated for; and
- (4) requiring consideration of alternative sites, methods and designs, and offsetting or compensation measures (in accordance with any specific requirements for their use in this RPS), where adverse *effects* are potentially significant or irreversible.

EIT-EN-M1 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*,
- ~~(2) require the prioritisation of sites for new *renewable electricity generation activities* where adverse *effects* on highly valued *natural and physical resources* and *mana whenua* values can be avoided or, at the very least, minimised,~~
- (3) manage the adverse *effects* of developing or upgrading *renewable electricity generation activities*, including identifying activities that qualify as minor upgrades, that:
 - (a) are within the *beds of lakes* and *rivers* and the *coastal marine area*, or
 - (b) involve the taking, use, damming or diversion of *water* and *discharge of water* or *contaminants*,
- (4) provide for the operation and maintenance of existing *renewable electricity generation activities*, including their *natural and physical resource* requirements, along with opportunities to increase the installed capacity of renewable electricity generation assets within the environmental limits, and
- (5) restrict the establishment of activities that may adversely affect the efficient functioning of *renewable electricity generation activities infrastructure* (including impacts on generation capacity).

EIT-EN-M2 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*,
- ~~(2) require the prioritisation of sites for new *renewable electricity generation activities* where adverse *effects* on highly valued *natural and physical resources* and *mana whenua* values can be avoided or, at the very least, minimised,~~

- (3) manage the adverse *effects* of developing or upgrading *renewable electricity generation activities* and ~~electricity transmission~~ *National Grid infrastructure*, including identifying activities that qualify as minor upgrades, that:
 - (a) are on the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area*, or
 - (b) the *beds* of *lakes* and *rivers*,
- (4) provide for the continued operation and maintenance of *renewable electricity generation activities* on the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area* and the *beds* of *lakes* and *rivers*,
- (5) restrict the establishment or occurrence of activities that may adversely affect the efficient functioning of *renewable electricity generation infrastructure*,
- (5A) enable planning for *National Grid*,
- (5B) map the *National Grid*, and identify a buffer corridor within which *sensitive activities* shall generally not be allowed,
- (5C) map *significant electricity distribution infrastructure* and, where necessary, provide controls on activities to ensure that the *functional needs* of the *significant electricity distribution infrastructure* are not compromised,
- (5D) where necessary, establishing controls for *buildings, structures* and other activities adjacent to *electricity infrastructure*, to ensure the *functional needs* of that *infrastructure* are not compromised based on NZECP34:2001 Electrical Code of Practice for Electrical Safe Distances and the Electricity (Hazards from Trees) Regulations 2003 (prepared under the Electricity Act 1992),
- (6) require the design of *subdivision* development to optimise solar gain, including through roading, lot size, dimensions, layout and orientation, and

46. And amend EIT-EN-M2(7) as follows and relocate it to EIT-TRAN-M8:

- (7) require the design of transport *infrastructure* to that provides for multi-modal transport options in *urban areas*, and in *rural lifestyle locations* where there is a *practical opportunity to connect with an existing transport infrastructure network* ~~and *rural residential locations*.~~

EIT-INF-M4 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) manage the adverse *effects* of *infrastructure* activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:
 - (a) are in the *beds* of *lakes* and *rivers*, or
 - (b) are in the *coastal marine area*, or
 - (c) involve the taking, use, damming or diversion of *water* or,
 - (d) involve the *discharge* of *water* or *contaminants*, and

~~(2) — require the prioritisation of sites for *infrastructure* where adverse *effects* on highly valued *natural and physical resources* and *mana whenua* values can be avoided or, at the very least, minimised.~~

EIT-INF-M5 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

(1) require a strategic approach to the integration of *land* use and *nationally significant infrastructure* or *regionally significant infrastructure*,

~~(2) — enable planning for the electricity transmission network and *National Grid* to achieve efficient distribution of electricity,~~

~~(3) — map the electricity transmission network, and in relation to the *National Grid*, identify a buffer corridor within which *sensitive activities* shall generally not be allowed, and~~

(4) manage the *subdivision*, use and development of *land* to ensure *nationally significant infrastructure* or *regionally significant infrastructure* can develop to meet increased demand,

(5) manage the adverse *effects* of developing, operating, maintaining, or upgrading *nationally significant infrastructure* or *regionally significant infrastructure*, including, where appropriate, identifying activities that qualify as minor upgrades, that are on:

(a) the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area*, and

(b) the *beds* of *lakes* and *rivers*,

(6) ensure that development is ~~avoided where:~~

~~(a) — it cannot be adequately served with *infrastructure*,~~

~~(b) — it utilises *infrastructure* capacity for other planned development, or~~

~~(c) — the required upgrading of *infrastructure* is not funded, and~~

~~(7) — require the prioritisation of sites where adverse *effects* on highly valued *natural and physical resources* and *mana whenua* values can be avoided or, at the very least, minimised.~~

6. Structure of EIT-INF-P13 and the application of the effects management regime, and EIT-INF-P16

6.1. Discussion

47. Proposed policy EIT-INF-P13 relates to the development of new infrastructure, regardless of its type or significance. As notified, it requires avoidance of sensitive environments as a first priority. If avoidance is not possible because of the functional or operational needs of nationally or regionally significant infrastructure, then the effects management hierarchies in

other policies for particular resources (for example, indigenous biodiversity) apply. Where these do not exist, adverse effects on the values that contribute to the area's significance are to be minimised. For all other infrastructure, where it has a functional or operational need to locate within the areas specified, the direction is to avoid adverse effects on the values that contribute to the area's significance.

48. The provision attracted a large number of submissions from a wide range of organisations. Nearly all submitters seek amendment to, or exclusion from, this policy, including through the provision of bespoke effects management provisions for particular types of infrastructure such as for REG, the electricity distribution network, and the National Grid (although acknowledging that Ms McLeod for Transpower had a preference for amendment of EIT-INF-P13 and P13A). These submitters all sought effects be managed following an effects management hierarchy, but that the process is not "bookended" with an "avoid the activity" approach if significant residual adverse effects remain.
49. The basis of many of the infrastructure providers' submissions was that a more flexible approach was necessary given the importance of certain infrastructure activities in achieving climate targets. We have accepted this throughout our recommendations on the various provisions of the PORPS, in particular in relation to new renewable electricity generation and infrastructure. However, we do not think there is anything to be gained by providing a separate effects management hierarchy for each type of infrastructure. We now have a situation where there are National Policy Statements for indigenous biodiversity and freshwater, each with their own mandatory effects management hierarchy. We cannot override or amend their impact in any way.
50. We are also conscious of the fact that draft national policy statements on REGs and the National Grid have been released for consultation. While we do not know when (or if) these will be gazetted, both propose an effects management hierarchy where adverse effects on areas with significant environmental values are managed according to an effects management hierarchy, similar to what is required in the other NPSs referred to in this policy. The drafts also note that if there is a conflict between the NPSFM and NZCPS, then those documents shall prevail. As with other NPSs, changes will be required to lower order documents without using the Schedule 1 process. Hence, we agree with Mr Langman that there is little point in trying to predetermine the outcome of the NPSs or provide separate effects management hierarchies for these activities now, given that the changes can be made directly to the planning instrument.
51. In relation to the sensitive environments listed in the policy that do not already have an NPS effects management hierarchy, these are the section 6 matters where protection is qualified by the phrase "from inappropriate subdivision, use and development". In these environments, we prefer the effects management hierarchy approach proposed by Manawa Energy, Meridian, Contact Energy, and other submitters (including Forest and Bird). Manawa and Contact Energy both opposed EIT-INF-P13 and promoted alternatives that adopted the 'avoid, remedy or mitigate' approach rather than the use of 'minimise'. An activity may be considered appropriate in such locations, when all other policies are considered, but not be able to minimise effects i.e. to reduce those effects to the lowest possible level.
52. We do agree with the report writers that it is not appropriate to limit the 'avoid as a first priority' approach to scheduled areas only. While lower order documents will be required to identify and map these areas, that may take some time. If an area meets the criteria for significance, it should be treated as such regardless of whether it is scheduled in a plan or not.

53. A number of submitters were concerned about the use of the word ‘possible’ in clause 2 as it is always “possible” to avoid locating within those areas by not undertaking development of the infrastructure. The New Zealand Infrastructure Commission requested the use of ‘reasonably practicable’ in its place while Queenstown Airport requested just the use of ‘practicably’.
54. Mr Langman recommended the phrase “demonstrably practicable” on the basis that it “provides a high test to be met before infrastructure locates within one of these areas, but enables an evaluative process to take place (which should include assessment of the route, method or site selection process)” and that it “clearly outlines that the providers are able to demonstrate that infrastructure cannot practicably be located in an area outside of those resources listed.”
55. The Panel does not favour the use of ‘demonstrably’, which is not a phrase commonly used in RMA plans. The ‘reasonably practicable’ test, as requested by New Zealand Infrastructure Commission, also requires the proponent of a project to demonstrate that infrastructure cannot practicably be located to avoid a sensitive environment. The use of ‘demonstrably’ is largely superfluous in this context.
56. Mr Langman also addressed the inclusion of areas of “high recreational value” alongside high amenity value in EIT-INF-P13(1)(h). Manawa Energy sought that this clause be deleted while Mr Barr for QLDC recommended it be replaced with “highly valued natural features and landscapes”⁵⁰. Mr Langman accepted Mr Barr’s assessment as set out in his evidence and recommended that phrase. However, the Panel has recommended deletion of ‘amenity landscapes’ from the NFL chapter for a number of reasons, including that it is not a significant regional issue. We specifically acknowledged the difficulty identifying such landscapes will have for the REG development necessary to address the climate change issue.
57. Manawa and Queenstown Airport Corporation also sought the removal of high’ natural character from clause 1(e) for similar reasons. We agree as a ‘high’ natural character landscape is also an amenity landscape issues, and its use here has only been adopted to address the NPSET, which does not apply to all infrastructure. That reference should be included in EIT-INFP16, which applies to the National Grid. Transpower sought an amendment to that effect when promoting a new policy specifically for the National Grid.
58. The reference to areas of ‘high recreation value and amenity’ is also recommended to be relocated to EIT-INFP16 to reflect Policy 8 of the NPSET, again as requested by Transpower. Because Policy 8 only ‘seeks’ to avoid, we think it appropriate that the management of effects is addressed by the application of EIT-INF-P13(2)(a)(vi) as recommended below.
59. The reference to outstanding natural character has also been deleted from EIT-INF-P13 as a consequential amendment because it is already reflected in clause 1(b).
56. We also note that Mr Stafford has recommended the inclusion of “areas of significance to mana whenua such as wāhi tupuna” to clause (5) of this policy in response to a submission from Kai Tahu. This is not needed as this matter is addressed in EIT-INF-P13(1) (g), which applies in both an urban and rural setting whereas EIT-EN-P16(5) only applies in an urban setting.

6.2. Recommendation

57. Amend EIT-INF-P13 and EIT-INF-P16 as follows:

EIT-INF-P13 – Locating and managing effects of infrastructure, *nationally significant infrastructure* and *regionally significant infrastructure* outside the coastal environment

When providing for new *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* outside the coastal environment:

- (1) avoid, as the first priority, locating *infrastructure* in all of the following:
 - (a) *significant natural areas*,
 - (b) outstanding natural features and landscapes,
 - (c) *natural wetlands*,
 - (d) *outstanding water bodies*,
 - (e) ~~areas of high or outstanding natural character~~,
 - (f) areas or places of significant or outstanding *historic heritage*, and
 - (g) *wāhi tūpuna*, ~~wāhi tapu~~, ~~wāhi taoka~~, and ~~areas with protected customary rights~~, and
 - (h) ~~areas of high recreational and high amenity value~~, and
- (2) if it is not ~~possible~~ reasonably practicable to avoid locating in the areas listed in (1) above because of the *functional needs* or *operational needs* of the *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* manage adverse effects as follows:
 - (a) for *nationally significant infrastructure* or *regionally significant infrastructure*:
 - (i) in *significant natural areas*, in accordance with ECO-P4 and ECO-P6,
 - (ii) in *natural wetlands*, in accordance with the relevant provisions in the NESF,
 - (iii) in *outstanding water bodies*, in accordance with LF-FW-P12,
 - (iiia) in relation to *wāhi tūpuna*, in accordance with HCV-WT-P2,
 - (iv) in other areas listed in EIT-INF-P13(1) above, ~~minimise the adverse effects of the *infrastructure* on the values that contribute to the area's importance~~, and shall be:
 - (I) remedied or mitigated to the extent practicable,
 - (II) where they cannot be practicably remedied or mitigated, regard shall be had to offsetting and/or compensation of more than minor residual adverse effects.

- (b) for all *infrastructure* that is not *nationally significant infrastructure* or *regionally significant infrastructure*, avoid adverse effects on the values that contribute to the area's outstanding nature or significance except in relation to historic heritage, which is not significant or outstanding, then HCV-HH-P5(3) will apply.

EIT-INF-P16 – Providing for ~~electricity transmission~~ and the *National Grid*

Maintain a secure and sustainable electricity supply in Otago by:

- (1) providing for the effective operation, maintenance, upgrading and development of the *National Grid* development of, and upgrades to, the electricity transmission network and requiring, as far as reasonably practicable, its integration with *land use*,
- (2) considering the ~~requirements of and~~ constraints associated with the *functional and operational needs* of the ~~electricity transmission network~~ *National Grid* in its management,
- (3) ~~providing for the efficient and effective development, operation, maintenance, and upgrading of the *National Grid*,~~
- (4) enabling the reasonable operation, maintenance and minor upgrade requirements of established ~~electricity transmission~~ *National Grid* assets, ~~and~~
- (5) minimising the adverse *effects* of the ~~electricity transmission network~~ *National Grid* on urban amenity, and avoiding adverse *effects* on town centres, areas of high amenity or recreational value and existing *sensitive activities*;
- (6) in rural areas, seek to avoid adverse effects in areas of high natural character and areas of high recreation value and amenity, and, where this is not practicable, apply EIT-INF-P13(2)(a)(iv), and
- (7) in addition to clause (6), apply EIT-INF-P13 where relevant.

7. Application of EIT-INF-P5 relating to non-renewable energy generation activities

7.1. Discussion

58. As notified, EIT-EN-P5 was reads:

EIT-EN-P5 – Non-renewable energy generation

Avoid the development of non-renewable energy generation activities in Otago and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation.

59. As Mr Langman noted in his reply report, a number of submitters raise concerns regarding the approach in EIT-EN-P5 to avoiding development of non-renewable energy generation

activities. This concern mainly centred around the lack of recognition of backup sources required for lifeline services, or where alternatives are not available for industrial processes. Submitters requested that more flexibility be provided where power resilience is required, with some submitters requesting the 'avoid' approach be subject to a test of practicality.

60. Mr Langman acknowledged in his reply that “the wording is very tight and directive, and given the examples provided by the submitters in evidence and at the hearing, that there are likely to be necessary exceptions.” To address the issue, he recommended including the words “unless no other renewable energy options exist” as in his opinion this still provides a pathway for new non-renewable energy generation, but the circumstances are very restricted.
61. The Panel agrees with submitters that an ‘avoid’ policy in these circumstances is too onerous and does not reflect reality. We do not think the wording proposed by Mr Langman assists in addressing the issues raised by submitters. That is because the example given by submitters illustrate that there is generally likely to be a renewable energy source existing at a site. Most, if not all, sites are connected to the national grid. The issue the EDSs illustrated is the need for resilience in a system when that connection fails. Ms Dowd, for Aurora, advised that in Glenorchy, for example, a generator running on non-renewable fuel is often required when this occurs. Ms Taylor, on behalf of Ravensdown, gave an example of how non-renewable energy is required as part of an industrial process, for which no alternative has yet been found even though a renewable energy source does exist at a site (i.e. they are connected to the national grid).
62. Hence, we favour an amended version of the approach proposed by Ravensdown in their submission. We have moved the ‘where practicable’ phrase to relate to the restriction on developing non-renewable energy. It is not needed in relation to the second part of the policy, which is about facilitating the replacement of non-renewable. That does not direct replacement but indicates the regulatory path to achieve it will be made easier.
63. We also note that this policy has been amended to reflect a new NPS and NES on Greenhouse Gases from Industrial Process Heat, as recommended by Mr Langman in the memorandum received on this matter dated 16 August 2023.

7.2. Recommendation

64. Our final recommended amendments to the notified version of the pORPS are:

- a. The following amendments to Policy EIT-EN-P5:

EIT-EN-P5 – Non-renewable energy generation

In relation to non-renewable energy generation:

(1) except as provided for in (2) below, ~~avoid~~ restrict the development of non-renewable energy generation activities in Otago, where practicable, and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation, ~~and~~ and

(2) in relation to new heat devices for industrial process heat:

(a) avoid discharges from new heat devices that burn coal and deliver heat at or above 300 degrees Celsius, unless there is no technically feasible and financially viable lower emissions alternative,

(b) avoid discharges from new heat devices that burn coal and deliver heat below 300 degrees Celsius, and

(c) avoid discharges from new heat devices that burn any fossil fuel other than coal, unless there are no technically feasible and financially viable lower emissions alternative, and

(3) in relation to existing heat devices for industrial process heat:

(a) restrict discharges from existing heat devices that burn coal and deliver heat at or above 300 degrees Celsius,

(b) restrict and phase out discharges from existing heat devices that burn coal and deliver heat below 300 degrees Celsius, and

(c) restrict discharges from existing heat devices that burn any fossil fuel other than coal.

b. Adding the following new definitions to the Interpretation section as defined in the National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat to assist with the interpretation of Policy EIT-EN-P5:

- Existing, for a heat device (for the interpretation of EIT-EN-P5)
- Fossil fuel
- Heat device
- Industrial process heat
- New, for a heat device (for the interpretation of EIT-EN-P5)

8. Reverse sensitivity effects on infrastructure

8.1. Discussion

65. As notified, EIT-INF-P15 reads as follows:

‘Seek to avoid the establishment of activities that may result in reverse sensitivity effects on nationally or regionally significant infrastructure, and/or where they may compromise the functional or operational needs of nationally or regionally significant infrastructure’.

66. As a consequence of changes proposed in response to a submission from Queenstown Airport, EIT-INF-P15 was recommended by the s42A report authors to read as follows:¹

EIT-INF-P15 – Protecting nationally significant infrastructure ~~or~~ and regionally significant infrastructure

~~Seek to avoid the establishment of activities that may result in reverse sensitivity effects on nationally or regionally significant infrastructure, and/or where they~~

¹ This version includes the recommendations from the hearing reports prepared under s42A of the RMA, all supplementary evidence, and the opening statements.

~~may compromise the functional or operational needs of nationally or regionally significant infrastructure.~~

Protect the efficient and effective operation of nationally significant infrastructure and regionally significant infrastructure by:

- (1) avoiding activities that may give rise to an adverse effect on the functional needs or operational needs of nationally significant infrastructure or regionally significant infrastructure,
- (2) avoiding activities that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure, and
- (3) avoiding activities and development that foreclose an opportunity to adapt, upgrade or develop nationally significant infrastructure or regionally significant infrastructure to meet future demand.

67. A number of submitters raised concern with the recommended provision, with Ms Wharfe for Horticulture NZ considering the wording to be tighter than that provided for under the NPSET. She offered alternative wording along with amendments to the chapeau. For Kai Tahu, Ms McIntyre raised concerns that the amendments could create an uncertain ‘sterilisation’ of areas where there may be the possibility of infrastructure being developed in the future.² DCC seeks amendments to the reverse sensitivity provisions in EIT-TRAN-P21, which addresses reverse sensitivity effects on the transport system, by seeking to remove the use of ‘avoid’, and replacing it with “mitigate” or “minimise as far as practicable”. No evidence was provided to support this change. QLDC also sought amendments, including the replacement of “protecting” with an alternative. Mr Barr, for QLDC, was concerned that the addition of clause (3) in the policy could stifle residential expansion promoted by a local authority to give effect to the NPSUD, and that the level of protection is disproportionate given that the majority of NSI and RSI operators are requiring authorities and can designate for future development.³
68. In his response to the submitters, while not accepting all the submission points, Mr Langman did consider the policy too directive in nature. He recommended amendments to clause (1) and (2) to incorporate the concept of “avoiding activities to the extent reasonably possible”. He also noted that this also aligns with Policy 7 of the proposed NPSREG and proposed NPSET which both seek that reverse sensitivity effects on REG and electricity transmission are avoided or mitigated where practicable.
69. However, he did not agree with Ms Wharfe’s recommendation to change “protect” to “recognising and providing” as the policy is about protecting the efficient and effective operation of NSI and RSI. Nor did he agree with Mr Barr that protecting existing infrastructure, and possible future extensions to it, would be inconsistent with the NPSUD.
70. The Panel agrees with Mr Langman for the most part but notes that the policy applies all *nationally significant infrastructure* and *regionally significant infrastructure*, not just those provided for by an NPS. Having said that, we note that current Policy 10 of the NPSET only uses the phrase “avoiding activities to the extent reasonably possible” in relation to reverse sensitivity. We prefer the use of the word ‘practicable’ in clause (2) given it applies to all such infrastructure.

² Sandra McIntyre for Kāi Tahu ki Otago, para [127]

³ Craig Barr for QLDC, para [5.41]-[5.44]

71. We also note that the remainder of Policy 10 of the NPSET addresses the “operation, maintenance, upgrading, and development of the electricity transmission” and only requires local authorities to ensure those things are not “compromised”. Hence, we consider the ‘avoid’ approach in clause (3) to be more restrictive than the NPSET and nor is it appropriate in respect to other infrastructure not covered by the NPSET. We consider a better phrase here is to use “avoid or minimise the effects of activities and development so that the opportunity ...to meet future demand is not compromised”. This gives better effect to Policy 10 of the NPSET and should address to a degree at least, the concerns raised by both Ms McIntyre and Mr Barr.
72. In relation to the first clause (1) of the policy, we again recommend that ‘possible’ be replaced with ‘practicable’. With respect to the NPSET, we note that this clause is not addressing reverse sensitivity as such so there is no inconsistency with the NPSET.
73. In relation to EIT-TRAN-P21, Mr Langman noted that the transport system is wider than just NSI and RSI, so accepted the DCC submission to make similar changes to this provision. We agree with that, but we prefer the wording we have recommended for EIT-INF-P15 for the reasons we outlined in relation to that provision.
74. EIT-EN-P7 addresses reverse sensitivity in the context of REGs. Mr Langman considers the final amended form of that policy gives effect to the NPSREG and does not recommend any changes. We agree.

8.2. Recommendation

75. The Panel recommends the following amendments of EIT-INF-P15 and EIT-TRAN-P21:

EIT-INF-P15 – Protecting nationally significant infrastructure ~~or~~ and regionally significant infrastructure

~~Seek to avoid the establishment of activities that may result in reverse sensitivity effects on nationally or regionally significant infrastructure, and/or where they may compromise the functional or operational needs of nationally or regionally significant infrastructure.~~

Protect the efficient and effective operation of nationally significant infrastructure and regionally significant infrastructure by:

- (1) avoiding activities, to the extent reasonably practicable, that may give rise to an adverse effect on the functional needs or operational needs of nationally significant infrastructure or regionally significant infrastructure,
- (2) avoiding activities, to the extent reasonably practicable, that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure, and
- (3) avoid or minimise the effects of activities and development so that the opportunity to adapt, upgrade or extend existing nationally significant infrastructure or regionally significant infrastructure to meet future demand is not compromised.

EIT-TRAN-P21 – Operation of the transport system

The efficient and effective operation of the transport system is maintained by:

- (1) avoiding or mitigating adverse *effects* of activities on the functioning of the transport system,
- (2) avoiding the impacts of incompatible activities, to the extent reasonably practicable, including those that may result in *reverse sensitivity effects*,
- (3) avoiding or minimising the effects of activities and development so that the opportunity to adapt, upgrade or develop the transport system to meet future transport demand, is not compromised,
- (4) promoting the development and use of transport hubs that enable an efficient transfer of goods for transport and distribution across different freight and people transport modes,
- (5) promoting methods that provide more efficient use of, or reduce reliance on, private motor vehicles, including ridesharing, park and ride facilities, bus hubs, bicycle facilities, demand management and alternative transport modes, and
- (6) encouraging a shift to using renewable energy sources.

9. Consideration of provisions related to Commercial Port Activities

9.1. Discussion

76. In his reply report, Mr Langman addressed a number of concerns raised by Mr Brass for DOC, Ms O’Callahan for Port Otago, and Ms Taylor for Ravensdown. He recommended accepting the submissions to remove limits and Ms Taylor’s request for consequential changes to EIT-TRAN-M8.
77. He also recommended adopting one of Ms O’Callahan’s two drafting options to provide a pathway for activities essential to the efficient and safe operation of the port. The option chosen would depend on the outcome of the Supreme Court decision regarding Port Otago’s appeal on the ORPS 2019, which had not been decided at the time of the preparation of Mr Langman’s reply evidence.
78. However, the Port Otago decision was released prior to the close of the hearings and addressed how the NZCPS should be reconciled where there are potential conflicts between the ports policy, and the avoidance policies of the NZCPS. Ms O’Callahan and Mr Langman considered the implications of that decision and produced a joint witness statement that provided agreed amendments to EIT-TRAN-O10 and EIT-TRAN-P23. Counsel for the Port, Mr Garbett, advised that *“the wording has adopted the wording recommended by the Supreme Court as closely as possible, while incorporating it into the current framework of the proposed RPS.”*
79. The Panel has reviewed the proposed wording and is comfortable with what has been recommended. We consider that it fits well with the amendments we have made to ‘IM-P1 – Integrated approach to decision-making’ to reflect the Port Otago case, and with our amended ‘IM-P6 Managing uncertainties’, which introduces the ‘adaptive management’ concept.

9.2. Recommendation

80. The Panel recommends that EIT-TRAN-O10, EIT-TRAN-P23, and EIT-TRAN-M8 be amended as follows:

EIT-TRAN-O10 – Commercial port activities

Commercial port activities operate safely and efficiently, ~~and within environmental limits.~~

EIT-TRAN-P23 – Commercial port activities

Recognise the national and regional significance of ~~the commercial port activities associated with the ports at Port Chalmers and Dunedin (respectively)~~ by:

- (1) ~~within environmental limits as set out in Policies CE-P3 to CE-P12,~~ providing for the efficient and safe operation of ~~these~~ the ports and efficient connections with other transport modes,
- (2) ~~within the environmental limits set out in Policies CE-P3 to CE-P12,~~ providing for the development of the ports' capacity for national and international shipping in and adjacent to existing port activities, ~~and~~
- (3) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes, ~~and~~
- (4) if any of policies CE-P3 to CE-P12 cannot be achieved while providing for the safe and efficient operation or development of *commercial port activities*, then resource consent for such activities may be sought where:
 - (a) the proposed work is required for the safe and efficient operation of commercial port activities, and
 - (b) the adverse effects from the operation or development are established to be the minimum necessary to achieve the safe and efficient operation of the commercial port activities.

EIT-TRAN-M8 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) ...
- ...
- (6) include policies and methods that provide for *commercial port activities associated with the operations at Otago Harbour and the ports at Port Chalmers and Dunedin* and avoid encroachment of activities which give rise to reverse sensitivity effects.

Section 11: Hazards and Risks (HAZ)

1. Introduction

1. The Hazards and Risks chapter of the PORPS is split into two sections: natural hazards (HAZ-NH) and contaminated land (HAZ-CL). This chapter of our recommendation report addresses the provisions in the HAZ chapter and associated APP6 – Methodology for natural hazard risk assessment.
2. The Otago Region is prone to a wide range of natural hazards, from coastal erosion, tsunami, flooding, wildfires, an earthquake (particularly on the alpine fault), and extreme weather events. Climate change has the potential to exacerbate the frequency or severity of these hazards. These risks of natural hazards are set out in SRMR-I1, along with their environmental, economic and social impacts. The ORC must manage the significant risks from natural hazards as a matter of national importance under s.6(h) of the RMA.
3. Contaminated land is also the subject of this chapter of the PORPS, applying to land in Otago that is either on the Hazardous Activities and Industries List (HAIL) or likely to have had a HAIL activity undertaken on it.
4. Relevant to this chapter, the ORC’s functions under the RMA include:
 - a. Controlling “the use of land for the purpose of the avoidance of natural hazards” (s.30(1)(c)(iv));
 - b. Investigating “land for the purposes of identifying and monitoring contaminated land” (s.30(1)(ca)); and “
 - c. Controlling “discharges of contaminants into or onto land, air, or water...”(s.30(1)(f).
5. Of particular relevance to this chapter, the PORPS must give effect to the following national documents:
 - a. The New Zealand Coastal Policy Statement under s.62(3) of the RMA, which requires councils to avoid increasing risk in coastal hazard areas and encourage development that reduces the risk of effects from hazards in the coastal environment;
 - b. The National Adaptation Plan¹, under s.61(2)(e) of the RMA, which requires the PORPS to apply minimum climate change scenarios; and
6. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS), which regulates activities on contaminated or likely to be contaminated land and provides guideline soil contaminant values.
7. In addition, there is a suite of regulations under several other statutes which interface with RMA functions, including the Civil Defence Emergency Management Act 2002, the Building

¹ Ministry for the Environment, 2022. Aotearoa New Zealand’s first national adaptation plan. Published by the Minister of Climate Change under section 5ZT of the Climate Change Response Act 2002.

Act 2004, Climate Change Response (Zero Carbon) Amendment Act 2019, the Waste Minimisation Act 2008, and the Hazardous Substances and New Organisms Act 1996.

8. The hearing of the Hazards and Risks chapter of the PORPS was held on 26 and 27 April 2023. The s.42A report was prepared by Mr Andrew Maclennan, who also prepared a supplementary statement of evidence updating a number of recommendations, and a reply report. A technical report prepared by GNS Science was appended to the s.42A report which addressed the technical aspects of submissions on natural hazards. We acknowledge the work of Mr Maclennan and submitters to engage to resolve outstanding issues. Their constructive approach to conferencing has resulted in agreement on a number of key matters and has made our job considerably easier.
9. As a result, we consider that many of the matters raised have been resolved through the final recommendations of Mr Maclennan. In this report we only cover what we consider to be the key points of contention or provisions that we consider require further amendment. Where provisions are not addressed, we have accepted the recommendations and reasons in the Reply Report, with the amended provision wording in the 10 October 2023 Reply Report version of the PORPS.

2. Definitions

10. Several terms used in this chapter are not used elsewhere in the PORPS. The following terms were discussed in Mr Maclennan's s.42A report:
 - Hard protection structure
 - Major hazard facility
 - Resilient or resilience
 - Residual risk
 - Vulnerability
11. Mr Maclennan recommended restructuring the definition of 'hard protection structure' which we consider strengthens the definition. Waka Kotahi requested that rip rap be added to the examples listed in the definition. While we agree with Mr Maclennan that the list of hard protection structures in the definition is not exclusive, the evidence and hearing presentation of Ms McMinn from Waka Kotahi made it clear that rip rap is commonly used by Waka Kotahi for erosion protection. To avoid any future confusion, we consider that 'rip rap' should be included in the list of example hard protection structures in the definition.
12. Turning to the other definitions listed above and discussed in paragraphs 20-42 of the s.42A report, we make the following observations:
 - a. We agree with Mr Maclennan that a new definition of 'major hazard facility' is not required.
 - b. We support the recommendation to clarify the definition of risk to only apply to natural hazards.
 - c. We agree that the definitions of 'resilient or resilience' and 'residual risk' should be retained as notified.

- d. Forest and Bird requested that the definition of ‘vulnerability’ is clarified to only apply to natural hazards. We agree with Mr MacLennan that this is sufficiently clear in the definition but that the term should be removed from SRMR-18.

2.1. Recommendation

13. We recommend amending the definition of ‘hard protection structure’ as follows:

Hard protection structure

...outside the coastal environment, means any kind of structure which is specifically established for the purpose of natural hazard risk mitigation, including any dams, weirs, stopbanks, carriageways, groynes, or reservoirs and rip rap ~~and any structure or appliance of any kind which is specifically established for the purpose of natural hazard risk mitigation.~~

14. We recommend that SRMR-18 is amended by replacing ‘vulnerability’ with ‘susceptibility’ in the second paragraph of the environmental impact snapshot.

3. HAZ-NH – Natural hazards

3.1. Introduction

15. This section of the HAZ chapter establishes the framework for natural hazards management within regional and district plans. Both regional and district councils have responsibilities for managing activities as they relate to hazards and risks under the RMA. There are also additional statutes which interact with RMA functions, including:

- Civil Defence Emergency Management Act 2002;
- Building Act 2004; and
- Climate Change Response (Zero Carbon) Amendment Act 2019.

16. Unlike many other chapters in the PORPS, hazard and risk matters also traverse the coastal environment. The interface between the CE chapter and this chapter becomes important, as is consistency with the NZCPS.

17. More than 250 submission points were received on this section of the pORPS. In response, a number of amendments were recommended in the s.42A report and supplementary evidence, meaning that the breadth of issues addressed at the hearing was considerably more limited.

18. Mr MacLennan’s Reply Report identified the following key matters of contention at the hearing, which we consider to be accurate:

- a. Management of coastal hazards.
- b. Infrastructure located in areas subject to natural hazards.
- c. Amendments to APP6.
- d. Kaitiaki decision making.

19. Kaitiaki decision making was addressed by HAZ-NH-P11 in the notified version of the PORPS. Mr Maclennan recommended deleting this in his s.42A report but, following discussions with Kāi Tahu ki Otago planners, has recommended a replacement HAZ-NH-P11 titled Kāi Tahu rakatirataka. We thank the parties for their constructive engagement on this matter and consider that the replacement policy is appropriate and well-aligned with the MW chapter.
20. We address the first three points in turn below. Note that we do not address the objectives HAZ-NH-O1 and HAZ-NH-O2 below. We agree with the recommendation and reasoning of Mr Maclennan and do not consider that there are any material issues remaining in relation to these provisions that require further discussion.

3.2. Management of coastal hazards

21. Submitters sought additional clarity as to which provisions apply in the coastal environment, with Port Otago seeking a number of amendments in this regard.² Specifically, Ms O’Callahan for Port Otago considered that HAZ-NH-P1A and HAZ-NH-P10 apply to the management of coastal hazard risk, and sought that additional notes be added to policies HAZ-NH-P2 to HAZ-NH-P4 and to clarify that these provisions do not apply to any area subject to coastal hazard risk. She also suggested an amendment to HAZ-NH-P10(2) to address non-coastal hazard risks such as earthquakes affecting the coastal environment. Specifically, she suggested that ‘and mitigate any other natural hazard risk’ be added to HAZ-NH-P10.³
22. Ms McIntyre for Kāi Tahu ki Otago expressed concern over the uncertainty as to when HAZ-NH-P3 and HAZ-NH-P4 apply and when the approach for coastal hazards in HAZ-NH-P10 would apply.⁴ This could be an issue in coastal communities where river flooding and coastal storm surges combine.
23. We acknowledge the work of the submitters and Mr Maclennan to resolve the uncertainty in the drafting as to which provisions would apply to coastal hazards. As a result, Mr Maclennan recommended amendments in his opening statement to the hearing, which were further refined in his Reply report.⁵ His view is that, to ensure a consistent approach, hazards that may be both coastal and non-coastal, such as fault lines, should be managed by HAZ-NH-P2, HAZ-NH-P3, and HAZ-NH-P4.
24. We agree that a consistent approach should be taken to managing such hazard risks. We also note that the use of the term ‘coastal hazards’ in HAZ-NH-P10 is intended to refer to hazards generated in the coastal environment. This is clearly articulated through Policy 24 of the NZCPS, which states:

There are a number of potential sources of inundation in the coastal environment, including:

- *storm tides (comprising storm surges, high tides and short-term fluctuations in mean sea level at timescales of seasons to years);*
- *high spring or larger ‘king’ tides*

² For example, 00301.047 00301.051 Port Otago

³ Mary O’Callahan for Port Otago, para [104]

⁴ Sandra McIntyre for Kāi Tahu ki Otago, paragraph [141]

⁵ HAZ Reply Report of Andrew Maclennan, para 19.

- *wave set-up and run-up;*
- *short-term fluctuations in mean sea level (seasons to years);*
- *river flooding (which can also be influenced by storm surge and tide conditions);*
- *groundwater (from rising water tables with tidal connectivity);*
- *sea-level rise; and*
- *tsunami (which ride on the back of the sea level at the time of the event).*

Therefore, the combined effect of these sources will need to be considered, including the combined, cumulative effects of sea, river/stream catchment and groundwater influences.

25. As such, we are satisfied that non-coastal hazard risks that may affect the coastal environment can be managed by HAZ-NH-P2, HAZ-NH-P3, and HAZ-NH-P4, with hazard risks generated in the coastal environment being managed by HAZ-NH-P10. We agree with Mr MacLennan’s recommendation in his Reply Report to include a definition of ‘coastal hazard’ in the PORPS, and with the inclusion of HAZ-NH-P1A which requires the identification of areas potentially affected by coastal hazards. These amendments should ensure that there is no confusion in the application of these policies.

3.2.1.Recommendation

26. We recommend the addition of a new policy, HAZ-NH-P1A as follows:

HAZ-NH-P1A – Identifying areas subject to coastal hazards

Identify areas that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected.

27. We recommend that HAZ-NH-P1 be amended as follows:

HAZ-NH-P1 – Identifying areas subject to natural hazards

For hazards not identified in accordance with HAZ-NH-P1A, Using the best available information, identify areas where natural hazards may adversely affect Otago’s people, communities and property, by assessing:

(1) ...

28. We recommend that HAZ-NH-P2 be amended as follows:

HAZ-NH-P2 – Risk assessments

Within areas identified under HAZ-NH-P1 as being subject to natural hazards, Assess the level of natural hazard risk as significant, tolerable, or acceptable by determining a range of natural hazard event scenarios and their potential consequences in accordance with the criteria set out within APP6.

29. We recommend that HAZ-NH-P4 be amended as follows:

HAZ-NH-P4 – Existing natural hazard risk activities

In areas identified under HAZ-NH-P1 as subject to natural hazards, Reduce existing natural hazard risk to a tolerable or acceptable level by:

...

30. Note that HAZ-NH-P4 is discussed further below in relation to other matters.

31. We recommend that HAZ-NH-P10 be amended as follows:

HAZ-NH-P10 – Coastal hazards

~~In addition to HAZ-NH-P1 to HAZ-NH-P9 above,~~ On any land that is potentially affected by coastal hazards over at least the next 100 years:

- (1) avoid increasing the *risk* of social, environmental and economic harm from *coastal hazards*,
- (2) ensure no *land* use change or redevelopment occurs that would increase the *risk* to people and communities from that *coastal hazard*,
- (3) encourage *land* use change or redevelopment that reduces the *risk* from that *coastal hazard*, ~~and~~
- (4) ensure decision making about the nature, scale and location of activities considers the ability of Otago’s people and communities to adapt to, or mitigate the *effects* of, sea level rise and *climate change*-, and
- (5) apply HAZ-NH-P5 to HAZ-NH-P9.

32. We recommend a new definition of ‘coastal hazard’ as follows:

means a subset of *natural hazards* covering tidal or coastal storm inundation, rising sea level, tsunami or meteorological tsunami inundation, coastal erosion (shorelines or cliffs), rise in *groundwater* levels from storm tides and sea-level rise (plus associated liquefaction), and salinisation of surface *fresh waters* and *groundwater* aquifers

33. Turning to s32AA, we agree with Mr MacLennan that “*the suggested amendments setting out which provisions apply to coastal hazards, and which apply to other hazards will be more efficient and effective in achieving both HAZ-NH-O1 and HAZ-NH-O2. I consider they will create greater clarity as to which management approach will be used*”.⁶

3.3. Infrastructure located in areas subject to natural hazards

34. A number of submitters, including Transpower, Contact Energy, Oceana Gold and Waka Kotahi, were concerned that the natural hazards provisions would restrict key infrastructure in potentially high-risk hazard environments. A number of policies are relevant here and are discussed below.

⁶ HAZ Reply Report of Mr Andrew MacLennan, para 21.

35. HAZ-NH-P3 and HAZ-NH-P4, which cover new and existing activities respectively, were of particular concern. These provisions were notified as follows:

HAZ-NH-P3 – New activities

Once the level of *natural hazard risk* associated with an activity has been determined in accordance with HAZ–NH–P2, manage new activities to achieve the following outcomes:

- (1) when the *natural hazard risk* is significant, the activity is avoided,
- (2) when the *natural hazard risk* is tolerable, manage the level of *risk* so that it does not become significant, and
- (3) when the *natural hazard risk* is acceptable, maintain the level of *risk*.

HAZ-NH-P4 – Existing activities

Reduce existing *natural hazard risk* by:

- (1) encouraging activities that reduce *risk*, or reduce community vulnerability,
- (2) restricting activities that increase *risk*, or increase community vulnerability,
- (3) managing existing *land* uses within areas of significant *risk* to people and communities,
- (4) encouraging design that facilitates:
 - (a) recovery from *natural hazard* events, or
 - (b) relocation to areas of acceptable *risk*, or
 - (c) reduction of *risk*,
- (5) relocating *lifeline utilities*, and facilities for essential and emergency services, away from areas of significant *risk*, where appropriate and practicable, and
- (6) enabling development, upgrade, maintenance and operation of *lifeline utilities* and facilities for essential and emergency services.

36. Submitters sought varying relief to provide for activities to occur in areas of significant natural hazard risk, where there is a functional or operational need. Relief sought for HAZ-NH-P3 includes:

- a. Ms McLeod for Transpower seeking that HAZ-NH-P3(1) focuses on avoiding significant risk rather than avoiding activities where the risk is significant.⁷
- b. Ms McMinn for Waka Kotahi sought that nationally significant infrastructure be excluded from HAZ-NH-P3; and⁸

⁷ Ainsley McLeod for Transpower, para [8.82]-[8.86]

⁸ Julie McMinn for Waka Kotahi, para [7.3]-[7.5]

37. Ms Hunter for Contact Energy sought an amendment to HAZ-NH-P3(1) for the risk to be appropriately managed for nationally significant infrastructure that has a functional need or operational need for its location.⁹
38. Mr Maclennan, in his s.42A report, was not convinced that an exemption is required, stating at paragraph 132:
- “I note that APP6 requires an assessment of the likelihood and consequence of an event occurring. This assessment takes place through plan reviews, plan changes, or resource consents. If an infrastructure project was considered a ‘significant’ risk, it would mean that the consequences of undertaking that project would be considerable. In this instance I consider it is appropriate that the significant risk is avoided. Given the nature of nationally or regionally significant infrastructure, I consider most if not all new infrastructure projects would likely have an ‘Insignificant’ or ‘Minor’ consequence when assessed in accordance with APP9 [sic] (or even reduce the risk of natural hazards) and therefore would not trigger the ‘significant’ risk threshold.”*
39. This was not accepted by the submitters, with Ms McLeod for Transpower stating when considering HAZ-NH-P3 that:
- “the Policy does not directs [sic] the avoidance of ‘significant risk, but instead directs the avoidance of an activity. In my opinion the expression used in this Policy may have unintended consequences in its implementation, particularly in the context of plan making. This is because, the HAZ-NH-M3 – Regional plans and HAZ-NH-M4 – District plans directs that plans manage activities to achieve, amongst other matters, Policy HAZ-NH-P 3 and it follows that, to achieve the ‘avoidance’ required by the Policy, the future regional and district plans would likely set out areas where activities are avoided, rather than allowing for the consideration of a specific new activity or level of risk.”*
40. We consider this is a valid point and also acknowledge Ms Hunter’s evidence for Contact Energy, which noted the complexity of APP6 and the discussed the uncertainty as to how the Clutha Hydro Scheme would be assessed against the APP6 criteria. She considered that *“activities can be managed in a way that significant risks are reduced to a lower risk level and that the potential consequences can be mitigated. Accordingly, APP6 should not prevent resource users from undertaking activities where a conservative hazard risk management approach is employed.”*
41. Mr Maclennan’s Reply Report accepted that the alternative drafting of Ms McLeod for clause (1) provides more certainty that the intent is to avoid significant natural hazard risk. We agree with this recommendation and consider that it should provide sufficient certainty that activities may be appropriate where the natural hazard risks have been sufficiently mitigated or managed. We will discuss APP6 later in this chapter.
42. Turning to HAZ-NH-P4 which applies to existing activities, there was a high level of support for this policy which should enable work to reduce risk for existing activities and enable lifeline utilities to locate away from areas of significant risk. A number of amendments were sought

⁹ Claire Hunter for Contact Energy, para [12.1]-[12.5]

in the submission of QLDC and the subsequent evidence of Mr Place. Mr Maclennan recommended accepting the majority of these, with some amendments to reduce complexity, and including amending the heading of the policy to clarify that it applies to ‘existing natural hazard risk’ rather than ‘existing activities’. We consider that these amendments add clarity and certainty to the policy. We do not consider that any additional amendments are necessary.

43. HAZ-NH-P5 is also relevant here, applying a precautionary approach to natural hazard risk. There was support for this policy from parties including Waka Kotahi, Graymont and QLDC, however others such as DCC and Ravensdown were concerned about the use of the ‘precautionary approach’ in this context and, in particular for DCC, the interaction with the UFD chapter. We acknowledge these concerns and agree that, to some extent uncertainty is addressed through APP6. However, we consider that this policy is broader than APP6 and relevant for consideration of natural hazard risks. We accept Mr Maclennan’s recommendation in his reply report and do not discuss this policy further.
44. HAZ-NH-P6 is to protect existing features and systems that provide hazard mitigation, whether natural or modified, and sits alongside HAZ-NH-P7 which addresses new risk management approaches. In response to submissions, Mr Maclennan recommended amendments to clarify that the policy is not to “*protect natural or modified features and systems that contribute to mitigating the effects of natural hazards and climate change*” but to “*protect the ability of natural or modified features and systems...*”. We consider this to be an important distinction that clarifies the intent of the policy. We agree with Mr Maclennan’s reply report recommendation for HAZ-NH-P6.
45. HAZ-NH-P7 and HAZ-NH-P9, which relate to mitigating natural hazards and protection from hazards respectively, are also relevant here. These were notified as follows:

HAZ-NH-P7 – Mitigating *natural hazards*

Prioritise *risk* management approaches that reduce the need for *hard protection structures* or similar engineering interventions, and provide for *hard protection structures* only when:

- (1) *hard protection structures* are essential to manage *risk* to a level the community is able to tolerate,
- (2) there are no reasonable alternatives that result in reducing the *risk* exposure,
- (3) *hard protection structures* would not result in an increase in *risk* to people, communities and property, including displacement of *risk* off-site,
- (4) the adverse *effects* of the *hard protection structures* can be adequately managed, and
- (5) the mitigation is viable in the reasonably foreseeable long term or provides time for future adaptation methods to be implemented, or
- (6) the *hard protection structure* protects a *lifeline utility*, or a facility for essential or emergency services.

HAZ–NH–P9 – Protection of hazard mitigation measures

Protect the *functional needs* of hazard mitigation measures, *lifeline utilities*, and essential or emergency services, including by:

- (1) avoiding significant adverse *effects* on those measures, utilities or services,
- (2) avoiding, and only where avoidance is not practicable, remedying or mitigating other adverse *effects* on those measures, utilities or services,
- (3) maintaining access to those measures, utilities or services for maintenance and operational purposes, and
- (4) restricting the establishment of other activities that may result in reverse sensitivity *effects* on those measures, utilities or services.

46. Turning to HAZ-NH-P7, submissions covered a wide range of matters:
- a. Clause (1) was considered to overlap with clause (2) and was considered unnecessary;
 - b. there was support for providing for hard protection structures to protect lifeline utilities in clause (6) but a request to widen this to cover other types of significant infrastructure;
 - c. Port Otago considered that hard protection structures may be necessary for the Port’s commercial port activities and were concerned that clauses (1) to (3) may not allow this;
47. Ngāi Tahu ki Murihiku and Kāi Tahu ki Otago support limitations on the use of hard protection structures, with Ngāi Tahu ki Murihiku suggesting the word ‘and’ be inserted after each subclause. In response to submissions, evidence and pre-hearing discussions, Mr Maclennan recommended deleting clause (1) and restructuring the policy so that clause (6) becomes stand-alone, with clauses (2) to (5) connected with ‘and’. This is consistent with the approach requested by Ngāi Tahu ki Murihiku and is a sound one in our view. Like Mr Maclennan, we agree with the suggested wording of Mr Brass for the Director General of Conservation to amend clause (2) to provide certainty as to which alternatives should be considered. Similarly, we support the amendment requested by Ms O’Callahan to clause (3) to provide for hard protection structures that result in a ‘more than minor’ increase in risk.
48. Ms McIntyre for Kāi Tahu ki Otago requested amending clause (4) to clarify the types of effects that should be considered. She stated that *“where there is a clear acknowledgement that a particular effect is relevant, it would be more helpful, efficient and effective to include reference to that effect in the policy than to rely on general reference to adverse effects”*.¹⁰ We respectfully disagree that this is necessary and agree with Mr Maclennan that the relevant effects can be managed on a case-by-case basis. We do not recommend any amendments to the Reply Report version of NH-HAZ-P7.
49. We have considered the submissions, evidence and recommendations of Mr Maclennan for NH-HAZ-P9. In response to a submission by DCC, Mr Maclennan has recommended

¹⁰ EIC of Ms Sandra McIntyre for Kāi Tahu ki Otago, para 153.

broadening the title of the policy to include 'lifeline utilities, and essential or emergency services'. We agree that this better reflects the intent of the policy. On other matters raised, we agree with the recommendations and reasoning of Mr Maclennan, and consider that his recommendation in the Reply Report version of the PORPS is appropriate.

3.3.1. Recommendation

50. We recommend adopting the versions of HAZ-NH-P3 in the Reply Report version of the PORPS dated 10 October 2023, as follows:

HAZ-NH-P3 – New activities

Once the level of *natural hazard risk* associated with an activity has been determined in accordance with HAZ-NH-P2, manage new activities to achieve the following outcomes:

- (1) ~~significant when the natural hazard risks are avoided is significant, the activity is avoided,~~
- (2) when the *natural hazard risk* is tolerable, manage the level of *risk* so that it does not ~~become significant~~ exceed tolerable, and
- (3) when the *natural hazard risk* is acceptable, maintain the level of *risk*.

50. We recommend adopting the version of HAZ-NH-P4 on the Reply Report version of the PORPS dated 10 October 2023, as follows:

HAZ-NH-P4 – Existing natural hazard risk activities

In areas identified under HAZ-NH-P1 as subject to natural hazards, ~~R~~reduce existing *natural hazard risk* to a tolerable or acceptable level by:

- (1) encouraging activities that reduce *risk*, or reduce community *vulnerability*,
- ~~(2) restricting activities that increase *risk*, or increase community *vulnerability*,~~
- (3) managing existing activities ~~land uses~~ within areas of significant *risk* to people, ~~and~~ communities and property,
- (4) encouraging design that facilitates:
 - ~~(a) recovery from natural hazard events, or~~
 - (b) relocation to areas of acceptable *risk*, or
 - (c) reduction of *risk*,
- (5) relocating *lifeline utilities*, and facilities for essential and emergency services, away from areas of significant *risk*, where appropriate and practicable, and
- (6) enabling development, upgrade, maintenance and operation of *lifeline utilities* and facilities for essential and emergency services.

51. We recommend adopting the version of HAZ-NH-P7 in the Reply Report version of the PORPS dated 10 October 2023, with a minor correction to the numbering of clause (6), as follows:

HAZ-NH-P7 – Mitigating *natural hazards*

Prioritise *risk* management approaches that reduce the need for *hard protection structures* or similar engineering interventions, and provide for *hard protection structures* only when:

~~(1) *hard protection structures* are essential to manage *risk* to a level the community is able to tolerate,~~

(1A) the following apply:

~~(2a) there are no reasonable alternatives that result in reducing manage or reduce the *risk exposure* to a level the community is able to tolerate,~~

~~(3b) *hard protection structures* would not result in ~~an~~ a more than minor increase in *risk* to people, communities and property, including displacement of *risk* off-site,~~

~~(4c) the adverse *effects* of the *hard protection structures* can be adequately managed, and~~

~~(5d) the mitigation is viable in the reasonably foreseeable long term or provides time for future adaptation methods to be implemented, or~~

~~(61B) the *hard protection structure* protects a *lifeline utility*, or a facility for essential or emergency services.~~

52. We recommend adopting the version of HAZ-NH-P9 in the Reply Report version of the PORPS dated 10 October 2023, as follows:

HAZ-NH-P9 – Protection of hazard mitigation measures, lifeline utilities, and essential or emergency services

Protect the *functional needs* and *operational needs* of hazard mitigation measures, *lifeline utilities*, and essential or emergency services, including by:

(1) avoiding significant adverse *effects* on those measures, utilities or services,

(2) avoiding, and only where avoidance is not practicable, remedying or mitigating other adverse *effects* on those measures, utilities or services,

(3) maintaining access to those measures, utilities or services for maintenance and operational purposes, and

(4) restricting the establishment of other activities that may result in *reverse sensitivity effects* on those measures, utilities or services.

3.4. APP6 – Methodology for natural hazard risk assessment

53. APP6 prescribes the four-step process to be used for determining natural hazard risk and is referenced in HAZ-NH-P2 – Risk assessments, which informs a number of other provisions. Mr Maclennan describes the purpose of APP6 as follows:

First and foremost, it is a framework that will be used to inform future plan review processes where community input will ensure that the risk thresholds in district and regional plans are appropriate for those communities. Prior to that occurring, APP6 provides a framework for undertaking a risk assessment within resource consent processes.¹¹

54. Mr Maclennan has recommended substantial changes to the notified version of APP6 through his s.42A report, supplementary evidence and reply report. We acknowledge those who participated in pre-hearing discussions in relation to APP6 and also Mr Place from QLDC and Mr Kelly representing ORC for their clear presentations to the Panel on what is a technical matter.

55. We have reviewed the submissions and responses on APP6 and recommend the following:
- a. Amend clause (3) of Step 1 to direct which Shared Socio-Economic Pathway (SSP) scenarios or Representative Concentration Pathways (RCP) scenarios should be used as part of the APP6 assessment. This was requested by QLDC and recommended to be accepted both by Mr Kelly at the hearing and Mr Maclennan in his reply report, but was omitted in the reply report version of APP6.
 - b. Replace ‘territorial authorities’ with ‘local authorities’ in Note 1 and Note 2 of Step 2 to better reflect the collaborative approach required of regional councils and territorial authorities to managing natural hazard risk, which is reflected in the HAZ-NH methods.
 - c. Amend paragraph 2 of Step 4 to ensure consistency with the quantitative risk assessment requirements indicated in Table 8. As recommended, Table 8 would require that a quantitative risk assessment be undertaken for a tolerable risk with a major consequence. The wording in paragraph 2 of Step 4 only requires a quantitative risk assessment be undertaken for a tolerable risk with a catastrophic consequence.

3.4.1. Recommendation

56. We recommend the following amendments:
- a. Amend clause (3) of Step 1 as follows:
(3) The likelihood assessment shall include consideration of the effect of climate change and should use the Shared Socio-Economic Pathway (SSP) scenarios or Representative Concentration Pathways (RCP) scenarios provided in the National Adaptation Plan.

¹¹ Reply Report of Mr Andrew Maclennan, para 158.

- b. Replace 'territorial authorities' with 'local authorities' in Note 1 and Note 2 of Step 2.
- c. Amend paragraph 2 of Step 4 as follows:

If the assessment undertaken in Steps 1-3 determines that one of the three *natural hazard* scenarios generate *risk* that is significant, or a tolerable risk with a major or catastrophic consequence, undertake a quantitative *risk* assessment utilising the following methodology:¹²

4. Other provisions

57. Related to the HAZ objectives and policies are methods HAZ-NH-M1 to HAZ-NH-M5, explanation HAZ-NH-E1, principal reason HAZ-NH-PR1 and anticipated environmental results HAZ-NH-AER1 to HAZ-NH-AER5. We have reviewed the submissions and evidence on those provisions and Mr Maclennan's responses. The Panel has not identified any matters of concern with these provisions as finally recommended and adopt them accordingly.

4.1. HAZ-CL – Contaminated land

58. Approximately 60 submissions were received on the contaminated land or HAZ-CL section of the PORPS. Many of the submission points addressed alignment with the NESCS or other legislation. Before we proceed further, it is worth reiterating the definition of 'contaminated land' in s.2 of the RMA, which is as follows:

contaminated land means land that has a hazardous substance in or on it that—

(a) has significant adverse effects on the environment; or

(b) is reasonably likely to have significant adverse effects on the environment

59. Mr Maclennan summarised the approach to the HAZ-CL provisions as follows:

As the NESCS sets out a nationally consistent set of planning controls and soil contaminant values, the provisions within the pORPS avoid duplication by managing the adverse effects of contaminants on other receptors, including ecology, water quality or amenity values. Similarly, the management of waste is largely managed by local authorities under the Waste Minimisation Act 2008. Therefore, the focus of the provisions within the pORPS is to provide overarching direction on the waste minimisation hierarchy and the management of waste materials in the context of the RMA.

The PORPS 2019 includes provisions managing the use, storage and disposal of hazardous substances. However, the Resource Legislation Amendment Act 2017 removed the explicit function of regional and territorial authorities under section 30 and 31 to control hazardous substances so that RMA controls would not duplicate controls in the HSNO and the HSWA. As such, the pORPS has removed the provisions

¹² *This methodology has been developed in general accordance with the Australian Geomechanics Society, 2007 methodology, which may usefully provide additional guidance.*

*managing hazardous substances and now relies on the HSNO and the HSWA controls to manage hazardous substances.*¹³

60. We find no fault in this approach.
61. No submissions sought amendments to HAZ-CL-P16, HAZ-CL-P17, HAZ-CL-E2, HAZ-CL-AER6 and HAZ-CL-AER7. We do not consider that any consequential amendments are required to these provisions and we recommend that they are retained as notified.
62. We acknowledge the work of Mr Maclennan and the submitters to resolve the issues raised in submissions through pre-hearing discussions. As such, few issues relating to the HAZ-CL section were raised at the hearing and, of those, some of the requested amendments were recommended by Mr Maclennan in his reply report. As a result, this section of our report will be brief and, where we do not discuss a provision, this means that we have accepted the recommendation of Mr Maclennan in his reply report. This applies to the following provisions:
- a. HAZ-CL-P13 – Identifying contaminated land;
 - b. HAZ-CL-M6 -Regional plans;
 - c. HAZ-CL-M7 – District plans;
 - d. HAZ-CL-M8 – Waste management and minimisation plans;
 - e. New recommended HAZ-CL-M8A – Prioritisation and action plans;
 - f. HAZ-CL-M9 – Other incentives and mechanisms

4.2. HAZ-CL-O3 – Contaminated land

63. HAZ-CL-O3 is the sole objective in the HAZ-CL section and was notified as follows:

HAZ-CL-O3 – Contaminated land

Contaminated land and waste materials are managed to protect human health, mana whenua values and the environment in Otago.

64. Six submissions were received with DCC, Ravensdown and The Fuel Companies in support.
65. We support Kāi Tahu ki Otago's request that 'mana whenua' is replaced with 'Kāi Tahu' as this is consistent with our approach elsewhere in the pORPS.
66. Horticulture NZ and Federated Farmers sought to replace 'protecting' with 'not harming' in relation to human health, mana whenua values and the environment. Mr Maclennan considered in his s.42A report and reply report that 'protecting' is consistent with the NESCS, however Ms Wharfe for Horticulture NZ pointed out that 'protect' in the NESCS only applies to human health and not Kāi Tahu values and the wider environment. While her evidence requested that 'protect' be replaced with 'do not harm', she amended this in her presentation to the panel such that 'do not harm' only relates to Kāi Tahu values.

¹³ S.42A Officer's Report of Mr Andrew Maclennan, paras 473-474.

67. We consider that this is an important point and agree with Ms Wharfe that HAZ-CL-P14(2) is to protect human health but clause (3) of this policy does not seek to protect other values. We accept the submission of Horticulture NZ.

4.2.1. Recommendation

68. We recommend that HAZ-CL-O3 is amended as follows:

Contaminated land and waste material are managed to protect human health and do not harm Kāi Tahu, mana whenua values and the environment in Otago.

- 4.3. HAZ-CL-P14 – Managing contaminated land, HAZ-CL-P15 – New contaminated land and HAZ-CL-P18 – Waste facilities and services

69. HAZ-CL-P14, HAZ-CL-P15 and HAZ-CL-P18 were notified as follows:

HAZ-CL-P14 – Managing contaminated land

Actively manage contaminated or potentially contaminated land so that it does not pose an unacceptable risk to people and the environment, by:

- (1) assessing and monitoring contaminant levels and environmental risks,
- (2) protecting human health in accordance with regulatory requirements,
- (3) avoiding, as the first priority, and only where avoidance is not practicable, mitigating or remediating, adverse effects of the contaminants on the environment, and
- (4) requiring closed landfills to be managed in accordance with a closure plan that sets out monitoring requirements and, where necessary, any remedial actions required to address ongoing risks.

HAZ-CL-P15 – New contaminated land

Avoid the creation of new *contaminated land* or, where this is not practicable, minimise adverse *effects* on the *environment* and *mana whenua* values.

HAZ-CL-P18 – Waste facilities and services

When providing for the development of facilities and services for the storage, recycling, recovery, treatment and disposal of *waste* materials:

- (1) avoid adverse *effects* on the health and safety of people,
- (2) minimise the potential for adverse *effects* on the *environment* to occur,
- (3) minimise *risk* associated with *natural hazard* events, and
- (4) restrict the establishment of activities that may result in reverse sensitivity *effects* near *waste* management facilities and services.

70. A new recommended cause (5) for HAZ-CL-P14 relating to closed landfills was recommended in Mr MacLennan's supplementary evidence following the pre-hearing meeting as follows:

(5) prioritising the identification and management of closed landfills and contaminated land at risk from the effects of climate change.

71. We consider this to be a sound addition.
72. Submissions from Ravensdown and the Fuel Companies sought to delete HAZ-CL(3) or amend clause (3) to remove the reference to “avoid”. Ms Taylor, in her evidence for Ravensdown, accepted the s.42A report’s reasons for retaining clause (3). We are of the same view although, in line with our discussions and recommendations for other provisions in the PORPS, we recommend that ‘is not practicable’ be replaced with ‘is not reasonably practicable’.
73. Turning to HAZ-CL-P15 and on a similar note, in response to a submission by Queenstown Airport Mr McLennan has recommended adding ‘to the greatest extent practicable’ before ‘adverse effects’. We recommend that this be amended to ‘to the extent reasonably practicable’ and consider that this is consistent with the submission of Queenstown Airport.
74. Similarly, ‘to the greatest extent practicable’ was recommended to be added to clause (2) of HAZ-CL-P18. We support the intent of this amendment in response to submissions by Forest and Bird and Kāi Tahu ki Otago but consider that this should be reworded to read ‘to the extent reasonably practicable’ for reasons discussed earlier in our report.
75. In relation to other submissions on both of these policies, we support the reasoning and recommendations of Mr Maclennan.

4.3.1.Recommendation

76. We recommend that HAZ-CL-P14 be amended as follows:

HAZ-CL-P14 – Managing *contaminated land*

~~Actively m~~Manage contaminated or potentially *contaminated land* so that it does not pose an unacceptable *risk* to people and the *environment*, by:

- (1) assessing and, if required, monitoring *contaminant* levels and environmental *risks*,
- (2) protecting human health in accordance with regulatory requirements,
- (3) avoiding, as the first priority, and only where avoidance is not reasonably practicable, mitigating or remediating, adverse *effects* of the *contaminants* on the *environment*, ~~and~~
- (4) requiring closed *landfills* to be managed in accordance with a closure plan that sets out monitoring requirements and, where necessary, any remedial actions required to address ongoing *risks*, and.
- (5) prioritising the identification and management of closed *landfills* and *contaminated land* at risk from the *effects* of *climate change*.

77. We recommend that HAZ-CL-P15 be amended as follows:

HAZ-CL-P15 – New contaminated land

Avoid the creation of new *contaminated land* or, where this is not practicable, minimise to the extent reasonably practicable adverse *effects of contamination* on the *environment* and ~~mana-whenua~~ Kāi Tahu values.

78. We recommend that HAZ-CL-P18 be amended as follows:

HAZ-CL-P18 – Waste facilities and services

When providing for the development of facilities and services for the storage, recycling, recovery, treatment and disposal of *waste* materials:

- (1) avoid adverse *effects* on the health and safety of people,
- (2) to the extent reasonably practicable, minimise the potential for adverse *effects* on the *environment* to occur,
- (3) minimise *risk* associated with *natural hazard* events, and
- (4) restrict the establishment of activities that may result in *reverse sensitivity effects* near *waste* management facilities and services.

Section 12: Historical and Cultural Values (HCV)

1. Introduction

1. This section of the recommendation report assesses the provisions of the pORPS which establish the planning framework for the management of historic heritage within the Otago region. The National Planning Standards require a chapter entitled 'Historical and Cultural Values' 'if relevant to the regional policy statement'. The Otago region is rich in historic heritage, with a wide range of important cultural and historic heritage places and areas, and hence the ORC has included such a chapter.
2. Section s6(f) of the RMA requires the protection of historic heritage from inappropriate subdivision, use and development as a matter of national importance. Included within the RMA definition of 'historic heritage' is reference to "sites of significance to Māori, including wāhi tupuna". The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga are also identified as a matter of national importance by s6(e) of the RMA.
3. A large number of submission points have been received on the HCV provisions. The submissions address a number of themes and seek specific amendments to the provisions.
4. The Chair excused himself from consideration of provisions addressed by the submission lodged by Central Otago Heritage Trust because of a close friendship with Mr D.G Shattky of the trust. Commissioner Cubitt chaired the hearing on those submission points.
5. In addressing these submissions, we are indebted to the efforts of the Section 42A report writer, Ms Angela Fenemor. She identified a number of common topics across the provisions which guided the preparation of her s42A report. We have essentially used the format of her report as the basis for our recommendation report, although in some instances we have taken the grouping of the provisions a step further given the interconnectedness of many of the issues in play. As a consequence, not all of the sections of Ms Fenemor's report appear in this document.
6. The HCV chapter has two sections:
 - HCV-WT – Wāhi tupuna
 - HCV-HH – Historic heritage

2. General Themes

7. There were 14 general submissions on the HCV chapter, with two submitters seeking the chapter be retained as notified. A number of submitters raise issues with the wording of the chapter, specifically regarding the use of the terms 'historic' and 'heritage,' and the need for improved integration between the two sections of the chapter, WT – Wāhi tūpuna and the HH – Historic heritage.
8. With respect to the Heritage NZ request to change the chapter title to "HHCV – Historic heritage and cultural values" (along with consequential amendments), the officer acknowledged the use of "historic heritage" in s6(f) of the RMA but noted that the title of the chapter is determined by the National Planning Standards.

9. In response to the Waitaki Whitestone Geopark Trust request to replace “Historic Heritage” with “Cultural & Natural Heritage” throughout the document, the officer noted that the terms are not synonymous and that there would be “significant repercussions for the meaning of several pORPS policies, including creating unexplored overlaps with the provisions for Natural Features and Landscapes.”
10. The Central Otago Heritage Trust (‘The Trust’) made several submissions providing overall support to the section but made a number of specific requests. In relation to the need to cross reference between HCV-WT and HCV-HH to acknowledge they are not to be interpreted in isolation⁶, she did not believe there is anything in the section to suggest they are exclusive and felt cross-referencing was best left to the IM chapter. Mr Shattky and Ms Rusher, on behalf of the Trust, addressed this matter at the hearing in the context of the PORPS being provided online in a series of isolated sections. They stressed the importance of ensuring these sections are appropriately cross referenced online.
11. The Trust also requested that the objectives and policies be adjusted to prioritise the recording and sharing of information concerning heritage values, particularly where the Council is considering proposals for the modification or destruction of heritage sites. They also requested that the RPS provide a description or summary of Otago’s heritage legacy.
12. In response to these requests, the officer noted that recording is part of the identification and protection of values and is already provided for. With no suggested wording provided, she recommended that this submission be declined. The Trust discussed this matter at the hearing, suggesting that the online heritage section of PORPS have electronic links to heritage databases.
13. In relation to the Trust’s request that the RPS provide a description or summary of Otago’s heritage legacy, the officer noted that no drafting or suggestions was provided and as a consequence, she was not in a position to propose content that might satisfy the submitter’s concerns.
14. Mr Shattky and Ms Rusher addressed their concerns in this respect at the hearing. They also traversed what they referred to as ‘the intangible cultural heritage values of a number of other cultures’ who have contributed to the fabric of the Otago region. They felt that more historical context needed to be included in the PORPS, along with recognition of the contributions of all ethnicities to Otago’s distinctive heritage legacy. However, no wording was provided to address their concerns.
15. The officer recommended accepting submissions that support the chapter in part, as some provisions have been modified.

2.1. Recommendation

16. The Panel essentially agrees with the position of the officer in relation to these general submissions and do not recommend any amendments. However, we were of the opinion that the Central Otago Heritage Trust raised several valid points about how the PORPS should be posted online, along with links to heritage data bases and further content on Otago’s heritage legacy. These matters are outside the scope of our role, but we suggest that the Trust liaise with ORC staff around this matter.

3. Definition of Historic Heritage

17. The definition of historic heritage, as notified, states:
"has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

- (i) archaeological:
- (ii) architectural:
- (iii) cultural:
- (iv) historic:
- (v) scientific:
- (vi) technological; and

(b) includes—

- (i) historic sites, structures, places, and areas; and
- (ii) archaeological sites; and
- (iii) sites of significance to Māori, including wāhi tapu; and
- (iv) surroundings associated with the natural and physical resources

18. There are two submissions on the definition of historic heritage. Gerald Carter requests that "historic heritage" is replaced with "cultural and natural heritage", which the submitter notes is used by UNESCO. The Central Otago Heritage Trust sought the following addition of the term "historic heritage":

"(b) Includes – ... heritage values associated with natural and physical resources"

The officer did not recommend any change to the definition, noting "that the term "historic heritage" is defined by the RMA, and those definitions have been used in the PORPS. This approach is consistent with the National Planning Standards."

3.1. Recommendation

19. We agree with the officer that no change should be made to the definition given it is defined by the RMA.

4. New Definition – Archaeological site

20. Heritage New Zealand Pouhere Taonga request that a definition of "archaeological site" from the HNZPTA 2014 is included in the definitions list for consistency.

21. The officer agreed that including such a definition provides certainty to users, and that consistency with the HNZPTA 2014 appears to be a sensible solution. The officer was initially concerned that the definition from the HNZPTA 2014 is "subject to section 42(3)" of that Act and was unclear how this would affect the use of this definition in the context of the PORPS 2021. This was discussed at the pre-hearing conferencing, which confirmed that s.42(3) of the HNZPTA 2014 refers to the requirement for an archaeological authority, so is not relevant to

the definition of an ‘archaeological site’. Based on this clarification, the officer agreed it was appropriate to include the definition.

4.1. Recommendation

22. The Panel agrees that including a definition of archaeological site provides certainty to users, and that having a definition consistent with the HNZPTA 2014 is appropriate. Hence, we recommend the following definition be included in the PORPS:

Archaeological site: means

- a. any place in New Zealand, including any building or structure (or part of a building or structure), that—
 - i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and
 - ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and
- b. includes a site for which a declaration is made under section 43(1) of the Heritage New Zealand Pouhere Taonga Act 2014.

23. The officer carried out the following s32AA evaluation with respect to the inclusion of the definition:

“The recommendation to include a definition of “archaeological site” will provide certainty for the users of the RPS on the meaning of archaeological site and will not affect the meaning or application of any provisions in the document. While the suggested amendments will not result in any changes to the implementation of the RPS, including a definition will likely result in improved effectiveness of the relevant provisions, compared to the effectiveness or efficiency assessment contained in the Section 32 Evaluation Report.”

24. We agree and adopt that assessment accordingly.

5. Additional Definitions

25. Central Otago Heritage Trust (The Trust) requests the addition of new definitions, including:

- Heritage
- Cultural heritage value/s
- Tangible value
- Intangible value
- Cultural landscape
- Mana whenua

26. The Trust’s concern was that PORPS uses various terms when referencing heritage matters without clearly defining or reflecting their specific meanings in the context they are used. They noted that UNESCO and ICOMOS NZ classify historic heritage qualities as ‘tangible’ or ‘intangible’ and consider a greater understanding of these qualities will contribute to achieving the objectives and policies. They sought amendments to clearly express that priority

be given to the protection of heritage values, as well as heritage sites (as emphasised in HCV-WT).

27. The officer noted that the term “mana whenua” is defined by the RMA, and that the terms “cultural heritage values”, “tangible values” and “intangible values” are not used within the text of the PORPS and therefore do not need to be defined.
28. Nor did she consider that a separate definition of “heritage” is necessary, in addition to the definition of “historic heritage”. With respect to “cultural landscape”, she has recommended elsewhere in her report that this term be removed.
29. In response to the oral submissions from Mr Shattky and Ms Rusher on behalf of the Trust, the officer stated that she understood ‘historic heritage’ to be directly referencing tangible items (such as structures and facades). She went on to state that “without the tangible item”, the historic heritage value is removed – historic heritage is an explicitly visual value” and that “by focusing only on protecting the intangible elements of historic heritage and neglecting the tangible, HCV-HH-O3 will not be attained”.

5.1. Recommendation and Reasons

30. The panel agrees that the proposed definitions do not need to be included in the PORPS. However, we accept the essence of what the submitter was saying but believe this is again a matter that could be usefully explored through the use of electronic links to heritage data bases as previously discussed.

6. Historical and Cultural Values – Wāhi Tūpuna (HCV-WT)

31. The Historical and cultural values chapter 13 in the PORPS is divided into two parts with the first being entitled HCV-WT Wāhi tupuna. It essentially addresses Kāi Tahu’s aspirations to protect their significant sites. In that regard this part of the PORPS is squarely addressing one of the identified factors requiring recognition in s.6(e) of the RMA:

6. Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

....

(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga: ...

32. The primary issues raised by the submission process in respect of the WT section of the HCV chapter related first to identification and then the management of effects on areas or sites identified as having wāhi tupuna values. In large part the conclusions reached by the s.42A report writer were regarded as sound by the panel. However, because of their importance some discussion is required by us. We will address the issues of management of effects first.

6.1. Management of effects

33. In respect of the issue of ‘management’ of effects on values some issues of concern were raised by submitters such as Federated Farmers that wāhi tupuna could be identified as being located on privately owned land and that the relevant policies and methods were worded in too restrictive a manner. Instead, a request was made to limit the severity of such an approach by instead requiring the level of protection to be from “*inappropriate subdivision, use and development*”. The s.42A report recommended against that amendment on the basis that the phrase did not appear in s.6(e) of the RMA.
34. In other areas of this report, particularly as to the level of protection of indigenous biodiversity, we have placed considerable weight on the fact that similarly s.6(c) RMA does not contain that qualifier whereas it does appear specifically s.6(a) as to natural character, and s.6(e) require that protection against adverse effects in the words of the Supreme Court is intended to be against material effects which are adverse to the values sought to be protected. Objective HCV-WT-O1 specified as an objective that “*Wāhi tupuna and their associated cultural values are identified and protected*” with HCV-WT-P1 as recommended being intended to sustain Kāi Tahu relationships with wāhi tūpuna by “*enabling Kāi Tahu to identify ad wāhi tūpuna any sites and areas of significance to mana whenua, along with the cultural values that contribute to each wāhi tūpuna being significant*”.
35. In other words, identification at each stage is linked as to both location and values for the wāhi tūpuna involved. The same can be said of the relevant method HCV-WT-M3.
36. However most importantly as recommended the provisions of HCV-WT-P2 as to management of effects of wāhi tūpuna in the opening sub-clauses also refer specifically to managing of effects on the cultural values of the identified wāhi tūpuna.
37. Accordingly, we agree with the s.42A recommendation not to insert the qualifier sought which has been uplifted from other subsections of s.6. We are satisfied that the PORPS as finally recommended in 10 October 2023 contains objectives, policies and methods which ensure that is wāhi tūpuna envisaged by the PORPS is specified in descriptive terms in Appendix 7.
38. However, in the course of considering the manner of treatment of effects on wāhi tūpuna we have formed the view that HCV-WT-P2 as recommended really conflates two distinct issues which are better separated. As recommended it provides:

HCV-WT-P2 – Management of wāhi tūpuna

Wāhi tūpuna are protected by:

- (1) avoiding significant adverse effects (1) on the cultural values ~~associated with~~ of identified wāhi tūpuna,
- (1A) avoiding, as the first priority, other adverse effects on the cultural values of identified wāhi tūpuna,
- (2) where other adverse effects demonstrably cannot be completely avoided, then either remedying or mitigating adverse effects in a manner that maintains the values of the wāhi tūpuna,
- (3) managing identified wāhi tūpuna in accordance with tikaka Māori, and

~~(4) avoiding any activities that may be considered inappropriate in wāhi tūpuna as identified by Kāi Tahu, and~~

(5) encouraging the enhancement of access to wāhi tūpuna to the extent compatible with the particular wāhi tūpuna.

39. As can be seen sub-clauses (1), (1A) and (2) all address effects on the values of wāhi tūpuna. Sub-clauses (1A) and (2) in essence provide a simplified effects management hierarchy aimed at ensuring maintenance of the values of the wāhi tūpuna. In our view that meets the approach of the Supreme Court in the *Port Otago* case.

40. However, the heading to HCV-WT-P2 is “*Management of wāhi tūpuna*” which is not what sub-clauses (1), (1A) and (2) are about.

41. By contrast, sub clauses (3) and (4) are directly concerned with the management of wāhi tūpuna themselves.

42. In our view there are two different purposes of the various sub-clauses of HCV-WT-P2 and those should be separate into different policies. HCV-WT-P2 requires a new heading of ‘Management of effects on wāhi tūpuna values’ and it should contain only sub-clauses (1), (1A) and (2). Then a new policy should retain the heading of ‘Management of wāhi tūpuna’ and include sub-clauses (3) and (4).

43. In terms of s.32AA the outcome will be greater clarity between the manner of treatment of effects on the protected values of wāhi tūpuna as compared to the actual management of the physical wāhi tūpuna themselves.

6.1.1. Recommendation

44. We recommend that the present policy HCV-WT-P2 be divided into two policies as follows:

HCV-WT-P2 – Management of effects on wāhi tūpuna

Wāhi tūpuna are protected by:

- (1) avoiding significant adverse effects on the cultural values ~~associated with~~ of identified wāhi tūpuna,
- (1A) avoiding, as the first priority, other adverse effects on the cultural values of identified wāhi tūpuna,
- (2) where other adverse effects demonstrably cannot be completely avoided, then either remedying or mitigating adverse effects in a manner that maintains the values of the wāhi tūpuna,

And

HCV-WT-P2A – Management of wāhi tūpuna

Wāhi tūpuna are protected by:

- (3) managing identified wāhi tūpuna in accordance with tikaka Māori, and
- ~~(4) avoiding any activities that may be considered inappropriate in wāhi tūpuna as identified by Kāi Tahu, and~~

- (5) encouraging the enhancement of access to wāhi tūpuna to the extent compatible with the particular wāhi tūpuna.

6.2. Identification of wāhi tūpuna and their associated cultural values

45. Initially these identification provisions had led to a number of submission points being raised by Kāi Tahu parties. A common concern was to try to ensure that Kāi Tahu interests were always under their control as to whether to identify locations of significance as wāhi tūpuna and the nature of the values involved, by inserting the word ‘appropriate’ in relation to Kāi Tahu input. The s.42 report writer expressed a repeated concern that use of a word such as ‘appropriate’ introduced a level of uncertainty and vagueness that was best avoided. The report writer made the point that protection could only be gained if identification occurred, or an area or site regarded by Kāi Tahu as significant and that if it was to be so identified then protection of values could only occur if those were also identified at the same time.
46. We agree. And we also agree with the end result recommended by the report writer which ensures that local authorities under HCV-WT-M3 have to include Kāi Tahu in the identification process of both significant wāhi tūpuna and its associated values. Moreover, HCV-WT-M4 then enables Kāi Tahu to identify in accordance with its tikaka wāhi tūpuna sites, areas and values using the guidance in APP 7. Finally, HCV-WT-M4(4) enables mana whenua to determine the method of recording and whether that is to be by map or not. As to concerns being expressed by other submitters that they may leave them exposed to concerns as to effects which are not recorded, our response is that values of wāhi tūpuna are protected they will have to ensure that is done in co-operation with the relevant local authority in a manner that is transparent to all if it is to be effective.
47. However, a consequent amendment for consistency is needed in our view to recommend HCV-WT-AER1 which was recommended to read:

HCV-WT-AER1 Wāhi tūpuna areas and sites ~~The areas and places of wāhi tūpuna~~ are identified in the relevant *regional plans* and *district plans* using mechanisms deemed appropriate by Kāi Tahu.

48. This wording uses the term ‘appropriate’ where we do not think it should be used. The recommended HCV-WT-M1(1) enabled Kāi Tahu to identify sites in accordance with tikaka using the guide in APP 7. HCV-WT-M1(4) then allowed for Kāi Tahu to determine the recording method to be used. We agreed with those outcomes. This recommended wording in HCV-WT-AER1 is not consistent with those outcomes. It needs to be reworded to be consistent and we record that as our s.32AA analysis for this change.

6.2.1. Recommendation

49. That HCV-WT-AER1 is amended to read:

HCV-WT-AER1 Wāhi tūpuna areas and sites ~~The areas and places of wāhi tūpuna~~ are identified in the relevant *regional plans* and *district plans* using tikaka for identification of wāhi tūpuna and their values and the manner of recording those being determined by Kāi Tahu.

50. We are otherwise satisfied with the protective regime outcome that has resulted from the submission process in the recommended 10 October 2023 version save for two other methods.

51. Those methods are HCV-WT-M2(2) and HCV-WT-M2(3) which as recommended would require regional and district plans to include methods which:

(2) *require cultural impact assessments where activities have the potential to adversely affect values of wāhi tūpuna and Kāi Tahu have identified the need for an assessment*,

(3) *require ~~including~~ conditions on resource consents or designations to ~~provide buffers or setbacks between~~ protect wāhi tūpuna and from incompatible activities,*

52. In each case the protection of ‘values’ has been omitted and needs to be included to be consistent with the overall approach underpinning this section of the PORPS. Again it is that need for consistency which provides the s.32AA analysis for these changes.

6.2.2. Recommendation

53. We recommend that HCV-WT-M2(2) and HCV-WT-M2(3) are amended to read:

(2) *require cultural impact assessments where activities have the potential to adversely affect values of wāhi tūpuna and Kāi Tahu have identified the need for an assessment to protect particular values*,

(3) *require ~~including~~ conditions on resource consents or designations to ~~provide buffers or setbacks between~~ protect wāhi tūpuna values and from incompatible activities,*

6.3. HCV-HH-03 – Historic heritage resources

6.3.1. Discussion

54. As notified, HCV-HH-03 reads:

HCV-HH-03 – Historic heritage resources

Otago’s unique historic heritage contributes to the region’s character, sense of identity, and social, cultural and economic well-being, and is preserved for future generations.

55. There are five submissions on HCV-HH-03 with four of those submitters supporting its retention as notified. The Dunedin City Council sought amendments to the objective to clarify that not every item of historic heritage must be preserved. They submitted the focus should be on retention of places and areas with special or outstanding historic heritage values or qualities with other heritage values being retained where not in conflict with other objectives.

56. In the initial s42A report, the officer agreed with the DCC that there may be some tension between heritage protection objectives and those that enable development. The officer considered that “*there are benefits in amending the wording of the objective to alleviate any concerns that all historic heritage sites and features are to be preserved in totality*” but was of the opinion that the submitter’s wording did not provide sufficient protection of historic heritage. As a consequence, no change was initially recommended.

57. Discussion during the pre-hearing conference led to alternative wording being promoted that replaced ‘preserved’ with ‘protection and enhancement’. This was accepted as appropriate by

the officer although she considered enhancement should be used in the context of people's understanding and appreciation of heritage.

58. At the hearing, however, Mr Freeland on behalf of Dunedin City Council, was still concerned with the fact that the objective provides protection for every item of historic heritage, regardless of competing objectives in the PORPS. He suggested some wording to address this. The reporting officer did not recommend adopting this wording as she considered the objective to be *"the relevant place for setting a clear outcome and expectation for the protection of historic heritage, while the policies provide the guidance on how that is to be done effectively while being cognisant of other PORPS objectives"*.
59. The Panel had some sympathy for the DCC's submission given that s.6(f) does not envisage absolute protection of historic heritage. Rather that protection is from *"inappropriate subdivision, use, and development."* In his closing, Mr Anderson reminded us that the Supreme Court stated in *King Salmon*¹, *"inappropriate' should be interpreted in s.6(a), (b) and (f) against the backdrop of what is sought to be protected or preserved."* He went on to note that "HCV-HH-P5(2) requires avoidance of adverse effects on areas or places with special or outstanding historic heritage, whereas section 6(f) refers to all historic heritage."
60. While we understand the Supreme Court's position in relation to s.6(a) and (b), the resources addressed in (f) are largely human made physical resources, often located in built up urban areas, as opposed to naturally occurring features such as landscapes. By its very nature, historic heritage is from an earlier time so there are challenges around maintaining it, particularly when it comes to built heritage, which is often no longer fit for purpose and/or located in strategically important areas within a city. This is the concern Mr Freeland was addressing.
61. In this context, what is considered 'appropriate' may well involve completely removing or heavily modifying *'what is sought to be protected or preserved'*. This is quite often the case with heritage building that have become derelict due to them no longer being fit for purpose and therefore no longer commercially viable. By contrast, we cannot envisage any circumstances where a landscape would be 'removed'.
62. The PORPS historic heritage policy framework seems to us to merely focus on adverse effects without the context of what may or may not be appropriate. This causes concern when historic heritage may, for example, need to be removed for health and safety reasons or to make way for strategically significant projects.
63. While the DCC submission did not specifically request use of the 'inappropriate' phrase from the RMA, they did request that the objective be amended to "so it is clear that not every item of historic heritage must be preserved...". We believe the s.6 qualifier is there to recognise that point. As a consequence, we have included it in the objective to address Mr Freeland's concern.

¹ *King Salmon [2014] 1 NZLR 593 at [105]*

6.3.2. Recommendation

64. Amend HCV-HH-O3 as follows:

HCV-HH-03 – *Historic heritage resources*

Otago’s unique historic heritage contributes to the region’s character, sense of identity, and social, cultural and economic well-being, and is preserved for future generations. people’s understanding and appreciation of it is enhanced, and that it is protected for future generations against inappropriate subdivision, use and development.

6.4. HCV-HH-P3 – Recognising historic heritage

6.4.1. Discussion

65. As notified, HCV-HH-P3 reads:

HCV-HH-P3 – Recognising *historic heritage*

Recognise that Otago’s *historic heritage* includes:

- (1) Māori cultural and *historic heritage* values,
- (2) archaeological sites,
- (3) residential and commercial *buildings*,
- (4) pastoral sites,
- (5) surveying equipment, communications and transport, including *roads*, bridges and routes,
- (6) industrial *historic heritage*, including mills and brickworks,
- (7) gold and other mining systems and settlements,
- (8) dredge and ship wrecks,
- (9) ruins,
- (10) coastal *historic heritage*, particularly Kāi Tahu occupation sites and those associated with early European activities such as whaling,
- (11) memorials, and
- (12) trees and vegetation.

66. There are twelve submissions on HCV-HH-P3. Four submitters support the retention of HCV-HH-P3 as notified while two submitters seek that it be deleted because it is too vague and could lead to the identification of historic heritage features regardless of whether they are worthy of protection. These submitters consider a directive list unnecessary because historic heritage is defined in the RMA.

67. The remaining submitters seek a range of additions to the policy, including “Geological Heritage” and various infrastructure and mining relics. The Director General of Conservation

seeks recognition of the Heritage New Zealand Pouhere Taonga Act, which they say is directly relevant to the purpose of the policy. Federated Farmers and Waitaki DC sought consistency and clarification in relation to Kāi Tahu heritage while Federated Farmers proposed the deletion of 'vegetation' from the list. Toitū Te Whenua sought changes around how farming activities are identified.

68. In response to the request to delete the policy, the officer advised that "HCV-HH-P3 provides important regional context to the policy framework, to assist with understanding and acknowledging the types of values, sites and features that form part of Otago's historic heritage." She also noted that the list is non-exhaustive, and accepted several of the suggested amendments on the basis that they describe additional sites and features that are reflective of the types of historic heritage in Otago. The officer also recommended changes in relation to the reference to Māori values. In relation to geological heritage, she felt this was more appropriately managed in the NFL chapter.
69. The Director General of Conservation's submission regarding the Heritage New Zealand Pouhere Taonga Act was not addressed in the original s42 Report but was recommended for inclusion in the officers opening statement. How this was incorporated into the policy was amended in the officers reply to address the disjunct noted by the Panel between section 6 of the Heritage New Zealand Pouhere Taonga Act and the policy itself.
70. In response to the recommendations, Mr Bathgate for Kāi Tahu ki Otago noted that that there may be Māori historic heritage of non-Kāi Tahu origin and that reference to 'places and areas' as opposed to 'sites' is more consistent with HCV-HH-P4 and APP8². The officer agreed with this in her reply and recommended those changes accordingly.
71. The Panel acknowledges that there is some logic to the submissions of Alluvium and Stoney Creek, Danny Walker and others as the RMA does indeed contain a definition of historic heritage. However, that definition is very generic, and we accept the officer's position that the resources identified in the policy illustrate what specific items in Otago may fall within that definition. For that reason, we also agree with the changes she has recommended to the list with the exception of cemeteries as requested by the Waitaki District Council. Cemeteries are managed under the Burial and Cremation Act 1964 and we do not think it appropriate that they be subject to heritage provisions

6.4.2. Recommendation

72. That HCV-HH-P3 be amended as follows:

HCV-HH-P3 – Recognising historic heritage

Recognise that Otago's historic heritage includes:

- (1) Māori cultural and historic heritage values and sites, and places and areas,
- (2) archaeological sites,
- (3) residential and commercial buildings,
- (4) pastoral sites,

² Michael Bathgate for Kāi Tahu (Appendix 1), page [23]

- (5) surveying equipment, communications and transport, including roads, bridges, railway infrastructure and routes,
- (6) industrial historic heritage, including mills, quarries, limekilns, grain stores, water supply infrastructure and brickworks,
- (7) gold, limestone and other mining systems and settlements,
- (8) dredge and ship wrecks, and coastal structures and buildings, including breakwaters, jetties, and lighthouses,
- (9) ruins,
- (10) coastal historic heritage, particularly Kāi Tahu occupation sites and those associated with early European activities such as whaling,
- (11) memorials ~~and~~
- (12) trees ~~and vegetation~~,
- (13) military structures or remains, and
- (14) Historic places within the meaning under section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

6.5. HCV-HH-P4 – Identifying historic heritage and APP8

6.5.1. Discussion

73. Policy HCV-HH-P4 and APP8 deal with the identification of historic heritage. The s42A report dealt with these provisions separately, at section 13.6.5 and section 13.6.17 respectively. Because they work in conjunction with each other, we have dealt with them together.

74. As notified, HCV-HH-P4 reads:

HCV-HH-P4 – Identifying historic heritage

Identify the places and areas of *historic heritage* in Otago in accordance with APP8 and categorise them as:

- (1) places and areas with special or outstanding *historic heritage* values or qualities, or
- (2) places and areas with *historic heritage* values or qualities.

75. As notified, APP8 reads:

APP8 – Identification criteria for places and areas of historic heritage

A place or area is considered to have *historic heritage* if it meets any one or more of criteria below:

Aesthetic The place has, or includes aesthetic qualities that are considered to be especially pleasing, particularly beautiful, or overwhelming to the senses,

eliciting an emotional response. These qualities are demonstrably valued, either by an existing community or the general public, to the extent that they could be expected to experience a sense of loss if the qualities which evoke the aesthetic value were no longer there.

- Archaeological** The place provides, or is demonstrably likely to provide, physical evidence of human activity that could be investigated using archaeological methods. Evidence obtained from an archaeological investigation could be expected to be of significance in answering research questions, or as a new or important source of information about an aspect of New Zealand history.
- Architectural** The place reflects identifiable methods of construction or architectural styles or movements. When compared with other similar examples, or in the view of experts or relevant practitioners, it has characteristics reflecting a significant development in this country's architecture. Alternatively, or in conjunction with this, the place is an important or representative example of architecture associated with a particular region or the wider New Zealand landscape.
- Cultural** The place reflects significant aspects of an identifiable culture and it can be demonstrated that the place is valued by the associated cultural group as an important or representative expression of that culture.
- Historic** The place contributes to the understanding of a significant aspect of New Zealand history and has characteristics making it particularly useful for enhancing understanding of this aspect of history, especially when compared to other similar places.
- Scientific** The place includes, or is demonstrably likely to include, fabric expected to be of significance in answering research questions or a new or important source of information about an aspect of New Zealand's cultural or historical past through the use of specified scientific methods of enquiry.
- Social** The place has a clearly associated community that developed because of the place, and its special characteristics. The community has demonstrated that it values the place to a significant degree because it brings its members together, and they might be expected to feel a collective sense of loss if they were no longer able to use, see, experience or interact with the place.
- Spiritual** The place is associated with a community or group who value the place for its religious, mystical or sacred meaning, association or symbolism. The community or group regard the place with reverence, veneration and respect, and they might be expected to feel a collective sense of loss if they were no longer able to use, see, experience or interact with the place.
- Technological** The place includes physical evidence of a technological advance or method that was widely adopted, particularly innovative, or which made a significant contribution to New Zealand history
OR

The place reflects significant technical accomplishment in comparison with other similar examples or, in the view of experts or practitioners in the field, has characteristics making the place particularly able to contribute towards our understanding of this technology.

Traditional

The place reflects a tradition that has been passed down by a community or culture for a long period, usually generations and especially since before living memory, and has characteristics reflecting important or representative aspects of this tradition to a significant extent.

The significance of areas and places with *historic heritage* will be assessed having regard to the following criteria:

- (1) the extent to which the place reflects important or representative aspects of Otago or New Zealand history,
- (2) the association of the place with events, persons, or ideas of importance in Otago or New Zealand history,
- (3) the potential of the place to provide knowledge of Otago or New Zealand history,
- (4) the importance of the place to *takata whenua*,
- (5) the community association with, or public esteem for, the place,
- (6) the potential of the place for public education,
- (7) the technical accomplishment, value, or design of the place,
- (8) the symbolic or commemorative value of the place,
- (9) the importance of identifying historic places known to date from an early period of Otago's or New Zealand's settlement,
- (10) the importance of identifying rare types of historic places, and
- (11) the extent to which the place forms part of a wider historical and cultural area.

76. There were eight submissions on HCV-HH-P4. CODC, Kāi Tahu ki Otago, and QLDC sought that the policy be retained as notified. The Director General of Conservation submitted that there was not enough certainty or clarity around determining whether values, places or areas are special or outstanding (under the policy or the associated APP8) and requested clearer criteria or guidance. For similar reasons, Trojan and Wayfare both sought the deletion of the two clauses of the policy. The DCC submission highlighted the resourcing implications of having to identify two categories of heritage items and noted the potential inconsistency between the policy and their 2nd Generation District Plan. Ngāi Tahu ki Murihiku sought recognition of wāhi tūpuna as part of historic heritage and that clause (2) provides appropriate description for wāhi tūpuna.

77. In respect to APP8, thirteen submissions were received, with the Director General of Conservation and QLDC seeking that it be retained as notified. Two submitters sought the removal of the 'Aesthetic, Social, Spiritual and Traditional' criteria from APP8, as well as all other references to those criteria. Two other submitters sought the addition of a new geological significance criteria to the list. One submitter sought clarification on why the identification criteria has changed from that recently resolved in the partially operative RPS.

Heritage New Zealand Pouhere Taonga(HNZPT) support the inclusion of historic heritage significance assessment criteria but stated they must be correctly presented while DCC submits reference should be made to the Heritage New Zealand Pouhere Taonga Significance Assessment Guidelines 2019.

78. In response to the DCC concerns, the officer noted that a two-tiered classification system is not a new requirement, but a refinement of the approach set out in the PORPS 2019. That RPS requires the identification of historic heritage of regional and national significance. The officer also drew our attention to the s32 evaluation report³ stating that there will be an increase in cost for the territorial authorities, but that cost will be lower than the status quo for district councils that have not undertaken a plan review. For those councils that have already undertaken a plan review she, noted that while there will be additional costs, it is not anticipated that their plans will be reviewed ahead of a 10-year planning cycle response to the HCV-HH chapter.
79. The officer recommended rejecting the DCC submission and that of Trojan and Wayfare to delete clauses (1) and (2), which she advised are important for retaining the two-tiered classification approach, as APP8 does not provide the distinction between the special or outstanding. The officer also recommended rejection of the Ngāi Tahu ki Murihiku submission as it lacked clarity.
80. In response to the Federated Farmers submission questioning the rationale for change in approach from the PORPS 2019, the s42A author report referred to the s32 report at paragraph 665, which states:
- The PORPS 2019 provisions related to historic values have been implemented through various district planning processes, which has highlighted issues with the direction related to areas of “regional or national significance” and the ability of councils to apply a consistent approach to identifying and managing historic heritage.*
81. No change was recommended in response to this submission. However, she did agree that reference to, and consistency with, the guidelines in APP 8 was appropriate and recommended some minor amendments accordingly. Further changes were made to APP8 in her supplementary report, so that the two types of historic heritage can be distinguished, which will enable the application of the effects management hierarchy in HCV-HH-P5.
82. In relation to the listed criteria in APP8, the officer agreed that the terms ‘Aesthetic, Social, Spiritual and Traditional’ are not included in the definition of section 2 of the RMA, but considered the use of these criteria “a key component of a holistic, pragmatic and consistent approach to managing historic heritage in Otago, to best achieve the outcomes expressed in HH-HCV-O3”. With respect to geological heritage, she felt this was more appropriately managed in the NFL chapter.
83. The Panel largely agrees with the evidence of Mr Freeland for the DCC on this matter. He addressed the two-tiered approach at length in his evidence.⁴ In his opinion, the cost associated with the two-tiered approach is unnecessary as District Plans currently manage all historic heritage in the same way, regardless of perceived historic importance, by a site-

³ Table 60, page 185

⁴ EIC of Paul Freeland, paragraphs 78-84

specific protection approach. In his opinion, there is *“little demonstrable advantage to protecting historic places by way of a two-tier classification as this will generally mean that the protection measures for some places are either generalised or reduced in comparison to others. The practise of managing heritage values requires an understanding of what makes the place significant and site-specific protection measures are considered to be the most effective way of identifying and protecting parts of the place that demonstrate these values”*.

84. He expanded on the cost issue at the hearing, highlighting how significant it would be to confirm the categorisation in the context of the reassessment of approximately 760 existing heritage schedule items in the Dunedin City District Plan. Mr Freeland suggested an amendment to APP8 to address his concern which would only require two categories of historic heritage to be identified if the District Council chose an approach that treats them differently.
85. Mr Freeland’s concerns with respect to the PORPS approach aligns with the experience of the Panel members. We agree with him that there is no demonstrable advantage of such an approach over the current approach adopted in most District Plans around the country. The Panel has reviewed the Section 32 Report on this issue and found it lacking on both these fronts. That Report does not seem to acknowledge, let alone quantify, the significant cost local authorities would be burdened with under this two-tiered approach.
86. While there is obviously a cost involved in identifying historic resources for inclusion in district plans, that cost increases dramatically if the actual historical significance of the resource must then be assessed. The officers reply report⁵ referred to the 2020 report of Jeremy Moyle, an Archaeologist with Origin Consultants Ltd (the ‘Origin Report’), which reviewed the approach taken by other councils to classifying historic heritage, but did not make any further comment on the findings. We have reviewed the Origin Report and note that it assessed the approach of 10 other councils to identifying geographic criteria (i.e. regionally or nationally important as opposed to ‘significant or outstanding’ as proposed here) and found that only three of them took that approach. While one of them was an Otago district council (being the Queenstown Lakes District Council), the other two were large urban authorities, being Auckland and Wellington City. Most other district plans, particularly smaller rural authorities, schedule heritage items and then use the resource consent process to manage effects on the item. Hence, the significance of the resource does not need to be determined as a part of the scheduling process - significance only needs to be addressed if it is likely that a development proposal may see a loss of these items, or their values. This approach also enables a framework that can permit activities where they will not affect the item or its values.
87. We cannot see how the two-tiered approach would change that or lead to an improvement in heritage protection. All it will do is impose a significant cost burden on local authorities, a cost that will be very difficult to bear for a number of Otago’s smaller rural authorities. Under the current system, the cost of that assessment falls on those who will benefit from the proposal that may affect the item, not the general ratepayer.
88. We note that the Origin Report states that the current approach of the partially operative RPS 2019, which requires the identification of items of regional or national significance, would be “expected to be quite resource extensive” (page 6, 3rd paragraph). Yet we see little difference in the cost of what is proposed here, which is essentially Option C in that report, adopting the HNZPT approach to categorising historic heritage. The work involved in assessing historic heritage for ‘special and outstanding’ values is likely to be the same as assessing them for

⁵ paragraph 84

‘regional or national significance’. The obligations under the Heritage New Zealand Pouhere Taonga Act 2014, and the associated processes, fall on HNZPT, not local authorities. As a rule, we do not consider it appropriate that legislation, or the processes in it, that are specifically designed for a Crown Entity should apply to other organisations, that operate under different legislation and where resource funding is much more limited.

89. We agree that the incorporation of a list of criteria and a process to enable the assessment of significance will ensure that there is consistency across Otago. However, we consider the current approach to heritage management within district plans as outlined by Mr Freeland to be a far more efficient approach in managing activities that may impact on heritage.
90. However, that does not stop councils from adopting a two-tiered approach if they so wish. That is likely to come down to a funding issue.
91. We were not entirely comfortable with Mr Freeland’s drafting solution to the problem, which relates to APP8. We suspect that this was perhaps related to a scope issue, but we note that Trojan and Wayfare provide the scope to remove the two-tiered reference in policy. The DCC submission, however, does allow consequential amendments to link the significance criteria and assessment method under APP8 to the resource consent process.
92. Turning to the criteria themselves, the Panel has some sympathy for the submission of Alluvium and Stoney Creek, and Danny Walker and others who sought the removal of the Aesthetic, Social, Spiritual and Traditional criteria. The basis for this request is that these terms are not included in the definition ‘historic heritage’ in the RMA. They also rightly note that the Heritage New Zealand Pouhere Taonga Significance Assessment Guidelines were based on the criteria which HNZPT are required to consider under the Heritage New Zealand Pouhere Taonga Act and do not consider it appropriate to use these criteria in an RMA context without comprehensive analysis of the implications of doing so.
93. On the other hand, Mr Mawdsley, the DCC Heritage advisor (in contrast to Mr Freeland as noted in the reply report), noted at the hearing that the criteria listed in APP8 are linked to the definition of historic heritage in the RMA. He also advised that similar criteria are used in the 2GP, and while the criteria may be phrased differently, the concepts remain the same.
94. While we could not find the similar criteria in the DCC 2GP, we tend to agree, for the most part, with Mr Mawdsley that the concepts encapsulated in the proposed criteria do reflect the definition of historic heritage in the RMA. While the criteria have specific meaning for ‘cultural significance or value’ and list ‘Social, Spiritual and Traditional’ values separately, with their own definitions, we consider these four criteria essentially form part of the wider reference to ‘cultural’ in the RMA definition of historic heritage. That definition begins with the chapeau “*means those natural and physical resources that **contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities...***” (Panel’s emphasis). We accept that ‘Social, Spiritual and Traditional’ values are cultural qualities that will contribute to ‘*an understanding and appreciation of New Zealand’s history and cultures*’.
95. Where we have some difficulty, however, is with the ‘aesthetic’ value listed in the criteria. That criterion is:

The place has, or includes, aesthetic qualities that are considered to be especially pleasing, particularly beautiful, or overwhelming to the senses, eliciting an emotional response. These qualities are demonstrably valued, either by an

existing community or the general public, to the extent that they could be expected to experience a sense of loss if the qualities which evoke the aesthetic value were no longer there.

96. The Panel considers this criterion to be out of place in a list of historic heritage criterion. It is more reflective of amenity or landscape values, as opposed to heritage values. The difficulty arises with the breadth of what it can cover, being any 'place'. We note the examples included in the Heritage New Zealand Pouhere Taonga Significance Assessment Guideline include the following:

*The bush-clad, sheltered coastal environment of **Meretoto/Ship Cove**, Tōtaranui/Queen Charlotte Sound (Category 1, List No. 9900) has not changed markedly since the late 18th century. Early reservation of the site and a consequent lack of development preserved the scenic qualities warmly appreciated by James Cook and his fellow voyagers. Thickly clustered trees surrounding the cove that spill down to the water's edge, and the regenerated forest on the now predator-free Motuara Island, provide a safe home for the numerous bird species whose music enchanted Joseph Banks in 1770. The positive sensory experience created by the trees, birds, water and topography in concert are reminders of why Meretoto/Ship Cove became Cook's favourite New Zealand anchorage⁶*

97. Because there is no reference in the definition to the 'place' needing to have a historical connection, while the Meretoto/Ship Cove 'place' clearly has historical significance and has a HNZPT listing, if it did not so, the definition of the 'aesthetic' value could still enable its listing as a 'historic heritage' site. That is because it would most likely meet the 'especially pleasing, particularly beautiful' criteria and is likely to be valued by the community. Much like the requested inclusion of a 'geological' value criterion, which the officer suggested was more of a 'natural feature' under s.6(b), sites that are 'especially pleasing, particularly beautiful' are more appropriately dealt with through landscape provisions.
98. As a consequence, we accept the submission of Alluvium and Stoney Creek, and Danny Walker and others in part and recommend the removal of the 'Aesthetic' criteria. Sites such as Meretoto/Ship Cove would still get identified under the 'historic' criteria, while buildings could get identified under the 'architectural' or 'historic' criteria. Those buildings that are not 'historic' as such, but that may be aesthetically pleasing and contribute to character of an area, can be addressed in a number of different ways by councils, if they so choose. For example, the DCC's 2GP identifies 'Character Contributing' buildings and requires consideration of townscape values in its policy provisions.

6.5.2. Recommendation

99. Amend HCV-HH-P4 as follows:

HCV-HH-P4 – Identifying historic heritage

Identify the places and areas of historic heritage in Otago in accordance with APP8. and categorise them as:

~~(1) — places and areas with special or outstanding historic heritage values or qualities, or~~

⁶ Page 14, Heritage New Zealand Pouhere Taonga Significance Assessment Guidelines

~~(2) — places and areas with historic heritage values or qualities.~~

100. Amend APP8 as follows:

APP8 – Identification criteria for places and areas of historic heritage

1. Identifying Areas and Places with Historic Heritage

A place or area is considered to have historic heritage if it meets any one or more of the criteria below:⁷

Aesthetic ~~The place has, or includes, aesthetic qualities that are considered to be especially pleasing, particularly beautiful, or overwhelming to the senses, eliciting an emotional response. These qualities are demonstrably valued, either by an existing community or the general public, to the extent that they could be expected to experience a sense of loss if the qualities which evoke the aesthetic value were no longer there.~~

....

~~The significance of areas and places with *historic heritage* will be assessed having regard to the following criteria:~~

2. Identification of Special or Outstanding Heritage Values or Qualities

Where, for example, in a resource consent or notice of requirement process, a place or an area that has been identified as having historic heritage values or qualities, and is required to be assessed to determine whether those values or qualities are special or outstanding, that assessment must:

(1) utilise the following criteria:

- (a) the extent to which the place reflects important or representative aspects of Otago or New Zealand history,
- (b) the association of the place with events, persons, or ideas of importance in Otago or New Zealand history,
- (c) the potential of the place to provide knowledge of Otago or New Zealand history,
- (d) the importance of the place to takata whenua,
- (e) the community association with, or public esteem for, the place,
- (f) the potential of the place for public education,
- (g) the technical accomplishment, value, or design of the place,
- (h) the symbolic or commemorative value of the place,
- (i) the importance of identifying historic places known to date from an early period of Otago's or New Zealand's settlement,
- (j) the importance of identifying rare types of historic places, and

⁷ The identification criteria in APP8 follows O'Brian, R and Barnes-Wylie J, Guidelines for Assessing Historic Places and Historic Areas for the New Zealand Heritage List/Rārangī Kōrero (2019) which has been adopted by Heritage New Zealand Pouhere Taonga as its Significance Assessment Guidelines (00123.003 Heritage New Zealand Pouhere Taonga, 00139.239 DCC), with the exception that the 'Aesthetic value' has been removed this criterion.

(k) the extent to which the place forms part of a wider historical and cultural area,
and

(2) apply the method set out in “Part Two: Applying the section 66(3) criteria” of Assessing Historic Places and Historic Areas for the New Zealand Heritage List/Rārangī Kōrero (2019).

101. Amend HCV-HH-PR2 – Principal reasons

HCV-HH-PR2 – Principal reasons

Otago is a region rich in historic heritage, with a diversity of significant cultural and historic heritage places and areas that contribute to its special character and identity. Historic heritage encompasses historic sites, structures, places, and areas; archaeological sites; sites of significance to Māori (including wāhi tapu and wāhi taoka sites) and the broader surroundings and landscape in which they are situated. The heritage resources in Otago are reflective of the history that helped to shape the region, and is representative of the different cultures, industries and institutions that contributed to its development. Historic landscapes in the coastal environment are specifically recognised in Policy 17 of the NZCPS.

The provisions in this chapter assist in implementing section 6(f) of the RMA-1991 and the NZCPS by requiring:

- the identification of places and areas with historic heritage values and qualities ~~and places and areas with special or outstanding historic heritage values and qualities~~ using clear criteria ~~and methodology~~ that is regionally consistent. Where these resources need to be assessed to determine if they have special or outstanding values and qualities, regionally consistent criteria and methodology is to be followed.

...

6.6. HCV-HH-P5 – Managing Historic Heritage

6.6.1. Discussion

102. As notified, HCV-HH-P5 reads:

HCV-HH-P5 – Managing historic heritage

Protect *historic heritage* by:

- (1) requiring the use of accidental discovery protocols,
- (2) avoiding adverse *effects* on areas or places with special or outstanding *historic heritage* values or qualities,
- (3) avoiding significant adverse *effects* on areas or places with *historic heritage* values or qualities,
- (4) avoiding, as the first priority, other adverse *effects* on areas or places with *historic heritage* values or qualities,

- (5) where adverse *effects* demonstrably cannot be completely avoided, remedying or mitigating them, and
- (6) recognising that for *infrastructure*, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).

103. There were 22 submissions on HCV-HH-P5, with only three (CODC, Meridian, and QLDC) seeking retention of it as notified. The remaining submissions sought a range of amendments including clarity on its effect, particularly around clause 4 and 5 and the accidental discovery protocols.
104. The Director General of Conservation sought amendments to enable consistency with their submission on HCV-HH-P4 while they also sought that clause 2 be amended to ensure there is no conflict with Policy HCV-HH-P7. Kāi Tahu ki Otago sought amendments to establish a clear hierarchy of effects management while Federated Farmers also sought changes to it.
105. Other submitters sought amendments to recognise infrastructure, in particular regionally and nationally significant infrastructure while the DCC submitted that there may be other projects (not just infrastructure) where significant positive effects may be ‘worth’ the loss of some historic heritage’. However, they considered the policy too onerous to allow for this. Oceana Gold and Toitū Te Whenua had similar concerns. Alluvium and Stoney Creek, and Danny Walker and others sought the deletion of clauses (2) and (3) for similar reasons, while Trojan and Wayfare sought the deletion of clause (2). Graymont sought amendments to ensure that existing activities can continue.
106. In the initial s42A report, the officer agreed with DoC that including a link to Policy HCV-HH-P7 (adaptive reuse and upgrade) is a clear way of providing for the integration of historic heritage values into new activities. However, she did not agree with submitters seeking what she termed a “*more enabling effects management hierarchy*” on the basis that “*Section 6 of the RMA provides clear guidance that historic heritage must be protected from inappropriate use, development or subdivision as a matter of national importance*”. She adopted a similar position in relation to the infrastructure submitters. In reference to sites or features that have special or outstanding historic heritage values, she recommended a strong policy position of avoiding adverse effects.
107. The officer adopted a similar position in relation to submissions seeking to weaken the avoidance approach and those seeking a pathway to either avoid, remedy or mitigate adverse effects. In relation to existing activities, she referred to section 10 of the RMA which provides protection for such activities. In her reply report, the officer did restructure the clauses related to other historic heritage, so it was clearer how the provisions worked.
108. In our discussion on Objective HCV-HH-O3 we noted that s.6(f) does not envisage absolute protection of historic heritage, but rather protection from “*inappropriate subdivision, use, and development.*” As a consequence of the DCC submission, we included the s.6(f) qualifier in the objective.
109. In relation to the request by QLDC for its inclusion in the policy, the officer did acknowledge that s.6(f) was qualified but she did not accept the Queenstown Airport submission to incorporate this reference into the chapeau of the policy. The officer held the position that for special or outstanding historic heritage values, a strong policy position of avoiding adverse effects must be retained and that this should also be the first preference in relation to other historic heritage sites or features. She stated that:

“Upholding the proposed effects management hierarchy is integral for achieving HCV-HH-O2, and it is my view that suggested amendments to provide carve outs or exemptions for particular types of activities (including infrastructure that is not nationally or regionally significant) would erode the strong policy position presented in HCV-HH-P5 for managing historic heritage. Where there is a functional need for a particular activity to occur at a site, the activity must be managed in accordance with the policy, where there are options provided to mitigate or remedy some types of effects.”

110. The difficulty the Panel has with the officer’s position is that the policy is very directive, effectively requiring all adverse effects to be avoided (although we acknowledge the ‘watering down’ of this approach for ‘other’ historic heritage in the reply report), with little recognition, let alone a pathway, for activities that may be considered ‘appropriate’. As we noted earlier in this decision, historic heritage resources are largely human made physical resources, often located in built up urban areas, as opposed to naturally occurring features such as landscapes.

111. As a consequence, there are significant challenges around maintaining historic heritage, particularly when it comes to built heritage. Heritage buildings are often not fit for modern day purposes so can become rundown and unsafe. An example of ensuring the ongoing viability of such buildings was raised with us by the Telecommunications submitters. They sought recognition of the fact *“that infrastructure service connections to heritage buildings support their ongoing use and therefore protection and upkeep”*.

112. However, their planning witness, Mr Horne, had significant concerns with HCV-HH-P5 (leaving aside the potential solution through the EI chapter) as service connections may fall foul of the ‘avoid’ approach, despite supporting the viability and ongoing use of such buildings. He stated that:⁸

“Given that district plans (as lower order planning documents) must give effect to the relevant Regional Policy Statement (“RPS”) under the RMA, an “avoid” directive in the RPS may lead to outcomes such as non-complying activity status in district plans and/or notification. It also increases the risk that applications such as the Auckland Council City-Wide consent example be declined. In my opinion this may lead to unintended consequences and could make it difficult for telecommunications network operators to provide service connections to scheduled heritage buildings/buildings in heritage precincts, which would not be supporting their ongoing protection and use.”

113. While infrastructure is dealt with in the EIT chapter, we agree with Mr Horne and think the issue is wider than just the provision of modern service infrastructure. Earthquake strengthening, firefighting capacity, and other modern health and safety requirements (including the install of lifts and restricted mobility access) may also fall foul of such a policy. Making such improvements to a building would not be ‘inappropriate’ in our view.

114. Such buildings may also be located in strategically important areas of a city. Mr Freeland addressed this issue in his evidence advising that this policy could have stopped the new Dunedin hospital because of the existence of historic heritage on its site.

⁸ EIC, Chris Horner paragraph 4.14

115. Ms Hunter, for Oceana Gold, drew our attention to another circumstance where human made historic heritage resources can constrain activities with significant public benefit, this time in the rural environment. She highlighted “*the long-standing nature of the mining activity within the Macraes*”, advising that there a number of historic mining sites within the Macraes Mining operation area that could be affected by the operation. When these situations arise, she advised that:

“OceanaGold seeks, where practicable, to adopt measures such as the removal of significant artefacts, remediation and/or enhancement of other historic areas and features as part of its overall and ongoing site management.”

116. The Graymont submission raised a similar issue, advising that their Makareao Plant and Quarry Site is classified as a Category 1 Historic Place, which provides insight into the history of the lime burning industry. While the site has a specific exclusion area over the quarry and plant that allows for its operations to take place (we assume from Heritage NZ), Graymont are seeking assurance that they can continue to operate, and maintain, develop and upgrade its facilities when necessary.

117. These are examples of activities that could potentially be ‘appropriate use and development’ which may impact on historic heritage values but are likely to face significant hurdles under the ‘avoid’ approach of this policy.

118. We also note that the DCC submission referenced policy 13.2.1.7 of their proposed District Plan, which also addresses safety concerns. The DCC sought the inclusion of something similar in the PORPS. That policy adopts an ‘avoid unless’ approach that would probably not be available under the current PORPS. The Policy reads as follows:

Avoid the demolition of a protected part of a scheduled heritage building or scheduled heritage structure, unless the following criteria are met:

- a. ...
 - i. *the building or part of the building poses a significant risk to safety or property; or*
 - ii. *the demolition is required to allow for significant public benefit that could not otherwise be achieved, and the public benefit outweighs the adverse effects of loss of the building; and*
- b. *there is no reasonable alternative to demolition, including repair, adaptive re-use, relocation or stabilising the building for future repair; and*
- c. *for buildings and structures located within a heritage precinct:*
 - i. *development post demolition will maintain or enhance the heritage streetscape character and amenity in accordance with Policy 13.2.3.6; and*
 - ii. *conditions will be imposed which would give reasonable certainty that this will be completed within an acceptable timeframe.*

119. While we agree with the officer that as a s.6 matter, there should be a strong policy direction to avoid adverse effects on historic heritage, we feel the proposed policy goes too far in that direction and does not make provision for activities that may in fact be appropriate or

necessary. As a consequence, we consider it appropriate to include the s.6(f) qualifier in the chapeau as sought by Queenstown Airport. We have also accepted those submissions that seek recognition of those activities that may provide significant public benefit. Infrastructure is of course one of those activities and how that is treated in these circumstances will also be dealt with in the EI chapter but is also provided for in the exceptions here.

120. With respect to 'other' historic heritage, the Panel considers the 'avoid, remedy, mitigate' test is all that is necessary at an RPS level. The resource consent process will then determine what the appropriate response is in the context of the values being considered i.e. whether adverse effects need to be avoided, remedied or mitigated.

121. This recommended change also requires a consequential amendment to HCV-HH-E2.

6.6.2. Recommendation

122. That Policy HCV-HH-P5 be amended as follows:

HCV-HH-P5 – Managing *historic heritage*

Except as provided for in EIT-INF-P13, protect *historic heritage* from inappropriate subdivision, use and development by:

- (1) requiring the use of accidental discovery protocols in accordance with APP11;
- (2) avoiding adverse effects on areas or places which have been identified as having special or outstanding *historic heritage* values or qualities, ~~except that in circumstances (a) to (f) below, they are remedied or mitigated to the extent practicable:~~
 - (a) where HCV-HH-P6 applies, or
 - (b) a project has significant public benefit that outweighs the loss of historic heritage; or
 - (c) the activity has functional or locational constraints and has a significant public benefit; or
 - (d) the area or place is already impacted by an existing, lawfully established activity; or
 - (e) there is a significant risk to safety or property; or
 - (f) any adverse effects are minor and relate to work necessary to adapt a historic heritage building to modern use.
- (3) ~~avoiding, remedying or mitigating significant adverse effects on other areas or places with *historic heritage* values or qualities.~~
- (4) ~~avoiding, as the first priority, other adverse effects on areas or places with *historic heritage* values or qualities,~~
- (5) ~~where adverse effects demonstrably cannot be completely avoided, remedying or mitigating them, and~~
- (6) ~~recognising that for *infrastructure*, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).~~

123. Amend HCV-HH-E2 as follows:

activities do not detract from the region’s special character and sense of identity. This also includes ~~the enhancing places and areas of historic heritage by encouraging the ongoing use and adaptive re-use of historic heritage. integration of historic heritage values into new activities and enabling the adaptive reuse or upgrade of historic heritage places~~ in certain circumstances.

6.7. HCV-HH-P6 – Enhancing historic heritage and HCV-HH-P7 – Integration of historic heritage

6.7.1. Introduction

124. The s42A report addresses HCV-HH-P6 at section 13.6.7 and HCV-HH-P7 at section 13.6.8. We deal with them together as they relate to similar issues and at least two submitters have suggested that they are combined because of that.

125. As notified, HCV-HH-P6 and HCV-HH-P7 read as follows:

HCV-HH-P6 – Enhancing *historic heritage*

Enhance places and areas of *historic heritage* wherever possible through the implementation of plan provisions, decisions on applications for *resource consent* and notices of requirement and non-regulatory methods.

HCV-HH-P7 – Integration of historic heritage

Maintain historic heritage values through the integration of historic heritage values into new activities and the adaptive reuse or upgrade of historic heritage places and areas.

126. Nine submissions were received on HCV-HH-P6 and six on HCV-HH-P7. CODC and QLDC sought HCV-HH-P6 be retained as notified while QLDC and the Waitaki DC sought HCV-HH-P7 be retained as notified. Kāi Tahu ki Otago also supported the direction of HCV-HH-P6 but submitted that HCV-HH-P7 could be amalgamated with it.

127. A number of submitters noted that it is not always possible or cost efficient to ‘enhance’ historic heritage as required by HCV-HH-P6 and sought amendments to include a qualifier (such as ‘where practicable’ and ‘where reasonable’). Manawa raised similar issues with the ‘integration’ required by HCV-HH-P7. The DCC sought clarity on what is meant by ‘enhance’ in the context of HCV-HH-P6 and recommended replacement wording focusing on encouraging maintenance and adaptive reuse. On the basis of their replacement wording, they submitted that HCV-HH-P7 could be deleted. Graymont sought a qualifier to HCV-HH-P6 to ensure existing activities can continue. Federated Farmers sought clarity regarding ‘adaptive reuse or upgrade’ within HCV-HH-P7 believing it should specifically refer to ‘built’ areas.

128. In relation to those submissions requesting that ‘enhancement’ be qualified in HCV-HH-P6, the officer considered the policy would be weakened. She had similar concerns in relation to the changes proposed to HCV-HH-P7. However, in response to the EIC of Ms Styles, on behalf of Manawa Energy, she agreed that ‘where possible’ HCV-HH-P6 sets a high bar. However, she was reluctant to accept ‘where practicable’ as in her opinion “*that allows for consideration of*

other factors, including cost implications of complying with the required provisions which could result in an environmental outcome (in this case, for historic heritage) that is at odds with the objectives (HCV-HH-O3)". As a consequence, she suggested the phrase "to the greatest extent practicable" as this would place the "onus on the resource user to demonstrate or show that the policy has been appropriately provided for."

129. The officer had similar concerns in relation to the changes proposed to HCV-HH-P7 and did not believe it needed clarification or amendment. She noted the proposed cross reference to HCV-HH-P7 in clause (2) of HCV-HH-P5, which she stated in her reply report *"effectively provides an exemption to meeting the requirement to avoid adverse effects on sites and places with outstanding or special historic heritage values or qualities"*.
130. The officer was also unclear from the Federated Farmers submission on what the risks and/or benefits were of linking integration in HCV-HH-P7 to 'built' heritage only. She therefore recommended that the submission be rejected because it is unclear how this would improve the provision.
131. In the Panel's view, the two policies are essentially addressing the maintenance and enhancement components of 'protecting' heritage values through its ongoing use. In our view 'integration' in this context is a part of that ongoing, adaptive re-use of the resource. The goal is that the resource is maintained or enhanced (improved) and we agree that only one policy is required.
132. We accept that it is not always possible to incorporate or re-use historic heritage in developments so agree with the submitters that the words 'encourage' and 'practicable' should be used in this context. As a consequence, we have used 'as far as reasonably practicable'. We do not consider reference to the implementation of plan provisions, resource consents and notices or requirements is required in the policy. This is more appropriately addressed in the methods.
133. This recommended change also requires a consequential amendment to HCV-HH-E2, P2 and AER5.

6.7.2. Recommendation

134. Delete both HCV-HH-P6 and HCV-HH-P7 and replace with the following:

HCV-HH-P6A – Maintenance or enhancement of historic heritage

Encourage the ongoing use and adaptive re-use of historic heritage in a way that, as far as reasonably practicable, maintains or enhances the identified heritage values.

135. Amend HCV-HH-E2 – Explanation as follows:

The policies in this section are designed to ensure that Otago's unique historic heritage continues to contribute to the region's character, sense of identity, and social and economic well-being by requiring places and areas of significant historic heritage to be identified using regionally consistent methodology, then protecting or managing those sites or areas in particular ways to ensure that other activities do not detract from the region's special character and sense of identity. This also includes the enhancing places and areas of historic heritage by encouraging the ongoing use and adaptive re-use of historic heritage ~~integration of historic heritage~~

~~values into new activities and enabling the adaptive reuse or upgrade of historic heritage places in certain circumstances.~~

136. Amend HCV-HH-PR2 – Principal reasons as follows:

Otago is a region rich in historic heritage, with a diversity of significant cultural and historic heritage places and areas that contribute to its special character and identity. Historic heritage encompasses historic sites, structures, places, and areas; archaeological sites; sites of significance to Māori (including wāhi tapu and wāhi taoka sites) and the broader surroundings and landscape in which they are situated. The heritage resources in Otago are reflective of the history that helped to shape the region, and is representative of the different cultures, industries and institutions that contributed to its development. Historic landscapes in the coastal environment are specifically recognised in Policy 17 of the NZCPS.

The provisions in this chapter assist in implementing section 6(f) of the RMA ~~1991~~ and the NZCPS by requiring:

...

- the protection of historic heritage from inappropriate subdivision, use and development,
- the maintenance and enhancement of historic heritage through encouraging its ongoing use and adaptive re-use ~~the integration~~ of historic heritage values into new activities and enabling the adaptive reuse or upgrade of historic heritage places and areas in certain circumstances, and
- specified actions on the part of Otago's local authorities in managing historic heritage.

137. Amend HCV-HH-AER5 as follows:

HCV-HH-AER5 Otago's existing built *historic heritage* is maintained and enhanced ~~and integrated~~ through efficient use, or adaptive reuse, where appropriate.

6.8. HCV-HH-M4 – Regional Plans and HCV-HH-M5 – District Plans

6.8.1. Introduction

138. There were three submissions on HCV-HH-M4, with Waka Kotahi seeking it be retained as notified. Toitū Te Whenua seeks to amend the provision to include any 'other soil disturbance' as a sub-clause to clause (2). Kāi Tahu ki Otago supports the provision with amendments to enable Kāi Tahu to exercise their kaitiaki role by identifying historic heritage values for mana whenua in accordance with HCV-HH-P4.

139. The officer was unclear on why the reference to 'other soil disturbance' was necessary given no reasons were provided. Hence, she recommended rejection of that submission. However, she agreed with the addition of a new clause requested by Kāi Tahu as this would ensure consistency with HCV-WT – Wāhi tupuna.

140. Ten submissions were received on HCV-HH-M5, with three seeking its retention as notified. Gerald Carter, and Waitaki Whitestone Geopark Trust reiterate their concerns from earlier submissions that geological heritage is absent from the RPS as a whole, and that this is to be addressed.
141. DCC seeks amendments to address the fact that the location or presence of historic heritage is not always known, while Horticulture NZ sought amendments to include further direction for the implementation of buffers or setbacks. Both Kāi Tahu ki Otago and Toitū Te Whenua requested the same amendments as they did to HCV-HH-M6.
142. The officer adopted the same position in relation to the Kāi Tahu ki Otago and Toitū Te Whenua submission as for HCV-HH-M6. In response to the Horticulture NZ submission, she did not consider further direction on this matter necessary and considered the requested amendments to be inconsistent with the effects management hierarchy. While she considered the submission of DCC appear to be pragmatic suggestion, she considered the structure of the provision should mean that known and unknown site are automatically considered.
143. In relation to HCV-HH-M4, we agree with the officer that it is unclear why a reference to ‘other soil disturbance’ is needed or in fact what it would cover. The definition of ‘earthworks’ is reasonably comprehensive so without any reasoning behind the request, we agree with the officer to reject this submission.
144. We also agree that it is appropriate, and consistent with the wāhi tupuna provisions, to add a new clause sought by Kāi Tahu to both methods.
145. With respect to HCV-HH-M5, while we acknowledge the issue raised by Toitū Te Whenua, we agree with the officer that the benefits of promoting public awareness of *historic heritage* values will outweigh the risk of any perverse outcomes. We also agree that the DCC amendment is not necessary, as the list is not exhaustive, and councils can offer whatever other financial incentives they wish.
146. We are slightly confused over the submissions from Gerald Carter and Waitaki Whitestone Geopark Trust, who request ‘historic’ be removed from clause (2). Their submission had identified the provision being “(2) rates relief and resource consent fee waivers for activities that involve the retention of **historic heritage places or areas**”. (Our emphasis). The notified provision does not include the word ‘heritage’ – it refers to ‘historic places or areas’ only. Deleting the word ‘historic’ would simply leave the phrase ‘places and areas’. Deleting ‘historic’ would not be appropriate as a consequence. We assume here that the officer’s comment that the existing reference is consistent with the RMA and New Zealand Planning Standards is because ‘historic places and areas’ are part of the definition of historic heritage in those documents.

6.8.2. Recommendation

147. We recommend HCV-HH-M4 and HCV-HH-M5 be amended to include the following

(2A) enable Kāi Tahu to identify places and areas with historic heritage values for mana whenua in accordance with HCV-HH-P4 that are located outside the beds of lakes and rivers, wetlands and the coastal marine.

6.9. HCV-HH-M6 – Incentives and education

6.9.1. Introduction

148. As notified, HCV-HH-M6 reads:

HCV-HH-M6 – Incentives and education

Local authorities are encouraged to use other mechanisms or incentives to assist in achieving Policies HCV-HH-P3 to HCV-HH-P7, including:

- (1) promoting public awareness of *historic heritage* values through providing information and education, and
- (2) rates differentials and *resource consent* fee waivers for activities that involve the retention of *historic heritage* places or areas.

149. There were seven submissions on HCV-HH-M6, with two seeking that it be retained as notified. Toitū Te Whenua submitted that releasing information to the public regarding historical and cultural sites may result in perverse outcomes, such as the destruction or vandalism of those sites. There is no explicit amendment sought.

150. Gerald Carter, and Waitaki Whitestone Geopark Trust seek to replace the term ‘historic’ with ‘heritage’ while DCC seeks to amend the policy to include other ‘economic instruments’ as a means of broadening the scope of the policy. Kāi Tahu ki Otago, sought an amendment to include a clause specific to Kāi Tahu regarding interpretation of historic heritage values for mana whenua.

151. The officer accepted the Kai Tahu submission as they consistent with the direction set out in the MW and HCV-WT chapter while recommended rejection of the replacing the ‘historic’ terms as it is consistent the RMA and New Zealand Planning Standards. In relation to the DCC submission, she agrees that the list of mechanisms or incentives to assist in achieving Policies HCV-HH-P3 to HCV-HH-P7 is non-exhaustive and does not prevent councils from utilising other economic incentives or instruments. However, she considered the amendments sought by DCC to be unclear, and do not improve the meaning or application of the method.

152. In relation to the identification and recording of sites and places of historic heritage, she considered this to be an important step in being able to appropriately manage activities in and near these sites. In her view, the benefit of this outweighs the risk of any perverse outcomes.

153. While the Panel acknowledges the issue raised by Toitū Te Whenua, we agree with the officer that the benefits of promoting public awareness of *historic heritage* values will outweigh the risk of any perverse outcomes. We also agree that the DCC amendment is not necessary, as the list is not exhaustive, and councils can offer whatever other financial incentives they wish. The submission of Kāi Tahu ki Otago is accepted for the reasons previously given.

154. We are slightly confused over the submissions from Gerald Carter and Waitaki Whitestone Geopark Trust, who request ‘historic’ be removed from clause (2). Their submission had identified the provision being “(2) *rates relief and resource consent fee waivers for activities that involve the retention of historic heritage places or areas*”. (Our emphasis). The notified provision does not include the word ‘heritage’ – it refers to ‘historic places or areas’ only. Deleting the word ‘historic’ would simply leave the phrase ‘places and areas’. Deleting ‘historic’ would not be appropriate as a consequence. We assume here that the officer’s

comments that the existing reference is consistent with the RMA and New Zealand Planning Standards is because ‘historic places and areas’ are part of the definition of historic heritage in those documents.

6.9.2. Recommendation

155. Amend HCV-HH-M6 as follows:

HCV-HH-M6 – Incentives and education

Local authorities are encouraged to use other mechanisms or incentives to assist in achieving Policies HCV-HH-P3 to HCV-HH-P7, including:

- (1) promoting public awareness of *historic heritage* values through providing information and education, and
- (2) rates differentials and *resource consent* fee waivers for activities that involve the retention of *historic heritage* places or areas.
- (3) enabling Kāi Tahu to interpret places and areas with historic heritage values for mana whenua.

6.10. HCV-HH-E2 – Explanation

6.10.1. Discussion

156. As notified, HCV-HH-E2 reads:

HCV-HH-E2 – Explanation

The policies in this section are designed to ensure that Otago’s unique historic heritage continues to contribute to the region’s character, sense of identity, and social and economic well-being by requiring places and areas of significant historic heritage to be identified using regionally consistent methodology, then protecting or managing those sites or areas in particular ways to ensure that other activities do not detract from the region’s special character and sense of identity. This also includes enhancing places and areas of historic heritage by encouraging the integration of historic heritage values into new activities and enabling the adaptive reuse or upgrade of historic heritage places in certain circumstances.

157. There were two submissions on this section, QLDC seeking its retention as notified and Kāi Tahu ki Otago seeks several amendments for the purpose of readability.

158. The officer considered that some of the amendments suggested by Kāi Tahu ki Otago generally improve the explanation, although she felt it appropriate to retain “in certain circumstances” on the basis that integration of historic heritage and adaptive reuse or upgrade is not applicable to all circumstances.

159. We agree with officer’s position in relation to Kai Tahu’s submission while we have also made consequential changes to HCV-HH-E2 in recognition of our changes to HCV-HH-P6 and HCV-HH-P7.

6.10.2. Recommendation

160. Amend HCV-HH-E2 as follows:

HCV-HH-E2 – Explanation

The policies in this section are designed to ensure that Otago’s unique historic heritage continues to contribute to the region’s character, sense of identity, and social and economic well-being by requiring places and areas of significant historic heritage to be identified using regionally consistent methodology, then protecting or managing those sites or areas ~~in particular ways~~ to ensure that ~~other~~ activities do not detract from the region’s special character and sense of identity. This also includes ~~the enhancing places and areas of historic heritage by encouraging the ongoing use and adaptive re-use of historic heritage. integration of historic heritage values into new activities and enabling the adaptive reuse or upgrade of historic heritage places in certain circumstances.~~

6.11. HCV-HH-PR2 – Principal reasons

6.11.1. Discussion

161. As notified, HCV-HH-PR2 reads:

HCV-HH-PR2 – Principal reasons

Otago is a region rich in *historic heritage*, with a diversity of significant cultural and *historic heritage* places and areas that contribute to its special character and identity. *Historic heritage* encompasses historic sites, *structures*, places, and areas; archaeological sites; sites of significance to Māori (including wāhi tapu and wāhi taoka) and the broader surroundings and landscape in which they are situated. The heritage resources in Otago are reflective of the history that helped to shape the region, and is representative of the different cultures, industries and institutions that contributed to its development. Historic landscapes in the coastal *environment* are specifically recognised in Policy 17 of the NZCPS.

The provisions in this chapter assist in implementing section 6(f) of the RMA 1991 and the NZCPS by requiring:

- the identification of places and areas with *historic heritage* values and qualities and places and areas with special or outstanding *historic heritage* values and qualities using clear criteria and methodology that is regionally consistent,
- the protection of *historic heritage* from inappropriate *subdivision*, use and development,
- the enhancement of *historic heritage* through the integration of *historic heritage* values into new activities and enabling the adaptive reuse or upgrade of *historic heritage* places and areas in certain circumstances, and
- specified actions on the part of Otago’s *local authorities* in managing *historic heritage*.

- Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

162. There were five submissions on HCV-HH-PR2 with QLDC seeking its retention as notified. Gerald Carter, and Waitaki Whitestone Geopark Trust again sought reference geological sites while Manawa also sought consistency with their earlier submission, on the ‘integration’ approach. Kāi Tahu ki Otago also sought consistency in the use of wāhi tupuna.

163. The officer dealt with the submission on geological sites as she did in the preceding sections. She also did not agree with the Manawa amendments given her recommendations in relation to policy HCV-HH-P7. With respect to the Kai Tahu submission, she agreed the addition of the word ‘site’ provide additional certainty but noted that the identification and management of effects on wāhi tupuna is set out in the HCV-WT chapter and felt that including it within the HCV-HH chapter may create some uncertainty or confusion about which provisions prevail.

164. We agree with the officer’s position in respect to the Kai Tahu, Gerald Carter, and Waitaki Whitestone Geopark Trust submissions. We have, however, made consequently amendments to HCV-HH-PR2 as the result of our previous recommendations.

6.11.2. Recommendation

165. Amend HCV-HH-PR2 as follows:

HCV-HH-PR2 – Principal reasons

Otago is a region rich in historic heritage, with a diversity of significant cultural and historic heritage places and areas that contribute to its special character and identity. Historic heritage encompasses historic sites, structures, places, and areas; archaeological sites; sites of significance to Māori (including wāhi tapu and wāhi taoka sites) and the broader surroundings and landscape in which they are situated. The heritage resources in Otago are reflective of the history that helped to shape the region, and is representative of the different cultures, industries and institutions that contributed to its development. Historic landscapes in the coastal environment are specifically recognised in Policy 17 of the NZCPS.

The provisions in this chapter assist in implementing section 6(f) of the RMA-1991 and the NZCPS by requiring:

- the identification of places and areas with historic heritage values and qualities ~~and places and areas with special or outstanding historic heritage values and qualities~~ using clear criteria ~~and methodology~~ that is regionally consistent and providing for the assessing of special or outstanding values and qualities with a regionally consistent criteria and methodology where this is required.
- the protection of historic heritage from inappropriate subdivision, use and development,
- the maintenance and enhancement of historic heritage through encouraging its ongoing use and adaptive re-use the integration of historic heritage values

into new activities and enabling the adaptive reuse or upgrade of historic heritage places and areas in certain circumstances, and

- specified actions on the part of Otago’s local authorities in managing historic heritage.
- Implementation of the provisions in this chapter will occur primarily through regional plans and district plan provisions, however local authorities may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

6.12. HCV-HH-AER5

6.12.1. Discussion

166. As notified, HCV-HH-AER5 reads:

HCV-HH-AER5

Otago’s existing built *historic heritage* is maintained, enhanced and integrated through efficient use, or adaptive reuse, where appropriate.

167. There is one submission for HCV-HH-AER5, with QLDC seeking that it is retained as notified.

6.12.2. Recommendation

168. Due to the removal of Policy HCV-HH- P7, consequential amendments are required. It is therefore recommended that HCV-HH-AER3 be amended as follows:

HCV-HH-AER5

Otago’s existing built *historic heritage* is maintained and enhanced ~~and integrated~~ through efficient use, or adaptive reuse, where appropriate.

Section 13: Natural features and landscapes (NFL)

1. Introduction

1. This section of the decision report assesses the provisions of the pORPS which establish the planning framework for the management of natural features and landscapes within the Otago region. The Otago region contains many natural features and landscapes which are valued for a number of reasons, including their cultural and social importance and their role in supporting domestic and international tourism. These areas are also often rural working landscapes.
2. Section 6(b) of the RMA requires the protection of the outstanding examples of these natural features and landscapes from inappropriate subdivision, use and development. Some territorial authorities have also used two section 7 matters of the Act: *s7(c) the maintenance and enhancement of amenity values*, and *s7(f) the maintenance and enhancement of the quality of the environment*, to provide a further level of landscape protection in planning documents.
3. Approximately 200 submission points have been received on the NFL provisions which address a number of themes and seek specific amendments to the provisions. In addressing these submissions, we are indebted to the efforts of the Section 42A report writer, Mr Andrew Maclellan. He identified a number of common topics across the provisions which have guided the preparation of his report. We have essentially used the format of his report as the basis for our decision report, although in some instances we have taken the grouping of the provisions a step further given the interconnectedness of many of the issues in play. As a consequence, not all of the provision related sections of Mr Maclellan's report appear in this document.
4. We would like to take this opportunity to express our gratitude to Mr Maclellan for his willingness to consult and engage with the parties throughout the process. This has led to many of the issues being resolved.

2. General themes

5. Prior to dealing with the specific provisions of the NFL provisions of the pORPS, the s42A report dealt with two general themes as follows:
 - The relationship of the NFL provisions with other chapters of the pORPS, and
 - Natural features and landscapes and Kāi Tahu cultural values
6. We consider there to be a third 'general theme' or issue that needs to be addressed up front, that being the mandatory requirement for the identification and maintenance and enhancement of *highly valued natural features and landscapes*. We address this first, before going on to address the two other general matters listed above.
7. Mr Maclellan also dealt with a number of definitions, but these are dealt with either in the context of the issue or elsewhere in the recommendation documents.

2.1 Highly Valued Natural Features and Landscapes

2.1.1 Discussion

8. The NFL provisions of the pORPS not only address the obligation of local authorities under section 6(b) of the Act to protect outstanding examples of natural features and landscapes, but they also provide a mandatory direction in relation to other features that do not meet the threshold for ‘outstanding’ but are considered ‘highly valued’ (referred to as ‘HVNFL’ here). The notified Objective NFL-O1 requires these areas and their values to be identified. Policy NFL-P3 then requires their maintenance or enhancement, as follows:

NFL-P3 – Maintenance of highly valued natural features and landscapes

Maintain or enhance highly valued natural features and landscapes by:

- (1) avoiding significant adverse effects on the values of the natural feature or landscape, and
- (2) avoiding, remedying or mitigating other adverse effects.

9. While there was some support for this approach, a number of concerns were expressed with how the pORPS dealt with such landscapes, while a number of submitters requested that these provisions be deleted altogether.
10. The submission of Meridian and Rayonier Matariki Forests highlighted the fact that there is no directive in the RMA to identify and manage highly valued natural features and landscapes and sought the deletion of the provisions. Similarly, Network Waitaki, Contact, PowerNet, and Oceana Gold requested deletion of the relevant provisions on the basis that the policy NFL-P3 goes beyond the requirements of Part 2 of the RMA and they asserted the pORPS does little to distinguish between HVNFLs and ONFs/ONLs. Port Otago raised similar concerns. Several other submitters requested removal of HVNFL’s as those provisions are unlikely to be required in the replacement RMA legislation. Harbour Fish also opposed the relevant policy and sought its deletion (although no reasons were provided).
11. In response to those submitters who requested HVNFL provisions be deleted, the s42A report drew our attention to Sections 7(c) and (f) of the RMA, which require decision makers to have ‘particular regard’ to the maintenance and enhancement of amenity values and the quality of the environment. The report went on to say that:

“It has been common practice throughout New Zealand to identify “visual amenity landscapes” or in the case of the pORPS “highly valued natural features and landscapes” as these areas contribute to the overall amenity and environmental quality of an area and the adverse effects on these locations is appropriate to manage”

And

“In order to ensure the pORPS achieves Sections 7(c) and (f) of the RMA, I consider it is appropriate to include provisions relating to HVNFLs”.

12. In response to the Panel’s questioning in relation to the requirements of s7(c) and (f), Mr Maclennan acknowledged that these sections do not make it mandatory to identify such landscapes and that there are other methods available to plan makers to address such issues. However, in his reply report Mr Maclennan continued to support retention of the HVNFLs, reiterating that it is common practice throughout New Zealand to identify such landscapes. Notably, he did soften his initial stance that HVNFLs would ‘ensure’ achievement of s7(c) and (f) to advising that they ‘contribute’ to giving effect to those sections.

2.1.2 Recommendation

13. That Policy NFL-P3 and all references to highly valued natural features and landscapes be deleted from the pORPS.

2.1.3 Reasons

14. As a number of submitters note, there is no directive in the Act that HVNFLs be identified in order to ‘have particular regard to’ the features referred to in s.7(c) and (f) of the Act. The Environment Court case referred to in Mr Anderson’s opening submissions, *Upper Clutha Environmental Society Incorporated v Queenstown Lakes District Council* [2019] NZEnvC 205, does not address this issue directly. It deals with a district plan that has taken that approach, but it cannot be read as determining that such an approach is mandatory in relation to s.7 matters.
15. While the Panel acknowledges that HVNFLs may assist in local authorities addressing s.7 matters, we are not convinced that a mandatory regional direction is appropriate or necessary in relation to an issue that sits more comfortably with local communities to determine. Such a mandatory requirement cannot be justified merely on the basis that many local authorities may do this already. The Panel is aware of many that do not, including the Clutha District Council, in the Otago region.
16. The maintenance and enhancement of amenity values and environmental quality encompasses values wider than just landscape quality and can be achieved by a range of methods. Such measures include controls on density, building design and location, and nuisance type emissions including noise, odour and glare. In many rural districts (or rural zones), the landscape element of these values is often addressed by policy provisions that seek to maintain or enhance rural character and open space values.
17. While some Councils do use amenity landscape overlays, we are conscious of the fact that this approach tends to impact on rural communities the most. In Otago many of these communities already operate in s.6 landscapes, within the restrictions that imposes. We heard significant evidence from representatives of many of those rural communities on the large number of challenges they currently face. Section 7 landscape restrictions come at a cost, which benefits the wider community, not the landowner. While Mr Maclennan noted that *“there is generally an expectation that there is a greater ability to modify land use patterns and activities over time when compared to ONLs or ONFs”* within HVNFLs, the concerns of many of the submitters was that the proposed provisions do not reflect that.
18. It is our experience that the values that lead to the identification of s.6 outstanding landscapes and features are generally commonly held. However, the values below this threshold are generally more subjective as is the understanding of what maintenance means in this context. It is the experience of the Panel members that many of these HVNFL landscapes essentially

get treated the same as s.6 landscapes when it comes to the resource consent process. We do not consider this appropriate or warranted.

19. In our view, the costs of this planning restriction outweigh the benefits at a regional level. We believe it is more appropriate for local communities to determine how they have regard to s.7(c) and (f) in their planning documents. That may include identifying landscape overlays like those proposed here but it need not be mandatory at the regional level.
20. In coming to this conclusion, we were also swayed by the heavy body of evidence presented to us by the REG's (and others) which highlighted the enormous task this country faces if it is to seriously address the climate change issue. To decarbonise our economy in line with central government's statutory goal of net carbon zero by 2050 will require massive investment in renewable energy generation and transmission. Many of the physical attributes necessary to achieve that in Otago are, or are likely to be, located within s.6 environments, which significantly curtails the potential for such developments. This potential for conflict led to Meridian seeking the inclusion of a new policy to direct how natural features and landscapes are to be maintained and enhanced while also providing for renewable electricity generation. This is a very real issue confronting Otago (and the country) now and into the future. Further mandatory landscape restrictions do not seem sensible in this context.
21. As a consequence, we recommend the removal of all references to HVNFLs from the pORPS.

2.2 The relationship of NFL provisions with the CE chapter and Policy NFL-P6

2.2.1 Introduction

22. Mr MacLennan advised in his s42A report¹ that "the approach taken to the management of outstanding and highly valued natural features and landscapes in the pORPS is to largely separate the management of these areas between the NFL chapter and the CE chapters. The objective in the NFL chapter applies to the coastal environment, however policy NFL-P6 specifies that natural features and landscapes in the coastal environment are managed by CE-P6. The CE chapter also includes provisions which set out the management of natural features, landscapes and seascapes."
23. As notified, NFL-P6 reads:

NFL-P6 – Coastal features and landscapes

Natural features and landscapes located within the coastal environment are managed by CE-P6 and implementation of CE-P6 also contributes to achieving NFL-O1.

24. There were several submissions seeking clarification of the relationship between the two chapters. A number of these submitters sought amendments to integrate the management of natural features, landscapes and seascapes in the coastal environment into the NFL chapter while several submitters requested deletion of Policy NFL-P6.
25. Mr MacLennan's original position in his s42A Report was that no changes were necessary. However, in his supplementary evidence and opening statement he recommended a number

¹ S42A Report, paragraph 14

of changes to the policy suite to clarify that certain policies did not apply within the coastal environment. Further amendments were made in his closing to include an ‘advice note’ at the start of the chapter that confirms the provisions do not apply to the coastal environment, with the subsequent removal of the references he had recommended earlier. He did, however, consider it appropriate that NFL-P6 remain even though it is only a cross reference policy. He did not consider coastal icons were necessary given the cross referencing proposed.

2.2.2 Recommendation

26. Delete Policy NFL-P6 and insert the following advice note at the beginning of the NFL chapter:

Advice note: pursuant to CE-P1 the provisions within this chapter do not apply in the coastal environment.

2.2.3 Reasons

27. We agree that the NFL provisions should not apply to the coastal environment given the application of the NZCPS to that geographic area. The PORPS provisions relating to natural features and landscapes in the coastal environment do not necessarily align with the provisions for the landward side of the coastal boundary. The advice note clarifies that. However, we do not see any purpose in retaining NFL-P6. With the introduction of the advice note, that policy becomes superfluous.

2.3 The relationship of NFL provisions with EIT chapter

2.3.1 Introduction

28. There were also several submitters seeking greater clarity regarding the relationship between the EIT and NFL provisions to ensure the functional and/or operational needs of infrastructure are recognised. Mr Maclennan agreed with these concerns and initially recommended that a new policy be inserted into the NFL chapter that essentially cross referenced the management of infrastructure in these environments to EIT-INF-P13. After the pre-hearing meeting, Mr Maclennan refined his recommendation in his supplementary evidence by incorporating the amendment into Policy NFL-P2.

2.3.2 Recommendation

29. Amend NFL-P2 as follows:

NFL-P2 – Protection of outstanding natural features and landscapes

Protect outstanding natural features and landscapes by:

....

managing the adverse effects of infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13.

2.3.3 Reasons

30. We agree with and adopt the final position of the S42A Report author because it is in line with the overall approach of the PORPS that all energy and infrastructure matters are dealt with in the EIT chapter.

2.4 Natural features and landscapes and Kāi Tahu cultural values

2.4.1 Introduction

31. The pORPS requires local authorities to collaborate with Kāi Tahu to identify and map outstanding and highly valued natural features and landscapes and the identification criteria in APP9 includes, as an associative attribute, cultural and spiritual values for Kāi Tahu. However, both Ngāi Tahu ki Murihiku and Te Rūnanga o Ngāi Tahu sought amendments to the NFL chapter to better reflect the relationship between natural features and landscapes and the values of Kāi Tahu. Mr Maclennan responded to these submissions by recommending the addition of the following to NFL-M1:

2A) collaborate with Kāi Tahu to identify the areas, values, and capacity of outstanding natural features and landscapes, and highly valued natural features and landscapes of significance for Kāi Tahu in accordance with NFL-P1,

32. In his reply report, Mr Maclennan accepted (for the most part) the evidence of Mr Bathgate to amend the new method proposed to better reflect a tikaka-based approach to landscape identification and description. However, he did not agree with Mr Bathgate that a new policy was necessary in the NFL section to ensure use of native reserves and Māori land was not restricted by these provisions as this was managed by MW-P4 and MW-P5.

2.4.2 Recommendation

33. That NFL-M1 is amended as follows:

NFL-M1 – Identification

Territorial authorities must:

[...]

(2A) collaborate with Kāi Tahu to identify the areas, values, and capacity of natural features and landscapes of significance for Kāi Tahu in accordance with tikaka, and record and apply appropriate management responses as determined by *mana whenua*,

34. That MW-P4 is amended to read:

MW-P4 – Sustainable use of ~~Māori land~~ Native Reserves and Māori land

Kāi Tahu are able to ~~protect~~, develop and use *land* and resources within native reserves and Māori land held under Te Ture Whenua Māori Act 1993, including within *land* affected by an ONFL, in accordance with mātauraka and tikaka...

35. That MW-M5 is amended to read:

MW-M5 – Regional plans and district plans

Local authorities must amend their regional plans and district plans to:

....

(2) provide for the use of native reserves and *Māori land*, ~~held under Te Ture Whenua Māori Act 1993~~ including within land affected by an ONFL's overlay in accordance with MW-P4, and recognise Kāi Tahu rakatirataka over this *land* by enabling *mana whenua* to lead approaches to manage any adverse *effects* of such use on the *environment*,

2.4.3 Reasons

36. We agree that there is the potential for conflict when providing for customary uses of outstanding natural features and landscapes and accept Mr MacLennan's position that a new policy is not necessarily needed in the NFL section to address the issue. The approach of the MW chapter provides explicit direction to enable the use of Māori land for some described purposes in accordance with mātauraka and tikaka. However, we do think it appropriate to note in both the policy and method he refers to that this customary use is also enabled on land that may be affected by a ONFL overlay's (along with other similar overlays) to avoid any doubt.
37. We also agree with Mr MacLennan that the phrase 'of significance for Kāi Tahu' in the new method proposed, which Mr Bathgate sought to remove, be retained as we think the reference to 'outstanding' is not necessary in this context as the focus of these provisions is on landscapes "of significance to Kāi Tahu", not outstanding landscapes in the usual s6(b) context.

3. Specific Provisions

3.2 NFL-O1 – Outstanding and highly valued natural features and landscapes

3.2.1 Introduction

38. As notified, NFL-O1 reads:

NFL-O1 – Outstanding and highly valued natural features and landscapes

The areas and values of Otago's outstanding and *highly valued natural features and landscapes* are identified, and the use and development of Otago's *natural and physical resources* results in:

- (1) the protection of outstanding natural features and landscapes, and
- (2) the maintenance or enhancement of highly valued natural features and landscapes.

39. Only three submitters support NFL-O1 as notified. As discussed above, the Panel recommends that the reference to highly valued natural features and landscapes is removed from the pORPS and left as a matter for territorial authorities to address if they deem necessary. In relation to the remainder of the Objective, a number of submitters raised a concern with the unqualified nature of the protection proposed, given s.6(b) is qualified in that protection is only from "inappropriate subdivision, use and development".
40. Other changes requested included Kāi Tahu ki Otago seeking the addition of a 'restoration' limb to the objective to provide support for Policy NFL-P4, while Beef + Lamb and DINZ sought the term "protection" be replaced with "sustainment". Otago Rock Lobster sought to be

involved in the identification of outstanding seascapes so that the interests of the fisheries industry are recognised.

41. The initial position of the s42A report author was to recommend that Objective NFL-O1(1) remained unchanged on the basis that it clearly sets out the outcomes sought and “is appropriate for the nuanced approach to managing effects on outstanding and highly valued natural features and landscapes to be captured in the policies that implement the objective.” Mr MacLennan did not consider replacing the term “protection” with “sustainment” would align with s 6(b) of the RMA.
42. However, he changed his position in his opening statement at the hearing and recommended that the objective be reframed to better align with the qualifying language of s6(b) of the Act.²
43. The restoration issue was addressed in his supplementary evidence, following discussions at the pre-hearing meeting with Kāi Tahu ki Otago. Mr MacLennan reconsidered his position and felt it was appropriate that the objective should prescribe the outcome that is sought to be achieved by the policies, in this case Policy NFL-P4.
44. However, that stance changed again in response to the evidence presented on behalf of Darby Planning LP & Others, Mt Cardrona Station, Oceana Gold OGL and Glenpanel Limited Partnership, who sought deletion of the reference to restoration given difficulties with interpretation and implementation. His final recommendation was to delete the restoration limb, largely on the basis that the protection concept can incorporate restoration, so it does not need to be directly mentioned in the objective. He also highlighted the interpretation issues raised by Mr Brown and Mr Ferguson.³
45. Mr MacLennan also addressed Mr Devlin’s request to ‘enable appropriate use and development’ in such landscapes in his reply report, which he did not recommend on the basis that the intention of the chapter is not to ‘enable’ development⁴.

3.2.2 Recommendation

46. That Objective NFL-O1 be amended as follows:

NFL-O1 – Outstanding ~~and highly valued~~ natural features and landscapes

The areas and values of Otago’s outstanding ~~and highly valued~~ *natural features and landscapes* are identified, and the use and development of Otago’s *natural and physical resources* results in:

- (1) the protection of them ~~outstanding natural features and landscapes, from inappropriate subdivision, use and development.~~ ~~and~~
- (2) the maintenance or enhancement of highly valued natural features and landscapes.

47. Delete NFL-P4 as follows:

² Opening Statement, Mr MacLennan, paragraph 10.

³ NFL Reply report, Section 4.

⁴ Ibid, paragraph 31

NFL-P4 – Restoration

~~Promote restoration of the areas and values of outstanding and *highly valued natural features and landscapes* where those areas or values have been reduced or lost.~~

3.2.3 Reasons

48. With the exception of the issue relating to HVNFLs, the Panel is in agreement with Mr MacLennan’s final position in relation to Objective NFL-O1(1). We agree that ‘sustainment’ is not the appropriate word given the use of ‘protection’ in s.6(b) (which we discuss in the legal issues chapter), and that protection in this instance is qualified in that section of the Act.
49. We also agree that ‘restoration’ should not be referred to in the objective. While we consider that ‘restoration’ can be a component of the ‘protection’, we do not think it necessary for an RPS to specifically promote ‘restoration’ in this context. We agree with the Ravensdown submission that the identification of a landscape or feature as outstanding in the first place should indicate that restoration is not required. As a consequence, we have deleted NFL-P4 as requested by Ravensdown. Having said that, there is nothing stopping territorial authorities from addressing this issue in their plans if they consider it warranted in certain circumstances. We imagine those circumstances to generally be in the context of decision-making in respect of resource consent applications in such areas.
50. With regard to Mr Devlin’s request to enable ‘appropriate use and development’, while we understand his point, we do not think it necessary or appropriate for a regional policy statement to extend this far. How ‘protection’ of outstanding values is to be achieved is a matter best left to District Councils in the context of their particular circumstances.

3.3 Identification of outstanding and highly valued natural features and landscapes - NFL-P1, NFL and APP9

3.3.1 Introduction

51. As notified, NFL-P1 reads:

NFL-P1 – Identification

In order to manage outstanding and *highly valued natural features and landscapes*, identify:

- (1) the areas and values of outstanding and *highly valued natural features and landscapes* in accordance with APP9, and
- (2) the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued.

52. The associated method is NFL-M1 which reads as follows:

NFL-M1 – Identification

Territorial authorities must:

- (1) include in their *district plans* a map or maps and a statement of the values of the areas of outstanding and *highly valued natural features and landscapes* in accordance with NFL–P1,
- (2) include in their *district plans* a statement of the capacity of outstanding and *highly valued natural features and landscapes* to accommodate change in use and development without their values being materially compromised or lost, in accordance with NFL–P1,
- (3) recognise that natural features and landscapes may span jurisdictional boundaries and work together, including with the Regional Council, to identify areas under (1) to ensure that the identification of natural features and landscapes are treated uniformly across district boundaries, and
- (4) prioritise identification under (1) in areas that are likely to contain outstanding natural features or landscapes and are likely to face development or growth pressure over the life of this RPS.

53. APP9 sets out the criteria for identifying the areas and values of outstanding and highly valued natural features, landscapes and seascapes. The criteria are categorised into physical attributes, sensory attributes and associative attributes.
54. CODC and QLDC support the approach in the policy, while Harbour Fish requests that it be deleted altogether. A number of submitters raised concerns with the directive to identify ‘capacity’ for development within such landscapes, in particular the cost, resources and time required to reliably identify such capacity. Other submitters were concerned with the potential extent of such landscapes, highlighting the need to ensure that the ONLs are restricted to only those areas that are truly outstanding (with the emphasis on ‘natural landscapes’). Others requested the recognition of existing activities along with the potential for new activities within these areas.
55. Manawa Energy and the Telecommunications Companies, along with a number of other submitters, sought that the policy and APP9 be updated to reflect national best practice guidance, being the New Zealand Institute of Landscape Architects Te Tangi a te Manu – Aotearoa New Zealand Landscape Assessment guidelines. Two submitters supported the retention of APP9 as notified while a number of other submitters requested specific recognition of recreation and amenity values, including those associated with waterbodies. Concern was also raised by many that no threshold for what is significant has been provided while others noted that there is ongoing development in the understanding of natural features, landscapes and seascapes and as such, the criteria will develop over time.
56. The need for consultation with affected stakeholders (including the fishing sector) and landowners in the identification process was also a regular theme in the submissions. ECan sought an amendment to clause (3) of NFL–M1 to require consultation with neighbouring local authorities in identifying outstanding and highly valued natural features and landscapes that span across jurisdictional boundaries while Toitū Te Whenua suggested this be extended to central government agencies such as LINZ. Several submitters requested that mapping be required, with some submitters requesting that this occur at regional level, while Otago Rock Lobster noted that mapping is problematic in the coastal environment and instead supports a marine strategy and non-statutory measures.
57. In his initial s42A report, Mr Maclennan was of the view that the notified criteria encompass the NZILA guidelines and reflect current practice. He highlighted the fact that “the NZILA

Guidelines (2021) emphasise landscape assessment methods should take a reasoned approach based on transparency and explanation rather than prescriptive or standardised methods.” As a consequence, he did not consider it appropriate to elaborate on how landscape assessments, and the associated capacity issue, should be undertaken as that may depend on a number of variables and should be left to expert advice. In this context, he was unclear what relief Manawa Energy sought to ensure the policy wording reflects best practice. He also drew our attention to a number of Environment Court cases that addressed the issue of “natural” versus “modified”.

58. However, through his supplementary and reply evidence, he accepted that the provisions were not fully aligned with best practice and recommended that APP9 be amended to fully reflect Te Tangi a te Manu as the most recent best practice for landscape assessment. In relation to whether an amendment is required to the methods to ensure territorial authorities are not required to re-map existing areas of ONF/L or HVNFL, his view was that the new criteria will only take effect when new identification of ONF/L is required. He also supported replacing ‘Tāngata whenua’ with ‘Mana whenua’ within (l), (m), (n), and (o), as suggested by Ms Bartlett for Kai Tahu.
59. In relation to how decisions are made regarding the thresholds to determine if a landscape or feature is outstanding or highly valued, he reiterated that there is no rigid or defined set of thresholds or a checklist that can be adopted and the best practice guidance recommends that methods for determining if a landscape is to be identified or not, are best left to expert assessment and opinion.
60. Mr Maclennan also addressed the issue of capacity further in his supplementary evidence and recommended that the word ‘accommodate’ be changed to ‘absorb’ to be consistent with the change he recommended to NFL-P2(1). He considered this change would protect such areas by shifting the focus to avoiding development which cannot be absorbed while also providing for the additional use of such landscapes once their capacity is understood. However, he changed his position again in response Mr Ferguson’s evidence, accepting that undertaking an identification of landscape capacity for all ONF/L is an onerous task which may not be justified in all circumstances. As a consequence, his final recommendation was to remove subsection (2) of the policy. He also promoted some refinements to the policy, while also recommending an amendment to NFL-M1 that only requires capacity assessment in areas likely to face development or growth pressure.
61. With respect to the consultation issue, he highlighted Method NFL-M1, which requires territorial authorities to include such areas on the district plan maps. As this is a public process under Schedule 1 of the RMA, he considered it unnecessary to include this requirement in the pORPS. He took a similar approach with the provision for existing or new activities. Again, he considered that such matters are best determined through the district plan change process.
62. In response to ECan’s request for amendments to clause (3), he agreed that the method should recognise the potential for features and landscapes to cross regional boundaries and ensure there is consistency in identification. However, it was not clear to him how extending the method to capture central government agencies as suggested by Toitū Te Whenua would influence the identification of features and landscapes.
63. In relation to the mapping issues raised, Mr Maclennan highlighted the approach directed by APP9 and NFL-M1 which he considered made it “clear that consent applicants are not required to undertake the region-wide mapping and that local authorities will manage the identification and management of outstanding and highly valued features and landscapes

across jurisdictional boundaries.” He did not consider that a marine strategy and non-statutory measures alone to be sufficient to meet the requirements of Part 2 of the RMA.

3.3.2 Recommendation

64. That APP9 be deleted and that identification of such features and landscapes be undertaken through reference to the full document from which the list in APP9 is taken, being “Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines”, Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022.”
65. That Policy NFL-P1 and Method NFL-M1 be amended, in respect of the provisions considered in this chapter, as follows:

NFL-P1 – Identification

~~In order to manage~~ Identify the areas and values of outstanding and highly valued natural features and landscapes, identify:

- ~~(1) the areas and values of outstanding and highly valued natural features and~~ in accordance with APP9, and Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines', Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022
- ~~(2) the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued.~~

NFL-M1 – Identification

Territorial authorities must:

...

~~(2) in areas likely to face development or growth pressure, include in their district plans a statement of the capacity of outstanding and highly valued natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding, or maintaining the values that contribute to the natural feature and landscape being highly valued, change in use and development without their values being materially compromised or lost, in accordance with NFL-P1,~~

(3) recognise that natural features and landscapes may span jurisdictional boundaries and work together, including with the Regional Council and adjoining Regional Councils, to identify areas under (1) to ensure that the identification of outstanding natural features and landscapes are treated uniformly across district boundaries and, where appropriate, regional boundaries, and...

3.3.3 Reasons

66. Turning first to APP9, the Panel accepts that if identification criteria are to be included in the pORPS, then it should be the most up to date criteria available. However, having reviewed the list of ‘identification criteria’ finally recommended to us, we share the concern raised by the submitters that it appears to lack a threshold where it can be determined whether a landscape is outstanding or not. The ‘identification criteria’ would appear to us as merely a list of all

things one might find in the landscape we see around us (for example, ‘food and wine that reflect a locale’) and some we may possibly not (for example, ‘wayfinding and mental maps’). The Te Tangi a te Manu guideline itself seems to confirm this. The ‘identification criteria’ are found (with great difficulty) at section 4.29 of that guideline, with the preface that “[t]he following lists illustrate typical factors often considered under the three dimensions.” The ‘three dimensions’ referred to are identified at section 4.10 as being:

- a. physical: the physical environment—its collective natural and built components and processes,
- b. associative: the meanings and values we associate with places; and
- c. perceptual: how we perceive and experience places.

67. What the three dimensions mean is discussed at section 4.22 of guideline. Footnote 68 of that discussion, in reference to the terms chosen, states that “[t]he Guidelines settled on ‘physical, associative, and perceptual’ while recognising that those terms are not perfect or definitive. They represent an abstraction of the variety and complexity of relationships between people and place.” The list at section 4.29 (reflected in the recommended APP9) provides a finer level of detail of the factors that **‘are often considered’** under the three dimensions.

68. Critically, at section 4.31 Te Tangi a te Manu goes on to say:

To reiterate, while factor lists are useful reminders, they are not a formula: factors straddle dimensions (e.g. ‘naturalness’ results from the interplay of physical, associative, and perceptual dimensions) not every factor is relevant everywhere factors that are not listed may be relevant the relative weight given to a factor depends on context assessing and interpreting such factors (and the conclusions and recommendations that flow from them) is a matter of professional judgement—as with all matters of professional judgement, explanation and reasons are key.

69. Given the flavour of the discussion in the guideline itself, we struggle to understand how merely listing what are referred to as ‘factors’ (as opposed to identification criteria) in the PORPS, without the relevant context, assists local authorities to identify ONL/Fs. We note that the guideline itself states at section 1.08 that it is “to be read as a whole’ and that parts should not be taken out of context. Section 1.09 states that “[t]he intent of the Guidelines is to set out a coherent framework of concepts, principles, and approaches that can be tailored to suit each assessment’s purpose and context. Promotion of such flexibility is not to be misconstrued as ‘anything goes’: on the contrary, the approach promoted by these Guidelines demands that practitioners understand what they are doing, and why, and that they explain it in a transparent and reasoned way.”

70. Clause 1.04 highlights the fact that the guideline adopts “**a principles-based approach** to methodology that allows for assessment methods to be tailored to each situation. They emphasise transparency and reason, **rather than adherence to prescriptive methods**. Such methods are unsuitable because of the need to interpret the different types of information and values (objective and subjective) inherent in landscapes, and the different purposes for which landscape assessments are carried out. Crucially, the flexibility of a principles-based approach also provides the flexibility necessary for practice to continue to evolve.” (Our emphasis).

71. In this context, we question the value of APP 9 as recommended. We are mindful that this is not a new area of resource management and that a considerable body of case law has been

developed in relation to s6(b) matters. As a consequence of that, we are of the view that the pORPS does not need to be too directive or detailed on this matter. (Indeed, one could question the need to address the matter at all in an RPS given it is a section 6 matter.) In our opinion, the most appropriate approach is to remove APP9 and for the pORPS to merely refer to the guideline as the appropriate tool to utilise when assessing landscapes and natural features in their particular context or setting.

72. The question of scope arises with this approach. We did consider the suggestion of some submitters to include a threshold to determine ‘outstanding’ in APP9 but were not provided with such options by the evidence. The approach adopted retains the recommended criteria in an external document but incorporates the necessary context, as is intended by the guideline itself. We consider this gives effect to the submissions requesting better alignment with the guideline.
73. That reference to Te Tangi a te Manu also needs to recognise the issue raised by the DOC submission, that guidelines are often reviewed so become outdated as time goes by.
74. Subject to the changes we recommend around APP9 and highly valued areas, we are comfortable with where the parties have finally got to in relation to Policy NFL-P1 and Method NFL-M1. We also agree that requiring capacity to be assessed in all circumstances is an onerous task and likely to be unnecessary in most instances, outside of the Queenstown Lakes District at least.

3.4 NFL-P2 – Protection of outstanding natural features and landscapes

3.4.1 Introduction

75. As notified, NFL-P2 reads:

NFL-P2 – Protection of outstanding natural features and landscapes

Protect outstanding natural features and landscapes by:

- (1) avoiding adverse *effects* on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and
- (2) avoiding, remedying or mitigating other adverse *effects*.

76. Only two submitters requested that the policy be retained as notified, with a large number of submitters concerned about the unqualified ‘avoidance’ approach adopted in the policy (particularly in the context of Queenstown, where the majority of the district is ONF or ONL). While framed slightly differently in each case, these submitters generally sought consistency with Section 6(b), which requires protection from inappropriate subdivision, use and development, and that only significant adverse effects are to be avoided.
77. One submitter sought clarification regarding what is meant by “value” in the context of contributing to an outstanding natural landscape or outstanding natural feature while another submitter considered that avoiding adverse effects on values, rather than landscapes or features themselves, is not consistent with section 6(b). Other submitters sought recognition for existing and new activities in such areas, exemptions for particular activities and the recognition of functional needs. These submissions are considered within the earlier ‘Relationship of NFL provisions to other chapters’ discussion.

78. While Mr Maclennan disagreed with submitters who sought the removal of ‘avoid’ from the policy, he did acknowledge that the scale or significance of adverse effects to be avoided must be considered as must the ‘inappropriate subdivision, use, and development’ qualifier of s6(b). He recommended “shifting the focus of NFL-P2 to avoiding development which cannot be absorbed by an ONL or ONF will ensure the protection of these areas while also providing for additional use of these areas once the landscape capacity of these areas is understood.” His initial approach to these issues was further refined in his reply report after consideration of Mr Brown’s⁵ and Mr Ferguson’s⁶ evidence.
79. In response to the concerns of Mr Brass for DOC⁷ and Mr Bathgate for Kāi Tahu ki Otago⁸ that linking the management of these areas to the capacity to absorb changes could promote a ‘maximum permissible harm’ approach, Mr Maclennan again reiterated his view that s.6(b) of the Act is not a ‘no change’ provision and some flexibility to provide for an appropriate level of development within ONF/Ls is required.
80. With respect to the meaning of “value” in this context, Mr Maclennan referred to the proposed NZILA guidelines that state the reasons a landscape is valued – the aspects that are important or special or meaningful. He did not consider the focus on values to be inconsistent with s.6(b) but considered that the recommended amendments would address the concerns of that particular submitter.

3.4.2 Recommendation

81. That Policy NFL-P2 be amended as follows:

NFL-P2 – Protection of outstanding natural features and landscapes

Protect outstanding natural features and landscapes from inappropriate subdivision, use and development by:

(1A) avoiding exceeding the landscape capacity of the natural feature or landscape,

(1) maintaining ~~avoiding adverse effects on~~ the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, ~~and~~

(2) avoiding, remedying or mitigating other adverse ~~effects~~, and

(3) managing the adverse ~~effects of infrastructure~~ on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13.

3.4.3 Reasons

82. The Panel agrees with and adopts the final position of Mr Maclennan because his reasons reflect more closely the Part 2 approach of the RMA.

⁵ Jeff Brown for Mt Cardrona Station, para [3.1] to [3.6]

⁶ Chris Ferguson for Darby Planning LP & Others, para [25] to [29]

⁷ Murray Brass for DOC, para [232] to [236]

⁸ Michael Bathgate for Kāi Tahu ki Otago, para [137] to [139]

3.5 NFL-P5 – Wilding conifers and APP5 – Species prone to wilding conifer spread

3.5.1 Introduction

83. As notified, NFL-P5 reads:

NFL-P5 – Wilding conifers

Reduce the impact of wilding conifers on outstanding and highly valued natural features and landscapes by:

- (1) avoiding *afforestation* and *replanting of plantation forests with wilding conifer* species listed in APP5 within:
- (2) areas identified as outstanding natural features or landscapes, and
- (3) buffer zones adjacent to outstanding natural features and landscapes where it is necessary to protect the outstanding natural feature or landscape, and
- (4) supporting initiatives to control existing *wilding conifers* and limit their further spread.

84. Policy NFL-P5 sets out direction to reduce the impact of wilding conifers on outstanding and highly valued natural features and landscapes by avoiding afforestation and replanting of plantation forests with conifer species within identified outstanding natural features and landscapes in any buffer zones necessary to protect them. Additionally, the policy sets out support for initiatives to control existing wilding conifers. APP5 sets out the species prone to wilding conifer spread.

85. QLDC and WAI Wanaka support the policy and request that it be retained as notified.

86. City Forests Limited seeks that NFL-P5 is amended to acknowledge the existing provisions of the NESPF and the obligations already in place regarding the Wilding Calculator to manage any wilding spread from plantation forests. City Forests Limited also does not support increased buffer zones around ONFs and ONLs beyond those already required by the NESPF without clear scientific evidence of their efficacy.

87. DOC opposes NFL-P5 as its location within the NFL chapter implies that it is only an issue for outstanding natural features and landscape, but DOC observes that wilding conifers can also be problematic for agricultural land use and catchment hydrology. DOC seeks that the policy is relocated to the LF-LS chapter and the content is revisited to address other values that can be impacted.

88. Federated Farmers is concerned about the requirement to avoid planting in buffer zones around ONLs and ONFs as it is uncertain how large the buffer zones will be. Federated Farmers seeks an amendment to remove reference to buffer zones and instead that planting immediately adjacent to outstanding natural features and landscapes is to be avoided.

89. Rayonier and Toitū Te Whenua support in part NFL-P5 but seek that the policy is expanded. Rayonier seeks the inclusion of any forests, shelter belts and amenity plantings, not just plantation forests, and LINZ states that any plantation forests or invasive species, such as lupins, should be prevented from HVNFLs.

90. Waitaki DC seeks NFL-P5 is expanded from just plantation forests to also include carbon forestry. Wayfare also seeks that the policy extends to all wilding tree species and is not restricted to wilding conifers, with all planting of such species to be avoided.
91. Five submissions were received on APP5. Beef + Lamb and DINZ support APP5 and seek it is retained as notified. City Forests Limited, Federated Farmers and QLDC seek amendments to APP5. City Forests Limited seeks that heavy seed species, such as radiata pine, are removed from APP5. Federated Farmers seeks the Appendix is deleted and instead the pORPS provides for local authority plans to specify a list of wilding species prone to spread in their district. QLDC seeks that APP5 is amended to identify the wilding species contained in Rule 34.3 of the proposed Queenstown Lakes District Plan. Finally, DCC seeks that APP5 is reviewed by an ecologist to ensure the species are specific to the Otago context. They also suggest that APP5 could be expanded to include other tree species with significant invasive potential that are not conifers.

3.5.2 Recommendation

92. We recommend that Policy NFL-P5 is deleted in accordance with our recommendation on LF-LS-P16A.

3.6 NFL-M3 – District plans

3.6.1 Introduction

93. As notified, NFL-M3 reads:

NFL–M3 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) control the *subdivision*, use and development of *land* and the use of the surface of *water bodies* in order to protect outstanding natural features or landscapes in accordance with NFL–P2, and maintain and enhance highly valued natural features or landscapes in accordance with NFL–P3,
- (2) provide for and encourage activities undertaken for the primary purpose of restoring highly valued natural features or landscapes in accordance with NFL–P4, and
- (3) manage wilding conifer spread in accordance with NFL–P5.

94. Very few submissions were received on this method, with QLDC seeking that it be retained while the DCC noted that consequential relief may be required to address other submission points. Federated Farmers considered there is some confusion between Regional and District functions particularly in regard to the use of surface water bodies and amendments required accordingly.
95. Mr Maclennan was of the view that NFL-P3(1) correctly captures the roles of territorial authorities in managing activities on the surface of water bodies as set out in section 31 of the RMA.

3.6.2 Recommendation

96. That NFL-M3 be amended as follows:

NFL-M3 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

- (1) control the subdivision, use and development of land and the use of the surface of *water bodies* in order to protect outstanding natural features or landscapes in accordance with NFL-P2, ~~and maintain and enhance highly valued natural features or landscapes in accordance with NFL-P3,~~
- (2) provide for and encourage activities undertaken for the primary purpose of restoring highly valued natural features or landscapes in accordance with NFL-P4, and
- (3) manage wilding conifer spread in accordance with NFL-P5.

3.6.3 Reasons

97. We agree with Mr Maclennan in relation to s31 of the Act. The changes recommended are merely consequential amendments from other decisions.

3.7 NFL-M4 – Other incentives and mechanisms

3.7.1 Introduction

98. As notified, NFL-M4 reads:

NFL-M4 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving the outcomes sought by the policies in this chapter, including:

- (1) funding assistance for restoration projects (for example, through the Regional Council's ECO Fund),
- (2) purchase of land that forms part of a natural feature or landscape,
- (3) development or design guidelines (for example, colour palettes for structures in or on natural features or landscapes),
- (4) rates relief for land that is protected due to its status as an outstanding natural feature or landscape,
- (5) education and advice,
- (6) waiver or reduction of processing fees for activities where the primary purpose is to enhance the values of highly valued natural features or landscapes, and
- (7) advocating for a collaborative approach between central and local government to fund and carry out wilding conifer control.

99. Kāi Tahu ki Otago supports the method while Federated Farmers seeks that a funding mechanism specifically for landscape restoration and enhancement in order to achieve NFL-P4. Federated Farmers also consider method NFL-P4 is currently too weak and seeks amendments while QLDC opposes clauses (2), (4) and (6) as they will have disproportionate costs for them as 95% of their District is identified as a natural feature or landscape. QLDC considers that the method sets an unreasonable expectation particularly in relation to land purchase or rates relief mechanisms.
100. Mr MacLennan noted that the current drafting does not reflect any obligation for local authorities to provide funding to achieve the outcomes sought by the pORPS, and already addresses restoration projects. Hence, he did not consider amendments necessary.

3.7.2 Recommendations

101. That NFL-M4 is amended as follows:

NFL-M4 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving the outcomes sought by the policies in this chapter, including:

- (1) funding assistance for restoration projects (for example, through the Regional Council's ECO Fund),
- (2) purchase of land that forms part of a natural feature or landscape,
- (3) development or design guidelines (for example, colour palettes for structures in or on natural features or landscapes),
- (4) rates relief for land that is protected due to its status as an outstanding natural feature or landscape,
- (5) education and advice,
- (6) waiver or reduction of processing fees for activities where the primary purpose is to enhance the values of ~~highly valued~~ natural features or landscapes, and
- (7) advocating for a collaborative approach between central and local government to fund and carry out wilding conifer control.

3.7.3 Reason

102. We accept Mr MacLennan's reasoning and the only amendment made is to remove the reference to highly valued in (6). While the restoration policy NFL-P4 has been removed, we are comfortable that the method can still refer to 'restoration projects' as that can be seen as a part of protecting landscape values. We are also comfortable that the method can be read to apply to landscapes wider than 'outstanding' examples without a policy basis for 'highly valued' landscapes. The method imposes no obligation, so this is not seen as a bar to widening the scope of the method.
103. While we understand QLDC's concern, we would comment here that the protection of landscape values is for the wider public benefit but is at a cost (generally) to individual landowners. We do not think it is unreasonable that some recompense is considered,

particularly when certain industries that rely on such values (such as tourism) benefit significantly without contributing to that cost.

3.8 NFL-E1 – Explanation

3.8.1 Introduction

104. As notified, NFL-E1 reads:

NFL-E1 – Explanation

The policies in this chapter are designed to require outstanding and *highly valued natural features and landscapes* to be identified using regionally consistent attributes, then managing activities to either protect outstanding natural features and landscapes in accordance with section 6(b) of the RMA 1991 or maintain *highly valued natural features or landscapes* in accordance with section 7 of the RMA 1991. This distinction recognises that these areas have values with differing degrees of significance and that, generally, those classified as ‘highly valued’ will have greater capacity to accommodate *land* use change and development without values being adversely affected. The policies seek to control the impact of *wilding conifers* which are a particular threat to Otago’s natural features and landscapes, in a way that recognises the regulations in the NESPF.

105. QLDC sought the retention of the provision while Federated Farmers was of the view that the provisions of the NFL chapter are not consistent with the explanation and sought amendments accordingly. With the changes recommended to the provisions, Mr Maclennan did not recommend any changes.

3.8.2 Recommendation

106. Amend NFL-E1 as follows:

NFL-E1 – Explanation

The policies in this chapter are designed to require outstanding ~~and highly valued~~ *natural features and landscapes* to be identified using regionally consistent attributes, then managing activities to either protect outstanding natural features and landscapes in accordance with section 6(b) of the RMA 1991 ~~or maintain highly valued natural features or landscapes in accordance with section 7 of the RMA 1991~~. This distinction recognises that these areas have values with differing degrees of significance and that, generally, those classified as ‘highly valued’ will have greater capacity to accommodate *land* use change and development without values being adversely affected. The policies seek to control the impact of *wilding conifers* which are a particular threat to Otago’s natural features and landscapes, in a way that recognises the regulations in the NESPF.

3.8.3 Reason

107. The amendments made are consequential to other changes recommended to the provisions.

3.9 NFL-PR1 – Principal reasons

3.9.1 Introduction

108. As notified, NFL-PR1 reads:

NFL–PR1 – Principal reasons

Natural features include resources that are the result of natural processes, particularly those reflecting a particular geology, topography, geomorphology, hydrology, ecology, or other physical attribute that creates a natural feature or combination of natural features. Landscapes include the natural and physical attributes of *land* together with air and *water*, which change over time, and which is made known by people’s evolving perceptions and associations. Natural features and landscapes also have significant cultural value to Kāi Tahu. There are many sites of significance across Otago, reflecting the relationship of Kāi Tahu with the *land, water, and sea*.

The provisions in this chapter assist in protecting Otago’s outstanding and *highly valued natural features and landscapes* by requiring:

- the identification of outstanding and *highly valued natural features and landscapes* using regionally consistent criteria,
- the protection of outstanding natural features and landscapes and maintenance of *highly valued natural features and landscapes*,
- an ongoing reduction in the impact of *wilding conifers* on natural features and landscapes, and
- specified actions on the part of Otago’s *local authorities* in managing natural features and landscapes.

Implementation of the provisions in this chapter will occur primarily through *regional and district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

109. Only one submission was received on this provision, with QLDC seeking that it be retained as notified. As a consequence, no analysis was required from Mr MacLennan.

3.9.2 Recommendation

110. Amend the provision as follows:

NFL–PR1 – Principal reasons

Natural features include resources that are the result of natural processes, particularly those reflecting a particular geology, topography, geomorphology, hydrology, ecology, or other physical attribute that creates a natural feature or combination of natural features. Landscapes include the natural and physical attributes of *land* together with air and *water*, which change over time, and which is made known by people’s evolving perceptions and associations. Natural features

and landscapes also have significant cultural value to Kāi Tahu. There are many sites of significance across Otago, reflecting the relationship of Kāi Tahu with the *land, water, and sea*.

- The provisions in this chapter assist in protecting Otago’s outstanding ~~and highly valued~~ natural features and landscapes by requiring:
- the identification of outstanding ~~and highly valued natural features and landscapes~~ using regionally consistent criteria,
- the protection of outstanding natural features and landscapes ~~and maintenance of highly valued natural features and landscapes~~,
- an ongoing reduction in the impact of *wilding conifers* on natural features and landscapes, and
- specified actions on the part of Otago’s *local authorities* in managing natural features and landscapes.

Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

3.9.3 Reason

111. The amendments made are consequential to other changes recommended to the provisions.

3.10 Anticipated Environmental Results

3.10.1 Introduction

112. As notified, the NFL-AERs read:

NFL-AER1 The number, type, extent, and distribution of identified outstanding and highly valued natural features and landscapes are maintained over the life of this RPS.

NFL-AER2 The values of outstanding and highly valued natural features and landscapes are not reduced or lost.

NFL-AER3 Within areas identified as outstanding or highly valued natural features or landscapes, the area of land vegetated by wilding conifers is reduced over the life of this RPS.

113. Only one submission was received on these provisions, with QLDC seeking that they be retained as notified. As a consequence, no analysis was required from Mr MacLennan.

3.10.2 Recommendation

114. Amend the provisions as follows:

NFL-AER1 The number, type, extent and distribution of identified outstanding ~~and highly valued~~ natural features and landscapes are maintained over the life of this RPS.

NFL-AER2 The values of outstanding ~~and highly valued~~ natural features and landscapes are not reduced or lost.

NFL-AER3 Within areas identified as outstanding ~~or highly valued~~ natural features or landscapes, the area of land vegetated by wilding conifers is reduced over the life of this RPS.

3.10.3 Reasons

115. The amendments made are consequential to other changes recommended to the provisions.

Section 14: Urban form and development (UFD)

1. Introduction

1. This recommendation report addresses the submissions on Chapter 15 of the PORPS, which deals with Urban Form and Development (UFD). Numerous amendments were proposed, both through the s.42A report and two sets of supplementary evidence by another s.42A writer, and in evidence from submitters. Ms Emily McEwan, planner with Dunedin City Council (DCC), proposed a comprehensive redrafting of the UFD objectives and policies. Numerous other submitters through their evidence also continued to propose changes notwithstanding the s.42A report and supplementary evidence.
2. In addition, several submitters, particularly led by Ms Wharfe for Horticulture NZ, requested that Rural issues to be dealt with in a separate Rural Chapter given that the Otago region is a heavily predominant rural area. Rural matters were further complicated by the National Policy Statement – Highly Productive Land (NPS HPL) coming into force after the s.42A report was prepared. To cap it all off, the reporting officer changed during the process, further complicating matters.
3. Given the extent of the changes sought, it was floated at the hearing by the DCC counsel, Mr Michael Garbett, that a redraft of the chapter should occur. Others agreed that this was necessary while it was also suggested that this should include consideration on the desirability of a standalone rural chapter. Mr Michael Garbett discussed with ORC’s advisers the possibility of any redraft process occurring before the ORC final reply, so that submitters would have an opportunity to respond before the Council’s final reply. He formally made a request to that effect to the Panel on 14 February 2023.
4. The Panel shared the view that a redraft of Ch 15 was required, and that further consideration should be given to a standalone rural chapter. Minute 7 was issued accordingly, directing the process for this to occur. Ms White’s redrafted chapter was circulated to submitters on 31 March 2023, and responses were provided by various parties. Ms White’s reply report took into account those responses and was presented on the 23 May 2023.
5. The Panel is indebted to Ms White in this matter. Her redraft substantially improved the clarity of the chapter and helped narrow the issues in contention. Her redrafted chapter was circulated to submitters on 31 March 2023, and responses were provided by various parties. Her reply report addressed the outstanding matters, which she identified as:
 - a. The drafting approach taken to the notified UFD chapter and consistency with other chapters
 - b. The effect of the NPS-HPL
 - c. The appropriate location for the rural-focussed provisions in the UFD chapter
 - d. Direction of the urban intensification and urban expansion provisions
 - e. Provisions relating to the potential transition of industrial areas
 - f. Rural lifestyle development provisions

- g. Management of reverse sensitivity effects
 - h. Regionally significant industry
- 6. Ms White’s reply report also addresses a range of other, more minor matters where changes are recommended. These were addressed in the final section of her report.
- 7. In the main, we have agreed with Ms White’s approach to the issues and as a consequence, our recommendation report essentially follows the issue-by-issue approach of her reply. In doing so, we have had regard to all the submissions and evidence received, along with the following reports and evidence provided in relation to this topic, being:
 - a. The Section 42A Hearing Report, Chapter 15: UFD – Urban form and development, prepared by Kyle Balderston (27 April 2022).
 - b. Brief of Supplementary Evidence of Elizabeth Jane White, Urban Form and Development Chapter (11 October 2022).
 - c. Brief of Second Supplementary Evidence of Elizabeth Jane White, UFD - Urban Form and Development (Highly Productive Land) (21 October 2022).
 - d. Third Brief of Supplementary Evidence of Elizabeth Jane White, UFD (Mineral Extraction) (24 February 2023).

2. Drafting approach and Objectives

2.0. Introduction

- 8. Before addressing the more specific changes sought to provisions, Ms White considered the broader drafting matters applying across the UFD chapter. These broadly related to concerns arising out of Ms McEwan’s evidence for DCC. Ms McEwan was concerned that the objectives were not sufficiently clear, with many of them being “*descriptions of processes or activities* as opposed to “*end states*”. As such, the content of many of them was considered more appropriate as policies. In relation to policies, Ms McEwan’s concern was that they lacked sufficient direction on how activities might need to be managed to achieve the objectives. She also sought several deletions (including UFD-O3 and UFD-P1), where she considered there was unnecessary repetition or overlap with the NPSUD and other provisions in the PORPS.¹
- 9. In response, Ms White agreed that the number and length of the objectives of this chapter contrasts with the more succinct approach generally taken in other chapters of the pORPS. She also agreed that a number of the clauses contained within the objectives were process-related, which resulted in several clauses being duplicated at the policy level. Ms White also accepted that there are various matters addressed in other parts of the pORPS which do not need to be referred to again in the UFD chapter. This included matters addressed in the EIT and HAZ-NH chapters, although she did consider it appropriate to retain provisions relating to the integration of infrastructure provisions with growth planning, as these are not addressed in the EIT-INF chapter and are more relevant to the UFD chapter.

¹ Emily McEwan for Dunedin City Council, paras [22]-[33].

10. In relation to provisions that may overlap/duplicate the NPSUD, she did not consider it appropriate to simply delete these and rely on the NPSUD alone. She rightly noted that these provisions ‘will guide urban development in all urban areas, not all of which are ‘urban environments’ under the NPSUD.’ In her view ‘there is no reason why the pORPS cannot provide additional direction for the growth and development of urban areas which compliments the NPSUD, if this is appropriate to achieve the objectives of the pORPS.’ Despite this position, she did recommend amending provisions where they either did not align with the NPSUD, or unnecessarily duplicate it.
11. As a consequence, she recommended a redraft of the objectives to:
- a. *Combine UFD-O1, UFD-O2, UFD-O3 and UFD-O5 into a single objective which is more focused on the outcome sought in relation to the development of urban areas. This, in effect, removes a number of clauses that in my view are process-related, or methods to achieve the type of urban area which is sought, and therefore sit better at a policy level.*
 - b. *Amend UFD-O4 so that those clauses which are essentially methods are removed.*
12. Ms White provided a useful table in her reply report that set out the reasoning for her restructuring of the objectives. That table is set out below:

Objective	Part	Comment
UFD-O2	Chapeau	Shifted to revised UFD-O1, with UFD-O1 now focused on development and change as this more accurately reflects what the direction in the pORPS relates to. Form and functioning, as it relates to the planning for growth, is a sub-set of this.
	(1)	Outcome component covered in UFD-O1(1) – part of meeting changing needs. Method aspect shifted to UFD-P1.
	(2)	Covered in UFD-O1(1).
	(3)	Addressed in other parts of RPS in relation to identified features, and where not an identified feature is addressed in UFD-O1(2).
	(4)	Urban design covered in addition to UFD-O1(2A) and liveability covered more broadly in UFD-O1(1).
	(5)	Covered broadly in addition to UFD-O1(2A).
	(6)	Covered, at an outcome level, through addition to UFD-O1(2).
	(7)	Addressed in other parts of pORPS.
	(8)	Covered broadly in addition to UFD-O1(2A).
	(9)	Covered broadly, at an outcome level, through addition to UFD-O1(2A).
	(9A)	Covered in EIT-INF.
UFD-O2	(10)	Outcome component (consolidated and well-designed) shifted to UFD-O1(2A). Method aspect shifted to UFD-P4.
	(11)	Covered at the objective level by IM-O1 and MW-O1, and otherwise more process-related and therefore included at the policy level.
UFD-O3	Chapeau	Generally considered to be a method, not an outcome.

	(1)	Covered in UFD-O1(1) (accommodating needs) and UFD-O1(2A) (integrated with infrastructure).
	(2)	Covered at outcome level in IM-O1 and MW-O1, and otherwise more process-related and therefore included at the policy level.
UFD-O4	(2)	Outcome aspect covered in UFD-O4(4), more detailed aspect covered at policy level.
	(3)	Generally considered to be a method, not an outcome, which is addressed in UFD-P4, UFD-P7 and UFD-P8. Outcome is reflected in UFD-O4(4) and (4A).
	New (4A)	Deletion of “the <i>natural and physical resources</i> that support” to reflect that key aspect is productive capacity and long-term viability (e.g. reverse sensitivity does not arise from loss of resources, but is something that can affect those resources being used to their fullest extent.)
	Old (4A)	Covered by MW-P4.
UFD-O5	Chapeau	Covered in UFD-O1(2B).
	(1)	Captured at an outcome level in UFD-O1(2B)) and in addition to UFD-P3(3).
	(2)	Captured at an outcome level in UFD-O1(2B)) or otherwise reflected in UFD-P1(3). Also covered in definition of well-functioning urban environment and therefore reflected in UFD-P4(1).
	(3)	Captured at an outcome level in UFD-O1(2B)) or otherwise reflected in UFD-P1(3).
	(4)	Captured at an outcome level in UFD-O1(2B)) or otherwise covered by EIT-EN-O3.
	(5)	Covered in EIT-EN-P8.

13. The objectives as she finally recommended them are shown below (without tracking):

UFD-O1 –Development of urban areas

The development and change of Otago’s *urban areas* occurs in a strategic and coordinated way, which:

- (1) accommodates the diverse and changing needs and preferences of Otago’s people and communities, now and in the future,
- (2) integrates effectively with surrounding *urban areas* and *rural areas*,
- (3) results in a consolidated, well-connected and well-designed urban form which is integrated with *infrastructure*, and
- (4) supports *climate change adaptation* and *climate change mitigation*.

UFD-O4 – Development in rural areas

Development in Otago’s *rural areas* occurs in a way that:

- (4) provides for the ongoing use of *rural areas* for *primary production* and *rural industry*, and
- (4A) does not compromise the *productive capacity* and long-term viability of *primary production* and rural communities.

14. The majority of submitters supported the approach Ms White took to redrafting the provisions, with the condensing of the objectives supported for its efficiency and better clarity. A number of submitters also advised that the changes proposed addressed a number of their concerns. However, there were several issues outstanding that the submitters raised in their response to Ms White's redraft.
15. Kāi Tahu raised two matters in their response to the changes. Kāi Tahu still seek reference in UFD-O1 to involving mana whenua and 'providing for their aspiration and values' as notified within UFD-O3. In his submission in response to the minute, Mr Cameron submitted that the absence of any such reference diminishes recognition of mana whenua interests in a way that is inconsistent with the requirement of NPSUD to take into account the principles of Te Tiriti o Waitangi. Ms White, in her reasoning for the redrafted provisions, felt the original UFD-O3 was essentially a method, not an outcome (as it related to strategic planning) and that this particular reference is provided for at an outcome level within IM-O1 and MW-O1, with the method aspect of it included in the policies.
16. In relation to the provisions relating to development of Māori land,² Mr Cameron argued that the amendments weaken provision for its use and development by removing the positive references of 'providing for' use of this land. In Ms White's view, the subject provisions duplicate MW-P4 so are not needed. She did, however, consider explicit reference to MW-P4 in UFD-P7(6) to be appropriate to make the relationship between the two policies clear.
17. In this part of her report, Ms White also considered Kāi Tahu's request that planning for urban development takes into account the pressures on water bodies and the potential effects of stormwater and wastewater discharges. Ms White considered these matters to be sufficiently addressed in other provisions.³
18. Kai Tahu also sought the deletion of policy reference to the social and economic benefits of mineral and aggregate extraction from UFD-P7(4)). This was largely based on the effects of mining and aggregate extraction activities on a range of values. While the Panel acknowledges that mining has effects, we are comfortable that the appropriate safeguards are in place to address the effects of mining. In the Panels view, it is appropriate to recognise the locational constraints of minerals and aggregate because they are critical to the social and economic wellbeing of communities, and play a significant part in the development of technology that reduces our impact on climate.
19. Silver Fern Farms also suggested some minor amendments to the two new objectives. In relation to UFD-O1, they sought the addition of 'and activities' to clause (2) to provide better linkage to the land use conflict policy. With respect to UFD-O4(4) they sought the deletion of 'supported by' and 'in appropriate locations', considering them superfluous and restrictive. Ms White appears to have accepted the amendments to UFD-O4(4) without any commentary and did not discuss the other change sought in her reply.
20. In her response to UFD-O4, Ms Collie for Matakanui Gold was uncomfortable with the use of the phrase 'rural sector' in clause (4A) because it is not a defined term. In her opinion, 'primary production', a term defined in the NPS, is the more appropriate phrase and is directly relevant

² UFD-O4(4A), UFD-P7(5A), UFD-P9.

³ UFD-P4(3) and (4) and the LF chapter (LF-WAI-P3(4) and (5)).

to productive capacity while also providing terminology consistency within the objective. Again, this appears to be accepted by Ms White, as it appears in her reply report UFD-04(4A) but does not appear to be commented on.

21. Fonterra's response to the redraft of the objectives sought the retention of the reference to minimising conflict between incompatible activities that was originally in UFD-O2(6) but which was removed by Ms White's redraft. Fonterra sought the addition of 'and manages conflict between incompatible land uses' to Ms White's UFD-O1(2). This provision, as now recommended in response to the DCC submission, is that development 'integrates with surrounding urban and rural area.' Ms White felt that this covered what was sought by Fonterra.
22. Ms Wharfe, for Horticulture NZ, also had concerns over this particular provision. She states that UFD-O1(2) (as recommended) "*is not clearly stating an outcome – what does 'integrates effectively' mean? Before there was an objective of minimising conflict between incompatible activities. There is no specific mention of rural urban interface.*" Ms Wharfe also sought productive capacity in UFD-O4 to be replaced with 'productive efficiency' on the basis that this is limited to land based primary production and a limited range of assessment matters specific to highly productive land. She noted that Policy 5.3.1 of the partially operative ORPS uses both phrases.
23. Mr Farrell in his evidence sought the inclusion of additional clauses stating "*enables outdoor recreation (including commercial recreation)*" and "*facilitates growth or expansion of existing visitor destination places and activities*" in UFD-P7. but I do not consider that they are appropriate, as I disagree with Mr Farrell that these activities need to be specifically recognised and provided for. I note that the policy direction does not preclude these activities being established in rural areas, but UFD-P7 provides direction on how they are to be managed. I consider this is the appropriate approach to achieve the objectives.

2.1. Recommendation

24. With respect the objectives of the UFD chapter, we recommend that UFD-O1 to UFD-O5 be deleted and replaced with the following two objectives:

UFD-O1 – ~~Form and function~~ Development of urban areas

The development and change form and functioning of Otago's *urban areas* occurs in a strategic and coordinated way, which:

(1) reflects accommodates the diverse and changing needs and preferences of Otago's people and communities, now and in the future, ~~and~~

(2) maintains or enhances the significant values and features identified in this RPS, and the character and resources of each urban area. integrates effectively with surrounding urban areas and rural areas,

(2A) results in a consolidated, well-connected and well-designed urban form which is integrated with infrastructure, and

(2B) supports climate change adaptation and climate change mitigation.

UFD-04 – Development in rural areas

Development in Otago’s rural areas occurs in a way that:

- ~~(1) avoids impacts on significant values and features identified in this RPS,~~
- ~~(2) avoids as the first priority, land and soils identified as highly productive by LF-LS-P19 unless there is an *operational need* for the development to be located in rural areas,~~
- ~~(3) only provides for urban expansion, rural lifestyle and rural residential development and the establishment of *sensitive activities*, in locations identified through strategic planning or zoned within *district plans* as suitable for such development; and~~
- ~~(4) outside of areas identified in (3), maintains and enhances provides for the ongoing use of rural areas for primary production and rural industry, and~~
- ~~(4A) does not compromise the *natural and physical resources* that support the productive capacity, rural character, and long-term viability of primary production the rural sector and rural communities.~~

25. We also recommend that UFD-P7 – Rural areas be amended as follows:

UFD-P7 – The management of development in rural areas:

...

(3) prioritises land-based primary production on highly productive land in accordance with the NPS-HPL, except as provided for in (5) below,

....

(5) enables the use by Kāi Tahu of Native Reserves and Māori Land, for papakāika, kāika, nohoaka, marae and marae related activities in accordance with MW-P4,

(6) restricts the establishment of non-rural activities which could adversely affect, including by way of reverse sensitivity or fragmentation, the productive capacity of highly productive land or existing or anticipated primary production and rural industry activities, ~~unless these activities are undertaken in accordance with MW-P4~~ except as provided for in (5) or the NPS-HPL.

26. With respect to the policies of the UFD chapter, we accept the changes recommended in the final 10 October 2023 version except where changes are made below.

2.2. Reasons

27. The Panel considers the drafting approach adopted by Ms White, largely driven by the submission of the Dunedin City Council, preferable to that of the notified version of the UFD chapter. Ms White’s redraft has condensed the four urban objectives of the notified PORPS into a single objective. The result is that the outcomes sought for Otago’s towns and settlements are expressed in a much clearer manner, without the substance being lost.

Content more appropriate as a policy or method has been appropriately relocated, while unnecessary duplication has been removed.

28. However, we agree with Ms White that it is not appropriate to delete all those provisions which may appear to duplicate or overlap with the NPSUD. This NPS applies to *'local authorities that have all or part of an urban environment within their district or region'*, with urban environment defined as:

"... any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

a. is, or is intended to be, predominantly urban in character; and

b. is, or is intended to be, part of a housing and labour market of at least 10,000 people "

29. This clearly does not apply to all of Otago's towns and settlements. As a consequence, we agree that it is appropriate to require a level of strategic planning around the growth and development of Otago's smaller towns.

30. While the drafting approach taken by Ms White was generally supported by submitters, and recommended the relief sought in a large number of these submissions, there remain a number of outstanding issues that the Panel needs to address.

31. Kāi Tahu requested the retention of the reference to mana whenua and the need to provide for their aspirations and values in the objective. We agree with Ms White's position that the overarching Objectives IM-O1 and MW-O1 already satisfactorily provide for the 'outcome' part of this provision, being Kāi Tahu's involvement in the planning process to ensure their values are recognised and protected. It need not be restated here as the development of urban areas must be undertaken in a way that also gives effect to those objectives.

32. We also agree that as originally framed, providing for their aspirations and values in the strategic planning process is more appropriately located within the policies and methods. We note that UFD-P3 and P4 refer to addressing issues of concern to iwi and hapu, as do UFD-M1 and M2, which would encompass 'aspirations and values' as determined through the engagement process required by the overarching objectives and those already outlined in relevant iwi planning documents, which are directly referenced in the policy.

33. As a consequence, we do not recommend these changes.

34. However, when it comes to including a more specific provision for use and development of Native Reserves and Māori land, we tend to agree with Mr Cameron that the amendments weaken the current enabling approach to the use of this land by Kāi Tahu. The cultural evidence around this issue was extremely persuasive, as we have outlined in the legal section of this report. While we agree with Ms White that Kāi Tahu's request for an amendment to UFO-O1 is not necessary, we feel an explicit reference should be made in the policy to enable the use of this land by Kāi Tahu.

35. Having said that, we do not consider the second part of Mr Cameron's suggested amendment, which seems to suggest that the wider use of resources by Kāi Tahu is also enabled, to be appropriate or necessary. The provision enables the use of Māori land for its intended more culturally related purpose, which may sometimes conflict with other, more restrictive

resource management controls. We consider that appropriate, given the history of this land and the barriers to its use outlined in cultural evidence. However, Kāi Tahu's use of land that does not fall within the preserve of cultural use of Māori land should be managed through the general provisions of the PORPS.

36. In relation to Ms Wharfe's concern that UFD-O1(2) is not an outcome, we disagree. It would seem to us that the outcome is that development is effectively integrated with surrounding urban and rural areas. While there is no specific mention around 'minimising conflict', 'incompatible activities' and the 'rural urban interface', these are all matters that are integral to ensuring 'effective integration'. What 'integrates effectively' means, will be determined by the detail of the policies that follow, and the lower order planning documents.
37. For similar reasons, we do not consider the additions sought by Fonterra or Silver Ferns Farms to clause (2) are necessary. As discussed above, conflict with incompatible activities will be addressed by 'effective integration'. With respect to the addition of 'activities' to the clause, the broad reference to 'urban and rural areas' essentially encompasses the 'activities' that occur within them.
38. However, we do agree with Ms Wharfe in relation to the use of 'productive capacity' in UFD-O4. The definition of 'productive capacity' is sourced from the NPS-HPL and is defined as:

***productive capacity**, in relation to land, means the ability of the land to support land-based primary production over the long term, based on an assessment of:*

a) physical characteristics (such as soil type, properties, and versatility); and

(b) legal constraints (such as consent notices, local authority covenants, and easements); and

(c) the size and shape of existing and proposed land parcels

39. The NPS-HPL has a narrower focus (highly productive land) than an RPS, which must consider rural resources (including soil) as a whole. As a consequence, we agree with Ms Wharfe. However, we note the 10 October 2023 reply version of the PORPS has removed reference to 'productive capacity' and clause 4(A) now simply states:

"does not compromise the long-term viability of primary production and rural communities."

40. The removal of 'productive capacity' has been credited to a Horticulture NZ submission but we are unclear where this was discussed in the officer's report. However, we agree with the change as it has a broader application given the definition of 'primary production'.
41. We also note that Ms White has removed the reference to 'the rural sector' from the objective. While Ms Collie raised issue with the clarity of this phrase in her response evidence, Matakanui Gold does not appear to have standing on the issue, with the change credited to the submission of Fulton Hogan and Royal Forest and Bird. Fulton Hogan do not appear to have standing on the issue either, but we agree with the change as 'primary production' and 'rural communities' effectively covers the board. The use of the undefined term 'rural sector', while generally understood, adds no value to the objective.

42. Ms White also disagreed with Mr Farrel in relation to the additional clauses addressing outdoor recreation and visitor destination places and activities in UFD-P7. We agree with Ms White that the policy direction does not preclude these activities being established in rural areas, but that UFD-P7 provides direction on how they are to be managed. Specific identification of these activities is not needed.
43. Ms Whites s32AA analysis stated that:
- “ the revised objectives are more appropriate to achieve the purpose of the RMA, because they:*
- a. *Are more clearly focused on the outcomes sought for the Otago region, rather than the process for how those outcomes are achieved;*
 - b. *Assist in giving effect to the NPSUD;*
 - c. *Respond more clearly to the identified issue (SRMR-I4); and*
 - d. *More clearly demonstrate how the development of urban and rural areas will provide for the well-being of the Otago region (s5 RMA) and the amenity values which are anticipated which are to be maintained and enhanced in such development (s7(c)).”*
44. We adopt that analysis and consider our minor amendments further assist in this regard.

3. Location of rural provisions

45. The UFD chapter, as notified, included provisions relating to management and development in ‘rural areas’. A number of submitters raised a general concern that ‘rural’ issues should not be in an ‘urban’ chapter. In her evidence, Ms Wharfe for HortNZ stated that rural matters should be contained in a separate chapter specific to the rural area which, in her view, is required by the National Planning Standards.⁴ Ms Wharfe⁵ also disagreed with Ms McEwan⁶ for the DCC who preferred that aspects of the rural-based provisions which address non-urban activities be deleted because they do not logically sit in the UFD chapter and should be left to the district plan level to manage.
46. The initial section 42A report outlined why the rural-focused provisions were located within the UFD chapter, which seemed to us to be largely based on the management of urban expansion into rural areas. ORC’s opening legal submissions⁷ also advised that a separate chapter specific to the rural area is not required by the National Planning Standards. Ms White therefore considered the need for a rural chapter to be a question of merit.
47. While being concerned that separating out rural provisions misses the opportunity to consider urban expansion and the urban – rural interface in an integrated way, Ms White accepted that there may be other reasons why the management of development within rural areas may better ‘fit’ in another chapter. Ms Boyd addressed the matter further in in her *Reply report 1*:

⁴ Lynette Wharfe for Horticulture New Zealand, paras [323]-[333].

⁵ Rebuttal evidence of Lynette Wharfe for Horticulture New Zealand, paras [19]-[28].

⁶ Emily McEwan for Dunedin City Council, paras [61]-[64].

⁷ ORC Submission for Hearing, UFD – Urban form and development (14 February 2023), paras [49]-[54].

Introduction and general themes. She recommended that UFD-O4, UFD-P7 and UFD-P8 (and related methods, explanations, principal reasons and anticipated environmental results) be relocated to the LF-LS chapter. Her main reasoning is that this improves integration with the management of land and soil resources, and particularly with highly productive land.

48. The Panel has some sympathy with the submitters over the lack of a specific rural chapter in the pORPS. The region is predominantly rural, and we do not understand why the management of urban expansion and the rural-urban interface should dictate that all rural development matters should be included in an urban form and development chapter. Such an approach largely ignores the bulk of the land use in the region and its significance to the social, economic, and cultural wellbeing of its communities.
49. Having said that, we think it is a little too late in the piece to be incorporating an entirely new chapter into the pORPS. This is further complicated by the fact that there has been no drafting provided by those submitters requesting such a chapter. Hence, as Ms Boyd noted, it is unclear what the scope and content of such a rural chapter would be, and how it would integrate with the other chapters of the pORPS. Hence, we agree with Ms Boyd's approach to the matter, which relocates provisions that relate to rural development to the LS- LS chapter.

4. Effect of the NPSHPL

4.0. Introduction

50. As Ms White noted in her reply report, the National Policy Statement for Highly Productive Land 2022 (NPSHPL) came into effect after the s42A reports were released. This required reconsideration of various provisions in the pORPS affected by it. Supplementary reports on the matter were produced by Ms Boyd and Ms White.⁸
51. In her reply, Ms White highlighted the various responses from submitters to the changes to the UFD chapter recommended through the supplementary evidence. She summarised them as either:
- a. *Supporting the rewording proposed.*
 - b. *Seeking amendments to explicitly refer to the NPSHPL.*
 - c. *Seeking additions to direct avoidance of urban rezoning of highly productive land at the objective level in UFD-O3, and in UFD-P1; and avoidance of rural lifestyle zones on highly productive land.*
 - d. *Seeking deletion of provisions relating to highly productive land, relying instead directly on the NPSHPL.*
 - e. *Seeking further amendments on the basis that avoidance as a 'first priority' is considered to be more stringent than the NPSHPL.*

⁸ *Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land) (21 October 2022). Brief of Second Supplementary Evidence of Elizabeth Jane White, UFD - Urban Form and Development (Highly Productive Land) (21 October 2022).*

- f. *Exempting development of Māori land on highly productive land where provided for under MW-P4.*

52. In discussing the NPSHPL, Ms White highlighted the fact that it is a very prescriptive document that does not leave “*room for regional policy statements, regional plans or district plans to ‘tease out’ how the direction within it is to be achieved/implemented at a local level.*” As such, she considered that the most appropriate approach in this instance is to directly refer to the NPSHPL. This led to several changes being recommended to UFD-P4(6), UFD-P7(6) and UFD-P8(4) so that they explicitly refer to the NPSHPL. She also noted that UFD-P7(3) refers to highly productive land by directing prioritisation of land-based primary production on it and considered it should be expanded to explicitly refer to the NPSHPL.
53. Of the submitters who responded to the redrafted provisions, only Ms Wharfe for Horticulture NZ commented on the recommended provisions. Her concern only related to the use of ‘productive capacity’ in UFD-P7(6).

4.1. Recommendation

54. In addition to the changes made to the policies by the Panel accepting the officer’s recommendations discussed in Section 2, we also recommend the following amendments in relation to the NPS HPL:
- a. Amend UFD-P4(6) as follows:
 - (6) ~~avoids, as the first priority, highly productive land~~ except as provided for in the NPS-HPL, and identified in accordance with LF-LS-P19,
 - b. Amend UFD-P7(3) as follows:
 - (3) ~~enables~~ prioritises land-based primary production ~~particularly on land or soils identified as~~ on highly productive land in accordance with ~~the NPS-HPL~~ LF-LS-P19,
 - c. Amend UFD-P7(6) as follows (noting this incorporates changes recommended for other reasons):
 - (6) restricts the establishment of ~~residential~~ non-rural activities, ~~sensitive activities, and non-rural businesses~~ which could adversely affect, including by way of reverse sensitivity or fragmentation, the productive capacity of highly productive land, or existing or anticipated primary production and rural industry activities, ~~unless those activities are undertaken in accordance with MW-P4~~ except as provided for in (5) or the NPS-HPL.
 - d. Amend UFD-P8(4) as follows:
 - (4) ~~it avoids, as the first priority, highly productive land~~ identified in accordance with LF-LS-P16 ~~except as provided for in the NPS-HPL,~~

4.2. Reasons

55. The provisions of the NPSHPL, and their implications for the Otago region, were the centre of much discussion at the hearing. However, we must agree with Ms White that the NPS is such a prescriptive document that despite its shortcomings in the context of the Otago region,

there is little room for a regional flavour. As a consequence, we accept that direct reference to the NPSHPL is really the only option.

56. Ms White's s32AA analysis concluded that *"the changes are more effective at achieving UFD-04 and are required to ensure that the pORPS gives effect to the NPSHPL as required under s62(3) of the RMA"*. We agree and adopt this analysis accordingly.

5. Urban intensification and expansion

5.0. Introduction

57. UFD-P3 provides direction in relation to urban intensification while UFD-P4 provides direction in relation to urban expansion. The submissions on UFD-P3 addressed a number of issues, including the 'enabling approach', infrastructure matters, reverse sensitivity, development capacity, and clarity around 'identified features and values'. The submissions on UFD-P4 addressed a number of similar themes, including infrastructure, identified features and values, and reverse sensitivity, along with highly productive land, the rural – urban interface, and alignment with the NPS-UD.
58. These matters have been addressed across the numerous officer reports on this chapter. Again, the redraft proposed by Ms White has largely been met with support from the submitters who responded. The majority of the changes have been discussed in Section 2.
59. Two matters remain outstanding. The first relates to the DCC submission seeking the deletion of UFD-P3 and UFD-P4. ⁹ Ms McEwan's view was that the wording of the policies was such that they could be interpreted as meaning urban intensification and expansion must be provided for/facilitated if the criteria in the policies are met. The original s42 writer, Mr Balderstone confirmed that the policy intent is not to limit the matters for consideration but to identify what criteria should, as a minimum, be met when intensification/expansion is contemplated. Ms White agreed in her first supplementary evidence that clause (4) of UFD-P3 (which relates to shortfall for housing or business space), could unintentionally limit when intensification occurs, while the chapeau also required amendment to clarify the intent.
60. In her reply, Ms White accepted that the recommended redraft could still be interpreted as meaning urban intensification and expansion must be provided for/facilitated if the criteria in the policies are met. This led to her providing further amendments to reframe the policies further to align with the original intent.
61. However, QLDC, who conditionally supported the original UFD-P4, did not agree with the use of the phrase 'only occurs where' in that policy. Ms Simpson for QLDC in her response evidence suggested the *"revised wording in my view results in the same concerns that the urban expansion can only occur when the listed matters are met. It does not appear to enable 'other matters' which may not have been included which does not appear to be the intent."* She suggested the wording should be reframed as "may occur where".

⁹ Emily McEwan for Dunedin City Council, paras [43]-[46].

62. By contrast, Silver Fern Farms supported the use of ‘only occurs’ because they considered the previous chapeau implied urban expansion must be facilitated.
63. Ms McIntyre¹⁰ for Kāi Tahu also sought an additional clause to UFD-P4 that required the avoidance of increasing the demand on water supply in water-short areas and of the cumulative impacts of wastewater and stormwater on water bodies and coastal waters. However, Ms White considered this issue is sufficiently addressed in UFD-P4(3) and (4) and the LF chapter (LF-WAI-P3(4) and (5)).
64. For completeness, we note that Ms McEwan for the DCC also requested that UFD-P4 (7)(b) and (c) be deleted because they contain direction which is too detailed for RPS. Ms White agreed.

5.1. Recommendation

65. We recommend the following amendments to UFD-P3 and P4:
- a. Amend the chapeau of UFD-P3 as follows:

~~Within *urban areas* Manage intensification in *urban areas*, so that as a minimum, is enabled where it:~~
 - b. Amend the chapeau of UFD-P4 as follows:

Expansion of existing *urban areas* ~~is facilitated~~ may occur where, at a minimum, the expansion:
 - c. Delete UFD-P4 (7)(b) and (c)

5.2. Reasons

66. Turning first to the structure of the two policies, we essentially agree with the submitters’ concern that their original construction effectively put Councils in a position where urban development must be enabled when the criteria was met. This is clearly not the intention, so we agree that Ms White’s final recommendations are appropriate for UFD-P3. However, we tend to agree with Ms Simpson in relation to UFD-P4. Ms White’s reasoning for the change to ‘only occurs’ was that the previous wording implies intensification must be enabled where only the matters listed are met. As noted previously, the policy intent is not to limit the matters for consideration but to identify what criteria should, as a minimum, be met when intensification/expansion is contemplated. Seen in that light, the two chapeaus should be similar. We agree with Ms Simpson that ‘may occur’ is more appropriate and prefer Ms White’s previous use of ‘at a minimum’ in tandem with that.
67. We did give serious consideration to including Ms McIntyre’s requested provision but in the end, we agreed with Ms White that those matters will require to be addressed under a number of provisions within the PORPS, in particular LF-WAI-P3(4) and (5). Iwi will also have the opportunity to raise specific issues, if and when they arise, through the application of UFD-P4 (4) and the wider processes put in place under the MW chapter.

¹⁰ Sandra McIntyre for Kāi Tahu ki Otago, paras [158]-[159].

68. With respect to s32AA, Ms White considers that the changes provide greater clarity on the action required to be taken and are therefore more efficient and effective at achieving UFD-01. We agree.

6. Industrial activities

6.0. Introduction

69. UFD-P6 provides direction in relation to the provisions for industrial activities in urban areas. Clause (4) specifically relates to the potential for the transition of industrial zoned areas for other purposes.

70. The DCC submission requested that both UFD-P5 and P6 be deleted because they were “*not convinced it is necessary to have policies on commercial activities or industrial activities as these are arguably not a regionally significant issue nor ones that easily lend themselves to policy direction that will work well /be appropriate across all the diverse towns, settlements in the region and for the city of Dunedin.*” They were particularly opposed to UFD-P6 clause (4), which provides a pathway for the transition of industrial areas to other purposes. If the recommendation was not to delete of the policies, they proposed alternative wording to satisfy their concerns.

71. At the hearing, Ms McEwan advised that the biggest unresolved issue is that of UFD-P6(4). The DCC’s other concerns could easily be resolved by minor amendments with the exception of UFD-P5(3) which should be deleted as it “*could be read as encouraging unlimited supply of commercial land, which would undermine the 2GP’s centres hierarchy and associated strategic directions...*”

72. The concern with UFD-P6(4) was reiterated in Ms McEwan’s response to the proposed redraft. She was also concerned about the drafting of UFD-P6(3), including concerns about the way the word ‘avoid’ is used.¹¹

73. Ms White’s preference was to retain UFD-P6(4) because there would otherwise be no direction at the pORPS level as to what tests any transition from industrial to commercial would need to meet. She did, however, promote some amendments to the structure of the policy and reworded the context of how ‘avoid’ is used in the policy.

6.1. Recommendation

74. We recommended UFD-P6 be amended as follows:

UFD-P6 – Industrial activities

Provide for industrial activities in urban areas by:

- (1) (...)
- (3) managing the establishment of non-industrial activities, in industrial zones, ~~by to avoiding activities likely to result in the likelihood of~~ reverse sensitivity effects on existing or potential industrial activities arising, unless the

¹¹ Memorandum of Emily Kate McEwan for Dunedin City Council, 21 April 2023, paras [2.2]-[3.2].

~~potential for reverse sensitivity is insignificant. or the likely to result in an inefficient use of industrial-zoned land or infrastructure, particularly where:~~

- ~~(a) the area provides for a significant operational need for a particular industrial activity or grouping of industrial activities that are unlikely or are less efficiently able to be met in alternative locations, or~~
 - ~~(b) the area contains nationally or regionally significant infrastructure and the requirements of EIT-INF-P15 apply, and~~
- (4) in areas that are experiencing or expected to experience high demand from other urban activities, and the criteria in (3)(a) or (3)(b) do not apply, managing the establishment of non-industrial activities and the transition of industrial-zoned areas to other purpose, by first applying (1) and (2).

6.2. Reasons

75. The Panel has some sympathy for the DCC's submission that this policy (and UFD-P5) are not addressing a regionally significant issue. Contrary to Ms White's position, we are doubtful that provision for industrial activities in District Plans requires direction from an RPS. This is particularly so with UFD-P6(4). We do not consider that to be a regional issue, let alone a regionally significant one. Accordingly, we accept Ms McEwan's evidence on the matter.
76. We also agree with Ms McEwan in relation to the use of 'avoid' in UFD-P6(3). We are comfortable with Ms White's rewording but still consider it appropriate to attach Ms McEwan's qualifier.
77. With respect to s32AA, the Panel considers that the remainder of the policy is sufficient to address any regionally significant issue with respect to the provision for industry. The changes are therefore considered more efficient and effective.

7. Rural lifestyle development

7.0. Introduction

78. As notified, UFD-O4(3), UFD-P7(6) and UFD-P8 contained direction relating to rural lifestyle and rural residential development. That direction requires rural lifestyle development to only be provided for in locations identified through strategic planning or zoned within district plans as suitable for such development.
79. Ms Wharfe for Horticulture New Zealand supports this approach to rural lifestyle development, but a number of submitters considered this too restrictive (Waterfall Park Development, Boxer Hills Trust and Darby Planning LP & Others). The concern of these submitters is centred on the fact that rural lifestyle development must be identified through strategic planning or zoned for that purpose and that such zones are to be located adjacent to existing or planned urban areas. Ms Simpson for QLDC also shared these concerns but advised caution around any redrafting to ensure it does not allow for urban development in rural areas.¹²

¹² *Rebuttal evidence of Elizabeth Simpson for Queenstown Lakes District Council, paras [4.1]-[4.6].*

80. Mr Brown (for Waterfall Park Developments/Boxer Hill Trust) and Ms McEwan (DCC) also identified a conflict between the requirement to locate close to existing or planned urban areas and the requirement to also avoid locations that are or likely to be used for urban expansion,¹³ with Ms McEwan also noting the provisions could result in pressure for inappropriate rural lifestyle development adjacent to urban areas.¹⁴
81. Ms Tait for Fonterra also sought changes to UFD-O4(3) and (4) to direct avoidance of rural lifestyle development in areas which would compromise those matters currently set out in clause (4), rather than requiring it to be directed to strategically identified areas or specific zones.¹⁵ Mr Tuck, for Silver Ferns Farms, sought an amendment to the redrafted provision that restricted rural lifestyle development to a zone or where not in a zone, it is designed and sited to avoid significant adverse effects on rural activities.
82. Ms White agreed that there may be instances where rural lifestyle development is appropriate within a rural zone, even if it is not the main purpose of that zone. She highlighted the definition of ‘Rural Lifestyle Zone’ in the National Planning Standards, noting that allowing rural lifestyle activities within rural areas is consistent with the zone description. Ms White also considered the requirement to locate adjacent to existing or planned urban areas unnecessarily limiting and agreed with Mr Brown and Ms McEwan that there is a conflict within the provisions in this regard. In her view, the remainder of the policy is sufficient to address the concerns of Ms Wharfe and Mr Tuck about effects on primary production activities, along with the recommended changes to address reverse sensitivity. Ms White also noted that primary production activities are also anticipated within rural lifestyle areas.

7.1. Recommendation

83. The Panel’s recommended amendments in relation to rural lifestyle development are as follows:
- a. Delete UFD-P7(5) (“directs rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8”).
 - b. Delete UFD-P8(1) (“*the land is adjacent to existing or planned urban areas and ready access to employment and services is available*”), and make consequential amendments to clause (2) so that it no longer refers to clause (1).
 - c. Amend the title and chapeau of UFD-P8 to refer to “rural lifestyle development”.

7.2. Reasons

84. We agree with Waterfall Park Development, Boxer Hills Trust, Darby Planning LP & Others, QLDC and Ms White that the ‘zoning only’ approach proposed for lifestyle development is overly restrictive and will foreclose appropriate rural lifestyle opportunities outside of such zones. As Ms White highlighted, rural lifestyle development is consistent with, and anticipated in, rural zones. This is reflected in the definitions contained within the National Planning

¹³ Jeff Brown for Waterfall Park Developments/Boxer Hill Trust, para [2.9]; Emily McEwan for Dunedin City Council, para [79].

¹⁴ Emily McEwan for Dunedin City Council, paras [77]-[82].

¹⁵ Susannah Tait for Fonterra, para [12.14](e).

Standards. Not all District Councils currently have dedicated rural lifestyle zones but manage its development through standards in the rural zone.

85. While we acknowledge the concerns of Ms Wharfe and Mr Tuck (and others) as being valid, we agree with Ms White that the remainder of the policy will adequately address these concerns. Ms White, in her s32AA analysis, considers the remaining provisions to be sufficient to achieve the outcome sought in UFD-O4. Therefore, she believes that *“the deletion of these clauses will be more efficient at achieving the outcomes, as it will not restrict rural lifestyle development in locations or circumstances that may still achieve UFD-O4, while not reducing the effectiveness of the approach.”* We agree and adopt that position accordingly.

8. Reverse sensitivity

8.0. Introduction

86. A number of submissions seek changes to the UFD chapter to include more directive provisions on the management of reverse sensitivity effects. Several changes were recommended in the section 42A report to address concerns in these submissions.
87. Ms Wharfe, Mr Ensor and Ms Tait supported further changes to a number of provisions,¹⁶ which generally seek to strengthen the direction by requiring avoidance of, or protection from, reverse sensitivity impacts.¹⁷ In her oral presentation to the Hearing Panel, Ms O’Sullivan, on behalf of the Queenstown Airport, expressed her view that the management of reverse sensitivity, when looked at across the whole of the UFD chapter, is appropriate.
88. In her reply, Ms White advised that in her view, *“management of reverse sensitivity is an action, rather than an outcome”*, and as a consequence, the changes recommended to the UFD objectives do not contain reference to reverse sensitivity. In relation to changes sought to UFD-P4(7), Ms White states that given the way the policy is framed, she considers it appropriate to require consideration of reverse sensitivity effects, rather than requiring avoidance. In her view it is only one factor to consider, and it should be balanced against other things, with no right of veto.
89. In relation to UFD-P7, which relates to the management of development in rural areas, Ms White notes that (6) requires explicit consideration of reverse sensitivity effects and the restriction of activities that could lead to such effects. She considers this appropriate without further amendment, noting ‘restriction’ is already a strong direction. Hence, she does not agree with Mr Ensor, for Fulton Hogan, who requested the use of ‘avoidance’ in this policy.
90. Ms White’s recommended addition of ‘avoid’ in UFD-P8(3) is supported by a number of parties but is opposed by Ms McEwan. However, Ms White considers that such direction in this context is more appropriate to achieve UFD-O4 than a requirement to only minimise.

¹⁶ Including UFD-O2, UFD-O3, UFD-O4, UDF-P1, UFD-P4, UFD-P7, UFD-P8 and UFD-M2.

¹⁷ Lynette Wharfe for Horticulture New Zealand, paras [343]-[426] and [403]-[412]; Susannah Tait for Fonterra, paras [12.3]-[12.7], [12.16]-[12.19], [12.34] and [12.37]; Tim Ensor for Fulton Hogan, paras [25]-[35].

8.1. Recommendation

91. The panel’s recommendation in relation to this matter is to amend UFD-P8(3) as follows:

- (3) it minimises impacts on existing or anticipated primary production, rural industry and other rural activities ~~rural production potential, amenity values~~ and the potential for *reverse sensitivity effects*.

8.2. Reasons

92. The Panel generally agrees with the final position reached by Ms White on this matter. However, as we did in relation to UFD-P6, we agree with Ms McEwan in relation to the use of ‘avoid’ without qualification. We agree that this test is very strict as it refers to the potential for reverse sensitivity effects, which would effectively prohibit any activity that has any potential for reverse sensitivity effects, relative of the scale.

93. We note that even Ms Wharfe did not request a straight out avoid, seeking ‘mitigation to the least extent possible’ where avoidance is not possible. In our view, Ms Wharfe’s position is essentially one of ‘minimising’ the effect of reverse sensitivity. In this context, we consider ‘minimising’ the most appropriate approach. Strict avoidance of ‘potential effects’ is virtually impossible to achieve.

94. Given the nature of the change, we do not consider further analysis in terms of s32AA is required. We also note here that the recommended addition of “*in adjoining rural production zones*” is not considered necessary and has not been accepted. Reverse sensitivity matters are unlikely to be confined to just rural production zones.

9. Regionally significant industry

9.0. Introduction

95. Fonterra sought the addition of a reference to ‘regionally significant industry’ to a number of provisions within the UFD chapter, along with a definition of this term being inserted into the pORPS. The planner for Fonterra, Ms Tait, presented comprehensive evidence on why she considers it appropriate for the pORPS to provide recognition for such industry, particularly in terms of protecting it from inappropriate urban encroachment.¹⁸ Ms Simpson, for QLDC, did not consider it an appropriate direction for an RPS and felt it was a blunt way to manage reverse sensitivity effects.¹⁹

96. In her reply report, Ms White²⁰ noted that:

“there are a number of provisions in the UFD chapter (as redrafted) that apply directly or indirectly to rural industry, regardless of its level of significance. These include:

¹⁸ Susannah Tait for Fonterra, para [3.1], Section 4, paras [12.6]-[12.7], [12.23]-[12.26], [12.30]-[12.32], [12.34] and [12.37](b).

¹⁹ Rebuttal evidence of Elizabeth Simpson for Queenstown Lakes District Council, paras [6.1]-[6.3].

²⁰ Paragraph 82

- a. *The integration between urban and rural areas (UFD-O1(2));*
- b. *Provision for ongoing use of rural areas for rural industry in appropriate locations (UFD-O4(4));*
- c. *Identification of potential conflict between incompatible activities and methods for resolution of these when undertaking strategic planning (UFD-P1(8A));*
- d. *Considering adverse effects on rural industry activities when determining changes to the rural/urban boundary (UFD-P4(7)); and*
- e. *Managing development in rural areas to provide for rural industry and restrict non-rural activities which could adversely affect existing or anticipated rural industry activities (UFD-P7(6)).”*

97. She was of the view that this direction appropriately addresses rural industry and that there is no further need to ‘elevate’ regionally significant industry. She also agreed with Ms Simpson (and Ms Boyd in other s42A reports) that recognising regionally significant infrastructure is no justification for, and is not the same as, recognising regionally significant industry. In her view, it is *“inappropriate to require that urban intensification and urban expansion must in all cases not compromise regionally significant industry.”*²¹

98. Ms White also commented on other changes sought to the drafting, which she considered inappropriate because:

- a. they result in process-related clauses being added back into the objective level (as sought through additions to UFD-O1); or
- b. they add unnecessary ‘inclusions’ to clauses where this does not change the effect of the clause, but in her view, result in less clarity (UFD-O4(4A), UFD-P7(4)).

9.1. Recommendation

99. We agree with Ms White on this matter. While we consider that local authorities may consider such an approach necessary or appropriate in their local planning documents, this will depend on local context. We think industry in general is adequately recognised and provided for in the proposed provisions of the PORPS.

10. Other changes

100. In her reply, Ms White recorded changes that she recommended in response to evidence, or following further consideration of matters raised in submissions, which she considers are appropriate. Because they related to more discrete issues generally raised by one party and led to significant rearrangement of this particular chapter, she compiled them in the table, which is set out below:

²¹ As sought through changes to UFD-P3 and UFD-P4 noted in Memorandum of counsel on behalf of Fonterra Limited, 21 April 2023.

Provision	Evidence	Change Sought	Recommendation
UFD-P2	Emily McEwan, para 42 and Annexure A	Reframe stem of policy, delete clauses (1)-(4) as these simply refer to other policies and add no value, and split clause (5) into two.	Agree that these changes are appropriate.
UFD-P4(7)	Susannah Tait, paras 12.25-12.26	Amendments to clause (7)(a) to improve understanding and clarity.	Agree with some of the changes proposed by Ms Tait. However, as a consequence of deleting (b) and (c) (refer below) this no longer needs to be a sub-clause, and re-ordering of wording is therefore also recommended for readability.
UFD-P4(7)	Emily McEwan, para 45(d) and Annexure A	Delete (7)(b) and (c) as they contain direction which is too detailed for RPS.	Agree. Do not consider the direction is necessary to achieve the outcomes sought.
UFD-P5	Emily McEwan, paras 51-52 and Annexure A	Add “where appropriate” to clause (1) as some zones will provide for some commercial activities, but appropriately limit others. Delete clause (3) because it is covered by UFD-P2. Amend clause 4 to “provide for” rather than “allow for” because the latter implies permitted activities, whereas another activity status may be more appropriate to ensure adverse effects can be managed.	Agree. Also consider clause (3) is also effectively covered already between P2, P3 and P4 and in clauses (1) and (2). This clause therefore does not appear to add anything further. “Provide for” is also more consistent with terminology used elsewhere in this chapter.
UFD-P6(3)	Liz Simpson, paras 4.3-4.5	Remove previously recommend addition of “(particularly residential or retail activities except yard-based retail),” in clause (3) as has the potential to unnecessarily narrow the application of the policy.	Agree. I also do not consider that this level of specificity is necessary at the pORPS level. I also consider it unclear what “particularly” is intended to mean and whether it implies a hierarchy.
UFD-P7(2) UFD-P8(3) UFD-E1	00211.050 LAC Properties	Remove all references to amenity values and rural character as they are	While I do not agree with the submitter’s reasoning, I do not consider it appropriate at the RPS

Provision	Evidence	Change Sought	Recommendation
	Trustees Limited, 00210.050 Lane Hocking, 00118.066 Maryhill Limited, 00014.066 Mt Cardrona Station, 00209.05 Universal Development Limited	contrary to proposed replacement legislation and may stymie necessary growth and development opportunities.	level to direct that the amenity and character of rural areas are 'maintained'. I do not consider that this is linked back to the identified resource management issue, nor will maintenance of existing amenity and character in all instances necessarily align with the outcomes sought across the pORPS.
UFD-P7(4)	Lynette Wharfe, paras 394-400	Amend to use the word "provide" rather than "facilitate" as 'provide' gives clearer direction than 'facilitates', which is more a direction of 'assisting'	Agree. "Provide for" is also more consistent with terminology used elsewhere in this chapter.
UFD-P7(4)	Anita Collie, paras 5.9-5.10	Amend clause (4)(b) to use terminology consistent with the Crown Minerals Act and improve the clarity of the policy.	Agree
UFD-P7(6)	Susannah Tait, paras 12.31-12.32	Amend to refer to "existing or permitted" primary production rather than "existing or potential".	Do not agree with referring to "permitted" at the pORPS level. However, consider that "anticipated" provides better guidance than "potential" and recommend this change instead.
UFD-P7(6)	Tim Ensor, paras 33-35	Clause (6) should stand on its own without recourse to UFD-P4(7) and that this connection should be deleted.	Agree that reference to UFD-P4 is not required as urban expansion is governed by UFD-P4 and once established, the area will no longer be rural. Therefore this policy will not apply (but reference to UFD-P4 implies it does.) Reference to UFD-P8 is also not required as UFD-P8 is recommended to apply to all rural lifestyle development.
UFD-P8	Steve Tuck, Appendix C page 12	Amend title for consistency with other recommendations to remove reference to 'rural residential'.	Agree.

Provision	Evidence	Change Sought	Recommendation
UFD-M1(4)	Liz Simpson, paras 5.1-5.2	Split requirements into two as the additional have resulted in the clause being too long and difficult to understand.	Agree.
UFD-AER12	Liz Simpson, paras 6.1-6.5	Amend wording so that it does not focus on 'inappropriate urban expansion and urban activities' as current wording implies they are anticipated within the region's rural areas.	Agree. For completeness I note that the final recommended wording of UFD-AER12 also removes reference to "productive capacity" as a result of Ms Boyd's analysis of this. ²²

101. Ms White also advised that there will be a range of changes are required to the methods, explanation, principal reasons and anticipated environmental results as a consequence of the changes, if they are accepted. She did not set them out in the reply report, but they are shown in the "reply report" version of the pORPS.
102. Ms White also considered the responses received in relation to the redrafting provided in response to Minute 7, and where she considered additional changes to be appropriate to improve the drafting, these changes were reflected in the recommended wording contained in her reply report and in the "marked up" version of the final recommendations.
103. We agree with Ms White on these submission points and have adopted her reasoning accordingly. In terms of s32AA, we also agree with her view that the amendments will provide greater clarity and in doing so will be more efficient and effective at achieving UFD-O1 and UFD-O4.
104. Most changes also do not alter the intent of the policies, methods or anticipated environmental results, but will make their application clearer. In those cases where the recommendation includes the removal of direction,²³ the direction is not necessary to achieve the outcomes sought, making the approach more efficient while still being effective.

²² See Reply report 9: LF – Land and freshwater

²³ UFD-P4(7)(b) and (c); and parts of UFD-P6(3), UFD-P7(2), UFD-P8(3), UFD-E1.

Appendix Two: Report by the Freshwater Hearings Panel

1. Background

1. We commence this report by formally adopting those sections of the legal issues discussion in the Prologue which have relevance both to the freshwater and non-freshwater provisions.
2. Where particularly relevant that adoption is also expressly repeated, but many of those issue discussions, such as the difference between ‘protection’ and ‘maintaining’ or ‘maintenance’, will have informed and guided our decision-making on this Freshwater Report.

1.1. Recommendation

3. We recommend that submissions on provisions and matters in the freshwater planning instrument are accepted or rejected wholly or in part as set out in Appendix 6: Freshwater Planning Instrument Hearing Panel Recommendations for decisions on submissions and reasons.

2. Legal Issues

2.1. Te Mana o te Wai

2.1.1. Concept of Te Mana o te Wai

4. The National Policy Statement for Freshwater Management 2020 (in its amended form as at February, 2023) (‘NPSFM’) describes the fundamental concept of the NPSFM as being Te Mana o te Wai. That concept is described in cl. 1.3(1) as follows:

Concept

(1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.

5. These hearings have demonstrated how what was obviously intended to be a readily described concept is open to being read in a range of different ways.
6. Amongst the issues we have had raised before us are varying interpretations of this concept, which stretch across a wide spectrum. Some submitters have advanced an argument that the concept involves absolute protection of freshwater from any effects; while at the other end of the spectrum, some have argued that protecting the well-being of the community requires recognition of use of freshwater, and/or effects of use of other resources on freshwater that will give rise to effects on freshwater itself. Much of the debate before us also centred on what was meant by the undefined term ‘mauri’; and what was involved in the use of the word ‘balance’ in the last sentence of the concept.
7. In our view the final sentence in the concept description is intended to explain how the protective concept described in the first sentence is sought to be achieved. That is to occur by ‘restoring and preserving’ the balance ‘between the water, the wider environment, and the

community.’ The use of a word like ‘balance’ will usually involve a state of equilibrium between two differing forces, e.g. the classic example being a seesaw.

8. However, the word ‘balance’ can also apply to a spectrum of factors in other types of situations. Good examples are found commonly in newspaper articles, political policies, or even in judgment writing. In those contexts what is being referred to is not necessarily a state of equilibrium between two opposing forces, but rather a consideration of all factors often on a sliding scale in a manner which informs about, or considers issues across a spectrum, but in doing so does not lean unduly too far in any one direction.
9. The problem with applying the first meaning to the ‘balance’ referred to in the last sentence of the concept is that it refers not to two opposing forces, but expressly to three separate factors:
 - the water
 - the wider environment (which by the RMA definition includes):
 - (a) ecosystems and their constituent parts, including people and communities; and
 - (b) all natural and physical resources; and
 - (c) amenity values; and
 - (d) *the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters* and as to ‘natural and physical resources’ by that definition includes ‘water’
 - the community

(Panel’s emphasis)
10. The unfortunate repetition of reference to ‘community’, both by virtue of the definition of ‘environment’, and the express use of just that word, does not assist. To give an intention to the drafting requires each of the three identified elements to be given some purpose for them being separately identified. What that seems to us to be intending, then, is that what is being referred to is a spectrum, which includes water as one aspect; a second being broader aspects of the natural and physical resources of the environment; and the third specifically the community. It is our view that it is this broader spectrum approach which is being used in the last sentence of the Te Mana o te Wai concept.
11. Our overall interpretation of the Te Mana o te Wai concept is that it envisages that waters may be in a degraded state, and if so they should be restored and protected in a state closer to the natural setting. However, that is not an absolute requirement, given that later provisions of the NPSFM recognise other community uses of natural and physical resources have occurred which can be beneficial to communities.
12. The clearest example of that approach involving a level of pragmatism, is found in clause 3.31 as to the recognition and acceptance of large hydro-electric generation schemes and their effects on bottom lines. Similarly, for specified vegetable growing areas for a limited period, bottom lines are relaxed in clause 3.33. So, too, in respect of aquatic off-setting and aquatic compensation provisions in Appendices 6 and 7, to mitigate the effects of particular activity proposals.

13. Both in written reports and orally in hearings before us Ms. Boyd the s.42A report writer adopted the position that her approach on freshwater issues basically reflected the NPSFM approach. She understood that to be that provided the health of freshwater was protected both in quality and quantity, then opportunities for use of residual freshwater remained for community, or other purposes, which is how she interpreted the prioritisation in clause 1.5 of the NPSFM to apply. In broad summary her approach was that if the health of freshwater was protected then all else was likely to be well. Ms Boyd properly stressed that the whole trigger for the NPSFM process, ever since its inception in 2014, was that the state of freshwater and wetland resources across the country, particularly in lower catchments, had been significantly degraded.
14. However, in our view that approach places too much weight on the first sentence of the Te Mana o te Wai concept and overlooks aspects of the spectrum balance we perceive being identified in the last sentence. That sentence acknowledges through restoration and preservation a process which balances the health needs of freshwater, the wider environment and the community benefit in a manner which is then prioritised in clause 1.5 as to Te Mana o te Wai, and again in Objective 2.1 of the NPSFM.

2.1.2. Principles of Te Mana o te Wai

15. However, before moving on to address the meaning of clauses 1.5 and Obj 2.1 as to prioritisation, (which was a particularly vexed issue which absorbed much of the freshwater hearing time), we also wish to stress that at least four of the six principles encompassed by Te Mana o te Wai in clause 1.3(4) of the NPSFM also support the proposition that protection and preservation of the health of freshwater is not expressed in absolute terms in the NPSFM.
16. The scheme of the six principles is that they appear to be in two almost reflective parts. Principles (a) to (c) address tangata whenua interactions with freshwater, while Principles (d) to (f) reflect all other New Zealanders' interactions with freshwater. None of the principles themselves are expressed as having priority one over the other, and clause 1.3(3) states they "*inform this National Policy Statement and its implementation*".
17. In the principles in subclauses 1.3(4)(a) and (d) issues of mana whakahaere or governance are addressed in terms of the making of decisions about freshwater respectively to "*maintain, protect and sustain its health and well-being*" and "*in a way that prioritises the health and well-being of freshwater now and into the future.*"
18. Concepts of use of or effects on freshwater resources particularly appear, though, in Principles 1.3(4) (b), (c), (e) and (f) as follows:
- (b) *Kaitiakitanga: ... and sustainably use freshwater*
- (c) *Manaakitanga: ... respect, generosity and care for freshwater and for others*
- (e) *Stewardship: ...to manage freshwater that it ensures it sustains present and future generations*
- (f) *Care and respect: ...in providing for the health of the nation*
- (Panel's emphasis)
19. The underlined wording envisages in each case concepts of use of freshwater, or management of effects of use of other resources on freshwater. In the case of (c), the reference to 'others' we consider implicitly involves a concept of use of freshwater by people who must be the 'others'.

20. That concept of use of freshwater is then expanded on in the next clause 1.5 of the NPSFM which provides a hierarchy of obligations for Te Mana o te Wai, but in a prioritised form to which we will shortly turn.

21. However, before doing so we again stress that notwithstanding the recognition in the NPSFM of the value of the use of freshwater resources we have just discussed, the basic thrust of the NPSFM remains water-centric. It is founded both in the concept and in the Principles on the health of freshwater, and as we will see that is expressly prioritised in the clause 1.5 hierarchy and the Objective 2.1. As the Environment Court has said¹ the concept of Te Mana o te Wai requires a mind-shift in relation to freshwater resources into the RMA regime.

2.1.3. Prioritisation through the hierarchy of obligations

22. So how is that reflected in the hierarchy of obligations laid down in clause 1.5 of the NPSFM and Objective 2.1 of the NPSFM? Clause 1.5 provides:

(5) There is a hierarchy of obligations in Te Mana o te Wai that prioritises:

(a) first, the health and well-being of water bodies and freshwater ecosystems

(b) second, the health needs of people (such as drinking water)

(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

23. Objective 2.1 is in identical terms as to those priorities:

2.1 Objective

(1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

(a) first, the health and well-being of water bodies and freshwater ecosystems

(b) second, the health needs of people (such as drinking water)

(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

24. On its face that priority appears straightforward, but as is so often the case in legislative attempts to achieve clarity, the devil lies in the detail. The range of submissions made to us in these freshwater hearings illustrates how inquiring minds coming from differing points of view are able to construct arguments supporting their position in relation to this hierarchy. The concern that arose for all those submitters is the commonly experienced situation for many catchments throughout the country, which is echoed in Otago, that many catchments face demands for human uses that are at or even already beyond the capacity of the catchment to sustain. The result is that with the application of the Te Mana o te Wai concept, principles and prioritisation hierarchy having a primary focus on the health of freshwater, there is a reality to the perception

¹ *Aratiatia Livestock Limited and Ors v Southland Regional Council [2019] NZEnvC 191*

that the second and third priorities may have real bite when the National Objectives Framework (NOF) process is applied to the allocation of water availability for use.

25. That NOF process in Subpart Two of the NPSFM results in the end, through the regional water plan, in rules setting limits to protect the health of freshwater. What became very clear in the submissions, and in the presentations we heard, was that there was an anticipation of reductions as a result of those limits in the availability of water for use. That anticipation or concern led to various potential users arguing that their activity should be regarded as being of a higher priority in the hierarchy than others. That concern was particularly marked in relation to the Manuherekia and Taiari catchments, but was broadly echoed across many catchments.

26. The consequence was that we heard many submitters from a diverse range of activities arguing that we should make decisions to assist the NOF or regional water plan process through the RPS by identifying their particular activity fell within priority (b) of the clause 1.5 hierarchy as serving the 'health needs' of people. Many submitters argued that the obligation in clause 3.2(3) meant that it was not sufficient to merely regurgitate the thrust of the provisions of the NPSFM in the RPS. Clause 3.2(3) imposes in mandatory terms the following obligation:

(3) Every regional council must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to Te Mana o te Wai.

27. This type of argument then proceeded along the lines that some guidance as to how access to freshwater was to be prioritised in the regional water plan limit setting and allocation processes was necessary at RPS level.

28. However, clause 3.2(3) does not stand alone. It is but one of a number of relevant considerations that a regional council must consider as it prepares an RPS. Immediately above it for example are a series of mandatory directions in clause 3.2 including:

(2) Every regional council must give effect to Te Mana o te Wai, and in doing so must:

(a)...

(b) ...

(c)... apply the hierarchy of obligations, as set out in clause 1.3(5):

(i) when developing long-term visions under clause 3.3; and

(ii) when implementing the NOF under subpart 2; and

(iii) when developing objectives, policies, methods, and criteria for any purpose under subpart 3 relating to natural inland wetlands, rivers, fish passage, primary contact sites, and water allocation; and

...

29. The setting of visions is required by clause 3.4 to be conducted at RPS level. To a limited extent those visions, which must somehow reflect what communities and tangata whenua want an FMU, part FMU or catchment to be like, will involve some concepts of management at a high level. However, the detailed consideration is closely circumscribed again by mandatory provisions in the NPSFM itself.

30. Those provisions such as clause 3.4 as to tangata whenua involvement; 3.7 as to the NOF process; 3.8 as to identifying FMU's and their special sites and features; 3.9 as to values identification; 3.10 as to attribute and baseline state identification; 3.11 to 3.14 as to attribute state settings; and 3.14 – 3.17 as to setting of limits on resource use, environmental flows and levels and identifying take limits, are all expressly directed to be addressed at regional water plan level.
31. In our view clause 3.2(3) is not intended to enable or require a regional council to override those very detailed provisions in the NPSFM requiring detailed management mechanisms to be addressed in a sequential manner following on a detailed NOF process involving community and tangata whenua input.
32. Those submitters advancing those types of arguments in support of a more detailed RPS direction on priorities included sectors such as the food and fibre rural sector, the horticulture sector, (and even the viticulture sector), and the electricity generation sector. In each of those, and other cases, the arguments involved the proposition that without water they could not produce resources which were critical to the lives of people. Hence they argued that the resources they could only produce through the use of water were necessary to secure the 'health needs of people', thus meeting the criteria of priority (b). Some advanced a more nuanced approach of arguing that care was needed in applying the priorities to ensure they were not rigidly applied, and rather were applied in a more holistic manner.
33. That last more generic argument as to the proper manner of applying the hierarchy in clause 1.3(5) needs to be addressed first. It was particularly advanced in the evidence of Ms. C. Hunter for Contact Energy²:

24. I think the latter part of this explanation is important. It is appropriate to recognise that Te Mana o te Wai is about achieving a balance between the different priorities. The three priorities are all "acceptable" outcomes, and, in my view, that is why they each need to be given priority. The ranking ensures that in making decisions the advancing of a lower order priority cannot be pursued in a way that means a higher order priority is no longer being met. That is not the same as saying that a higher order priority can be pursued without consideration of lower order priorities. Were that to happen there would be no 'balance'.

(Panel's emphasis)

34. The response to that statement by Counsel for ORC in closing was to emphasise and agree with the statement "The ranking ensures that in making decisions the advancing of a lower order priority cannot be pursued in a way that means a higher order priority is no longer being met."
35. In our view the argument advanced on Contact's behalf inaccurately describes the three priorities in clause 1.3(5) as 'outcomes' which are all 'acceptable'. Instead, as the opening words of clause 1.3(5) states, they are specifically described in the NPSFM itself as 'obligations', the concept and principles of which are described in clauses 1.3(3) and 1.3(4), which particularly focus on the health of freshwater as priority (a) expressly provides. As Counsel for ORC reminded us in closing, as decision-makers making recommendations in this freshwater area, we are bound to give effect to the responsibility expressed in Principle 4 of the NPSFM under the heading of 'Governance' being:

² C. Hunter evidence for Contact Energy Limited para 24

... the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future.

36. We interpret the priorities in the hierarchy as requiring a mandatory approach to the order or priority in which access to water is to be provided in situations where limits to protect freshwater values, attributes or states or settings fixed by the consultative NOF process may be at risk. However, in our view it is a fundamental aspect of the NPSFM that the NOF process of involvement of communities and tangata whenua must occur first to inform the fixing of any priorities that are required. That whole NOF process including the fixing of any limits by means of rules which give effect to priorities, occurs as part of the regional water plan process not as part of the earlier regional policy statement process.
37. That still leaves for decision, however, the issue of how the RPS must provide the guidance required by clause 3.2(3) which it will be recalled requires that the regional council must specify in its RPS *'how the management of freshwater in the region will give effect to Te Mana o te Wai.'* The question raised by that requirement is at what level is that management required to be specified in the RPS as contrasted with the regional water plan. In particular, does clause 3.2(3) require guidance for particular activities at a prioritisation level?
38. In our view that level of detail as to particular activity types is not required, or envisaged, by the NPSFM to be provided at RPS stage. Once again, as described above, we emphasise that the detail as to FMU identification and their values; attribute baseline states; target attribute states; environmental flows and levels; and limit setting rules – are all required to be part of the NOF process which is a regional plan process involving mandatory community and tangata whenua involvement and consultation processes. In our view it would be quite wrong and in conflict with the NOF process if the regional council at RPS level was to seek to impose some priority levels which s.67(3) of the RMA would require the regional plan to 'give effect to' without the RPS having undertaken the NOF process.
39. What that realisation takes one to is the conclusion that clause 3.2(3) of the NPSFM is requiring a high-level description only at RPS stage as to how the RPS will give effect to Te Mana o te Wai. That view is consistent with the fact that the NPSFM only expressly requires an RPS to address and provide for Visions as an objective – and as we will discuss later in the topic discussions those Visions are also set at a high level only.
40. For the reasons we go on to address in the chapter or topic decisions which follow, we are satisfied that the PORPS, as recommended to be amended by those topic decisions, does address the manner in which Te Mana o te Wai is to be given effect – at an appropriate high level.
41. We also make the point that the NOF process will address the detail of prioritisation that may be seen as necessary as part of the NOF process. It is that NOF process, informed by community and tangata whenua involvement, which will identify any priorities needed in any particular catchment, part FMU or FMU. Depending on the context and settings in any particular catchment or FMU or part FMU differing activities may fall in either the second or third priorities, or if sufficient quantities at sufficient quality levels are available, then possibly access to water may be able to be shared between the second and third priorities at various times of the season, or even time of the day or night. But once again, as immediately becomes obvious when those various potential permutations are raised, it is necessary to have the NOF process conducted to inform what sort of detail is required in particular catchments, part FMUs or FMUs.
42. One area which did arise in the course of hearings which we think we should helpfully resolve in these opening legal considerations is whether or not other provisions in the PORPS, and in the

prioritisation required by clauses 1.3(5) and Obj 2.1, are limited to New Zealand, or should also take into account for example the health needs of people living overseas to whom our products are exported – including bottled freshwater.

43. Our attention was drawn in the evidence of Ms. Boyd in reply for ORC to the provisions of Principles (4)(e) and (f) respectively as to Stewardship, and Care and Respect, where in each case ‘New Zealanders’ are specifically referred to – and we note also that in (f) reference is also made to the ‘nation’. Those type of references in the Principles need to be considered alongside the facts that this is a ‘National’ policy statement about freshwater, and is based on assessments in a NOF process relating to catchments located in this nation of Aotearoa. Taking all those factors into account we consider the references in the NPSFM to catchments and FMUs, and to health needs of people and communities, are plainly limited to catchments, people and communities within New Zealand.

2.2. Interpretation Issues arising from LF Chapter Usage

2.2.1. Objectives – LW-WAI-O1 & the use of ‘mauri’

44. The relevant chapter in the PORPS where the NPSFM is primarily given effect for the purposes of clause 3.2(3) of the NPSFM is entitled LF-WAI – Te Mana o te Wai. Despite some criticisms that in broad terms LF-WAI-O1 – Te Mana o te Wai effectively repeats the NPSFM provisions, there are some subtle but important differences. An immediate one is that clause 1.3 of the NPSFM utilises five sub-clauses to describe Te Mana o te Wai in terms of a concept description in sub-clauses (1) and (2); six principles in a framework in sub-clauses (3) and (4); and a hierarchy of priorities in sub-clause (5). The underlying concept is described in terms that Te Mana o te Wai ‘refers to the fundamental importance of water’ and proceeds to emphasise that it protects ‘the mauri of the wai’, before concluding with references to restoration and preserving of ‘the balance between the water, the wider environment, and the community’ as discussed earlier. The middle of the description in clause 1.3(1) states that Te Mana o te Wai ‘protects the mauri of the wai.’
45. By contrast, in the form finally recommended to us by the s.42A report writers, LF-WAI-O1 commences with a short introduction with a focus on the word ‘mauri’:

Objective LF-WAI-O1 – Te Mana o te Wai

The mauri of Otago’s water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that:

- (1) water is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,
- (2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,
- (3) each water body has a unique whakapapa and characteristics,
- (4) fresh water, land and coastal water have a connectedness that supports and perpetuates life,
- (4A) protecting the health and well-being of water protects the wider environment
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports, and

(6) all people and communities have a responsibility to exercise stewardship, care, and respect in the management of freshwater.

46. That commencing focus on the word ‘mauri’ when it is not itself expressly defined in the PORPS, the RMA or the NPSFM led to criticisms of having a principal freshwater objective of uncertain meaning.

47. On the evidence and submissions we heard, even from Kāi Tahu, the exact meaning of ‘mauri’ is not readily definable as it relates to a combination of physical and ecological elements, which are scientifically demonstrable, as well as amenity aspects, which are far less capable of precise description. In addition it can involve a range of te ao Māori concepts, both physical and metaphysical. They can include physical attributes such as the capability of freshwater resources to be used for mahinga kai purposes, or the gathering of resources such as harakeke for weaving or tāniko, or raupō or toetoe for thatching or tukutuku. The metaphysical aspects can include such aspects or attributes as whakapapa relationships, traditional pūrākau or historical tales, the spirit or wairua of particular water bodies in their own locational context.

48. In summary we are of the view that the subtle change in placement or use of the word ‘mauri’ between the NPSFM approach, where it does not need definition because the actions surrounding its use describe how it is protected, to the PORPS situation where it is the sole aim of the actions, is fraught and unhelpful. We consider a change in wording of the introductory wording to LF-WAI-O1 can achieve what we perceive its intention to be, without weakening the underlying protection approach to freshwater management which accords with the Te Mana o te Wai concept. That can be achieved by changing the opening wording in LF-WAI-O1 to state:

~~The mauri of~~ Otago’s water bodies and their health and well-being ~~is~~ are protected, and restored where ~~it is~~ they are degraded, so that the mauri of those water bodies is protected, and the management of land and water recognises and reflects that:

...

49. That sequencing more closely aligns with the approach utilised in clause 1.3(1) as to the concept of Te Mana o te Wai in the NPSFM, and does not require the difficult approach of attempting to define a well-nigh indefinable concept such as ‘mauri’.

2.2.1.1. Recommendation

50. Amend LF-WAI-O1 to read:

LF-WAI-O1 – Te Mana o te Wai

~~The mauri of~~ Otago’s water bodies and their health and well-being ~~is~~ are protected, and restored where ~~it is~~ they are degraded, so that the mauri of those water bodies is protected, and the management of land and water recognises and reflects that:

...

2.2.2. Meaning of ‘health’ and ‘well-being’ and naturalness for water and communities

51. The term ‘health and well-being’ is used in the NPSFM and in various places in the PORPS either as a phrase or in varying situations as individual words. In many cases, such as again in subclause 1.3(5) of the NPSFM as to the first priority, it is solely used in relation to freshwater resources. In other settings such as clause 1.3(4)(f) of the Principles the word ‘health’ is used alone relating to

the 'health of the nation', and in subclause 1.3(5)(b) is used on its own in relation to 'the health needs of people.' In sub-clause 1.3(5)(c) the word 'well-being' is used on its own to refer to the 'social, economic and cultural well-being' of people and communities.

52. In the PORPS the phrase again commonly appears in conjunctive form, as in recommended amended LF-WAI-O1 (4A) as to the 'health and well being' of water. In the Policies at LF-WAI-P1 it is used as a phrase in relation to 'water bodies' and 'freshwater ecosystems' and in relation to the environment – which by the RMA definition used in the PORPS includes 'people and communities'. These are only some of the examples of the use of these words, but the issues arising from their use comes into the most obvious focus in considering the final recommended version of Policy LF-WAI-P1 which rewords subclause 1.3(5) of the NPSFM in the following manner:

LF-WAI-P1 – Prioritisation

In all decision-making affecting fresh water in Otago, prioritise:

- (1) first, the health and well-being of water bodies and freshwater ecosystems, (te hauora o te wai) and the contribution of this to the health and well-being of the environment (te hauora o te taiao), together with the exercise of mana whenua to uphold these,
- (2) second, health needs of people, (te hauora o te tangata); interacting with water through ingestion (such as drinking water and consuming resources harvested from the water body) and immersive activities (such as harvesting resources and primary contact), and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

53. The various usages of the words 'health' and 'well-being' have been argued to enable different interpretations. On the one hand the ORC s.42A report writer Ms Boyd has argued in relation to the priority provisions of the NPSFM that the 'health needs of people' are restricted to direct usages or effects of water. That is reflected in the more precise wording used in sub-clause (2) of the recommended version of Policy LF-WAI -P1.
54. Other user groups have variously argued that their particular use of water can demonstrate a very close linkage with human health and/or well-being. For example, electricity generators pointed to numerous linkages of the use of electricity generated by hydro which are potentially critical to the health of many people. They would include basic heating in homes, the ability to pump drinking water, or critical hospital usages, to name but some. Food and fibre producers argued that water was critical to their ability to supply food – an absolute basic for human health.
55. Other uses such as for major community drinking water supply purposes, such as those for Dunedin or Oamaru, then give rise to even further complications. In the former case of Dunedin much of that water supply from the Taiari catchment will be used for industrial or commercial purposes, or even for domestic lawns or decorative gardens. Those of course are only very indirectly able to be linked in some cases to 'health needs of people'. In Oamaru's case the supply from lower Waitaki River provides for a mix of irrigation use, before the balance is used for urban drinking water supplies, which once again as with Dunedin's supply will also be used as well for industrial and commercial uses, or other domestic uses not directly related to 'health needs of people'. Other rural users with particular sensitivity to loss of or reduction in water supply include

hydroponic growers, nursery growers with highly susceptible immature root stock or vegetable plants, and viticulture users. Submitters from those varying user groups similarly advanced arguments that by taking a broad approach to interpretation their activities could be classed as essential or conducive to the 'health' or 'well-being' of people.

56. One of the immediate issues arising from those considerations, which caused much debate before us, was just what was meant by the terms 'health' or 'well-being' of waterbodies, and whether those words were used individually or jointly as a conjunctive phrase. That argument can be coupled with the related issues raised in respect of other provisions in the NPSFM and the PORPS which concerned 'natural' state; 'restoration', (i.e. restored to what state?); or a 'degraded' state.

57. These types of issues came into the most stark relief in the Objective stating the Visions at LF-FW-O1A of the recommended changes suggested in the s.42A reply version. It states that one vision objective is to be:

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

58. With the exception of the 'Clutha Scheme', (which is undefined in the NPSFM as to which catchments or sub-catchments are included), the concern expressed by many submitters was that long-standing infrastructure had existed for decades, or even longer than a century, for gold-mining, irrigation or drainage purposes. The concern for many submitters was that such human-made infrastructure development could mean the water bodies affected were technically regarded as being 'degraded' from a natural state. Their concern was that an interpretation might be applied that the health or well-being of the water was technically not protected while they were in that 'non-natural' state, and/or that the natural state needed to be restored by removing infrastructure. Yet they emphasised that the infrastructure changes had been accepted as part of the physical environment for very long periods – often many decades or longer.

59. Particularly in Central Otago where multitudes of smaller, but nonetheless substantial, dams and races existed for gold-mining or irrigation purposes, and had been for decades, the economic effects of any requirement to restore 'natural' conditions could be huge. The Clutha Scheme was not affected as it is included in clause 3.31 of the NPSFM, which provides an exception for it and other large hydro-electric generation schemes in certain circumstances, even from national bottom lines. Other examples, however, of either major irrigation canals or storage dams, or major drainage infrastructure or works were described. Some of those in the broader Clutha catchment were not part of the Clutha hydro electric scheme, and in the lower Waitaki and the Pomahaka respectively many other examples were described.

60. Closing submissions by counsel for ORC Mr. S. Anderson drew attention to the fact that in some resource management areas, such as landscape assessments, 'natural' landscapes have been held in the Courts to not necessarily require a landscape free of human intervention. In many cases farm scenery has been held to have natural landscape values despite the land originally being cleared by humans. Notwithstanding that type of RMA approach, Mr. Anderson also referred³ us to a range of relevant provisions in the NPSFM some of which particularly highlight the basis for submitter concerns.

61. For example, the definition of 'naturally occurring process' in the NPS FM is one that '*means a process that occurs or would occur, in the absence of human activity*'. He continued, though, to

³ At pp.15-17

point out that that definition only has application in situations where in assessing human impacts all natural changes are excluded from the assessment (NPSFM clauses 1.3(4), 3.19 and 3.32).

62. However, clause 3.25 of the NPSFM which addresses sedimentation issues in respect of rivers has a definition of 'naturally' as meaning '*its state before the arrival of humans in New Zealand*'. Mr. Anderson then made the submission that the use of such a specific definition solely in clause 3.25 for a specific assessment process relating to sedimentation meant that other uses of 'natural' or 'naturally' in the NPSFM should not be given that meaning. He supported that proposition by reference to clause 1.4 as to the interpretation of attribute states effectively being assessed as the status quo, because the definition of a 'baseline state' for attributes in Appendix 1B is identified as being 'best of the state' at the date the relevant objective was set, or 7 September, 2017 being the applicable date of the NPSFM provision itself.
63. Mr Anderson then concluded ORC's submission on this issue by advancing the proposition that "*What matters most is the context in which the word is used in this part of the vision in the RPS.*" (para132) We agree with that proposition.
64. The ORC submission continued by quoting from Ms Boyd's reply report at paragraph 56 as to why she was recommending use of the phrase 'to the greatest extent practicable' in this context in her recommended amended wording for LF-FW-O1A(4):
- In my view, this recognises that there are practical constraints on the ability for water bodies to reflect their natural form and function (i.e. due to modification). However, the fact that water bodies have been modified should not, alone, be a reason not to pursue opportunities to improve their form and function where these exist and can be practically achieved.*
65. We will return to that issue when considering that provision in detail later in this report as to its factual subject matter.
66. What all these complications point to is the inherent danger in utilising absolute terminology in relation to the use of freshwater, when context and setting can have so many complications at so many levels. These complications also highlight why community and tangata whenua involvement in the NOF process is so necessary to ensure that informed decisions can be made in the detailed context and setting for particular catchments, FMUs or part FMUs. As discussed earlier, the outcome of that NOF process may well be a mix of limits at various times of the year, or even during a 24 hour period, enabling a broader range of sophisticated usage of freshwater for second or third priority purposes, while maintaining freshwater attribute states at the level decided to be most applicable to maintain the health and well-being of water bodies.
67. As a consequence of this conclusion, in the more detailed subject matter considerations of topics or provisions which follow we will be endeavouring to ensure that absolute positions in terminology are not expressed which may detract from the flexibility of detailed assessment of attribute setting and limit setting which can be better considered at the regional water plan stage as part of the NOF process.
68. However, we do consider in respect of these overall type of interpretation issues in the FPI that it is incumbent upon this Panel at RPS stage to provide its views on what meaning we consider needs to be applied to the second priority in clauses 1.3(5) and 2.1 of the NPSFM as reflected in LF-WAI-P1(2). That is because clause 3.2(2)(c) of the NPSFM requires that every regional council must give effect to Te Mana o te Wai and in doing so must:

- (2) (c) apply the hierarchy of obligations, as set out in clause 1.3(5):
- (i) when developing long-term visions under clause 3.3; and
 - (ii) when implementing the NOF under subpart 2; and
 - (iii) when developing objectives, policies, methods, and criteria for any purpose under subpart 3 relating to natural inland wetlands, rivers, fish passage, primary contact sites, and water allocation; and

69. In the PORPS process this Panel is charged with considering the long-term visions, and objectives policies and methods which will apply to water allocation, albeit only at a high level for the reasons earlier discussed.

70. It will be recalled it was recommended by the final s.42A reply report that LF-WAI-P1(2) should be worded:

(2) second, health needs of people, (te hauora o te tangata); interacting with water through ingestion (such as drinking water and consuming resources harvested from the water body) and immersive activities (such as harvesting resources and primary contact), and ...

71. Almost all of the submissions we received about the second priority were from those who argued their activity or use should be regarded as being included in the second priority rather than the third. In so doing they were of course arguing for a far broader interpretation of the second priority than the ORC s.42A approach as reflected in LF-WAI -P1(2) above. The ORC approach is by contrast narrow and has a focus on direct health needs of those directly drinking, or in contact with freshwater. Those arguing for a broader interpretation asserted that if priority one was satisfied then a state of freshwater health would as a necessary consequence mean it was safe for human consumption and contact.

72. We agree with the rebuttal of that argument advanced by Mr. Anderson and Ms Boyd for ORC who argued that quantity and quality considerations for ecological and human health needs were not always identical. The examples they gave provide answers to that proposition. Their examples included that water may well be considered healthy for ecological purposes, yet contain *E.coli* which is not safe for human health; or water at a certain flow level in a river may be sufficient to provide for human health needs in terms of relatively restricted amounts required for drinking water, but too low in flow to sustain wider ecological health needs of fish and other species of flora or fauna. Those are strong arguments in support of the proposition that two priority levels are needed for those differing health needs of freshwater and related ecology, and human health needs.

73. However, the most compelling reasons for adopting the narrower approach include additional considerations.

74. The first of those is once again the overall regime in the NPSFM of the NOF process for setting attribute states and targets and the concomitant setting of limits through rules. For that to be able to function effectively the balancing required by Te Mana o te Wai requires that quantity and quality limits are able to be provided for at closely confined levels in priorities one and two, so that the broader priority conflicts can be resolved through the NOF process. That can only realistically occur if there is a high level of certainty as to what falls within priority two so that the broader aspects of priority three of 'social, economic, and cultural well-being' of people and communities can be resolved through the NOF process. Any major broadening of the interpretation of 'health needs of people' would mean that the very types of conflicting

arguments we have heard advanced, which much more closely fall within descriptions of ‘social, economic and cultural well-being’, could absorb all available water at priority two, leaving the other important priority three needs with no or minimal provision, or an inability to share in allocation.

75. The final consideration is that the example actually given in the NPSFM for priority two is that of drinking water. That makes it plain in our view that a very direct relationship with freshwater is what was intended. Had it been intended to include national interest considerations or less direct uses, the drafting example could have been expected to be broader, such as ‘nationally significant hydro-electricity needs for the health of people’, or ‘irrigation for food supply’. The lack of any such broader example on its face supports the proposition that the interpretation was intended to be narrow, and related to more restricted direct human health needs.

76. However, as Ms. Burkhardt for Manawa Energy pointed out in her submission (at paras 44 et seq) the s.32 analysis of the NPSFM asserted (at pages 45-46) that Policy 4 of the NPSFM as to freshwater being managed as “part of New Zealand’s integrated response to climate change”:

...contributes to achieving the Objective (2.1 (1)(b) and (c)), by preserving hydroelectricity flexibility, which will secure renewable electricity generation, which is important for meeting the health needs of people (clause (b)) as well as enabling communities to provide for their social, cultural and economic well-being, now and into the future (clause (c));

(Panel’s emphasis)

77. Ms. Burkhardt used that statement to develop an argument that different priorities could apply to the same use and that it supported a broad interpretation of the second priority. We acknowledge the force of her argument but make two points about it.

78. The first is the obvious one, which we address in more detail in the next section, that the s.32 analysis for the NPSFM fails in this discussion to recognise that the Preamble of the NPS REG expressly makes it plain that the NPS REG “*does not apply to the allocation and prioritisation of freshwater as these are matters for regional councils to address in a catchment or regional context...*”. The discussion in the s.32 analysis as a consequence is flawed as the preamble expressly makes it plain that the NPS REG does not provide any particular level of priority as to allocation and prioritisation, even for nationally significant renewable hydro generation needs.

79. The second point to make is that hydro generation needs for freshwater in a catchment can be so large that if it was to be considered as part of the second priority then third priority needs could be unable to be effectively addressed, if second priority needs absorbed all available water. We do not consider that was an intended outcome of the NPSFM priority system.

80. In summary then we agree with the approach advanced by ORC that the intent of priority two is only to capture that limited amount of water involved in contact usages which can directly affect human health needs, i.e. the taking of freshwater solely for drinking water purposes or other direct engagement activities. That should leave reasonable quantities available in most situations, short of drought conditions, for use by priority three users. The detailed methods of allocation amongst those users will then be able to be informed during the NOF process - where the national significance aspect to give effect to the NPS REG can be considered.

81. The reference to hydro-electricity generation we have just made obviously raises one final issue arising from these initial interpretation issues which we must also turn to address now.

2.3. Effect of the NPS REG on freshwater issues

82. In the Preamble to the NPS for Renewable Electricity Generation 2011 (NPS REG) the following is stated:

This national policy statement does not apply to the allocation and prioritisation of freshwater as these are matters for regional councils to address in a catchment or regional context and may be subject to the development of national guidance in the future.

83. The provisions of the NPS REG are strongly permissive and directory that regional policy statements are to make provision for all the matters it addresses, which are best summarised by quoting the one overarching Objective of the NPS REG:

Objective

To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.

84. We received submissions from Manawa Energy Limited, (the owners of the Waipori and Paerau/Pateroa hydro-electric scheme undertakings), effectively suggesting that in relation to electricity generation the obligation to give effect in the PORPS to the NPS REG required a degree of priority being accorded for REG. That was summarised at paragraphs 51 to 53 of Ms. Burkhardt's submissions as follows:

51. I do not necessarily consider that there a conflict that needs to be resolved here, in the same way the NZCPS port and avoid policies need to be. Manawa has not suggested that the waterbody first approach should be put to one side to allow for hydro-electricity. But the short point is that instead of approaching it as a matter of conflicting direction, the pRPS needs to ensure that it gives effect to, i.e implements, both sets of national direction as best it can.

52. This is not by allowing HEPS regardless of its effects, but by ensuring that there is some recognition and provision for REG, and a priority for these activities when looking at the suite of uses that will be enabled above bottom lines.

53. In other words, providing for some degree of priority, or at least special recognition, for REG over other uses that are not deemed nationally important.

and at paragraph 83:

83. The pRPS must, I submit, foreshadow the choices that need to be made in the Land & Water Regional Plan and provide clear direction on provision for hydro-electricity generation rather than leaving this to be treated the same as other general uses of water. This does not need to be, and should not be, parked to be addressed via the regional plan. To do so would not comply with the statutory

requirements for a regional policy statement. Either way, there is a strong case for prioritising access to water for HEPS over other uses, and care needs to be taken to ensure that the special recognition made for REG in the pRPS is not watered down by providing equivalent recognition to other uses which do not have the same level of importance.

(Panel's emphasis)

85. In our view, once again the propositions underlined above fail to properly recognise the statement in the Preamble that the NPS REG does not apply to allocation and priority issues “*as these are matters for regional councils to address in a catchment or regional context....*” As we have made clear in our discussion of priority issues further above, the catchment context is intended by the NPSFM to address priority and allocation issues by those issues being informed by the NOF process. We do not accept that at regional policy statement level it is appropriate to try to settle either priority or allocation issues in detail. Provided the PORPS properly recognises and provides a framework of objectives, policies and methods that recognise the national significance created by the NPS REG, that is all that is required at this higher level of provision.
86. The detailed subject consideration of the objectives, policies and methods which follows will address the issue of whether that is achieved by the PORPS. That will include a consideration of the Visions objectives, which is where the recognition Manawa seeks will need to be addressed. Reference to the Visions objectives itself raises other legal issues we now address.

3. Visions

3.1. Validity of the recommended Single Objective approach in LF-FW-01A

87. As notified the pORPS had FMU visions for the following five FMUs:

LF-VM- 02 Clutha Mata-au FMU vision

LF-VM-03 North Otago FMU vision

LF-VM-04 Taieri FMU vision

LF-VM-05 Dunedin & Coast FMU vision

LF-VM-06 Catlins FMU vision

88. Allowing for some particular locational or contextual differences by and large the visions contained in a repetitive manner similar common provisions broadly intended doubtless to give effect to Te Mana o te Wai.
89. In reply evidence Ms Boyd for ORC instead proposed a new Objective entitled:

LF-FW-01A – Visions set for each FMU and rohe

90. That recommended new Objective was intended to draw under the one objective matters which were common to all Visions objectives, leaving the FMU Visions objectives only having to address catchment related issues in that particular FMU. That approach was challenged by some submitters as being invalid on the basis that it did not comply with the NPSFM method of setting the visions. So that raises the question of what the NPSFM actually requires a regional council to do in setting Visions?

91. The start point for that consideration is clause 3.3 of the NPSFM which in relevant aspects provides:

3.3 Long-term visions for freshwater

(1) Every regional council must develop long-term visions for freshwater in its region and include those long-term visions as objectives in its regional policy statement.

(2) Long-term visions:

(a) may be set at FMU, part of an FMU, or catchment level; and

(b) must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible); and

(c) identify a timeframe to achieve those goals that is both ambitious and reasonable (for example, 30 years after the commencement date).

92. The new recommended version LF-FW-O1A has been advanced by Ms Boyd and counsel for ORC as simply being effectively a word-smithing exercise capturing a range of common issues in one objective which is applicable to all FMUs. The advantage they point to is a simplification for the reader of the PORPS with unnecessary repetition being avoided because the common features are stated in the one objective as being applicable in each FMU.

93. This position was challenged by a number of submitters such as OWRUG, Federated Farmers & Dairy NZ and Horticulture NZ. The former asserted it was an invalid approach at law on the basis that clause 3.3(2) of the NPS FM does not provide for 'region-wide' vision objectives, and in addition, in the case of Horticulture NZ, asserted that the recommended region-wide approach also overlooks or supersedes community consultation on the Visions.

94. On the invalidity argument Counsel Ms. B Irving for the OWRUG group of submitters submitted at paragraph 66 of her submissions:

66. The NPSFM is clear that freshwater visions must be set at an FMU, part FMU or catchment level. Clause 3.3(2) does not provide for a region wide vision. ...

95. The submission underlined the word 'must' presumably to emphasise the mandatory nature of the statutory direction. However, that overlooks what clause 3.3(1) actually says. It says:

(1) Every regional council must develop long-term visions for freshwater in its region and include those long-term visions as objectives in its regional policy statement.

(Panel's emphasis)

96. The only mandatory use of the word 'must' in clause 3.3(1) in respect of this issue as to how broadly framed visions must be, is in fact at a region wide level. It is only the enabling, not mandatory wording, of clause 3.3(2) which enables visions to be set at a more detailed level when it says:

(2) Long-term visions:

(a) may be set at FMU, part of an FMU, or catchment level; and

(Panel's emphasis)

97. In our view the region-wide vision objective approach is plainly available at law, as are visions set at FMU, part FMU or catchment level.
98. We also perceive that the major thrust of the additional Horticulture NZ criticism as to impacts on consultation outcomes was directed more at the omission in recommended LF-FW-O1A of references to food production. At paragraph 47 of the Horticulture NZ submissions it was asserted that food production was a unique characteristic of particular parts of the region and where identified as such should be included in the visions for those parts, or alternatively included in LF-FW-O1A. That issue is not so much a legal issue on validity or otherwise, as one involving planning considerations, so it will be dealt with in the subject matter reasoning about the wording of LF-FW-O1A.
99. The Panel accepts, therefore, that it is in accord with common sense and brevity to combine common features in one Visions objective. Moreover, as Objective O1A is stated to be applicable in each FMU then we can see no conflict between its combined approach and any of the provisions of clause 3.3. The recommended new provision Objective O1A expressly states that it applies in each FMU, both in its title and in its opening words:

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

In each FMU and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VM-02 to LF-VM-06:

(1)...

100. We are satisfied no legal error is made in adopting that recommendation aspect from the Reply report.

3.2. Are the Visions required or able to address prioritisation or allocations?

101. The requirement for Visions to be set in sub-clauses 3.3(1) and (2) of the NPSFM have been set out in the discussion above.
102. The detailed provisions as to how those Visions are to be produced are found in sub-clauses 3.3(3) and (4) which provide:

-(3) *Every long-term vision must:*
- (a) be developed through engagement with communities and tangata whenua about their long-term wishes for the water bodies and freshwater ecosystems in the region; and*
 - (b) be informed by an understanding of the history of, and environmental pressures on, the FMU, part of the FMU, or catchment; and*
 - (c) express what communities and tangata whenua want the FMU, part of the FMU, or catchment to be like in the future.*
- (4) *Every regional council must assess whether each FMU, part of an FMU, or catchment (as relevant) can provide for its long-term vision, or whether*

improvement to the health and well-being of water bodies and freshwater ecosystems is required to achieve the vision.

103. The basic thrust, then, of the development of Visions requires significant community and tangata whenua engagement, with subclause 3.3(3)(c) requiring the Vision to state the outcome of the wishes of the community and tangata whenua for their FMU, part of the FMU, or catchment. In addition, every long term Vision is to be informed by historical and environmental pressures on an FMU, part of the FMU, or catchment. That in logic must include physical historical developments in or affecting water bodies, as subclause 3.3(3)(b) requires.
104. Finally, subclause 3.3(4) requires that an assessment has to be made by the regional council as to the health and well-being of the water bodies and freshwater ecosystems involved, and whether their state needs improvement to achieve the vision of communities and tangata whenua.
105. Many of the functions required by these sub-clauses are expressed in a manner which is inherently challenging – such as any attempt to identify and express what a community and tangata whenua “*want the FMU, part of the FMU, or catchment to be like in the future.*” (cl.3.3(3)(c)).
106. Those challenges are, however, made clearer by a close reading of subclause 3.3(3)(a) which requires engagement with ‘*communities and tangata whenua about their long-term wishes for the water bodies and freshwater ecosystems in the region.*’ We have underlined the phrase ‘*water bodies and freshwater ecosystems in the region*’ as it indicates a very broad engagement ‘in the region’. That region-wide engagement as to long-term wishes for water bodies and ecosystems in the region must envisage that the engagement is to be with various communities but at a region-wide level, which will be at a high concept level.
107. However, sub-clause 3.3(3)(c) then requires the regional council to ensure that the individual Visions “*express what communities and tangata whenua want the FMU, part of the FMU, or catchment to be like in the future.*” That appears to envisage that the engagement process required by 3.3(3)(a) will produce views of communities and tangata whenua as to more detailed wishes for particular FMUs, part FMUs, or catchments, which the Visions must endeavour to express.
108. A further guide as to what is intended for the visions arises from the fact that the regional water plan NOF process required by the NPSFM, which delves further into detail, does not precede but rather follows on the Visions process in the RPS.
109. It seems to us both logical and in accordance with the sequential timing involved in the NPSFM for the Visions to be settled at a high level, with the consequent NOF process delving into the detail as the values and relevant attributes are assessed and fixed, as well as all the related NOF considerations in relation to particular FMUs, part FMUs or catchments.
110. The last stage for the Visions is that sub-clause 3.3(4) requires an assessment at an FMU, part of an FMU, or catchment level as to whether improvement is needed. It might on one view appear difficult to see how that can practically be done before detailed attribute states are assessed in the NOF process.
111. As a consequence at first glance an uncertainty might be argued to arise out of the drafting of the Visions sub-clauses 3.3(3) and (4), and it is probably not too surprising that many submitters strongly advanced the proposition that prioritisation and/or allocation issues had to be

addressed at Visions stage, as that is what the communities engaged were seeking. That argument has a beguiling attraction, but it faces the problem that it flies in the face of the sequencing in the NPSFM described above and earlier in this report. That sequencing envisages high level concepts being addressed at the Visions stage in the RPS, followed by detailed attribute identification enabling prioritisation and allocation to be addressed. That is to occur later in the NOF process, as part of the regional water plan process.

112. Where the argument advanced by submitters seeking prioritisation and allocation direction in the Visions goes awry is in the failure to properly appreciate what sub-clauses 3.3(3) and (4) are really addressing. A closer reconsideration of their wording demonstrates that flaw. In our view the primary focus of sub-clauses (3) and (4) is on Te Mana o te Wai i.e. they are focussed at a high level primarily on the health and wellbeing of the water bodies in the region and their freshwater ecosystems, but also on the other priorities the communities' wish for which may impact the first priority. They are not focussed primarily on the use of water for human social, economic and cultural wellbeing.
113. As we underlined above sub-clause 3.3(3)(a) requires engagement with communities and tangata whenua *'about their long-term wishes for the water bodies and freshwater ecosystems in the region'*. That sub-clause does not specifically mention their wishes as to the uses of water to provide for their social, economic and cultural wellbeing.
114. Similarly, 3.3(3)(b) refers to the vision being informed by *'an understanding of the history of, and environmental pressures on, the FMU, part of the FMU, or catchment'*. In the context of 3.3(3)(a), and of 3.3(3)(c) and 3.3(4) which we discuss below, we consider that 'history' and those 'environmental pressures' relate primarily to the health and wellbeing of the water bodies and related ecosystems, not the history and environmental pressures on communities or tangata whenua.
115. So, too, in sub-clause 3.3(3)(c) the expression of what the communities and tangata whenua want the FMU, part FMU or catchment to be like must relate primarily to what the engagement in 3.3(3)(a) was about – which was *'their long-term wishes for the water bodies and freshwater ecosystems in the region.'* The expression of those wishes, therefore, in the Visions objective is to be at that high level of what communities and tangata whenua want in respect of the state of health and well-being *'for the water bodies and freshwater ecosystems in the region'* as the primary factor with the other priorities in Te Mana o te Wai having lesser priority.
116. That interpretative approach to sub-clause 3.3(3) then fits hand in glove with the statement in sub-clause 3.3(4) that the regional council must assess whether improvement is needed for each relevant FMU, part FMU or catchment to be able to provide for its vision. That assessment is expressly stated in sub-clause 3.3(4) to relate *'to the health and well-being of water bodies and freshwater ecosystems'*. That wording in respect of the issue of the potential need for improvement is related specifically to health and wellbeing from a water-centric viewpoint in relation to water bodies and freshwater ecosystems.
117. When that water-centric, or Te Mana o te Wai, focus is applied to sub-clauses 3.3(3) and (4) we are satisfied that in general terms the PORPS Vision objectives must be set at the high level discussed above. For the purposes of sub-clause (4) for example, the Visions have to express community and tangata whenua wishes, and include the ORC assessment as to whether and to what extent human-made physical changes to natural flows are best left to function as they have done, or need change to ensure the health and wellbeing of water bodies or ecosystems affected by their existence. In respect of the most significant physical works in Otago, namely the Clutha

Scheme, that task was assisted by the express recognition of the national value of that Scheme remaining in place by the provisions of sub-clauses 3.31(2) and (4) of the NPSFM itself.

118. What that allows at the Visions objective stage in terms of capturing human wishes to use water to provide for their social, economic and cultural purposes, is the expression of an objective of enabling that in circumstances where the health and well-being of water bodies and ecosystems are at a level where that can occur. However, this does not necessarily mean that such existing uses of water for social, economic and cultural purposes should cease until the health and well-being of a water body reaches a desired level. Rather, it could mean that the effects of such uses are reduced in some way, where needed, to enable the health and well-being of a water body to reach the desired level. This comes back to the concept of Te Mana o te Wai in clause 1.3(1) of the NPSFM, *“about restoring and preserving the balance between the water, the wider environment, and the community”*.
119. We have concluded, therefore, that the Visions are intended by the NPSFM to primarily operate at that high level of addressing the health and well-being of water bodies and their related freshwater ecosystems. Issues of human use as a second priority, and as a third priority, can be addressed, but again at that high level. In other words, the issues of prioritisation and allocation of freshwater for those purposes must be left until the NOF stage when detailed attributes to be identified and targets required are being set.
120. That interpretative approach also accords with sub-clause 2.2(c) of the NPSFM which requires the regional council to apply the hierarchy of obligations as set out in clause 1.3(5) when developing the long term visions under clause 3.3. The first in that hierarchy of obligations is of course *‘the health and well-being of water bodies and freshwater ecosystems’*. The overall PORPS approach in the Visions objectives accords with the priority of the hierarchy, which is also obviously applied in clause 3.3 of the NPSFM itself as to the Visions.
121. The consequence of those conclusions is that, outside of the recognition of human needs alluded to in paragraph 116, we will not be addressing issues of allocation priorities for such uses in the Visions such as priority for food production; priority for taking of water for storage; priority for renewable electricity generation purposes; priorities for Dunedin’s water needs; the central Government’s recent Emission Reduction Plan and/or National Adaptation Plan - or any other priority of the human need related issues that were argued should be provided for in the Visions. All of those are more detailed uses of water that are not required to be addressed at the Visions stage but rather identified and addressed in appropriate detail at the NOF stage in the regional water plan process.
122. For the same reasons, timeframes issues arising out of subclause 3.3(2)(c) of the NPSFM related to human needs rather than aspirations related to the health of freshwater and related ecosystems are a second and third priority consideration we need to address at a higher level at the RPS Visions stage. In terms of clause 3.3(4) timeframe issues related to the potential for ‘improvement to the health and wellbeing of waterbodies and freshwater ecosystems’ are part of the considerations of the RPS Visions stage. So we turn to some legal issues in respect of those timeframes now.

3.3. Timeframes issues in Visions for the health and wellbeing of freshwater

123. The provision requiring timeframes is found in sub-clause 3.3(2)(c) of the NPSFM. It follows on from a provision requiring goals to be set which is found at sub-clause 3.3(2)(b). Together they provide:

(2) Long-term visions:

(a) may be set at FMU, part of an FMU, or catchment level; and

(b) must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible); and

(c) identify a timeframe to achieve those goals that is both ambitious and reasonable (for example, 30 years after the commencement date)

124. The legal issues that were canvassed at the hearing in regard to timeframes were often naturally coloured by the arguments discussed above relating to prioritisation and allocation. However, in some respects, the best example of which was the Manuherehia catchment, timeframes for improvements to the health and well-being of freshwater in the river could significantly affect upper catchment water users. We received compelling bodies of evidence as to the complex mix of physical water storage and distribution structures which have been in place in that catchment for over 100 years for some infrastructure and for many decades for other infrastructure. It is plain from that evidence that the health and well-being of the river was definitely not the first priority as those structures were put in place. Rather human economic and social needs were prioritised. Consequently that catchment is at the forefront as an example of where the change in statutory emphasis under the NPSFM has the capacity to have significant detrimental social, economic and cultural effects on communities reliant on water provided through physical man-made structures as described.
125. That significant impact could, of course, be mitigated by providing for extended timeframes to achieve the goals set in the Visions for a healthy river. What the evidence also plainly demonstrated was that extended time frames may be a practical and economic necessity to allow major physical changes in the methods of operating small upper storage dam facilities to allow more flow to sustain downriver freshwater health and well-being.
126. Some of the structures described to us could only be physically altered to achieve that outcome with a mix of drawdown or drainage, each of which may affect the availability of water from storage in the year the works are carried out, and major reconstruction alteration or renewal works. The works needed have yet to be designed or commenced as final design work cannot realistically be completed until after the NOF process settles the quantities needed for freshwater health and well-being. The economic capital costs of the works needed will themselves place burdens as to financing on those supplied by such infrastructure. Funding for that capital cost will have to be negotiated either with private sources such as banks, or possibly in combination with local or national government bodies. Again all of that economic consequence cannot even commence until after the NOF process enables final design work to be done, which will then need to be quantity assessed to come up with the capital costs involved.
127. If the Manuherehia is a classic example of the type of Central Otago drylands pressures on timetables for goals for achieving healthy freshwater then the Pomahaka catchment is a good example at the other end of the scale in a higher water table area. In the lower reaches of that catchment past significant physical drainage works often involving straightening of drainage courses has been carried out in periods when freshwater health did not have the priority it now has in the NPSFM. Those works can have significant inputs to sediment-laden detrimental effects on freshwater health. However, once more until the NOF process has been completed it will be uncertain what relevant attribute states have to be met and how that is to be achieved. Once again the financial impacts on affected farming communities may be significant, particularly if they were to be unable to regularly maintain straightened man-made drainage channels.

128. Other challenging issues in upper catchments can arise as in the upper reaches of the Matukituki where farming communities have banded together to try to achieve better health and well-being outcomes for their freshwater bodies on a voluntary basis. Submitters in that area were a good example of the voluntary catchment-led approach that was urged upon us by the various farming submitter groups such as Beef and Lamb and OWRUG.
129. A common feature of all those submitter groups and their witnesses both lay and expert was to stress the seriousness of the economic and related social burdens that ‘rushed’ timeframes could impose. They all sought varying degrees of timeframes to allow what they asserted were critical transition periods to enable them to adjust their use practices and the infrastructure or physical works they relied on as part of their present methods of use of freshwater resources. Their common positions were that without some such reasonable transition periods their businesses, families and lifestyles could be devastated or at the very least placed under severe strain with all the economic and social disruption that could flow from sudden harsh requirements to reduce use of water or to meet the cost of significant infrastructure upgrades.
130. In the later subject considerations of planning outcomes these issues will be further addressed as to what the Hearing Panel’s views were on the changes that should be made to the PORPS to recognise the force of that body of evidence, while at the same time bearing in mind the statutory imperatives in the NPSFM to give effect to Te Mana o te Wai with its first priority being the health and well-being of water bodies and freshwater ecosystems.
131. What requires to be addressed at this juncture, though is whether and to what extent it is permissible in the PORPS to take into account at the Visions timeframe stage such human effects matters. On one view, such as that propounded by Kāi Tahu and Wise Response, those human effects issues are strictly external to the health and wellbeing of freshwater, albeit intimately related to freshwater health and well-being because of the effects of the physical infrastructure or works on which they rely.
132. In our view the key to this consideration is found in a combination of sub-clause 3.3(2)(b) and sub-clause 3.3(3)(b) of the NPSFM.
133. The former sub-clause 3.3(2)(b) requires goals to be set *that are ambitious but reasonable (that is, difficult to achieve but not impossible)*. In our view that requires the Regional Council to consider physical factors related to the health and well-being of freshwater, including any relevant physical infrastructure. That must necessarily include the funding of improvement works to achieve good health and well-being for freshwater, as well as the practical ability to construct any such physical works.
134. As to sub-clause 3.3(3)(b) it requires that the long term vision must be *‘informed by an understanding of the history of, and environmental pressures on, the FMU, part of the FMU, or catchment’*. Earlier in the context of a discussion of sub-clauses 3.3(3)(a), and of 3.3(3)(c) and 3.3(4) above, we stated that we considered that ‘history’ and those ‘environmental pressures’ relate to the health and wellbeing of the water bodies and related ecosystems, not the history and environmental pressures on communities or tangata whenua. But the history and environmental pressures related to the health and well-being of freshwater may have been massively affected either entirely or in part by infrastructure or other physical works carried out for human activities. To that extent the two are intertwined.
135. Those conclusions are supported by the use of the word *‘reasonable’* in both of sub-clauses 3.3(2)(b) and (c) as to goals, and timeframes to achieve those goals. Plainly the drafters of those parts of the NPSFM were cognisant of the fact that many aspects of what contributes to health

and well-being of water bodies may have been affected by past infrastructure or works. They would have known any past infrastructure or works would have been developed at a time when consideration of the health of water bodies was not at the high level now required by Te Mana o te Wai. Importantly, too, the drafters would have known that communities would be reliant on the existing current form of that infrastructure or other works. Any necessity to change that infrastructure to achieve a healthy water body would clearly need the economic and social effects on communities to be considered. In our view hence the use of the word 'reasonable'. And hence, too, the requirement in sub-clause 3.3(3)(b) of the NPSFM to consider the history and environmental pressures that have affected the health of water bodies in the past.

136. We have decided, therefore, that the PORPS Visions timeframes are entitled to consider at the Visions timeframe stage human effects matters, because the meeting of the goals to achieve the health and well-being of freshwater is specifically and expressly enabled to take a reasonable approach, by taking those considerations into account. That still leaves open for consideration whether the identification of some time periods in sub-clause 3.3 and other provisions of the NPSFM means that there are limits or restrictions, or not, on the timeframes that can be allowed.

3.3.1. Is the length of timeframes restricted or limited in any way?

137. There were differing positions adopted before us as to what length of timeframe could reasonably be provided by the regional council under sub-clause 3.3.(2)(c). In large part those assessments involve a measure of weight given to varying factors which will be addressed in the subject matter sections of this part of the report in due course.

138. The legal issues that arise, though, as preliminary matters to any factual assessment of the reasonableness or otherwise of timeframes in the PORPS, include:

- a. does the fact that sub-clause 3.11(6) of the NPSFM requires long term attribute states to include target attribute states at intervals of not more than 10 years have any bearing on the length of timeframes for the Visions.
- b. does the requirement in s.79(1) of the RMA for every RPS to be reviewed every 10 years have any impact on the term of a timeframe for the Visions.
- c. should the requirements imposed in recent years in - s.6 of the RMA to 'recognise and provide for' (h) 'the management of significant risks from natural hazards'; and, s.7 of the RMA to 'have particular regard to'; (i) 'the effects of climate change'; and (j) 'the benefits to be derived from the use and development of renewable energy'; and, the NPS REG provisions elevating renewable generation capacity to a matter of national importance – either individually or collectively require shorter time frames than 30 or more years.
- d. whether the reference in sub-clause 3.3.(2)(c) of the NPSFM to a thirty year period involves any limitation, and/or what weight if any should be given to it?

139. A general proposition that can be gleaned from the NPSFM is that some level of extended transitional periods are acknowledged as being likely to be required for the differing timeframes for each of the respective goals set by the Visions objectives, and under the NOF process for attribute states. The provisions expressly made in the NPSFM for extended timeframes in both 3.3.(2)(c) and in sub-clause 3.11(6) respectively make that plain.

140. However, in sub-clause 3.11(6) there is an express statement that timeframes for attribute states “*may be of any length or period...*” That wording is not used in sub-clause 3.3.(2)(c) as to timeframes for goals in the Visions. Sometimes a failure to specify something, which is specified in another part of the same instrument, can be taken to mean it is intentionally omitted, but such interpretation considerations always require the context to be taken into account. Here the context is an ‘ambitious and reasonable’ period of time to allow for transition to occur to achieve the goals set in the visions objectives. i.e. it is a context which expressly acknowledges an extended timeframe is able to be fixed, but without a limit upon it. We do not consider, therefore that the phrase ‘*may be of any length or period*’ is necessary – that is implicit.
141. That the timeframe may be longer than the term of the RPS is made clear by the specific example provided being three times longer than the 10 year review period for an RPS. Similarly, the use of that length of time for the example in clause 3.3(2)(c) makes it plain that the NPSFM contemplated that the exhortatory provisions in s.6(h), 7(i) and (j) and in the NPS REG, all of which predated the 2023 version of the NPSFM, did not necessarily require a shorter timeframe to be imposed. The same rationale applies to the issue of whether the 10 year time frame for intervals for target attribute states limits the timeframe enabling provision in this sub-clause. In our view, by the use of the specific example given in the NPSFM itself in sub-clause 3.3.(2)(c), none of the first three issues identified above limit the power of fixing a longer timeframe for achievement of goals set in Visions objectives.
142. That still leaves for consideration the last issue identified above as to whether the reference in sub-clause 3.3.(2)(c) of the NPSFM to a thirty year period involves any limitation, and/or what weight if any should be given to it? In our view while the types of considerations just described do not as a matter of law impose any limitation on the length of timeframe they are all valid considerations to be taken into account in assessing what is a reasonable time frame. The thirty year example also is just one other factor to be taken into account. So, too, are the human effects scenarios that were provided to us in a powerful manner by the communities affected.
143. The countervailing powerful points also need consideration – they include concerns as to cultural effects by Kāi Tahu arising from delay in giving effect to Te Mana o te Wai. One of those factual cultural arguments requiring consideration will be the generational approach raised by Kāi Tahu and others, that timeframes should not generally be considered which will affect more than one generation. Other considerations will include the Wise Response argument that what it describes as the current climate ‘emergency’ requires amongst other things urgent recognition of the national importance of achieving carbon net zero emissions through enhanced supply of renewable electricity.
144. In short, the whole gamut of relevant resource management issues needs to be considered in deciding just how long or how short a transitional timeframe to achieve a Vision goal needs to be in the context of particular FMUs, part FMUs or catchments so that it can be properly considered to be ‘*both ambitious and reasonable*’ in achieving the health and well-being of freshwater goals set in the Visions objectives. Any such long term Vision involving a transition to a state of good health and well-being of freshwater is different from the more precise interim target attribute states referred to in clause 3.11(6). We will return to address those factual considerations in the relevant subject matter section of this report.

3.4. Proposed new LF-WAI-P3A Integrated catchment management plans

145. A closely related issue to those just discussed as to the Visions arises from the presentation made by Beef and Lamb New Zealand Limited and the Deer Industry New Zealand. Their counsel Dr. R Somerville KC and Ms. C. Luisetti, and their planning witness Ms. C Perkins advanced a proposal

for a new policy setting as LF-WAI-P3A entitled 'Integrated Catchment Management' which proposed to elevate the importance of voluntary catchment groups to achieve an effective non-regulatory outcome.

146. The Panel heard evidence from farming representative witnesses, such as Ms. Scott called by Beef and Lamb, as well as from a wide range of individual farmers called by OWRUG. Those witnesses came from a wide range of catchments which had widely differing characteristics. However, the common feature of their evidence, which was highly informative for the Panel, was that they stressed both the value of the work carried out by catchment groups, and the fact that the voluntary nature of it was much more effective than regional council-driven catchment initiatives. The reason for the latter they asserted was that the voluntary aspect led to active concepts of 'ownership', control and pride in the works carried out, and led to a voluntary close 'monitoring' of ongoing input from all involved.
147. Against that background of a strong body of impressive evidence at first glance, the submitters' proposed policy LF-WAI-P3A had obvious attractions to the Panel as to its practical efficacy. However, it was criticised by counsel for ORC in reply as having some fundamental legal flaws. We have considered the arguments both ways and have reached the conclusion that the ORC objections have merit.
148. The proposed wording for LF-WAI-P3A was:

LF-WAI-P3A – Integrated Catchment Management

- (1) When developing and implementing planning instruments to give effect to the objectives and policies in this policy statement through integrated management of land and freshwater, Otago Regional Council must actively engage with local communities and tangata whenua, at the rohe and catchment level,
- (2) Provide for integrated management at a catchment level by supporting the establishment of Integrated Catchment Management Groups that incorporate Otago Regional Council with local community and tangata whenua representatives, and
- (3) Progress and implement integrated management of catchments through the preparation of Catchment Action Plans by the Integrated Catchment Groups, in accordance with clause 3.15 of the NPSFM that:
- (a) develop visions, identify values and environmental outcomes for Otago's catchments and the methods to achieve those outcomes, including as required by the NOF process,
 - (b) develop and implement actions that may be adapted over time with trigger points where additional regulatory and/or non-regulatory intervention is required,
 - (c) make recommendations on amendments that may be required to the provisions of this policy statement, including the visions and timeframes in the parent FMU, and any other changes necessary to achieve integrated catchment management pursuant to clauses 3.2(2) and 3.5(2) of the NPSFM
 - (d) at a local catchment level, encourage community initiatives to maintain or improve the health and well-being of waterbodies and their freshwater

ecosystems, to meet the health needs of people, and enable the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

(Panel's emphasis)

149. The legal problems raised by Mr. S. Anderson for ORC (at paragraphs 100 & 101 of his closing submissions) were that the ORC had no power at law to delegate functions which as a mandatory matter were devolved solely upon regional councils by the NPSFM. He submitted that action plans must be prepared by a regional council. We agree. The provisions of sub-clause 3.7(2)(f) of the NPSFM impose a mandatory obligation on the regional council only:

(2) By way of summary, the NOF process requires regional councils to undertake the following steps:

(a) identify FMUs in the region (clause 3.8)

(b) identify values for each FMU (clause 3.9)

(c) set environmental outcomes for each value and include them as objectives in regional plans (clause 3.9)

(d) identify attributes for each value and identify baseline states for those attributes (clause 3.10)

(e) set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes (clauses 3.11, 3.13, 3.16) 16 National Policy Statement for Freshwater Management 2020

(f) set limits as rules and prepare action plans (as appropriate) to achieve environmental outcomes (clauses 3.12, 3.15, 3.17)

(Panel's emphasis)

150. That structure for the NOF process does not envisage catchment group involvement as proposed, even though we observe that the submitters' proposal also included the regional council in the integrated catchment group concept. The reason for that is not that the NPSFM does not encourage such a co-operative non-regulatory approach to integrated management. To the contrary, the NPS FM does envisage catchment groups working in with regional councils, but it specifically uses different terminology for that type of non-regulatory approach.

151. Provision for that type of process is found at sub-clause 3.15(2) where non-regulatory measures are specifically referred to as being distinct from regulatory measures. The difference is explained in that sub-clause in the following manner, but the obligation on the regional councils to adopt action plans is not changed. Sub-clause 3.15(2) just makes it plain that the action plans a regional council prepares may involve both regulatory and non-regulatory methods:

(2) An action plan may describe both regulatory measures (such as proposals to amend regional policy statements and plans, and actions taken under the Biosecurity Act 1993 or other legislation) and non-regulatory measures (such as work plans and partnership arrangements with tangata whenua and community groups).

152. Nothing in the NPSFM sub-clauses 3.2(2) as to the giving effect to Te Mana o te Wai, or 3.5(2) as to integrated management of the effects on freshwater and receiving environments, which are referred to in the proposed policy, provides any statutory jurisdiction beyond that specified in sub-clause 3.7(2)(f).
153. Moreover, as Mr. Anderson also stressed sub-clause 3.15(5) of the NPSFM already requires as a mandatory matter that before a regional council prepares an action plan it “*must consult with communities and tangata whenua*.” The proposed policy clause to that effect is, therefore, is serving no practical purpose. So, too are most if not all of the other functions contained in sub-clause (3) of the submitters’ proposed policy already provided for in the NPSFM.
154. However, a major difference between the NPSFM provisions and the submitters’ proposed policy is that the former has a set sequence for its mandatory processes. That commences with Visions being set through the RPS process, again solely by the regional council. Then that process is followed by the NOF process as part of the regional water plan process. The NOF process addresses the other more detailed aspects of setting FMUs or catchments, values, environmental outcomes, attributes for values & their baselines, target attribute states, limits and action plans. The submitters’ proposed policy conflates those differing sequenced stages into one attempted policy approach which does not conform with the NPSFM approach.
155. Finally we observe that the PORPS provisions in various Methods do set out to enable the type of integrated approach at a catchment level in conjunction with communities and tangata whenua which the submitters’ proposed policy advances. Those are found in LF-VM-M3 (1), (2) and (3) under the sub-heading ‘Community involvement’, and even more specifically in recommended LF-FW-M8AA under a sub-heading of ‘Integrated Catchment Management’. We accept this optional approach is appropriate for the reasons set out in Ms Boyd’s reply report at paragraphs 105 to 107 which identified the exploratory co-operative optional process that is being undertaken at a catchment level.
156. For all of those reasons we do not consider we have the scope at law to adopt the submitters’ proposed policy approach, and we are satisfied that the PORPS as amended has appropriate provisions which echo what was proposed. In the subject matter consideration the Panel will discuss a Vision recognising the advantages of catchment group involvement.

4. Wetlands Issues

4.1. Definition issues

157. Much argument arose before the Hearing Panel as a consequence of the implications which caused concern for the s.42A report writers arising from:
- the introduction of a new definition of ‘natural inland wetland’ in the NPS FM in December, 2022;
 - the related wider pathways for consents to use such wetlands;
 - the promulgating of the NPS IB in 2023;

- the apparent extra stringency of the environmental effects hierarchy in the NPS IB based on a principle of 'net gain' as compared to the NPS FM effects management hierarchy principle of 'no net loss and preferably a net gain'; and
- what were perceived as a consequence as 'gaps' by the s.42A report writer Ms. Boyd in the drafting of the notified PORPS.

158. The start point to any consideration of these issues must commence with the s.2 RMA definition of a wetland which is all-encompassing of areas subject to some inundation at some time:

wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions

159. The new definition of 'natural inland wetland' in the 2022 amendments to the NPS FM amalgamated the previous definitions of 'natural wetland' and 'natural inland wetland' into one lengthy definition which reads:

natural inland wetland means a wetland (as defined in the Act) that is not:

(a) in the coastal marine area; or

(b) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural inland wetland; or

(c) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or

(d) a geothermal wetland; or

(e) a wetland that:

(i) is within an area of pasture used for grazing; and

(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless

(iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply

160. That new combined definition is intended to exclude some RMA defined wetlands from the detailed level of protection and restoration otherwise required by the NPSFM, and to provide a base for a closely controlled consent pathway in clause 3.22(1) of the NPSFM for some types of activities which are described in that sub-clause.

161. The provisions of clause 3.22 commence by providing that every regional council must include the following opening words of a policy, or words to similar effect, in its regional plan:

The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:...

162. Sub-clause 3.22(1)(a) of the NPSFM then continues to require regional plans to include a policy enabling a 'loss of extent or values' where that arises from a wide range of activities in natural inland wetlands including:
- customary harvesting of resources,
 - wetland maintenance and restoration,
 - scientific research,
 - harvest of sphagnum moss, and
 - construction of wetland utility structures.
163. Significantly also included in that sub-clause is an exclusion inter alia for:
- maintenance or operation of '*specified infrastructure*', the definition of which includes '*regionally significant infrastructure*' identified in a regional policy statement or regional plan, (but we observe this exception does not enable construction or upgrade of such specified infrastructure which is captured under cl. 3.22(1)(b)(i)),
 - water storage infrastructure, and
 - public flood control, protection and drainage works.
164. Moreover, those exclusions are then further augmented by other wetland consent pathway provisions for other activities in sub-clause 3.22(1). It provides for a mandatory policy to be included in a regional plan which provides pathways (b) to (f).
165. Those sub-clauses (b) to (f) of that mandatory policy in regional plans includes the enabling of consent pathways for:
- construction or upgrade of specified infrastructure
 - urban development;
 - quarrying activities;
 - extraction of minerals;
 - landfills and cleanfills.
166. All of those enabling provisions for consent pathways for those described activities, however, have a safeguard in sub-clause 3.22(3). That is that in each of these consent pathways the council must apply the effects management hierarchy which has its own definition now in clause 3.21. It applies to all natural inland wetlands.
167. That definition in clause 3.21 reads:
- effects management hierarchy, in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:*
- (a) adverse effects are avoided where practicable; then*
- (b) where adverse effects cannot be avoided, they are minimised where practicable; then*

(c) where adverse effects cannot be minimised, they are remedied where practicable; then

(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; then

(e) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; then

(f) if aquatic compensation is not appropriate, the activity itself is avoided

168. The phrases 'aquatic off-setting' and 'aquatic compensation' similarly have their own NPS FM definitions in clause 3.21(2).

169. That sub-clause 3.21(2) provides the following respective definitions for those phrases:

(2) For the purpose of the definition of effects management hierarchy:

aquatic compensation means a conservation outcome resulting from actions that are intended to compensate for any more than minor residual adverse effects on a wetland or river after all appropriate avoidance, minimisation, remediation, and aquatic offset measures have been sequentially applied

aquatic offset means a measurable conservation outcome resulting from actions that are intended to:

(a) redress any more than minor residual adverse effects on a wetland or river after all appropriate avoidance, minimisation, and remediation, measures have been sequentially applied; and

(b) achieve no net loss, and preferably a net gain, in the extent and values of the wetland or river, where:

(i) no net loss means that the measurable positive effects of actions match any loss of extent or values over space and time, taking into account the type and location of the wetland or river; and

(ii) net gain means that the measurable positive effects of actions exceed the point of no net loss.

170. Finally, in outlining the provisions that caused concern it also necessary to refer to Appendix 6 of the NPSFM which contains 11 Principles which must be applied to the use of aquatic offsets.

171. Amongst the reactive recommendations to the combination of all these new provisions that were made in various reports and bodies of evidence, (and related track change versions), by the s.42A report writer Ms. Boyd was an initial position that the NPSIB effects management hierarchy should be applied to natural inland wetlands under this approach. The rationale for that was based on the '**Net gain**' principle expressed in the NPSIB which was perceived as being more stringent than the approach in the NPSFM effects management hierarchy, which was based on a '**No net loss and preferably a net gain**' approach. That was accompanied by complex arguments about how the new wetland definitions were to be applied.

172. Many of the submissions by counsel for submitters concerned about that approach, and by their planning witnesses, focused on the inappropriateness of attempting to use NPSIB provisions in

the freshwater context when there was a specific National Policy Statement as to freshwater issues. Those submissions were particularly based on clause 1.4(3) of the NPSIB which expressly states:

(3) If there is a conflict between the provisions of this National Policy Statement and the National Policy Statement for Freshwater Management 2020 or the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, the latter prevail.

173. The submitters opposed to the original s.42A recommendations were asserting that those recommendations potentially created a conflict between the two NPS documents, but even if there was to be considered to be no direct conflict, the s.42A approach was itself said to be in conflict with the purpose underlying clause 1.4(3) of the NPSIB. They asserted that purpose was palpably to ensure that the NPS FM had priority in relation to any issues relating to freshwater resources.

174. As it turned out this strongly disputed issue fell away at the final hearing. On that occasion the Panel raised with Ms. Boyd and counsel for ORC that a close reading of the principles underpinning the effects management hierarchy in each of the two NPSs appeared to show no practical difference in stringency between the manner in which the two effects management hierarchies were applied.

175. In the case of the NPSFM Appendix 6 lays down Principles for aquatic offsetting. Principle 3 commences with a sub-heading '**No net loss and preferably net gain**'. Principle 3 explains that 'no net loss and preferably net gain':

...is achieved when the extent or values gained at the offset site (measured by type, amount and condition) are equivalent to or exceed those being lost at the impact site.

(Panel's emphasis)

176. In the case of the NPSIB Appendix 3 lays down Principles for biodiversity offsetting. Principle 3 commences with a sub-heading '**Net gain**'. However, as with the NPSFM principle 3, Principle 3 similarly explains that 'Net gain':

...is achieved when the indigenous biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site...

(Panel's emphasis)

177. After further consideration Counsel for ORC formally advised that it was accepted there was no difference in stringency between the application of those two principles. That was followed formally by an acceptance in final track change and 'clean' version recommendations by the s.42A report writer in a final supplementary statement of evidence by Ms. Boyd (dated 26 September 2023) that the NPSFM effects management hierarchy should apply to the natural inland wetland consent pathway processes. Whilst Ms. Boyd still insisted (at paragraph 13-15) that there was a difference in the definition of 'aquatic offset' in the NPSFM between 'no net loss' and 'net gain', that difference in definition does not affect the reality that the application of the principles for the two environmental effects management hierarchies as set out above has no difference in stringency between the two NPSs. That remains the critical factor.

4.2. Wetland definition

178. The specific recognition in the RMA area of a need to protect wetlands commenced with s.6(a) of the RMA itself, which significantly has not been amended since 1991. It recognises that one matter of national importance, which is required to be recognised and provided for, is the preservation of wetlands, and their protection from inappropriate development. It provides:

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, and development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:...*

(Panel's emphasis)

179. That position remained extant in RMA law as applying to all wetlands without any further specific provisions until the release of various relevant National Policy Statements. The first relevant one of those national policy statements was the NZCPS in 2010. It made mention of 'coastal wetlands', 'saline wetlands' and 'wetlands' in various provisions. In particular, Policy 11 (b) required the avoidance of significant adverse effects, and avoidance, remediation or mitigation of other adverse effects, on indigenous ecosystems and habitats that are only found in the coastal environment and which "*are vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands...*".

180. Earlier versions of the NPSFM in 2011, 2014 and 2017 included some specific, but nonetheless rather general, protective wetland provisions which related to the term 'wetlands', (as for example in Objectives A2 (b) and B4 requiring the protection of 'significant values' of 'wetlands'.) That general approach changed in the 2020 version of the NPSFM. The 2020 s.32 analysis for the NPSFM records, amongst other national concerns about freshwater degradation, that an increased loss of wetland areas had become of major concern. The report noted (at pp. 5 & 62) that 90% of the country's original historical inland wetlands had been lost. The 2020 NPSFM, therefore, included a strongly directive Policy 6 stating:

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

181. That protection was achieved by providing for much greater protection of 'natural inland wetlands', and only providing a consent pathway for some 'specified infrastructure'.

182. The wetland definitions provided in the 2020 version of the NPSFM were:

natural wetland means a wetland (as defined in the Act) that is not:

- (a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former natural wetland); or
(b) a geothermal wetland; or

(c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain derived water pooling

natural inland wetland means a natural wetland that is not in the coastal marine area

183. The consent pathway that was allowed for 'specified infrastructure' in the 2020 NPSFM was limited, with the overall purpose being described in the s.32 report (at pp.62-63) in the following manner:

The impact of Policy 6 is immediate. It uses strongly directive language and is reinforced by the requirement for councils to replicate Policy 6 in regional plans without using the Schedule 1 process in the RMA. The policy also affords a high degree of protection, one of the strongest in the NPS-FM 2020.

The requirements allow for a specific exception for "specified infrastructure" (which is defined). Broadly, this exception only applies to necessary infrastructure operated by a lifeline utility and public flood or drainage related works, or regionally significant infrastructure identified as such in a regional policy statement or regional plan. Applicants seeking a resource consent under the exception must be able to demonstrate significant national or regional benefits, a functional need, and manage effects by applying the effects management hierarchy. The overall theme is a presumption that further loss of inland natural wetland extent is unlikely to be approved, other than in limited circumstances.

...

184. The severity of that outcome led to a reconsideration in 2022, (now published as the 2023 version), which amended the NPSFM in a manner intended to mitigate this extremely strict level of protection and the limitations of the consent pathways. In 2022 'natural inland wetlands' were redefined with the 'natural wetland' definition being dropped and the 'natural inland wetland' definition being amended to exclude coastal wetlands – meaning only one term and definition was required i.e. 'natural inland wetland'. A significant change in definition, though, related to those wetland areas which were effectively farmed and predominantly in exotic, i.e. non-native, pasture species. While the 2020 version had exempted such areas, its exemption related to 'improved' pasture, whereas the new 2022 version just requires that the area is being used for grazing and has more than a 50 per cent coverage in non-native grasses. The relevant part of the 2023 exemption from the definition of a 'natural inland wetland' is now:

(e) a wetland that:

(i) is within an area of pasture used for grazing; and

(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); ...

185. Possibly most significantly, the 2023 amendments also provided extended consent pathways for various major activities affecting natural inland wetlands. In addition to specified infrastructure activities, consent pathways were now provided also for urban development, mining, quarrying and landfills and clean-fills. All those activities were to be assessed under an amended effects management hierarchy which was introduced into the 2023 NPSFM.

186. Right at the end of our hearings the NPSIB was promulgated which now contains restoration provisions as to 'natural inland wetlands' at clauses 1.3(2)(c) and 3.21(2)(d). The definition of 'natural inland wetland' in the NPSIB itself is:

***natural inland wetland** has the meaning in the National Policy Statement for Freshwater Management 2020*

187. The NPSIB does not have a separate definition of 'natural wetland'.

188. The preparation and notification of the original PORPS occurred when the original 2020 version of the NPSFM was in place. As a consequence it originally utilised the same definition of 'natural wetland' as was in the 2020 NPSFM, but the PORPS did not initially include a definition of 'natural inland wetland'.

189. The later change in the 2023 NPSFM definition of 'natural inland wetland', and extended consent pathways within them, then gave rise in turn to a reaction by the s.42A report writers in the PORPS process in response to evidence from submitters such as DOC, Iwi and Fish and Game. They have now recommended that a further definition was needed of '*natural wetland*' to provide protection for wetlands which were exempted by the NPSFM 2023 definition of '*natural inland wetland*' – which they described as a 'gap' in the protection provided for some wetlands. One major example they often quoted during the hearings were the upper Taiari scroll-plain wetlands, much of which were grazed, but which the ecological evidence suggested in many localities or physical settings potentially held particular indigenous biodiversity, hydrology and landscape values. There were other examples also referred to including the unusual inland saline wetlands and other ephemeral wetlands.

190. The definition recommended now for the PORPS for '*natural wetland*' is broad, encompassing all wetlands as defined in the RMA with only two exclusions. That recommended definition in the 10 October 2023 version of the PORPS is:

***Natural wetland** means a wetland (as defined in the Act) that is not:*

- (a) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland; or*
- (b) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body.*

191. By contrast the recommended definition of '*natural inland wetland*' in the 10 October 2023 version of the PORPS is:

***Natural inland wetland** has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)*

192. The result of that additional broad recommended definition of '*natural wetland*' in the PORPS is that in the final 10 October 2023 recommended version of the PORPS we find that Objective LF-FW-09, which is the only objective in the PORPS as to wetlands protection, refers solely to 'natural wetlands' and not to 'natural inland wetlands' – presumably on the basis that the former

includes the latter. However, the terminology in other provisions then becomes confusing. The recommended LF-FW-P8 now requires identifying and mapping of ‘natural inland wetlands’, (which is required by clause 3.23(1) of the NPSFM). However, the protective and restoration policies LF-PW- P9 and P10, which previously flowed from that identification and mapping process, still refer to ‘natural wetlands’, despite there being no mapping and monitoring process recommended for ‘natural wetlands’.

193. This is one area where the issue of FPI blue shading, or lack of it in this case, adds procedural difficulty to the dual PORPS hearing processes. The definition of ‘natural inland wetland’ is shaded blue as part of the FPI process, but strangely the definition of ‘natural wetland’ is not. Yet the Objective related to the protection of ‘natural wetlands’ is LF-FW-09 which is shaded blue, as are the related Policies LF-FW-P9 and P10. To add to the confusion, we observe that Policy LF-FW-P8, originally as to identification and mapping of ‘natural wetlands’, is not shaded blue, but has been recommended to be changed to ‘natural inland wetlands’ as a minor change on the basis that it removes duplication caused by the new ‘natural inland wetland’ definition in the NPSFM (para 84 Ms Boyd evidence 11 August 2023). Most surprisingly LF-FW-P13 as to ‘Preserving natural character’ was also not shaded blue, despite it referring to the natural character of lakes and rivers. It, too, has been recommended to be amended in a manner which introduces consideration of values of wetlands (in Ms Boyd’s supplementary evidence addressing both non FPI and FPI aspects of the implications of the NPSIB). We find this inconsistency in FPI shading perplexing, as we consider any wetland provision should plainly have been an FPI issue and shaded blue. However, in fairness to Ms. Boyd we should emphasise, as we did in overall introductory remarks, that all of ORC’s advisers have faced the complication of trying to achieve one integrated planning document through two separate processes. The fact that the NPSIB had implications for both processes has now just complicated matters even more.

194. In one other brief by Ms. Boyd, the significant observation is made that:

... like the NPSFM, the pORPS is silent on the management of wetlands that are not natural inland wetlands by virtue of being excluded on the basis of their vegetation cover, which may not fully implement the direction in the objective and policies 5 and 9 of the NPSFM.”

(paragraph 77 evidence of Ms Boyd dated 11 Aug 2023)

195. We have struggled to accept that description of the outcome of the recommended provisions in the PORPS as being ‘silent’ as to the management of wetlands that are not natural inland wetlands, because Objective LF-FW-09 is headed ‘**Natural wetlands**’ and requires that Otago’s ‘natural wetlands’ are protected or restored. That seems clearly to apply to all ‘natural wetlands’ falling within that recommended definition which is very broad.

196. Similarly, LF-PW- P9 is specifically headed ‘**Protecting natural wetlands**’ and LF-PW- P10 is headed ‘**Restoring natural wetlands**’. In each case the policy wording under those sub-headings consistently also refers to ‘natural wetlands’. It seems clear those two recommended policies are intended to require protection and restoration of all defined ‘natural wetlands’, which will include both ‘natural inland wetlands’ and those excluded by its definition because of their vegetative cover.

197. Moreover, even putting that complicating aspect to one side, in our view that statement by Ms Boyd fails to recognise that the purpose of the definition of ‘natural inland wetland’ in the NPSFM is not to remove all protection from other wetlands not falling within the definition. Rather it is to ensure any ‘natural inland wetland’ as defined will have specific provisions as to identification

and mapping, as well as monitoring, but also to enable some described activities in natural inland wetlands to have a particular consent pathway through sub-clause 3.21 of the NPSFM, backed by the safeguard of the effects management hierarchy.

198. The RMA definition of 'wetland' is extremely broad and still applies to all other wetlands including those that fall within the exemptions in the 'natural inland wetland' definition. Moreover, Policy 5 of the NPSFM similarly relates to the management of the health and well-being of 'water bodies' and their potential for improvement. The RMA definition of a 'water body' means 'fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area'. Policy 9 of the NPSFM as to the protection of the habitats of indigenous freshwater species, must also include those in a wetland. Therefore, Policies 5 and 9 of the NPSFM still apply to all those wetlands exempted by the definition of 'natural inland wetland'. So, too, of course does s.6(a) of the RMA itself still apply to those wetlands requiring their preservation and protection from inappropriate use and development.
199. If the concern that has led to the recommendation of this expanded definition of 'natural wetland' relates to the fact that 'coastal wetlands' are excluded from the definition relating to 'natural inland wetlands' and related protection provisions, then we also make the observation that coastal wetlands will still be directly protected by the specific provisions of the NZCPS, such as policies 11 (b)(iii), 13(2)(c), 14(c)(iv). They could be also protected in the PORPS Coastal Environments chapter. To the extent there is concern that the current recommended provisions in the PORPS coastal chapter may not specifically address coastal wetland protection and restoration, in our view that is best addressed by considering amendments to, or inserting specific provisions in, that coastal chapter if necessary, rather than attempting to create a new class of defined 'natural wetland' through further definition applying throughout the PORPS.
200. As we understand the concerns of the DOC witnesses and Ms Boyd, it is that areas like the Taiari scroll plain and other locations with ephemeral wetlands which are grazed will likely have significant aspects of ecological and hydrological importance which are exposed to potential degradation unless the RPS recognises those risks. In our view, the s.6 protection and the protection intended by policies 5 and 9 of the NPSFM is still able to be provided by the requirement for protection from inappropriate activities. The RPS can assist by the LF and/or the ECO chapter identifying particular values where development activities may be inappropriate. We consider that a better mechanism than attempting to insert a new definition of 'natural wetlands'.
201. We have concluded the 'natural wetland' definition is superfluous, and worse that it is potentially raising the level of protection of all wetlands as defined to a level of absolute preservation and restoration through recommended Objective LF-FW-O9(3) and recommended policies LF-FW-P9 and LF-FW-P10 which are beyond the outcomes intended by s.6(a) of the RMA. The recommended objective and the two recommended policies do not provide the qualifier of protection from inappropriate use and development that s.6(a) provides. Nor do they provide the consent pathways and the application of the effects management hierarchy that the provisions relating to natural inland wetlands apply. We are concerned that that strict absolute outcome provides a higher level of protection for wetlands exempted from the 'natural inland wetland' definition in the NPSFM than the protection level accorded to those falling within that definition. That means that the recommended PORPS provisions have the potential to be considered as being contrary to the overall scheme in the 2023 NPSFM as to the manner of treatment of non-coastal wetlands through the 'natural inland wetland' terminology and effects management hierarchy provisions.

202. Moreover, in terms of the s.32AA analysis we consider that the lack of requirement of identification, or any method of identification, of what areas would fall within the definition of 'natural wetlands' means we cannot even begin to make any reasonable estimate of the costs involved in imposing such an absolute protection and restoration regime in respect of all wetlands. For example, Appendix 14 to the s.32 report for the PORPS referred to the fact that some 3000 ephemeral wetlands had been identified in Otago. Evidence from Oceana Gold Limited emphasised the impact that absolute protection and restoration provisions could have on their proposed activities because of the proliferation of ephemeral wetlands on their landholdings, to mention but one example of the effects of including all of those. Infrastructure providers such as Waka Kotahi, and the transmission, distribution and generation providers, also stressed impacts they may have to cope with in the face of absolute protection objectives and policies.

4.2.1.1. Recommendation

203. We recommend the definition 'natural wetland' is deleted. Deletion of the 'natural wetland' definition and related amendments to apply the 'natural inland wetland' approach will have consequences for those LF-FW Objectives and Policies we have referred to, and some other provisions, which will need consequential amendment.

204. We will return to those policies in the subject matter consideration of LF-FW objectives and policies as to wetlands which follows in this Appendix Two report.

4.3. Protection and restoration – a 'region-wide', district or local approach?

205. A difficult issue which arose in the freshwater hearings was whether the NPSFM was requiring assessments of effects on values to be protected or restored to be assessed on a region wide basis, or on a more local impact site or district wide basis. The Te Mana o te Wai fundamental concept provision in clause 1.3 of the NPSFM states that 'protecting the health of freshwater protects the health and well-being of the wider environment.' That may well be suggested by some to contemplate a broader assessment approach. The 6 principles in clause 1.3(4) do not throw any greater light on the issue, and nor does clause 1.3(5) as to the hierarchy of obligations.

206. Some submitters supporting a narrow approach pointed to the provisions of Appendix 6 Principle 3 as being worded in a manner that required a closer approach relevant to the impact site, while others seeking a broader approach emphasised the regional indications in other provisions.

207. Principle 3 in Appendix 6 in its full form states:

*3. **No net loss and preferably a net gain:** This is demonstrated by a like-for-like quantitative loss/gain calculation, and is achieved when the extent or values gained at the offset site (measured by type, amount and condition) are equivalent to or exceed those being lost at the impact site.*

208. The emphasis by those seeking a narrower interpretation was understandably placed on the reference in that principle to the comparison of effects at particular 'sites'.

209. By Principle 7 of Appendix 6, however, as to landscape context, the best ecological outcome to be sought is "preferably close to the impact site or within the same ecological district." The underlined words there make it plain that in the landscape context the comparison can be at a wider ecological district level.

210. The definition of ‘effects management hierarchy’ in clause 3.21 speaks of it being an approach “to managing the adverse effects of an activity on the extent of values of a wetland or river (including cumulative effects and loss of potential value)...”. The phrase ‘loss of value’ is defined as follows:

loss of value, in relation to a natural inland wetland or river, means the wetland or river is less able to provide for the following existing or potential values:

(a) any value identified for it under the NOF process

(b) any of the following values, whether or not they are identified under the NOF process:

(i) ecosystem health

(ii) indigenous biodiversity

(iii) hydrological functioning

(iv) Māori freshwater values

(v) amenity values

211. There are also numerous other usages of the term ‘effects’ in the NPSFM none of which appear definitive as to whether the assessment of effects needs to be at an impact site, ecological district or region-wide level.

212. In our view the context is what will dictate which is most relevant. In differing cases fauna or flora affected, or the wetland body itself, may be nationally or regionally significant in some respect, or significant in terms of the ecological district or at a more localised level. In other cases the effects requiring assessment may be at an impact site level.

213. At the RPS stage, therefore, we are reluctant to constrict the level at which policies should be drawn in respect of wetland protection and restoration. Once more in our view the NOF process is what will drive the identification of values requiring protection or restoration in particular FMUs or catchments. A perusal of the Appendices 1A as to compulsory values, and 1B as to other values to be identified, make it plain that effects on those values could potentially be assessed at differing levels depending on context. In our view at RPS stage the objectives and policies should enable that process, and any subsequent effects assessment, to be context-driven at whatever level is appropriate.

5. SRMR – Significant Resource Management issues for the region

5.1. Introduction

214. Three of the eleven regionally significant issues identified in the SRMR chapter are part of the freshwater planning instrument. These are:

- a. SRMR-I5 – Freshwater demand exceeds capacity in places;
- b. SRMR-I6 – Declining water quality has adverse effects on the environment, our communities, and the economy; and
- c. SRMR-I9 – Otago lakes are subject to pressures from tourism, and population growth.

215. While these issues received a number of submissions, the underlying facts of water shortages and declining water quality were not generally a focus of evidence at the hearing. Objectives, policies and methods addressing those issues tended to somewhat understandably take the limelight, although we do acknowledge that the amendments recommended by the s.42A officer, Ms Todd, addressed much of the relief sought by submitters.
216. As a general comment, we consider that issue statements should be general statements of region wide issues that inform and direct the drafting of objectives and policies. They should not be overly detailed as to specific locations or industries and, while there is some overlap between issues statements due to the integrated nature of the issues that they are addressing, they are discrete statements. Examples may be appropriate where they serve to aid in understanding or illustrating an issue, but there is little value in using multiple examples to highlight what are region wide issues.
217. We make these general comments here as many of the submissions sought amendments to highlight specific issues at certain locations or associated with certain industries. We have considered all such requests and, while many highlight valid localised issues, we have not found any additional amendments of this type that would strengthen any of the above issue statements. We make this observation here rather than repeating ourselves for each issue statement.
218. We also note here that a number of submitters, for example, OWRUG and DairyNZ, highlighted what was considered to be a theme of negativity around resource use in the issues statements. The relief sought seeks that the issues better recognise the benefits of resource use, for example water use for primary production. Ms Todd recommended a number of amendments to this effect.
219. The three issues listed above are addressed below, along with requests for new significant resource management issues for the region.

5.2. New significant resource management issues for the region

220. The following new issues statements were sought:
- a. NZSki and Realnz sought to identify the benefits to people and the environment from subdivision, use and development of natural and physical resources, along with the well-being benefits of people accessing the natural environment.
 - b. Similarly, Fish and Game sought to recognise that the social, cultural and economic well-being of Otago's communities depends on use and development of natural and physical resources.
 - c. Fonterra sought a new issue statement focusing on the impact that restricted resource use may have on the social and economic well-being of Otago. As an alternative, they sought amendments to SRMR-I6 .
 - d. DCC sought to identify the damming of Te Mata-au Clutha River as a regionally significant issue and legacy effect, and requested associated objectives and policies.
221. The new resource management issues sought in (a), (b) and (c) above were also sought through the non-freshwater process. As part of that process, parties participated in caucusing on new significant resource management issues for the region, and other submitters were provided with the opportunity to comment. Two new issues statements arose from this process and are considered through the non-freshwater process. We agree with Ms Todd, the s.42A officer for

this section, that the new issues sought in (a). (b) and (c) above are best considered through the non-freshwater process alongside the two additional issues.

222. Turning to (d) above, DCC consider that the damming of the Clutha River/Mata-au significantly impacts on downstream sediment delivery, including to the coast, increasing coastal erosion. DCC's submission references several reports on this issue, however they did not suggest wording in their submission or evidence.
223. We agree with Ms Todd that damming of the Clutha River/Mata-au in itself is not a regionally significant issue, and that the issues associated with damming are appropriately addressed through other issues statements.
224. We do not consider that any new issues statements should be introduced through the freshwater process.

5.3. SRMR-15-Freshwater demand exceeds capacity in places

225. There were thirty submissions in relation to SRMR-15, including four submissions seeking it be retained as notified and others seeking a collective broad range of amendments. These requested amendments are well summarised in Ms Todd's s42A report. We received some evidence in support of these submissions but the focus of evidence was mostly on objectives, policies and methods.⁴
226. Ms Todd recommended a range of amendments to SRMR-15 in her s.42A and an additional amendment in her reply report in response to amendments sought by Mr Hodgson for Horticulture NZ. With one exception, we consider that these amendments are appropriate. That exception relates to paragraph 2 of the Context section, where the following sentence is recommended:

However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to ~~achieve a balance of~~ prioritise protection of the mauri of *water* bodies, meet the health needs of people, and provide for economic, environmental, social and cultural needs.

227. We have previously stated that *"mauri' is not readily definable as it relates to a combination of physical and ecological elements which are scientifically demonstrable, as well as amenity aspects which are far less capable of precise description. In addition it can involve a range of te ao Māori concepts, both physical and metaphysical"*. In this instance we consider that 'health and wellbeing' should be used in place of 'mauri'. This is consistent with our approach elsewhere in the PORPS, and also with the concept of Te Mana o te Wai in the NPSFM.

5.3.1.1. Recommendation

228. We recommend that the wording in the PORPS Reply Report version dated 10 October 2023 be adopted for SRMR-15 – Freshwater demand exceeds capacity in some places, with the exception of paragraph 2 of the Context where we recommend the following amendment:

However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to ~~achieve a balance of~~ prioritise protection

⁴ Freshwater s.42A report of Ms Jacqui Todd, paragraphs 505-540.

of the health and well-being of water bodies, meet the health needs of people, and provide for economic, environmental, social and cultural needs.

5.4. SRMR-16– Declining water quality has adverse effects on the environment, our communities and the economy

229. There were thirty submissions in relation to SRMR-16, including five submissions seeking it be retained as notified, and others seeking a variety of amendments. Ms Todd summarised these requested amendments in her s42A report.⁵

230. Ms Todd recommended a number of amendments throughout SRMR-16 in her s.42A report and Reply Report and we consider that these act to clarify and strengthen this issue statement. We do not consider that any additional amendments are required.

5.5. SRMR-19 – Otago lakes are subject to pressures from tourism and population growth

231. Fifteen submissions were received in relation to SRMR-19, including four submissions seeking it be retained as notified, and others seeking a variety of amendments. Ms Todd summarised these requested amendments in her s42A report.⁶

232. As for SRMR-15 and SRMR-16, Ms Todd recommended a number of amendments throughout SRMR-19 in her s.42A report and Reply Report and we do not consider that any additional amendments are required.

6. RMIA – Resource Management Issues of significance to Iwi Authorities in the region

233. The RMA provides as follows in s.62(1)(b):

62. Contents of regional policy statements

(1) A regional policy statement must state –

- (a) the significant resource management issues for the region; and
- (b) the resource management issues of significance to iwi authorities in the region; and...

234. At paragraph 554 of the original s.42A report the following was stated:

554. Iwi consultancies Aukaha and Te Ao Marama Incorporated (as agents of, and in consultation with, Otago's mana whenua) have led preparation of the corresponding sections of the PORPS 2021. The issues presented represent Kāi Tahu's key concerns with resource management in Otago.

235. Only two of the RMIA issues were shaded blue as being part of the FPI being RMIA-WAI-I1 and RMIA- AI-I3. (Again we observe that appeared strange as RMIA-WAI-I2, RMIA-WAI-I4, and RMIA-WAI-I5 all by their title using WAI we would have thought related obviously to freshwater issues,

⁵ Freshwater s.42A report of Ms Jacqui Todd, paragraphs 560-596.

⁶ Freshwater s.42A report of Ms Jacqui Todd, paragraphs 624-637.

as did their content. Nonetheless, for reasons which are applicable both to the freshwater and non-freshwater RMA issues the Panel had no matters it needed to discuss in relation to either process. The comments which follow echo observations already made in the non-freshwater Appendix One.

236. As a consequence of the fact that Kāi Tahu led the development of this chapter, submissions by Kāi Tahu agencies were not major and in general constituted almost a process of ‘polishing’ the provisions Kāi Tahu had already shaped in the preparation stage. That is unsurprising, because as Mr Adams the s.42A report writer pointed out:

553. A regional policy statement must state the resource management issues of significance to iwi authorities in the region. Only mana whenua can make such statements with authenticity in Otago.

237. That reality, and the limited room for major submission points to be raised by those other than iwi authorities in relation to issues of significance to iwi authorities, is reflected by Mr Adams’ repetitive observation in recommending the rejection of various limited submission points seeking amendment to particular provisions, that the notified provision is “*a direct expression of iwi concerns.*”

238. In the closing submissions by ORC’s counsel in reply, no major outstanding legal issues were identified as needing to be addressed in relation to this chapter. In the s.42A reply report some very limited further planning wording aspects were addressed which Kāi Tahu had requested.

7. LF – Land and Freshwater

7.1. Introduction

239. The provisions in the LF chapter are comprised of Freshwater Planning Instrument (FPI) provisions and non-FPI provisions. As discussed in the ‘Legal Issues’ section, we found the split to be unhelpful and, in some instances, nonsensical. We could relate to Mr Cameron’s legal submissions for Kāi Tahu, where he commented that the parties have had to ‘moonlight as contortionists’ to determine how to deal with the FPI and non-FPI split.⁷ Closely related provisions are, in some instances, split between the FPI and non-FPI, making it difficult to prepare this recommendation report in a coherent and structured way.

240. To address this complex situation we have decided to replicate our complete report for this chapter, containing both FPI and non-FPI provisions, in both Appendix One and Appendix Two. The alternative would have been to separate the FPI and non-FPI provisions which we consider would have continued to complicate matters.

241. This chapter of the PORPS was further complicated by amendments to the NPSFM which came into effect on 5 January 2023. This was after the release of the non-FPI s42A report and evidence, and we thank Ms Boyd for her helpful supplementary evidence and submitters for addressing these amendments in their presentations to the hearing. Amendments to the NPSFM wetland management provisions and the addition of aquatic offsetting (NPSFM Appendix 6) and aquatic compensation (NPSFM Appendix 7) were of particular relevance to this chapter of the PORPS.

⁷ Comment made by Mr Cameron during his legal submissions on behalf on Kāi Tahu during the non-FPI hearings on 8 May 2023.

242. The LF chapter, as notified, was split into four sections, as follows:

LF-WAI – Te Mana o te Wai

LF-VM – Visions and management

LF-FW – Fresh water

LF-LS – Land and soil.

243. The long-term visions were prepared to give effect to clause 3.3 of the NPSFM, which prescribes a process for developing long-term visions which are to be included as objectives in a regional policy statement. These were discussed in the 'Legal issues' section of Appendix Two and are discussed further below, but we note here that the vision objectives essentially set the policy direction in the LF-FW chapter. As a result, Ms Boyd sensibly recommended merging the LF-VM section into the LF-LF section. We accept this recommendation and the discussion in this chapter is based on the three-section structure recommended in the PORPS version dated 10 October 2023.

7.2. LF-WAI – Te Mana o te Wai

244. We discussed the LF-WAI chapter extensively in the Legal Issues section of Appendix Two to our report. We do not intend to repeat those discussions here and direct the reader to that section. Our recommendations are provided in that section and are replicated below. Where we do not make recommendations, we have considered that the recommendations made by the s.42A report author, Ms Boyd, and documented in the 10 October 2023 reply version of the PORPS are appropriate.

7.2.1. LF-WAI-O1 – Te Mana o te Wai

245. In the Legal Issues section of Appendix Two, we recommended a change in placement of the word 'mauri' in the introductory sentence of LF-WAI-O1 to clarify what we consider the intent of the objective to be and to better reflect the concept of Te Mana o te Wai.

7.2.2. LF-WAI-P1 - Prioritisation

246. We discussed the term 'health and wellbeing' in the Legal Issues section of Appendix Two. This phrase is used in the NPSFM and in various place in the PORPS. In LF-WAI-P1(1), it is used as in relation to 'water bodies' and 'freshwater ecosystems' and in relation to the environment. By the RMA definition used in the PORPS this includes 'people and communities'. We considered the use of this phrase in LF-WAI-P1(1) was appropriate.

247. Our Legal Issues section also discussed the vexed issue of prioritisation under tier 2 and tier 3 of Te Mana o te Wai in the NPSFM. This was a common theme in submissions for a number of provisions in the LF chapter and is the essence of LF-WAI-P1. As we discussed, a number of submitters sought amendments to reference particular activities or industries as priority 2. We concluded that the approach taken by the ORC for the PORPS is correct, *"that the intent of priority two is only to capture that limited amount of water involved in contact usages which can directly affect human health needs, i.e. the taking of freshwater solely for drinking water purposes or other direct engagement activities."* We considered *"that should leave reasonable quantities available in most situations, short of drought conditions, for use by priority three users."*

248. We consider that the detailed methods of how to allocate water amongst uses will be informed and determined during the NOF process.

7.3. LF-VM – Visions and management

7.3.1. Introduction

249. The LF-VM – Visions and management section contains five long-term freshwater visions as follows:

LF-VM-O2 – Clutha Mata-au FMU vision

LF-VM-O3 – North Otago FMU vision

LF-VM-O4 – Taieri FMU vision

LF-VM-O5 – Dunedin & Coast FMU vision

LF-VM-O6 – Catlins FMU vision

250. The visions are set at the FMU level, with the Clutha Mata-au vision containing a combination of clauses that apply across the whole FMU and clauses that apply in one or more specific rohe. This reflects the decision of Council to retain the Clutha Mata-au as one FMU to ensure an integrated approach to managing the catchment, while providing for delineation of various sub-catchments (rohe), recognising the considerably different environments and pressures in these areas.

7.3.2. Structure and consistency of freshwater visions

251. A number of submitters sought amendments to the structure of the visions to address the lack of consistency between them. This included some submitters requesting an overarching or regional wide Vision that applies to all waterbodies in Otago. (FPI037.014 Fish and Game, FPI030.019 Kāi Tahu ki Otago, FPI045.008 Forest and Bird, FPI030.045 Kāi Tahu ki). Fish and Game and Forest and Bird proposed an ‘all of Otago catchment vision’ while Kai Tahu promoted a number of outcomes for inclusion in an overarching vision.

252. Ms Boyd recommended the inclusion of a new region-wide objective that combined all the common elements of the five Visions, along with all the matters contained within LF-FW-O8, which she recommended for deletion as a consequential amendment. Most parties considered that approach to be lawful although OWRUG, Federated Farmers, DairyNZ and Horticulture NZ continued to challenge that approach at the hearing.

253. We addressed the lawfulness of this approach in section 3.1 of Appendix 2 from paragraph 86 and concluded that it is plainly available at law, as visions are set at FMU, part FMU or catchment level. As Ms Boyd noted, it is not surprising that there is commonality of outcomes sought across the region and we have accepted that it makes sense for efficiency purposes to combine common features in one region-wide Vision objective. The concern of Ms Perkins for OWRUG, Federated Farmers, and Dairy NZ appeared to relate more to a process issue than a substantive issue. In her opinion, *“the separation of the visions back out to at least FMU level, even with repetition, will more effectively allow for future changes to the visions as needed at FMU level or below.”* Ms Boyd did not agree with this position, stating that she did not think *“there is any difference between making changes to an objective that applies across the region and an objective (vision) that applies to an FMU. Both are provisions in the pORPS and both require a formal planning process to be amended.”*

254. While we understand Ms Perkins’ point, we tend to agree with Ms Boyd on this. While a number of the parties, particularly the farming witnesses for OWRUG, Federated Farmers, and Dairy NZ,

complained that their 'visions' have not been represented in the notified pORPS, we were presented with very little in the way of 'vision statements' that were specific to the various FMUs, or to waterbodies within them. The geographic breadth of the FMUs makes this difficult anyway and as a consequence, the Visions can really only be set at a high level, with the consequent NOF process delving into the detail as the values and relevant attributes are assessed and fixed in relation to specific catchments and waterbodies.

255. That only leaves us to consider the content of Visions, which we do by following Ms Boyd's order at paragraphs 895 to 990 of her s.42A report, and then the specific provisions that follow in section 8.4.5 to 8.4.9. But before we do that, we must briefly address her concern that there is a lack of clarity with the relationship between the LF-VM and LF-FW sections. She drew our attention to the fact that the LF-VM section (which contains the Visions) is 'heavy' on objectives and contains only two policies that are procedural in nature, while the LF-FW section only contains relatively brief objectives but is very 'heavy' on policies, which are intended to achieve the objectives of both sections.

256. Ms Boyd considered this structure to be unhelpful as the sections are intended to be read together as one policy framework. In her view, it is preferable to have the provisions sitting together and she recommended the following changes accordingly:

- a. *Moving all of the LF-VM content into the LF-FW section so that there is a cohesive suite of objectives, policies, and methods relating to freshwater (and therefore condensing the LF chapter to three sections: LF-WAI, LF-FW, and LF-LS),*
- b. *Incorporating a region-wide objective for freshwater as the first objective in the merged LF-FW section, followed by the FMU and rohe visions and then LF-FW-O9, and making consequential amendments to the FMU and rohe visions, and LF-FW objectives, to remove duplication with and include cross-references to, the region-wide objective.*

257. We agree with Ms. Boyd that her proposed amalgamation of the two sections makes sense and will assist with the efficiency and clarity of the pORPS. While no submitters requested this change, we consider these changes to be of minor effect and they do not alter the substance of the provisions so are permissible under clause 16 of Schedule 1 of the RMA.

7.3.3. Content of a region-wide objective for freshwater

258. After considering the submissions and the various freshwater and Vision objectives, Ms Boyd recommended the following new region-wide objective in her s.42A report:

LF-FW-O1A – Region-wide objective for freshwater

In all FMUs and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VM-O2 to LF-VM-O6:

- (1) freshwater ecosystems support healthy populations of indigenous species and mahika kai that are safe for consumption,
- (2) the interconnection of land, fresh water (including groundwater) and coastal water is recognised,

- (3) indigenous species can migrate easily and as naturally as possible,
- (4) the natural character, including form and function, of *water bodies* reflects their natural behaviours to the greatest extent practicable,
- (5) the ongoing relationship of Kāi Tahu with *wāhi tūpuna*, including access to and use of *water bodies*, is sustained,
- (6) the health of the *water* supports the health of people and their connections with *water bodies*,
- (7) innovative and sustainable *land* and *water* management practices provide for the health and well-being of *water bodies* and *freshwater ecosystems* and improve resilience to the *effects of climate change*, and
- (8) direct *discharges* of *wastewater* to *water bodies* are phased out to the greatest extent practicable.

259. Consequential deletions of clauses to LF-VM-O2 to LF-VM-O6 that are now proposed for inclusion in LF-FW-O1A were also recommended and are discussed in relation to those provisions.

260. As notified, each of the freshwater Vision objectives included an identical clause that “*fresh water is managed in accordance with the LF-WAI objectives and policies*”. Fulton Hogan sought this clause be deleted unless a comprehensive set of policies addressing “how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region” is included amongst the LF-WAI objectives and policies. Prioritisation does not, in their opinion, provide the direction necessary to provide a regional context to the priorities set out in the NPSFM Objective. We have dealt with the prioritisation issue within Appendix 2 in section 2.1.3, but agree with Ms Boyd that such a ‘belt and braces’ approach is not necessary given the LF-WAI provisions must be given effect to when making decisions affecting freshwater.

7.3.4. LF-FW-O1A

261. Turning to the recommended LF-FW-O1A(1), being ‘freshwater ecosystems support healthy populations of indigenous species and mahika kai that are safe for consumption’, Ms Boyd noted that it is similar to the following notified provisions:

- a. LF-FW-O8(1): the health of the wai supports the health of the people and thriving mahika kai,
- b. LF-VM-O2(4): water bodies support thriving mahika kai
- c. LF-VM-O3(3): healthy riparian margins, wetlands, estuaries and lagoons support thriving mahika kai, indigenous habitats and downstream coastal ecosystems,
- d. LF-VM-O4(6): water bodies support healthy populations of *galaxiid* species,
- e. LF-VM-O6(3): water bodies support thriving mahika kai [and access of Kāi Tahu whānui to mahika kai].

262. The only freshwater vision that does not contain a similar type of outcome is the Taiari FMU, but Kāi Tahu ki Otago (FPI030.022 Kāi Tahu ki Otago) sought its inclusion within that vision. A number

of submitters (Kāi Tahu ki Otago, Contact, and Ravensdown) also sought to clarify that mahika kai is safe for consumption, which Ms Boyd considered appropriate and consistent with the second priority in decision-making set out in LF-WAI- P1(2).

263. In her opening statement at the hearing, Ms Boyd responded to the evidence of Mr Brass for the Director-General of Conservation by recommending direct reference to non-diadromous galaxiids and Canterbury mudfish in LF-FW-O1A. Mr Brass did not support the proposed wording because he considered it changes the focus of the clause such that the purpose of supporting healthy populations of indigenous species is only valued in relation to mahika kai rather than in its own right. Ms Boyd agreed with Mr Brass but was concerned his suggested amendment removes the reference to 'plentiful' mahika kai.

264. While the Panel acknowledges that this issue was highlighted in the cultural evidence for Kāi Tahu, we note that this objective applies across the board to all freshwater ecosystems and while Mahika kai is part of a freshwater ecosystem, we consider that it has elements of both priority 2 and 3 as it places human use value on some parts of the ecosystem over others. As we have already determined, the Vision objectives are not the place to prioritise these matters. How 'plentiful' mahika kai should be in any given waterbody will be determined through the NOF process. Hence, we do not agree with the use of the word 'plentiful' in this context.

265. The recommended LF-FW-O1A(2) largely adopts the wording currently contained in LF-FW-O8(3) and is similarly described in LF-VM-O2(7)(c)(ii). Ms Boyd considered it appropriate to add reference to 'land' in the new clause to address the submissions on LF-FW-O8(3), which we agree with.

266. The recommended LF-FW-O1A(3) is that "indigenous species can migrate easily and as naturally as possible" and Ms Boyd notes it is similar to the following notified provisions:

- a. LF-FW-O8(4): native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected,
- b. LF-VM-O2(5): indigenous species migrate easily and as naturally as possible along and within the river system,
- c. LF-VM-O3(4): indigenous species can migrate easily and as naturally as possible to and from the coastal environment,
- d. LF-VM-O5(3): healthy estuaries, lagoons and coastal waters support thriving mahika kai and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas.

267. A number of submitters addressed this direction in the various notified provisions above, including:

- a. Moutere Station sought that it only applies to migration of indigenous species where required to complete their life cycle.
- b. DOC sought a new clause that that would ensure passage of undesirable fish species is prevented where necessary.
- c. Contact considers the clause fails to reflect that the dams have altered the natural form and function of the Clutha River, and that the restoration of natural processes may not be feasible in all cases. Contact seeks to replace

‘where possible’ with ‘practicable’.

- d. Meridian proposes that the migration of these species is maintained, and enhanced where practicable, while removing reference to the migration being easy and as natural as possible.
- e. Oceana Gold seeks the removal of the phrase ‘as naturally as possible’ and amendments so that provision is made for indigenous species to migrate.
- f. Fish and Game and John Highton seek amendments to provide for the migration of valued introduced species such as salmon, as well as native species.

268. In Ms Boyd’s recommended objective, she has used the reference “indigenous species” as opposed to “native fish”. She also addressed the differentiation about where migration occurs in her s42A report, noting that *“migration at a high level is generally between fresh and coastal waters. However, the barriers to that migration are often in the freshwater bodies. In my view, the ability to migrate is the key outcome sought and therefore it is not necessary to specify the different types of migration that might occur (and unintentionally limit the application of the clause to, for example, migration occurring at the fresh/coastal water interface).”* However, the final recommended version of this clause is that such species ‘migrate easily within and between catchments’.

269. Ms Boyd agreed with submitters that there are practical constraints on the ability for indigenous species to travel up and down rivers but considered the clause “as natural as possible” recognises “that there will be situations where natural solutions are not possible.” (However, we note that this phrase has been removed from the provisions as recommended.) Ms Boyd considers her recommended provision to be consistent with the specific requirements for the management of fish passage under the NPSFM.

270. However, it is not clear to us how the provision is consistent with the NPSFM Clause 3.26(1) which requires an objective to be inserted in a regional plan that reads as follows (or to similar effect):

“The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.”

271. Of course, this objective is to be included in a regional plan and what we are dealing with here is the wishes of the community and tangata whenua for the Vision objectives of the pORPS. However, the final recommended wording for this provision includes the word ‘easily’ and does not use the phrase as ‘naturally as possible’. In the panel’s view, this is not particularly well aligned with the NPS approach as that direction recognises, by referencing instream structures, that there will be circumstances where fish passage will not be easy and will not be natural. The NPS approach also relates to all fish, not just indigenous species.

272. We heard evidence from both Contact Energy (Mr Brinsdon) and Ocean Gold (Ms Hunter) on the difficulty encountered with existing impediments to migration in waterbodies affected by their operations. As a consequence, the use of ‘trap and transfer’ methods have been adopted to address the issue. We also heard extensive evidence from other submitters, including the OWRUG witnesses, that highlighted how many waterbodies throughout Otago are modified by various structures, many of which are decades old, and how difficult and costly it is to modify

them. The DCC also raised concern with the provision in relation to urban water bodies that are often part of a stormwater network and are highly modified.

273. This evidence was compelling, and we consider any broad, region wide visions must reflect the reality of these circumstances. Otherwise, how is the Council to implement 'improvements' to achieve the vision it may identify under cl.3.3(4) of the NPS to return waterbodies back to natural state when it obviously cannot be done? We would suggest these types of visions are simply unachievable in many of Otago's waterbodies.

274. Accordingly, we agree with the evidence of Ms Styles for Manawa on this particular issue. She stated that the pORPS provision "*sets a very clear expectation that fish passage will be required in all circumstances*" but that the NPS "*clearly does not require the provision of fish passage in all cases and having inflexible language in the RPS with a blanket expectation of fish passage does not enable the Water Plan to take the expected nuanced approach.*" As a consequence, we have recommend adopting wording similar to that proposed by Ms Styles, which more accurately reflects the NPS:

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

275. This provision does not impose the standard of 'easily' on the outcome and does not require it to be as 'naturally as possible'. It will enable the current approaches undertaken on waterbodies like the Clutha to continue and will also allow their use in other situations where a historical impediment precludes any other method. It also enables the interaction between exotic and indigenous species to be managed as foreshadowed by policies 9 and 10 of the NPS.

276. LF-FW-01A(4) raises a similar issue as it reads "the natural form and function, of water bodies reflects their natural behaviours to the greatest extent practicable." It is similar to the following notified provisions:

- a. LF-FW-08(2): water flow is continuous throughout the whole system,
- b. LF-VM-02(7)(b)(i): flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices (noting this applies only to the Dunstan, Manuherekiā, and Roxburgh rohe),
- c. LF-VM-02(7)(c)(i): there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of waterbodies are promoted wherever possible (noting this applies only to the Lower Clutha rohe),
- d. LF-VM-05(4): there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever possible.

277. As Ms Boyd highlighted in her s.42A report, there are many submissions in opposition to these provisions, with most seeking either deletion or significant amendment to improve clarity or recognise the reality that many waterbodies have been modified. Ms Boyd recognised in her report that a number of the outcomes sought were not practical given the high level of modification of some water bodies, which we have discussed above. In her view, "any outcome

regarding natural form and function needed to be aspirational but also practical". Her solution is the introduction of the phrase "to the greatest extent practicable", which she considers to be a 'mid ground' somewhere between "anything within the realm of possibility" and "the minimum financially viable". In her view, "this recognises that there are practical constraints on the ability for water bodies to reflect their natural form and function (i.e. due to modification). However, the fact that water bodies have been modified should not, alone, be a reason not to pursue opportunities to improve their form and function where these exist and can be practically achieved."

278. We agree that the Vision objectives outcomes should be aspirational and the use of "to the greatest extent practicable" does not readily align with that. However, they also need to be realistic and achievable and quite plainly, an objective that does not contain such a qualifier is neither. In the vast majority of situations, it simply could not be achieved. Furthermore, many of the community's responses to the effects of climate change may, by necessity, involve how we manage the form and function of our water bodies. Existing renewable energy schemes such as those on the Clutha may need to be expanded or otherwise modified as a part of this response. The Onslow project that was recently assessed by the previous government is another example of where an already modified catchment may need to undergo significant further modification as a part of the response. There is also the situation raised by the Dunedin City Council in relation to highly modified urban waterways, some of which form part of the city stormwater network. This will also likely be the case in other urban areas throughout the region.

279. Ms Hunter, for both Contact and Oceana Gold, raised concern with the phrase to the greatest extent practicable". At paragraph 37 of her Oceana Gold evidence, she said:

"I am also unclear as to how the term "to the greatest extent practicable," as it applies throughout this objective, would be tested. As drafted, it could imply that the demonstration of practicability could be interpreted on a sliding scale. And that the application of the "greatest extent practicable" therefore means something more than "to the extent practicable or reasonably practicable", or even the best practicable option. If this is the intent, it is not clear to me how an applicant would be able to demonstrate that they have gone to this level of effort and therefore extent versus something lesser in terms of a practicability test. In other words, where is the line between achieving what is practicable versus achieving something to the "greatest extent" that is practicable. "

280. We tend to agree with Ms Hunter and consider the phrase should be 'reasonably practicable'. Practicable generally means it is able to be done or put into practice successfully while the term 'reasonably practicable' limits the precautions to be taken to those that are not only possible but that are also suitable or rational, given the particular situation. Hence, what is 'reasonably practicable 'in the particular situation' will be determined by a range of things, generally dealt with in the lower order plans, and will also involve consideration of other objectives, such as those dealing with our response to climate change as discussed above. As a consequence, we recommend that the clause be amended as follows:

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

281. The first ‘natural’ in the provision has also been removed as it is redundant given the aim is for the character to reflect its ‘natural characteristics and behaviours’.
282. With respect to the consequential amendments recommended by Ms Boyd, we accept those as appropriate with the exception of the use of ‘where possible’ in relation to restoration opportunities in LF-VM-O2(7)(c)(i) and LF-VM-O5(4) should be replaced with ‘where reasonably practicable’. We are in agreement with Ms Styles’ position (for Manawa Energy) that ‘possible’ sets an extremely high bar for a policy given the recent High Court interpretation of “possible”, where they concluded that if it is “technically feasible it is possible, whatever the cost” (Tauranga Environmental Protection Society Inc v Tauranga City Council [2021] NZHC 1201 [27 May 2021] at [149]).
283. The evidence of Mr. Wallace for OWRUG highlighted the difficulties in managing the effects of historic modification in the Lower Pomahaka catchment (which is located within the Lower Clutha rohe). Almost all of the streams in this catchment are mechanically straightened waterways with an impervious clay bottom, which creates significant sedimentation issues. Many properties also contain tile drains, the actual locations of which are not always known. While it may be ‘technically feasible’ to return these waterbodies to their natural alignment and remove all the tile drains, the cost would be astronomical and would not likely return the water to its natural state anyway. In cases such as this, it seems more likely that water quality improvements will be achieved through other forms of intervention that may not see the waterbody returned to its natural form but may see it achieving more of its natural function.
284. LF-FW-O1A(5) is that “the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, is sustained”. This is a priority 2 and 3 matter that picks up on a theme that is common across the freshwater visions but for some unknown reason, is inconsistently expressed. It has not been included in LF-FW-08 but is found in the following Vision objectives:
- a. LF-VM-O2(3), LF-VM-O4(2), LF-VM-O5(2), and LF-VM-O6(2): the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,
 - b. LF-VM-O3(2): the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained and Kāi Tahu maintain their connection with and use of the water bodies
 - c. LF-VM-O6(3): water bodies support thriving mahika kai and access of Kāi Tahu whānui to mahika kai.
285. The only concern from submitters, raised by Beef + Lamb and DINZ in relation to LF-VM- O6(3), was that public access needs to be considerate of and consistent with landowner needs, health and safety, and animal welfare matters. Ms Boyd agrees that these matters are relevant but did not consider that the wording establishes an expectation that access will be guaranteed, or that access could not be negotiated in a way that is considerate of and respects landowner needs. We agree and note that access to waterbodies is a s.6(d) RMA matter relevant to the entire community, not just Kai Tahu.
286. LF-FW-O1A(6) is that “the health of the water supports the health of people and their connections with water bodies.” Ms Boyd advised that this was included to pick up on an aspect of LF-FW-O8(1) that is not covered by LF-FW-O1A(1), being ‘the health of the water supporting the health of people’. Contact and Ballance sought amendments to LF-FW-O8(1) to recognise the connections of people with water bodies while Fish and Game has also sought recognition of recreation in and around water and harvesting food from water bodies. Ms Boyd considered that the wording proposed by Contact and Ballance captured this philosophy and adopted it

accordingly. We consider Fish and Game's request is essentially provided for by this wording and we note that a specific amendment has been made to LF-VM-02 to address outdoor recreation opportunities.

287. LF-FW-01A(7) has been introduced to address human use values that will fall within priority 2 and 3. It picks up on similar notified provisions as follows:

- a. LF-VM-02(7)(b)(ii): innovative and sustainable land and water management practices support food production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact (noting this applies only to the Dunstan, Manuherekia and Roxburgh rohe),
- b. LF-VM-02(7)(c)(iii) and LF-VM-03(5): land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact,
- c. LF-VM-04(8): innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.
- d. LF-VM-06(6): sustainable food production for future generations.

288. Ms Boyd noted that there many submissions made on these provisions. In relation to LF-VM-02(7)(b)(ii) these included:

- a. Manuherekia Group seeks to delete the term 'innovative'.
- b. Several submitters seek alternative terms to 'food production', including: 'agricultural, pastoral, horticultural and viticultural production'; 'food and fibre sector'; 'innovative land use'; 'food and fibre production'; and 'primary production'. COWA seeks that viticulture is referenced alongside food production.
- c. COWA seeks that 'land and water management practices are enabled'.
- d. Waterfall Park seeks that the management practices described in clause (7)(b)(ii) 'improve water quality where degraded', in addition to supporting food production and reducing discharges.
- e. Beef + Lamb and DINZ seeks amendments to only require the reduction of discharges of nutrient and other contaminants to water bodies 'where necessary to ensure they are safe for human contact'.
- f. Horticulture NZ seeks that clause (7)(b)(ii) include reference to management practices that 'reduce emissions and improve resilience to the effects of climate change'.

289. In response to the Manuherekia Group's request to delete 'innovative', Ms Boyd considered this term consistent with the desire expressed by the community to see new approaches developed to manage activities in the future. In her view, "*the purpose of employing innovative and sustainable practices is to ensure that activities, regardless of what they are, reduce their impacts on the health and well-being of freshwater.*"

290. Innovation is generally considered to be a new way of doing things, often ground-breaking or pioneering. The proposed wording requires the practice to be both innovative and sustainable. While we acknowledge that there will be a place for innovation in achieving freshwater outcomes, not all approaches will necessarily be innovative. The more important approach to achieving the outcomes sought will be 'sustainable' land and water management practices. That may sometimes include new approaches but that may not always be necessary in some areas (for example, the Dunstan rohe where Ms Boyd notes water quality is generally very good). Hence, we have removed the word 'innovative'.
291. In the original iteration of this provision, Ms Boyd removed the reference to specific activities (such as food production) and instead focused on the outcome sought in the water bodies. This raised significant concern from many segments of the community and was also of concern to the Panel. While we have acknowledged that it is not appropriate for the Visions to step into the allocation regime, they must address all three priorities (to give effect to Te Mana o te Wai) and the outcomes sought for the waterbodies will be impacted by the needs of the community and tangata whenua in this regard, subject to achieving the bottom-lines required by the NPS.
292. Ms Boyd took this on board and after discussion with Ms Perkins (OWRUG) she included reference to food production into the provision. However, Ms Perkins requested the use of term "food and fibre production" on the basis that this covers "the full range of primary sector land uses, not just those responsible for food production. This better recognises the resource use issue."
293. Ms Boyd's concern was "that there was clear feedback from some communities about forestry in their FMUs", which included North Otago, Taiari and the Catlins. While the community concerns listed by Ms Boyd included water quality issues, there was also a preference for maintaining an agriculture base. In our view, this steps into the realm of allocating resources and prioritising one land use over another. It also ignores the effect of the National Environmental Standard – Commercial Forestry (which recently superseded the NES-PF). Forestry occurs in most, if not all, of the FMUs identified in Otago. We heard compelling evidence from Mr. Oliver for City Forests on the impact of forestry activities on water quantity and quality and how that is managed to appropriate levels in the Otago context. We agree with him that it is poorly managed forestry (and other land use activities) that impact on freshwater values, not forestry per se. As a consequence, we do not agree with the lack of provision for forestry as an important land use within the region. As with all other activities, the effects of it will be managed by the lower order plans.
294. Hence, we have recommended that the reference in this provision be to 'food and fibre production' as defined by Ms Scott for OWRUG. This ensures the associated processing industries are also recognised as the definition reads:

Food and Fibre Production means the primary sector production industries (other than mining) including Arable, Dairy, Forestry and Wood Processing, Horticulture (including vegetables, viticulture and winemaking), Pork, Poultry, Bees, Red Meat and Wool (Sheep, Beef and Deer), Seafood and Cross-Sector and the related processing industries. Note: This definition is intended to describe the suite of activities that occur throughout Otago from a rural land use perspective and is not intended to prioritise one primary sector production industry over another.

295. Ms Boyd also incorporated reference to improving resilience to the effects of climate change to this provision which was a part of the notified LF-VM-O4. She noted that a number of submitters sought a similar amendment to the other freshwater visions as follows:

- a. HortNZ: LF-VM-O2, LF-VM-O5 and LF-VM-O6,⁵⁸⁴
- b. DOC: LF-VM-O2 and LF-VM-O4,⁵⁸⁵
- c. Federated Farmers: LF-VM-O5 and LF-VM-O6.⁵⁸⁶
- d. Ravensdown: LF-VM-O5 and LF-VM-O6.⁵⁸⁷

296. Ms Boyd stated that “the effects of climate change will have significant implications for some land and water users and, given the timeframes the visions contain, it will be important for practices to improve resilience as those effects are felt.” We agree and are comfortable with the clause as finally expressed by Ms Boyd. In this context, water storage was raised as an important issue by many groups, including the OWRUG witnesses, who sought its inclusion in the visions. However, we note that this issue was addressed and enabled in LF-FW-P7A so direct reference is not required in the visions.

297. We do note, however, that the focus of this provision is on the practices of resource users needing to adapt to climate change. It does not address the wider issue of the management of freshwater for renewable energy generation as part of New Zealand’s integrated response to climate change. We heard compelling evidence from not just the REGs but from a wide range of submitters, in particular Wise Response, on what will be required to meet central Government’s targets to decarbonise our society’s activities. Recognition of the part renewable energy generation will play in this was specifically sought by Contact and Meridian. Wise Response sought something similar requesting the addition of “freshwater use is for activities compliant with national and international emissions reduction and biodiversity policy agreements.”

298. We agree that if New Zealand is to get anywhere near its statutory targets in this respect, renewable energy generation development will be critical, and that will at least include the upgrade and development of existing hydro schemes, if not consideration of other hydro projects in the future. As a consequence, we agree with the REGs, and to a point, Wise Response, that there will be implications for the management of freshwater and specific recognition of this should occur. We therefore recommend that the following clause is added to LF-FW-O1A:

“freshwater is managed as part of New Zealand’s integrated response to climate change and renewable electricity generation activities are provided for.”

299. A further issue that requires consideration is community water supplies, and three waters infrastructure. The bulk of the evidence we heard on this issue was from the Dunedin City Council. The evidence of Ms Moffat highlighted the significant challenges faced in managing the drinking water, stormwater and wastewater networks of Otago’s largest urban area. These challenges arise in three of the five Freshwater Management Units (FMU) included in the pORPS: Taiari, Dunedin & Coast, and North Otago. Essentially, DCC were concerned that the pORPS does not adequately recognise the importance of community water supplies and associated three waters infrastructure in supporting the health needs of the people. Mr Taylor proposed a raft of changes to the vision and various policies to address this concern. That included the following addition to the relevant vision objectives:

“three waters Regionally Significant Infrastructure within Dunedin City has been progressively upgraded as part of a coordinated strategy to align with the Objectives of the [Taiari or Dunedin and Coast, as applicable] FMU.”

300. The Queenstown Lakes District Council supported the DCC on this issue. Their Infrastructure Operations Manager, Mr Simon Mason, provided evidence that highlighted the key services that QLDC provides that are dependent on the freshwater planning framework. In his view, *“the policy environment needs to allow for local councils to provide services to meet the needs to the community in an affordable manner whilst managing effects on the environment sustainably.”*
301. Mr. Anderson, for the Regional Council, in his opening statement (paras 117 – 131), addressed the legality of including reference to the DCC’s ‘coordinated strategy’ approach as proposed by Mr Taylor. While accepting that such a strategy might be desirable, Mr Anderson submitted that it would be *“contrary to the NPSFM and unlawful to leave development of part of the long-term visions for future development by a third party for inclusion in a separate strategy document of that third party.”* We agree with Mr Anderson on that, but we are concerned that three water services and infrastructure has not been recognised in the visions as, for example, food and fibre production and the social, economic, and cultural well-being of Otago’s people and communities, has been. While it could be argued that three waters fall within the ambit of ‘wellbeing’, we consider it to be a more basic human need than that, which should be specifically recognised in the vision objectives. We would find it very unusual if communities did not want their FMUs to provide for their most basic health needs in the form of three waters services, which will fall across both priority 2 and 3 under Te Mana o te Wai.
302. Because of the foregoing, the Panel considers that this recognition must be provided within the region-wide objective because all FMUs contribute to these basic human needs. However, we do not think the detail proposed by Mr. Taylor is necessary. Ensuring the needs of Otago’s communities are provided for is all that is considered necessary at the visions level.
303. LF-FW-O1A(8) deals with discharges, and seeks the direct discharges of wastewater to water bodies to be phased out to the greatest extent practicable. This clause is similar to LF-VM-O2(7)(c)(iv) and LF-VM-O4(7) although these clauses impose a stricter standard, that there are no direct discharges of wastewater to water bodies. Kāi Tahu ki Otago sought the extension of this approach to all visions while Fonterra and Silver Fern Farms sought to distinguish between sewage and wastewater. Both submitters were concerned that this approach could inadvertently prohibit discharges of appropriately treated and authorised discharges that do not contain sewage. The DCC highlighted the fact that in some situations (such as extreme weather events or when a system fault has occurred), discharges of treated and/or untreated wastewater to water bodies can occur and that in some cases, a wastewater overflow may be the best practicable option with minimal environmental effect as total elimination of overflows is unlikely to be possible in most wastewater systems. They sought general amendments to address this.
304. After considering the concerns of the submitters on both sides of this issue, Ms Boyd concluded that while it is appropriate for a long-term objective to aim to phase out direct discharges as much as possible, she acknowledged that there will be cases where this is not practicable. To recognise this, she recommended the phasing out direct discharges *“to the greatest extent practicable”*. She considers that this approach is consistent with the direction in the LF-FW policies given the amendments she recommends, noting that the policy on wastewater does not require ceasing all discharges. She considered the issue further in her opening and closing statements, highlighting the significant cost involved in phasing out all direct discharges.

305. We agree with Ms. Boyd that the evidence indicates that it will not always be practical to phase out some direct discharges to water. Hence, we are comfortable with the approach she recommends with the exception of using the phrase ‘greatest extent practicable’, for the reasons we have previously discussed. We deal with Ms Boyd’s changes to the policy on this matter (LF-FW-P15) later in this decision.

7.3.4.1. Recommendation

306. Our final recommendation for the region-wide objective is therefore as follows:

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

In each FMU and rohe in Otago and within the timeframes specified in the freshwater visions in LF-VM-O2 to LF-VM-O6:

- (1) healthy freshwater and estuarine ecosystems support healthy populations of indigenous species (including non-diadromous galaxiids and Canterbury mudfish) and mahika kai that are safe for consumption,
- (2) the interconnection of land, freshwater (including springs, groundwater, ephemeral water bodies, wetlands, rivers, and lakes) and coastal water is recognised,
- (3) fish passage within and between catchments is provided for except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats,
- (4) the form, function and character of water bodies reflects their natural characteristics and natural behaviours to the extent reasonably practicable,
- (5) the ongoing relationship of Kāi Tahu with wāhi tūpuna, including access to and use of water bodies, is sustained,
- (6) the health of the water supports the health of people and their connections with water bodies,
- (7) sustainable land and water management practices:
 - (a) support food and fibre production and the continued social, economic, and cultural well-being of Otago’s people and communities, and
 - (b) improve the resilience of communities to the effects of climate change, and
 - (c) ensure communities are appropriately serviced by community water supplies, and other three waters infrastructure,
- (8) direct discharges of wastewater to water bodies are phased out to the extent reasonably practicable, and
- (9) freshwater is managed as part of New Zealand’s integrated response to climate change and renewable electricity generation activities are provided for.

7.3.5. Implications for LF-FW objectives

307. As Ms Boyd notes, the approach finally recommended by Council has implications for the three objectives in the LF-FW section, which are:

- a. LF-FW-O8 applies to all fresh water,
- b. LF-FW-O9 applies to natural wetlands, and
- c. LF-FW-O10 applies to natural character.

308. The introduction of a region-wide objective for freshwater has made clauses (1), (2), (3), and (4) of LF-FW-O8 redundant. Clause LF-FW-O8(5) deals with identifying and protecting the significant and outstanding values of Otago's outstanding water bodies. This issue has been addressed in the non-FPI process, in relation to LF-FW-P12 which essentially repeats the content of LF-FW-O8(5). Ms Boyd notes that "as outstanding water bodies are a subset of freshwater bodies, new LF-FW-O1A would apply to outstanding water bodies as well" and does not consider a specific objective necessary, particularly given it mostly repeats the content of the subsequent policy. On that basis, she is of the opinion that LF-FW-O8(5) can also be deleted.

309. However, the new region wide objective does not appear to address outstanding water bodies. As a consequence, we consider this part of the objective, LF-FW-O8(5), must be retained.

310. The provisions of LF-FW-O1A do not cover the full range of matters that would fall under natural character matters.

7.3.5.1. Recommendation

311. Adopting a region-wide objective has led to the following consequential changes:

a. Deleting the following clauses from the freshwater visions as a consequential amendment to introducing LF-FW-O1A:

- i. LF-VM-O2(3), (4), (5), (7)(b)(i) and (ii), (7)(c)(i), (iii) and (iv),
- ii. LF-VM-O3(2), (4), and (5),
- iii. LF-VM-O4(2), (6), (7), and (8),
- iv. LF-VM-O5(2) and (4), and
- v. LF-VM-O6(2) and (3).

b. Deleting the part of LF-VM-O3(3) that relates to mahika kai and indigenous species,

c. Deleting the part of LF-VM-O5(3) that relates to migration of indigenous species,

d. Amending LF-FW-O8 to only retain clause (5) as follows:

The significant and outstanding values of Otago's *outstanding water bodies* are identified and protected.

e. Retaining LF-FW-O9 but locating it after the suite of freshwater visions, and

f. Merging the LF-VM and LF-FW sections into one LF-FW section.

7.4. Timeframes

312. There are a number of submissions that seek amendments to the timeframes contained within the freshwater visions. Some of these were made generally across the suite of visions while others were made specifically in relation to one or more of the visions. Ms Boyd's s42A report summarised what the submissions sought, and we have not repeated that here. In brief, some

submitters request that the specific timetables be deleted or amended until further consultation/assessment is done to determine the cost of achieving them, and whether they are in fact achievable. Others are seeking timeframes from anywhere between 10 and 50 years. Some submitters requested that interim steps be included, with reporting requirements.

313. We have also addressed the legal issues around the timeframe issue in section 3.3 of Appendix Two. In response to the concerns of the various water user groups, we concluded that human effects matters should be considered, along with all other resource management matters, when determining what is a 'reasonable and ambitious' timeframe to achieve the vision.

314. Possibly the biggest concern of these submitters was the uncertainty they face and the need for a period of transition so that resource use change can occur in a way and over a time period that is sustainable for rural communities. As Ms Scott noted for OWRUG, agriculture and horticulture are biological processes, and there is generally a time lag between practice change and the desired environmental outcomes. Farm system changes can also take many years to implement and refine, and this is limited by funding.

315. In recognition of this, Ms Boyd and Ms Perkins discussed and agreed on a new policy (LF-VM-P6A) which, in Ms Boyd's view, addresses this concern in a way that does not inappropriately constrain, or override, the NPSFM implementation to occur in the LWRP. We have discussed the other policy approaches sought by OWRUG (relating to the use of non-regulatory measures and integrated catchment management) in our legal commentary and do not consider them to be legally available to the council in the way proposed by the submitters.

316. However, we do agree that the proposed new LF-VM-P6A is appropriate and have recommended its inclusion accordingly. In terms of the s32 evaluation, we agree with Ms Boyd that there are no costs associated with the policy while it has the benefit of recognising the need for changes in practices to occur over time to manage the impacts of those changes on communities. This is consistent with section 5(2) of the RMA – "*managing ... natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being ...*". Overall, the policy improves the effectiveness of the suite of policies designed to achieve the objectives.

317. We also agree with Ms Boyd's view in relation to the submissions seeking interim timeframes for achieving freshwater visions. In her view, the NOF process will provide a more robust foundation for determining interim timeframes. She did, however, recommend an amendment to LF-FW-M6 to require the identification of interim milestones, which we agree is appropriate.

318. With respect to the timeframes themselves, Ms Boyd concluded in her s42A report that:

- a. *North Otago FMU (2050) and Catlins FMU (2030) looked unlikely to be achievable given nutrient lag times.*
- b. *Lower Clutha rohe (2045) may be unachievable given there are higher/contributing catchments with longer timeframes.*
- c. *Manuherehia rohe (2050) is challenging, and I was open to hearing more evidence on the timeframe.*

319. She noted in her reply report that few submitters sought to extend Vision timeframes, but some still considered they should be shortened. While she agreed that action should be taken immediately to halt the decline in freshwater health, she was not convinced that these

submitters demonstrated that the timeframes they seek are “reasonable” in accordance with clause 3.3 of the NPSFM. She highlighted the significant challenges that will affect some communities and suggested that achieving the visions needs to balance the need for action with the ‘large and difficult actions’ that need time to be planned, funded, and carried out. To illustrate this, she cited the evidence of Ms Heckler for OWRUG, who indicated that the cost in achieving the vision for the Manuherekia rohe alone would be in the hundreds of millions.

320. Having considered the submissions and evidence from the various parties, Ms Boyd recommended retaining the timeframes as notified with the following exceptions:

- a. **Catlins FMU:** Based on the Otago Regional Council submission that the vision for the Catlins FMU is unlikely to be met by the 2030 timeframe (due to current modelling for periphyton), Ms Boyd recommended revising this timeframe to 2035 as there will be no opportunity to review it before 2025 is reached through normal plan review processes.
- b. **Lower Clutha rohe:** Ms Boyd considered it would be difficult for this rohe to achieve the notified timeframe given it is located at the bottom of the Clutha Mata-au catchment and has an earlier timeframe than the rohe higher in the catchment. She therefore recommended extending the Lower Clutha rohe timeframe to 2050 for consistency with the Manuherekia rohe timeframe.

321. In relation to the North Otago FMU, she considered that there is still a risk that the North Otago FMU vision will not be achieved by 2050 due to lag times but noted that there will be at least one review of the pORPS content prior to that deadline being reached. In relation to the Manuherekia rohe, she noted Ms Heckler’s view at the hearing that the issues in that catchment should be resolved by this generation and consequently, did not recommend amending the 2050 timeframe for this rohe.

322. We were not presented with any evidence at the hearing that presented a strong case for deviation from Ms Boyd’s recommendations. We acknowledge the significant difficulties that rural communities are likely to face in adapting to the approach dictated by the NPSFM, however we would expect the timeframes for most of the rohe are likely to be revisited through the next plan review cycle, which will occur after the NOF process has been carried out and monitoring has provided greater certainty around how realistic or not the timeframes are.

7.4.1. LF-VM-O2 – Clutha Mata-au FMU vision

323. With the consolidation of common provisions into a region-wide objective for freshwater and amendment to the timeframes, there were few specific provisions remaining in LF-VM-O2. Ms Boyd recommended a number of further changes throughout the process as follows:

- In response to the NZSki and Realnz request to recognise outdoor recreation opportunities, Ms Boyd noted in her s42A report that the feedback gathered for this rohe indicated that recreational pursuits and opportunities were a common theme. She considered recognition of the fact that these waterbodies support a range of outdoor recreation opportunities an appropriate amendment, in line the second priority in NPS-FM.

- In relation to clause 7(a), Contact sought a requirement to improve water quality where it is degraded while Wise Response sought a reference to water quality being restored. Ms Boyd considered this appropriate, adopting the wording of Contact.
- Subsequent to her s42A Report, Ms Boyd also accepted Contact's submission to recognise and provide for the 'operation, maintenance and upgrading' of the Clutha Hydro-electricity scheme in clause 6.
- The reference to "*sustainable abstraction occurs from lakes, river main stems or groundwater in preference to tributaries*" that was removed in her s42A report version was also reinstated, we assume in response to Kai Tahu's submission.

324. The Panel is in general agreement with Ms Boyd's proposed amendments, with just two adjustments. In relation to the tributary issue, while we recognise and acknowledge Kai Tahu's position on this matter, we also heard evidence from the OWRUG's witnesses (in particular, Ms McKeague) on the practicality of restricting takes to main stems. Again, we feel this clause should be qualified with 'to the extent reasonably practicable'.

325. With respect to the amendment proposed in relation to the Contact submission, we note that Ms. Hunter went further in her submission as follows:

"...the national significance of the ongoing operation, maintenance and upgrading of the Clutha hydro-electricity generation scheme, including its generation capacity, storage and operational flexibility and its contribution to climate change mitigation is recognised, provided for and protected"

326. Mr Brinsdon provided compelling evidence on how the current operating regime imposed on the scheme limits its efficiency and therefore its ability to fully contribute to the country's renewable energy needs. We also heard from Mr Brinsdon about the potential for other developments within the system and the wider catchment that may not be provided for under the 'upgrading reference'.

327. It is the Panel's firm opinion that these options cannot be foreclosed if the country wishes to achieve the various emissions targets and renewable energy goals it has committed to. While there will obviously be effects associated with this, Mr Boyd provided several examples of how these could be mitigated or compensated for. The Clutha is already a highly modified catchment and as we have already discussed, many of the original vision objectives are not achievable.

328. As a consequence, we accept Contact's submission in full and recommend that the current clause is expanded to include future development options are also provided for in what is an already significantly modified catchment. The provision as now recommended reads as follows:

"The national significance of the ongoing operation, maintenance and upgrading of the Clutha hydro-electricity generation scheme, including its generation capacity, storage and operational flexibility and its contribution to climate change mitigation is recognised and protected, and potential further development is provided for within this modified catchment"

7.4.1.1. Recommendation

329. The Panel's final recommendation for LF-VM-O2 is as follows:

LF-VM-O2 – Clutha Mata-au *FMU* vision

In the Clutha Mata-au *FMU*, and in addition to the matters in LF-FW-O1A:

- (1) management of the *FMU* recognises that:
 - (a) the Clutha Mata-au is a single connected system ki uta ki tai, and
 - (b) the source of the wai is pure, coming directly from ~~Tawhirimatea~~ Tāwhirimātea to the top of the mauka and into the awa,
- (1A) sustainable abstraction occurs from lakes, river main stems or groundwater in preference to tributaries, to the extent reasonably practicable,
- ~~(2) fresh water is managed in accordance with the LF-WAI objectives and policies,~~
- ~~(3) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,~~
- ~~(4) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,~~
- ~~(5) indigenous species migrate easily and as naturally as possible along and within the river system~~
- (6) the national significance of the ongoing operation, maintenance and upgrading of the Clutha hydro-electricity generation scheme, including its generation capacity, storage and operational flexibility and its contribution to climate change mitigation, is recognised and protected, and potential further development is provided for within this modified catchment.
- (6A) water bodies support a range of outdoor recreation opportunities,
- (7) in addition to (1) to (6) above:
 - ~~(a)~~ in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, and if degraded are improved, recognising the significance of the purity of these waters to Kāi Tahu and to the wider community,
 - ~~(b)~~ in the Dunstan, Manuherekia and Roxburgh rohe:
 - ~~(i) flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and~~
 - ~~(ii) innovative and sustainable land and water management practices support food production in the area and reduce~~

~~discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and~~

~~(iii) sustainable abstraction occurs from main stems or groundwater in preference to tributaries,~~

~~(e7A) in the Lower Clutha rohe,:~~

~~(i) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever reasonably practicable possible, and~~

~~(ii) the ecosystem connections between freshwater, wetlands and the coastal environment are preserved and, wherever possible, restored,~~

~~(iii) land management practices reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and~~

~~(iv) there are no direct discharges of wastewater to water bodies, and~~

8) the outcomes sought in (7) are to be achieved within the following timeframes:

(a) by 2030 in the Upper Lakes rohe,

(b) by 2045 in the Dunstan, and Roxburgh and Lower Clutha rohe, and

(c) by 2050 in the Manuherekia and Lower Clutha rohe.

7.4.2. LF-VM-O3 – North Otago FMU vision

330. With the consolidation of common provisions into a region-wide objective for freshwater, there were again few specific provisions remaining in LF-VM-O3. Ms Boyd also recommended some changes to the vision objective in her s42A report that accepted the Meridian request to recognise the national significance of the Waitaki hydro-electricity generation scheme, and a rewording of the first clause as a consequential amendment.

331. The Panel agrees with Ms Boyd's recommended changes.

7.4.3. LF-VM-O4 – Taiari FMU vision

332. LF-VM-O4 has also been significantly narrowed with the development of a region wide objective. Ms. Boyd made further changes in her s42A report to the wetland clause in response to Beef and Lamb, and DINZ. Subsequent to her s42A report, she also accepted Manawa Energy's request to recognise the various hydro-electricity schemes in the catchment.

333. We generally agree with Ms Boyd's recommended amendments to the vision objective, subject to provision for future development of the existing hydro-electricity schemes within this catchment. We also note that the DCC raised the issue of their primary water supply being

sourced from this FMU but we are of the opinion that the recognition of community water supplies and three water infrastructure in the region wide objective should address this.

7.4.3.1. Recommendation

334. The Panel recommends LF-VM-O4 be amended as follows:

LF-VM-O4 – ~~Taiari~~ Taiari FMU vision

By 2050 in the Taiari Taiari FMU, and in addition to the matters in LF-FW-O1A:

- ~~(1) — fresh water is managed in accordance with the LF-WAI objectives and policies,~~
- ~~(2) — the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,~~
- ~~(3) — healthy wetlands are restored in the upper and lower catchment wetland complexes, including the Waipori/Waihola Wetlands Waipōuri/Waihola wetland complex, Tunaheketaka/Lake Taiari, scroll plain, Upper Taiari wetland complex, and connected tussock areas are protected, restored or enhanced where they have been degraded or lost,~~
- ~~(4) the gravel bed of the lower Taiari is restored and sedimentation of the Waipori Waipōuri/Waihola wetland complex is reduced,~~
- ~~(4A) the national significance of the Waipōuri hydro-electricity generation scheme, and the regional significance of the Deep Stream and Paerau/Patearoa hydro-electricity generation schemes, is recognised and their operation, maintenance, and upgrading is provided for, while potential further development of these schemes is provided for.~~
- ~~(5) creative ecological approaches contribute to reduced occurrence of didymo, and~~
- ~~(6) — water bodies support healthy populations of galaxiid species,~~
- ~~(7) there are no direct discharges of wastewater to water bodies, and~~
- ~~(8) — innovative and sustainable land and water management practices support food production in the area and improve resilience to the effects of climate change.~~

7.4.4. LF-VM-O5 – Dunedin & Coast FMU vision

335. As with the other visions, most of the issues raised in relation to this vision have been dealt with by the introduction of a region-wide objective for freshwater. Hence there are few specific provisions left. Some minor changes have been made to the original provision relating to downstream coastal ecosystems, to bring it in line with other similar provisions, which we agree with.

336. Given Otago's largest metropolitan area lies within the Dunedin FMU, the DCC emphasised that there needs to be a clear vision for Dunedin's urban waterways in terms of water quality, access, the community values. However, no specific wording was provided to recognise this, with Mr Taylor merely recommending the inclusion of the 'coordinated strategy' clause previously discussed.

337. While we see merit in the DCC submission, the Panel is of the view that the recognition of community water supply and other three waters infrastructure in the region wide objective should address the DCC's concerns in this regard.

7.4.4.1. Recommendation

338. The Panel recommends LF-VM-O5 be amended as follows:

LF-VM-O5 - Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast *FMU* and in addition to the matters in LF-FW-O1A:

- ~~(1) fresh water is managed in accordance with the LF-WAI objectives and policies,~~
- ~~(2) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,~~
- (3) healthy riparian margins, wetlands, estuaries, and lagoons and ~~coastal waters~~ support the health of thriving *mahika kai* and downstream coastal ecosystems, and indigenous species can migrate easily and as naturally as possible to and from these areas,
- ~~(4) there is no further modification of the shape and behaviour of the water bodies and opportunities to restore the natural form and function of water bodies are promoted wherever practicable possible., and discharges of contaminants from urban environments are reduced so that water bodies are safe for human contact.~~

7.4.5. LF-VM-O6 – Catlins FMU vision

339. The submission points in relation to this vision have generally been addressed through the region-wide objective and as a consequence, only two specific clauses remain. We note the second clause refers to both 'recreation' and 'sustainable food production'. A number of submitters requested 'food production' be replaced with 'primary production'. However, given the 'food and fibre production' clause added to the region wide objective, the Panel is of the view that this part of the vision can be deleted.

7.4.5.1. Recommendation

340. The Panel recommends LF-VM-O6 be amended as follows:

LF-VM-O6 – Catlins FMU vision

By 2035 in the Catlins *FMU* and in addition to the matters in LF-FW-O1A:

- ~~(1) fresh water is managed in accordance with the LF-WAI objectives and policies,~~
- ~~(2) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,~~
- (3) ~~water bodies~~ support thriving *mahika kai* and access of Kāi Tahu whānui to *mahika kai*,
- (4) the high degree of naturalness of the water bodies and ecosystem connections between the forests, *freshwater* and coastal environment are preserved, and

(5) ~~water bodies and their catchment areas support the health and well-being of coastal water, ecosystems and indigenous species, including downstream kaimoana, and~~

(6) healthy, clear and clean *water* supports opportunities for recreation ~~and sustainable food production for future generations.~~

7.5. Associated Policies and Provisions

7.5.1. Timeframes and Catchment Group Approach

LF-VM-P5, LF-VM-P6 and the recommended LF-VM-P6A relate to the Visions. We have already stated in our discussion on timeframes above that we consider the new transitional policy, LF-VM-P6A, to be appropriate and recommend that it be included in the PORPS. In a related discussion, we also accepted Ms. Boyd's recommended method M8AA that addresses the integrated catchment management issue raised by various submitters.

We would also comment here that, although not part of the Freshwater part of the PORPS, we agree with and accept the changes proposed to LF-VM-M3 in response to the OWRUG submission, which explicitly recognise encouraging catchment groups to address freshwater issues at a local catchment level.

7.5.2. LF-VM-P5 – Extent and boundaries of FMUs and rohe

341. LF-VM-P5 sets out the FMUs and rohe in Otago and refers to MAP1 which shows the boundaries of each area. The s42A report evaluated the submissions on these provisions together. The submissions were generally supportive although there were some requests for map changes and clarification in the text.

342. In relation to the Fish and Game request to include text defining the spatial extent of these areas, we agree with Ms Boyd that it is more appropriate for this information to sit outside the pORPS. It may, however, be helpful for the online version of the pORPS to contain a link to the relevant webpages for each FMU and rohe.

343. Te Rūnanga o Ngāi Tahu, Kāi Tahu ki Otago and DOC requested that the coastal boundaries of the FMUs be amended to include all estuarine areas and enclosed shallow inlets. Ms Boyd accepted this as appropriate given that they are important receiving environments for fresh water, noting that Clause 1.5 of the NPSFM states:

[The NPSFM] applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area).

344. The Panel agrees that this change should be made given the need to recognise the interconnectedness of the whole environment and the emphasis on integrated management. While the maps were not redrawn to illustrate this, we agree with the alternative approach proposed by Mr Brass for DOC, who suggested inserting wording into the policy itself that reflects this approach.

7.5.3. Boundary of North Otago and Dunedin & Coast FMUs

345. Kāi Tahu ki Otago, along with the DCC, also sought an amendment to the boundaries of the North Otago and Dunedin & Coast FMUs so that the Waikōuaiti River catchment is included in the Dunedin & Coast FMU. In their opinion, this would better align management across all catchments that flow into the coastal receiving environment that is included in the East Otago Taiāpure (which encompasses marine and estuarine waters enclosed by Cornish Head, Brinns Point, Warrington Spit and Potato Point).
346. Ms Boyd sought the opinion of Mr De Pelsemaeker from ORC's Policy team on the process adopted to develop the FMUs and rohe boundaries and the implications of amending the boundary as proposed. Based on Mr De Pelsemaeker's opinion that the risk of amending the boundaries is negligible and that there are potential benefits if both estuaries that discharge into the East Otago Taiāpure are guided by the same vision in the pORPS, Ms Boyd recommended the change. However, neither submitter had provided a redrawn boundary and as she did not commission one from ORC, this was a live issue at the hearing.
347. Mr Taylor, for the DCC, produced a map at the hearing that showed the proposed location of the new boundary. Ms McIntyre, for Kāi Tahu ki Otago, advised us at the hearing that she had reviewed that map and that Kai Tahu supported the new boundary.

7.5.3.1. Recommendation

348. On the basis of this agreement, and the reasons for it, the Panel accepts that the new boundary is appropriate and will better support the integrated management of the East Otago Taiāpure area catchment. To avoid any issue about whether there is sufficient scope in the DCC submission as to the map, we rely on clause 49(2)(b) of the first schedule to adopt the map attached to Mr Taylor's evidence.
349. A revised copy of MAP1 was included in the Reply Report version, which we accept.

7.5.4. Boundary between Catlins and Clutha Mata-au FMUs

350. In a similar vein, Ms Boyd raised an additional issue relating to the Pūerua River catchment and the rohe boundaries. The Pūerua River catchment is currently identified in the Catlins FMU, despite its hydrological connection with the Clutha Mata-au River. She advised that ORC staff, working on the development of the FMU framework for the LWRP, raised concern with the appropriateness of including this catchment in the Catlins FMU when it is connected with the Clutha Mata-au River.
351. The Panel too was surprised that the Pūerua River was not included in Lower Clutha rohe of Clutha River/Mata-au FMU given its obvious connection to that river and the nature of the development adjoining it. In our view, it is quite clear that this river should be part of the Lower Clutha rohe rather than the Catlins FMU. We note that Mr De Pelsemaeker agreed with this. While no submission was made on this matter, Ms Boyd agreed in principle but considered it appropriate for the hearings panel to hear from submitters who may have an interest in the matter.
352. No objection to this was forthcoming from any submitter, with Ms McIntyre confirming at the hearing that this approach would be "*consistent with the submission and evidence of Kāi Tahu ki Otago to manage the Mata-au as a single system*".

7.5.4.1. Recommendation

353. Because there was no submission on the matter, Ms Boyd recommended that we utilise clause 49(2)(b) of Schedule 1 of the RMA to make the change. We agree and recommend the change accordingly.

7.5.5. Use of rohe in Taiari FMU

354. That brings us to Federated Farmers request that the Taiari FMU be split into rohe, given their opinion that the Taiari river covers a range of landscapes, land use, climate and ecosystems, and targeted management would be beneficial. This amendment is opposed in the further submission of Kāi Tahu ki Otago which states that Kāi Tahu “*support[s] consideration of the Taiari as a whole catchment, recognising its interconnectedness ki uta ki tai.*”

355. Ms Boyd advised that Mr De Pelsemaecker recommended “against further division because there are not enough, or significant enough, differences between the upper and lower parts of the catchment to warrant different spatial units being identified.” This was “in contrast to the Clutha Mata-au FMU where there are significant differences between, for example, the Upper Lakes rohe and the Lower Clutha rohe, as well as different ‘sections’ of the river demarcated by hydroelectricity generation infrastructure.”

356. Based on our knowledge and experience of this catchment, we are surprised at this conclusion. The upper and lower parts of the catchment are quite different, with the upper part (the Maniototo) forming part of the Central Otago area while the lower part is similar to the wetter plains of lower Clutha catchment. The climate, soil and farm management systems are quite different. Hence, we do not agree with Mr De Pelsemaecker in his memorandum where he says:

While there are some differences between the upper and lower parts of the Taiari catchment, these differences are not as significant in the Taiari FMU, compared to the Clutha Mata-au FMU. Furthermore, there are also strong commonalities in terms of the land uses, types of water bodies and environmental issues that exist in different parts of the Taiari catchment.

357. Mr De Pelsemaecker also makes the comment that “the Taiari FMU encompasses generally small, rural communities without the significant elements of urban development present in the Clutha Mata-au FMU”. While the communities in the upper part of the catchments are generally small, Mosgiel is located in the lower catchment and is larger than all Clutha communities with the exception of Queenstown.

358. The fact that both the upper and lower parts of the Taiari catchment have extensive wetland areas is also identified as a similarity. However, it would seem to us that there are significant differences in the characteristics of the upper and lower catchment wetlands.

359. In the Panel’s mind, there is some justification for splitting this FMU into rohe. Ms Boyd advised, “as the FMU boundaries are established at the pORPS level they will not be able to be revisited during the development of the LWRP without a formal change to the RPS. Therefore, ensuring the FMU boundaries are correct in the pORPS will alleviate the risk of errors being embedded in future processes, such as the implementation of the NOF in the LWRP.” However, the difficulty we have is that Federated Farmers did not provide any information on how the FMU could be further divided. We do not have the details to do that ourselves and consequently, we have not accepted this submission point. Furthermore, we accept Mr De Pelsemaecker’s comment “that

managing the Taiari catchment as one FMU does not preclude the inclusion of plan provisions (objectives, rules or policies) that only apply to certain part(s) of the FMU”

360. We would also make the observation that some of the other rohe boundaries could possibly warrant some further consideration, particularly the boundary between the Upper Lakes rohe and the Dunstan rohe. For example, while the Shotover discharges into the Kawarau just below Lake Wakatipu, the characteristics of its catchment would appear more aligned with the Upper Lakes rohe. Furthermore, the majority of the area covered by the ‘Dunstan’ rohe has not historically been known by that name. The Dunstan area is more associated with the Alexandra/Clyde basin and the lower part of the Manuherekia rohe. The majority of ‘Dunstan’ rohe was part of the former Vincent County and was known by either that name or Upper Clutha. And of course, the North Otago rohe only covers part of North Otago as the result of central government, in one Panel member’s view, rather strangely incorporating the northern part of that province into the Canterbury Region in 1989.

7.5.6. LF-VM-P6 – Relationship between FMUs and rohe

361. Turning now to LF-VM-P6, which addresses the relationship between FMUs and rohe. Ms Boyd made a number of changes to this policy in response to submissions and these were generally favourably received, with little comment from the submitters at the hearing.

362. However, Wise Response did address their suggested amendments to this policy in their presentation to the Panel. They refined their requested addition to clause (1) of the policy to read *“informed by environmental and resource risks, limits and trends”* referring to the requirement in clause 3.3(3) (b) of the NPSFM for long-term visions to be informed by *“environmental pressures”* as justification for the amendment.

363. Ms Boyd considered the amendment would introduce uncertainty into the policy. She highlighted the fact that the phrase ‘environmental outcomes’ is defined in the NPSFM and that their development must follow a defined process. This includes clause 3.9 which sets the process for identifying values and setting environmental outcomes as objectives, and clause 3.10 which deals with the identification of attributes and their baseline states, or other criteria for assessing achievement of environmental outcomes.

364. While the Panel appreciates the point the submitter was making, the subject clause is not addressing how the environmental outcomes are developed. As Ms Boyd notes, there is a defined process for that, and it is not appropriate to cloud that through this policy framework.

365. With respect to Contact’s request to recognise clause 3.31 of the NPSFM (relating to large hydro-electric generation schemes) in the policy, Ms Boyd did not consider such a specific reference to be necessary. As with the issue above, she set out how target attribute states are developed, noting that the exceptions under the NPSFM must be recognised in this process.

366. While Ms Hunter, for Contact, did not directly address this issue in her evidence, her table of amendments still contained the request to recognise the Clutha hydro scheme. However, no specific amendments were proposed, and we accept Ms. Boyd’s evidence that the scheme will need to be recognised as an exception when the target attribute states are developed.

8. LF-FW – Fresh water

8.1. Integrated catchment management

8.1.1. Introduction

367. Beef + Lamb and DINZ, through the legal submissions of Dr Somerville and the opening statement of Ms Perkins, proposed a new policy on integrated catchment management be inserted in the LF-WAI section of the PORPS. Their proposed wording is as follows:

LF-WAI-P3A – Integrated Catchment Management

- (1) When developing and implementing planning instruments to give effect to the objectives and policies in this policy statement through integrated management of land and freshwater, Otago Regional Council must actively engage with local communities and tangata whenua, at the rohe and catchment level,
- (2) Provide for integrated management at a catchment level by supporting the establishment of Integrated Catchment Management Groups that incorporate Otago Regional Council with local community and tangata whenua representatives, and
- (3) Progress and implement integrated management of catchments through the preparation of Catchment Action Plans by the Integrated Catchment Groups, in accordance with clause 3.15 of the NPSFM that:
 - (a) develop visions, identify values and environmental outcomes for Otago’s catchments and the methods to achieve those outcomes, including as required by the NOF process,
 - (b) develop and implement actions that may be adapted over time with trigger points where additional regulatory and/or non-regulatory intervention is required,
 - (c) make recommendations on amendments that may be required to the provisions of this policy statement, including the visions and timeframes in the parent FMU, and any other changes necessary to achieve integrated catchment management pursuant to clauses 3.2(2) and 3.5(2) of the NPSFM
 - (d) at a local catchment level, encourage community initiatives to maintain or improve the health and well-being of waterbodies and their freshwater ecosystems, to meet the health needs of people, and enable the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

368. This proposed policy reflected the evidence from these submitters, along with those of OWRUG, that there is a substantial amount of freshwater improvement work being done across the region by established catchment groups. As we have previously discussed, we were impressed by the

commitment and achievements of these groups. We heard that ORC staff already support and work with many of these groups and the submitters wanted these catchment-based approaches to be recognised through the PORPS.

369. Ms Boyd provided additional information in her reply report that discussed ORC's commitment to integrated catchment management through its Long term Plan 2021-31.⁸ A pilot Catlins Integrated Catchment Group is underway and more groups are proposed to follow. From the information we received, this ORC-led approach is different to the more 'grass-roots', community-led approach that we heard about from the submitters. We consider that there is a place for both types of approaches.

370. Ms Boyd supports including a provision that addresses integrated management and considered whether the proposed provision should be a policy or a method. The Panel support her view that a method is more appropriate. The method proposed by Ms Boyd in her reply report is as follows:

LF-FW-M8AA – Integrated catchment management

Otago Regional Council may:

- (1) develop and implement an integrated catchment management programme for the region, and
- (2) work in partnership with *mana whenua* and in collaboration with communities to develop catchment action plans that:
 - (a) collate and build on existing work in the catchment,
 - (b) incorporate science and mātauraka Māori, and
 - (c) identify and target effective environmental management actions.

371. The method recommended by Ms Boyd captures the catchment action plan approach included in the Long-term Plan but would not capture the established community-led groups that may not fit with the Council-led catchment action plan approach. We consider that the PORPS should acknowledge the role of both approaches and note that community initiatives at a local catchment level are recognised in the submitters' proposed clause (d). This is in part done through Ms Boyd's proposed clause (2)(a) but this is in relation to development of catchment action plans rather than on-the-ground delivery of these plans.

372. We propose adding the following clause to Ms Boyd's recommended wording to ensure that both approaches are captured:

- (3) Encourage and support community initiatives, at varying catchment levels, that help to deliver catchment action plans.

373. This work will be dependent on funding and interest by *mana whenua* and local communities. The chapeau of this method includes the word 'may' which we consider is appropriate given these potential limitations.

8.1.2. Recommendation

374. We recommend the following new method be added to the LF-FW section:

⁸ FPI ZReply Report of Ms Felicity Boyd, 15 September 2023, from para 78

LF-FW-M8AA – Integrated catchment management

Otago Regional Council may:

- (1) develop and implement an integrated catchment management programme for the region,
- (2) work in partnership with mana whenua and in collaboration with communities to develop catchment action plans that:
 - (a) collate and build on existing work in the catchments,
 - (b) incorporate science and mātauraka Māori, and
 - (c) identify and target effective environmental management actions, and
- (3) encourage and support community initiatives, at varying catchment levels, that help to deliver catchment action plans.

8.2. Wetland management

8.2.1. Introduction

375. We addressed the legal issues around wetland definitions in the Legal Issues section of Appendix Two. While we are not going to revisit that discussion in detail, a summary is needed here to put the discussion that follows into context. The issues primarily arise due to a requirement to address the RMA's broad approach to wetland protection and the NPSFM's more narrow approach through its focus on 'natural inland wetlands'.

376. The RMA has broadly defined 'wetland' in s.2 as:

***wetland** includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions*

377. Section 6(a) recognises and provides for 'the preservation of the natural character of ... wetlands ... from inappropriate subdivision, use and development' as a matter of national importance.

378. In addition to s.6 recognition in the RMA, the NZCPS includes provisions that apply to wetlands in the coastal environment, most specifically Policy 11(b). While earlier versions of the NPSFM included general, protective provisions which related to 'wetlands', the NPSFM 2020 contained more specific provisions with definitions of 'natural wetlands' and 'natural inland wetlands'.

379. The PORPS was notified under the original 2020 version of the NPSFM and later amended in response to the 2023 amendments to the NPSFM. As discussed in the Legal Issues section, the NPSFM amendments amalgamated the previous definitions of 'natural wetland' and 'natural inland wetland' into one definition of 'natural inland wetland'. The definition of 'natural inland wetland' introduced to the NPSFM in the 2023 amendments reads as follows:

***natural inland wetland** means a wetland (as defined in the Act) that is not:*

- (a) in the coastal marine area; or*
- (b) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural inland wetland; or*

(c) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or

(d) a geothermal wetland; or

(e) a wetland that:

(i) is within an area of pasture used for grazing; and

(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless

(iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply

380. Policy 6 of the NPSFM places a strong emphasis on the protection of ‘natural inland wetlands’, as follows:

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

381. Policy 6 is in part implemented by clause 3.22 of the NPSFM, which directs that a policy is included in regional plans with wording the same or similar to that provided in the clause. The opening wording of this policy states:

The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where...

382. The policy enables a ‘loss of extent or values’ in a natural inland wetland where that arises from a wide-ranging list of activities. The activities are, with one exception, subject to there being a functional need to locate the activity in the specified area and the effects of the activity being managed through applying the NPSFM effects management hierarchy (defined in clause 3.21).

383. Following some debate through the hearing process, we concluded in the ‘Legal Issues’ section of Appendix Two that there is no difference in stringency between the principles for the effects management hierarchies in the NPSFM and the NPSIB.

384. Turning back to the definition of ‘natural inland wetland’, as we stated in the ‘Legal Issues’ section of Appendix Two,

That new combined definition is intended to exclude some RMA defined wetlands from the detailed level of protection and restoration otherwise required by the NPSFM, and to provide a base for a closely controlled consent pathway in clause 3.22(1) of the NPSFM for some types of activities which are described in that sub-clause.

385. In response to what the report writers perceived as a gap between the NPSFM ‘natural inland wetlands’ and the RMA definition, the ORC officers proposed a definition for ‘natural wetland’ that is broader than the NPSFM ‘natural inland wetland’ definition, as follows:

Natural wetland means a wetland (as defined in the Act) that is not:

- (a) *a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland; or*
- (b) *a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body.*

386. The officers considered that the RMA definition arguably includes constructed wetlands, which can be built for purposes including stormwater or wastewater detention and treatment, and that such wetlands should be excluded from the pORPS provisions.
387. Ms Hunter for Oceana Gold expressed concern that the definitions, coupled with amendments to LF-FW-P9, “would likely result in a more onerous policy environment for activities where there may be ‘natural wetlands’ present, and likely result in significant costs to resource users which have not been properly quantified.”⁹ She considers that, as recommended, a broader level of protection would apply to ‘natural wetlands’ than to ‘natural inland wetlands’, which are proposed to be managed under clause 3.22 of the NPSFM and have the accompanying exemptions for activities. Ms Hunter considers that a “more appropriate approach would see the policy framework responding more specifically to the distinction between higher value “natural inland wetlands” and “natural wetlands”.”¹⁰
388. The extent of wetland loss in Otago was not a matter of contention, with both historical losses and more recent losses being highlighted by Ms Boyd, Mr Couper for Fish and Game, Mr McKinlay for the Director General of Conservation, and numerous witnesses for Kāi Tahu. We heard evidence about the extent of loss of both wetland extent and condition. This has resulted from drainage predominantly for farmland as well as the introduction and spread of invasive species.
389. Submitters, including the Director General of Conservation and Fish and Game, highlighted the different types of high value wetlands that fall outside of the NPSFM definition of ‘natural inland wetland’. The evidence in chief of Mr McKinlay for the Director General of Conservation addressed the importance of Otago’s ephemeral wetlands and the values that they can hold.
390. Mr McKinlay drew our attention to the Upper Taiari and Paerau Wetland Scroll Plain complex, which he stated is unique in New Zealand and is ‘the largest intact scroll plain complex in the Southern Hemisphere’¹¹. The complex provides habitat for a wide range of indigenous flora and fauna. He goes on to state that there are three distinct categories of wetland within the complex: permanent river and lagoon, semi-permanent shallow, marshy areas, and temporary/ephemeral wetlands which exist for two months or less on average a year. Some categories would be considered as ‘natural inland wetland’ while others would not, potentially leading to inconsistent and inadequate management.
391. Mr McKinlay also highlighted Otago’s nationally significant inland saline ecosystems and referred us to a Wildlands Consultants report prepared for ORC.¹² He discussed the geology of these areas and the threatened plant, lichen and lepidoptera species that these areas support.¹³
392. We stated in the Legal Issues section that:

⁹ Supplementary evidence of Ms Claire Hunter for Oceana Gold, 18 August 2023, para 15.

¹⁰ Ibid., para 22.

¹¹ Evidence in Chief of Mr Bruce McKinlay for the Director General of Conservation, 23 November 2022, para 63.

¹² Evidence in Chief of Mr Bruce McKinlay for the Director General of Conservation, 23 November 2022, para 79.

¹³ Ibid, para 80-85.

As we understand the concerns of the DOC witnesses and Ms Boyd, it is that areas like the Taiari scroll plain and other locations with ephemeral wetlands which are grazed will likely have significant aspects of ecological and hydrological importance which are exposed to potential degradation unless the RPS recognises those risks. In our view, the s.6 protection and the protection intended by policies 5 and 9 of the NPSFM is still able to be provided by the requirement for protection from inappropriate activities. The RPS can assist by the LF and/or the ECO chapter identifying particular values where development activities may be inappropriate. We consider that a better mechanism than attempting to insert a new definition of 'natural wetlands'.¹⁴

393. We went on to conclude that:

"... the 'natural wetland' definition is superfluous, and worse that it is potentially raising the level of protection of all wetlands as defined to a level of absolute preservation and restoration through recommended Objective LF-FW-O9(3) and recommended policies LF-FW-P9 and LF-FW-P10 which are beyond the outcomes intended by s.6(a) of the RMA. The recommended objective and the two recommended policies do not provide the qualifier of protection from inappropriate use and development that s.6(a) provides. Nor do they provide the consent pathways and the application of the effects management hierarchy that the provisions relating to natural inland wetlands apply. We are concerned that that strict absolute outcome provides a higher level of protection for wetlands exempted from the 'natural inland wetland' definition in the NPSFM than the protection level accorded to those falling within that definition. That means that the recommended PORPS provisions have the potential to be considered as being contrary to the overall scheme in the 2023 NPSFM as to the manner of treatment of non-coastal wetlands through the 'natural inland wetland' terminology and effects management hierarchy provisions.

394. We accept that constructed wetlands should not be subject to the same level of protections as 'natural' wetlands, however constructed wetlands would arguably not support "*a natural ecosystem of plants and animals that are adapted to wet conditions*" (Panel's emphasis) as per the RMA definition of 'wetland'. We also consider it unlikely that constructed wetlands would have a level of natural character that would justify being preserved as per s.6(a) of the RMA. We therefore do not consider that an exclusion for constructed wetlands is necessary.

395. With these conclusions in mind, we turn to addressing the specific wetland management provisions of the LF-FW section. As notified, these provisions fall in both the non-FPI and FPI processes, as follows.

LF-FW-O9 – Natural wetlands

LF-FW-P8 – Identifying natural wetlands

LF-FW-P9 – Protecting natural wetlands

LF-FW-P10 – Restoring natural wetlands

LF-FW-AER – AER11

8.2.2. LF-FW-O9

396. As notified, LF-FW-O9 reads as follows:

LF-FW-O9 – Natural wetlands

Otago’s natural wetlands are protected or restored so that:

- (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,
- (2) there is no decrease in the range and diversity of indigenous ecosystem types and habitats in natural wetlands,
- (3) there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and
- (4) their flood attenuation capacity is maintained.

397. Four submitters supported LF-FW-O9 as notified, one sought its deletion and several submitters sought amendments. The amendments sought to include the following:

- (a) Oceana Gold considered that the objective is unclear on what is to be achieved – what the reference to the range of values means, what needs to be enhanced, and what the endpoint of enhancement is.
- (b) The Director General of Conservation sought that ephemeral wetlands are specifically referenced, for the reasons discussed above.
- (c) The Director General also sought that ‘protect or restore’ is replaced with ‘protect and restore’, although the planning evidence of Mr Brass accepted that this does not need to be pursued.
- (d) DairyNZ sought that wetlands only be restored only where they are degraded, and Oceana Gold sought that wetlands are ‘protected, improved or restored’.
- (e) Beef + Lamb and DINZ, Kāi Tahu ki Otago, and Ballance seek that ‘range’ be replaced with ‘extent’ in clause (2).
- (f) Ballance, NZSki, Realnz, Silver Fern Farms, and Fulton Hogan sought varying amendments to clauses (2) and (3) to reduce their stringency.
- (g) Beef + Lamb and DINZ sought that ‘amenity values’ be deleted from clause (3), considering that wetlands do not need to be aesthetically pleasing.

(h) Wise Response sought that wetland flood attenuation capacity in clause (4) should be steadily improved rather than just maintained, while Kāi Tahu ki Otago sought reference to water storage capacity alongside flood attenuation capacity in clause (4).

(i) DOC sought the addition of a new clause to recognise the importance of wetlands in providing habitat to mobile species such as waterfowl and rails.

398. Federated Farmers sought that the objective be deleted, as it is inconsistent with the NPSFM and a duplication of provisions located in *ECO – Ecosystems and indigenous biodiversity* chapter. We have dealt with these matters above and in the Legal Issues section.

399. Consistent with our determinations above, we are recommending that the PORPS does not use the term ‘natural wetlands’. We agree with Oceana Gold that the objective is unclear, particularly as there are no benchmarks to guide whether it is being achieved.

400. We also find that LF-FW-09, as notified, is not consistent with s.6(a) of the RMA through seeking protection or restoration of all ‘natural wetlands’, therefore not necessarily providing for appropriate subdivision, use and development. Our recommended amendments seek to clarify this.

401. We carefully considered whether to remove ‘amenity values’ from clause (3), as requested by Beef + Lamb and DINZ. Ms Boyd’s s.42A report directs us to the RMA definition of ‘amenity value’ and, more importantly, to the definition of ‘loss of values’ in clause 3.21(1) of the NPSFM which the PORPS adopts. The latter definition includes ‘amenity values’ in the list of values in clause (b). While this definition applies to natural inland wetlands and rivers, we consider it appropriate to apply to the broader consideration of wetlands in LF-FW-09.

8.2.2.1. Recommendation

402. The Panel recommends the following amendments to LF-FW-09:

~~Natural w~~ LF-FW-09 – Natural Wetlands

Otago’s ~~natural~~ wetlands are protected from inappropriate subdivision, use and development and, where degraded, or restored restoration is promoted so that:

- (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations,
- (2) there is no net decrease, and preferably an increase, in the range extent and diversity of wetland indigenous ecosystem types and habitats in natural wetlands, and
- (3) there is no reduction and, where degraded, there is an improvement in their wetland ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and
- (4) their flood attenuation and water storage capacity is maintained or improved.

403. As a consequential amendment, we recommend deleting the definition of ‘natural wetland’ from the PORPS. We note that the RMA definition of ‘wetland’ was included in the notified PORPS and it is appropriate that this remains.

404. As a further consequential amendment, we recommend deleting ‘natural’ from ‘natural wetland’ or wetlands’ in other provisions in the PORPS, specifically LF-FW-M6(7), LF-VM-E2 paragraph 3 and LF-FW-AER11.

8.2.3. LF-FW-P8

405. As notified, LF-FW-P8 reads as follows:

LF-FW-P8 – Identifying *natural wetlands*

Identify and map *natural wetlands* that are:

- (1) 0.05 hectares or greater in extent, or
- (2) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral *wetland*) and known to contain threatened species.

406. QLDC, DCC, Kāi Tahu ki Otago, and CODC support LF-FW-P8 and seek to retain it as notified. Forest and Bird also support LF-FW-P8 but submitted that the policy should specify that mapping is to be completed by 2030.

407. Submissions by PWCG and Lloyd McCall sought that the wetland area in (2) is increased from 0.05 hectares to 1 hectare, while City Forests sought that it be increased to 0.25 hectares to be consistent with the NPSFM. The 0.05 hectare area included in LF-FW-P8(1) is consistent with clause 3.23(1) of the NPSFM and we consider that increasing this area would result in the policy being inconsistent with the NPSFM.

408. As outlined above, the NPSFM approach to managing wetlands was amended after the s42A report and evidence in chief were prepared. The 2023 amendments to the NPSFM deleted the definition of ‘natural wetland’ and introduced a new definition of ‘natural inland wetland’ that is provided in paragraph 384 above. The amended definition of ‘natural inland wetland’ is narrower than that included in the NPSFM 2020 (and RMA) and is accompanied by an additional suite of clauses which provide consent pathways for urban development, mining, quarrying and landfills and clean-fills, in addition to specified infrastructure activities (which were provided for in the NPSFM 2020).

409. LF-FW-P8(1) and (2) replicate Clause 3.23(1)(a) and (b) of the NPSFM which did not change through the 2023 amendments. What did change in the PORPS is the recommended amendment in clause (1) from ‘natural wetland’ to ‘natural inland wetland’. As discussed above, we consider that there are differences between the two.

410. Ms Boyd’s supplementary evidence on the NPSFM 2023 amendments addressed the difference in the definitions but did not specifically consider the implications for LW-FW-P8. This policy was also not addressed in Ms Boyd’s reply report, however was amended under Clause 16(2) of Schedule 1 of the RMA to apply to ‘natural inland wetlands’ rather than ‘natural wetlands’.

411. The relevant portion of the 2023 NPSFM definition of 'natural inland wetland' for LF-FW-P8 is:

Means a wetland (as defined in the Act) that is not:

...

(e) a wetland that:

(i) is within an area of pasture used for grazing; and

(ii) has vegetation cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species using the Pasture Exclusion Assessment Methodology (see clause 1.8)); unless
(iii) the wetland is a location of a habitat of a threatened species identified under clause 3.8 of this National Policy Statement, in which case the exclusion in (e) does not apply

412. The Director General of Conservation and Otago Fish and Game raised concerns about the large number of wetlands that would fall outside of the ‘natural inland wetland’ definition, many of which may provide habitat for threatened species. However, we point out that the presence of threatened species is one of the double negatives that is in the provision to ensure these are natural inland wetlands.
413. Ms Boyd, in her supplementary evidence for the FPI process on the implications of the NPSIB, recognised that some wetlands will “fall through the cracks” due to not being mapped or due to the prevalence of exotic pasture species. We agree with the Director General and Fish and Game that mapping is an important precursor to managing wetlands and will help to reduce the likelihood of some wetlands falling through the cracks. Broader mapping would also mean that the Council would be better able to give effect to s.6(a) of the RMA and Policies 5, 13 and 14 of the NPSFM.
414. A Wildland Consultants report on ecosystem mapping was provided as Appendix 13 to the s.32 report¹⁵. This Wildland report details the mapping of potential and actual natural terrestrial and wetland ecosystems using a methodology agreed to by regional councils across New Zealand. In relation to mapping of ephemeral wetlands, the report states at section 2.6:
415. Ephemeral wetlands were poorly mapped in existing layers such as LCDB and FENZ, as they generally occur at much smaller areas than the minimum mapping units of these classifications. However, ephemeral wetlands are in most cases easily distinguished in aerial imagery, and were mapped by hand digitisation across all parts of Otago where ephemeral wetlands occur. Almost 3,000 ephemeral wetlands were ultimately mapped. Very shallow ephemeral wetlands would be less easy to distinguish and are not likely to have been mapped, and other ephemeral wetlands where the wetland boundary is not sharp.
416. This section of the Wildland report goes onto conclude that:
- The end result of these wetland ecosystem mapping approaches is wetland mapping of significantly better spatial and thematic resolution than any other existing regional scale mapping of wetlands.*
417. It therefore appears that a comprehensive mapping exercise has been completed to a high level for all wetlands and not just ‘natural inland wetlands’.
418. While we understand Ms Boyd’s reason for recommending that LF-FW-P8 apply solely to ‘natural inland wetlands’, given the 2023 amendments to the NPSFM, we do not accept that the proposed change can be justified under Clause 16(2) of Schedule 1 of the RMA. Such an amendment changes the intent of the policy through the use of a narrower definition, which we do not consider is of ‘minor effect’ or corrects a ‘minor error’ as per s.16(2).

¹⁵ Lloyd, K. (2020) Mapping of potential natural ecosystems and current ecosystems in Otago Region. Wildlands Consultants Contract Report No. 5015a prepared for Otago Regional Council.

419. As we explained in the Legal section to the Introduction to this Appendix Two report the legal situation is that a 'wetland' not falling within the definition of 'natural inland wetland' does not magically lose all RMA protection. It will still remain a defined 'wetland' under the RMA and the protective policies in the NPSFM still apply to it. What that means in practice is that for such wetlands falling outside the 'natural inland wetland' definition any proposed activity will still at law have to be assessed as to whether it is an inappropriate use or development under s.6(a) RMA. Moreover, it will have the protective policies applying to it under the NPSFM such as policies 5 and 9. The manner in which we have recommended the adoption of the RMA 'wetland' definition above, and the use of only that term in the heading and chapeau to the objective LF-FW-09 ensures that level of protection is addressed in both plan and consenting processes.
420. Care is needed in considering what is required by the NPSFM for both identification and mapping of wetlands and how that is reflected in the PORPS. Identification in the NPSFM is required by regional councils of both 'natural inland wetlands', (see cl.3.8(3)(e)), and importantly of 'the location of habitats of threatened species', (see cl.3.8(3)(c)).
421. However, sub-clause 3.23(1) of the NPSFM refers to both identifying and mapping and commences by requiring:
- (1) Every regional council must identify and map every natural inland wetland in its region that is:
 - (a) *0.05 hectares or greater in extent; or*
 - (b) *of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral wetland) and known to contain threatened species.*
422. In other words as the chapeau of cl. 3.23 in sub-clause(1) commences with reference only to identifying and mapping of every 'natural inland wetland' then sub-clauses (a) and (b) only appear to apply to 'natural inland wetlands'. That at first sight also appears to mean that in terms of cl.23(1) of the NPSFM those wetlands falling outside the definition of 'natural inland wetland' are not required to be identified or mapped.
423. But that becomes confused even further in that sub-clause 3.23(4) then states that all mapping must be completed within 10 years of commencement date and specifies the regional council must:
- ...prioritise its mapping, for example by:*
 - (a) *first, mapping any wetland at risk of loss of extent or values; then*
 - (b) *mapping any wetland identified in a farm environment plan, or that may be affected by an application for , or a review of, a resource consent; then*
 - (c) *mapping all other natural inland wetlands of the kind described in subclause (1).*
424. Whilst we acknowledge that the priority provided is stated in cl.23 (4) as being 'by way of example' it is still a mandatory requirement to carry out the mapping. The word used is 'must.' In the absence of any other priority being suggested in our view it must be followed.
425. The result is an unhappy state of confusion as to whether wetlands not falling within the definition of 'natural inland wetlands' are required to be mapped, but sub-clause 3.23(4) appears to expressly require that to be done.

426. Given that confusing statutory background we do recognise that in respect of policies like LF-FW-P8 as to both identification and mapping of wetlands, if that policy is restricted only to identification pursuant to cl.3.23(1) of the NPSFM as to 'natural inland wetlands', then some significant wetlands that fall within the exclusion of 'natural inland wetlands' may be overlooked in plan formulation and consenting processes. That is because an assumption may be made by some planners that the *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 decision means that higher level protection issues have been addressed in the RPS with no identification or mapping process needed for those sensitive areas. That would not be legally correct because as we have explained any 'wetland' still has the higher level protection as described above. Moreover, sub-clause 3.23(4) (a) also expressly requires them to be mapped. Therefore, out of an excess of caution to safeguard against that possibility we consider this identification and mapping policy in LF-FW-P8 needs another limb in addition to requiring identification and mapping solely of 'natural inland wetlands' as apparently required by cl.3.23(1) of the NPSFM.

8.2.3.1. Recommendation

427. In the amended wording we have recommended below we have addressed two other areas of significance – one as to threatened species and another as to extent. That recommended wording reflects the priority and wording specified in clause 3.23(4) of the NPSFM, which the regional council is bound at law to comply with, (but subject to the area limitations for 'natural inland wetlands' in sub-clause 3.23(1)). LF-FW-P8 should read:

LF-FW-P8 – Identifying ~~natural~~ wetlands

By 3 September 2030, identify identify and map ~~natural wetlands that are:~~

1. any wetland at risk of loss of extent or values,
2. any wetland identified in a farm environment plan, or that may be affected by an application for, or a review of, a resource consent, and
3. all other natural inland wetlands that are:
 - (i) 0.05 hectares or greater in extent, or
 - (ii) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral *wetland*) and known to contain threatened species.

428. We make the closing observation that in terms of the s.32AA analysis we had earlier expressed concerns in the Legal section about not having enough information to decide cost issues as to identification and mapping if a 'natural wetlands' definition was adopted and applied in the PORPS. That issue does not arise with this recommended change above. The regional council is bound at law to comply with the NPSFM. What we have finally recommended for LF-FW-P8 is taken expressly from a combination of clauses 3.23(1) and (4) of that statutory instrument the NPSFM. We do not consider there is any discretion to depart from that legal obligation.

8.2.4. LF-FW-P9 and LF-FW-P10

429. As notified, LF-FW-P9 reads as follows:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

- (1) avoiding a reduction in their values or extent unless:
 - (a) the *loss of values* or extent arises from:
 - (i) the customary harvest of food or resources undertaken in accordance with tikaka Māori,
 - (ii) restoration activities,
 - (iii) scientific research,
 - (iv) the sustainable harvest of sphagnum moss,
 - (v) the construction or maintenance of *wetland utility structures*,
 - (vi) the maintenance of operation of *specific infrastructure*, or *other infrastructure*,
 - (vii) natural hazard works, or
 - (b) the Regional Council is satisfied that:
 - (i) the activity is necessary for the construction or upgrade of *specified infrastructure*,
 - (ii) the *specified infrastructure* will provide significant national or regional benefits,
 - (iii) there is a *functional need* for the *specified infrastructure* in that location,
 - (iv) the *effects* of the activity on indigenous *biodiversity* are managed by applying either ECO–P3 or ECO–P6 (whichever is applicable), and
 - (v) the other *effects* of the activity (excluding those managed under (1)(b)(iv)) are managed by applying the *effects management hierarchy*, and
- (2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that:
 - (a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v) will be applied to the *loss of values* or extent of the *natural wetland*, and
 - (b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b)(iv) and (1)(b)(v).

430. LF-FW-P10 was notified as follows:

LF-FW-P10 – Restoring *natural wetlands*

Improve the ecosystem health, hydrological functioning, *water* quality and extent of *natural wetlands* that have been degraded or lost by requiring, where possible:

- (1) an increase in the extent and quality of habitat for indigenous species,

- (2) the restoration of hydrological processes,
- (3) control of pest species and vegetation clearance, and
- (4) the exclusion of stock.

431. As notified, LF-FW-P9 largely reflected clause 3.22 of the 2020 version of the NPSFM. The key differences are: the split between protection in LF-FW-P9 and restoration in LF-FW-P10, whereas clause 3.22 addresses both; and the reference in LF-FW-P9 to the biodiversity effects management hierarchy in the ECO chapter rather than the NPSFM effects management hierarchy. The 2023 amendments to the NPSFM resulted in LF-FW-P9 becoming more stringent than the updated requirements, with the addition of Clause 3.22(1)(c)-(f) in the NPSFM. Following consideration of submissions and evidence, including in the context of the 2023 NPSFM amendments, Ms Boyd recommended substantial amendments to LF-FW-P9 as follows:

LF-FW-P9 – Protecting *natural wetlands*

Protect natural wetlands by:

- (1) in the coastal environment, managing them in accordance with the NZCPS in addition to (2) or (3) below,
- (2) except as provided for by (3), managing activities to ensure they maintain or enhance the ecosystem health, indigenous biodiversity values, and hydrological functioning of *natural wetlands*,
- (3) for *natural inland wetlands*, implementing clause 3.22(1) to (3) of the NPSFM.

432. Clause (2) of the revised recommended LF-FW-P9 was developed through discussions between Mr Farrell for Fish and Game, Mr Brass for the Director-General of Conservation, Ms McIntyre for Kāi Tahu ki Otago, Ms Bartlett for Ngāi Tahu ki Murihiku, and Ms Boyd for ORC. The intent of the clause is to provide flexibility for the LWRP to manage different activities in different ways, provided activities are collectively achieving a common outcome. We acknowledge the collaborative efforts of the parties.

433. Parties including Oceana Gold raised concerns that LF-FW-P9 was stricter for wetlands that are not considered to be natural inland wetlands. We acknowledge that this could be the case and consider that the wording proposed in clause (2) is problematic. This clause could be interpreted to directly link an activity to its effects on a specific wetland and require the listed values of that wetland to be managed. This would close the door to approaches such as compensation and offsetting. In addition, clause (2) would apply to all activities without having the exceptions provided by clause 3.22 of the NPSFM, or the s.6(a) of the RMA qualifier of protection “*from inappropriate subdivision, use, and development*”.

434. The Panel considers that, for the reasons discussed above, the exceptions in clause 3.22 should also apply to those wetlands that aren’t ‘natural inland wetlands’. This would provide for the effects management hierarchy to apply to proposed activities that could affect such wetlands, for such activities to need to demonstrate a functional need to be in the proposed location, and for there to be significant national or regional benefits from these activities.

435. It is also important here to refer to Policy 5 and Policy 9 of the NPSFM, which we discussed in the Legal Issues section. These refer to water bodies and freshwater ecosystems, and habitats of freshwater indigenous species, respectively. The RMA definition of ‘water body’ includes

‘freshwater’ in a ‘wetland’, with ‘freshwater’ including ‘all water except coastal water and geothermal water’.

436. Given that a water body includes a wetland, we also have to give effect to Policy 5 and Policy 9 of the NPSFM. In short, wetland health needs to be improved where it is degraded and otherwise maintained, and the habitats of freshwater indigenous species are to be protected. Policies 5 and 9 of the NPSFM are implemented through LF-FW-P7 clauses (1) and (2) respectively, which we discuss later in this section of our report, but we must ensure that the wetland provisions are consistent with these national directions.

437. Whereas LF-FW-P9 deals with protecting natural wetlands, LF-FW-P10 addresses restoring natural wetlands. Both protecting and restoring are part of Policy 6 and clause 3.22(1) of the NPSFM, in relation to ‘natural inland wetlands’. Policy 6 reads:

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

438. The ‘no further loss of extent’ component of Policy 6, which is largely mirrored by clause 3.22(1), is implemented through clause (3) of LF-FW-P9 which refers to clause 3.22(1) to (3) and only applies to ‘natural inland wetlands’. Clause (2) of LF-FW-P9 also indirectly addresses the ‘no further loss of extent’ through its expression to ‘maintain or enhance’. We are therefore satisfied that policies LF-FW-P9 and LF-FW-P10 give effect to the NPSFM.

439. We do question whether there needs to be separate protect and restore policies, or whether the same could be achieved through one policy relating to managing natural wetlands. LF-FW-P9 is not strictly about natural wetland protection given the reasonably long list of exceptions that are provided through clause 3.22(1) of the NPSFM. Similarly, LF-FW-P10 is not restricted to restoration but is also about managing wetlands to retain their existing values (for example, through controlling pest species and vegetation clearance in clause (3)).

440. Ms Boyd notes in her s.42A report that some aspects of clause 3.22(4) of the NPSFM are not addressed through LF-FW-P9 and LF-FW-P10, namely Māori freshwater values, and amenity values. Clause 3.22(4) of the NPSFM states:

Every regional council must make or change its regional plan to include objectives, policies, and methods that provide for and promote the restoration of natural inland wetlands in its region, with a particular focus on restoring the values of ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values.

441. While this clause applies to a regional plan and not a regional policy statement, we note that all the matters of focus that are listed are addressed in LF-FW-O9. These matters will also need to be considered where the NPSFM effects management hierarchy applies to a proposed activity. Ms Boyd advises¹⁶ that no submitter sought amendments to add Māori freshwater values and amenity values to LF-FW-P9 and LF-LW-P10. However, as these provisions are part of the freshwater process, we can recommend amendments that are outside the scope of submissions. We consider that addition of Māori freshwater values and amenity values would aid to implement LF-FW-O9 and ensure that the PORPS is consistent with the NPSFM.

¹⁶ S.42A report of Ms Felicity Boyd, para 1475.

442. Some submitters sought changes to the chapeau of LF-FW-P10 to either reduce or increase its stringency. Policy 6 and clause 3.22(1) of the NPSFM require that restoration of natural inland wetlands is ‘promoted’, while clause 3.22(4) requires regional plans to include provisions that “provide for and promote” restoration. The notified version of LF-FW-P10 uses the term ‘requiring, where possible’ and, following consideration of submissions and evidence, Mr Boyd recommended that this be amended to ‘requiring, to the greatest extent practicable’. It is important to note that LF-FW-P10 applies to improving the values and extent of wetlands that have been degraded or lost and is likely to be applied through non-regulatory methods. It will not apply to more intact, high value wetlands.

443. Policy 6 of the NPSFM requires a halt to the loss of extent and the protection of values (of natural inland wetlands) but there is no requirement to increase wetland extent. We are concerned about a potentially strict interpretation of ‘requiring’ in a regulatory sense and, while we acknowledge the importance of wetland restoration, we consider that ‘promoted’ is an appropriate term to use in the PORPS. It’s relevant here to note that Policy 5 of the NPSFM is to improve the health and well-being of water bodies “if communities choose”.

444. Turning to clause (4)(d) of LF-FW-P10, Beef + Lamb and DINZ, Federated Farmers and John Highton consider that some sheep grazing can be beneficial to wetland health and referenced the Stock Exclusion Regulations as already managing this issue (sheep were deliberately excluded from the regulations). We accept these submissions and refer particularly to the evidence of Emma Crutchley for OWRUG and Federated Farmers, who considers that stock access “*can cause water quality issues but they also control aggressive pasture species and weeds – enhancing natural character and hydrology*”. From the evidence, we accept that sheep grazing in certain circumstances can be a useful tool for managing pasture and weed species, and we do not consider that the door should be shut to this. No wording has been proposed so we have recommended an amendment in line with the evidence.

8.2.4.1. Recommendation

445. We recommend deleting LF-FW-P9 and LF-FW-P10 as notified and replacing it with the following:

LF-FW-P10A – Managing wetlands

Otago’s wetlands are managed:

- (1) in the coastal environment, in accordance with the NZCPS in addition to (2) and (3) below,
- (2) by applying clause 3.22(1) to (3) of the NPSFM to all wetlands, and
- (3) to improve the ecosystem health, hydrological functioning and extent of wetlands that have been degraded or lost by promoting:
 - (a) an increase in the extent and condition of habitat for indigenous species,
 - (b) the restoration of hydrological processes,
 - (c) control of pest species and vegetation clearance, and
 - (d) the exclusion of stock, except where stock grazing is used to enhance wetland values.

8.2.5. LF-FW-O8 – Fresh water and LF-FW-P7 – Fresh water

446. As notified, LF-FW-O8 reads:

LF-FW-O8 – Fresh water

In Otago's *water bodies* and their catchments:

- (1) the health of the wai supports the health of the people and thriving mahika kai,
- (2) water flow is continuous throughout the whole system,
- (3) the interconnection of *fresh water* (including *groundwater*) and *coastal waters* is recognised,
- (4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and
- (5) the significant and outstanding values of Otago's *outstanding water bodies* are identified and protected.

447. Ms Boyd recommended deleting LF-FW-O8 and moving most of its content to LF-FW-O1A. We accepted the addition of LF-FW-O1A, albeit with some amendments, and agree that retaining LF-FW-O8, with the exception of clause (5), would result in unnecessary duplication. We therefore accept Ms Boyd's recommendation to delete LF-FW-O8.

448. As notified, LF-FW-P7 reads:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target *attribute states*) and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous species associated with *water bodies* are protected, including by providing for fish passage,
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of rivers and 98% of lakes, and
 - (b) by 2040, 95% of rivers and 100% of lakes, and
- (4) mahika kai and *drinking water* are safe for human consumption,
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, and
- (6) *fresh water* is allocated within environmental limits and used efficiently.

449. After considering the submissions and evidence, Ms Boyd recommended the following amendments in her s.42A report:

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target *attribute states*), environmental flows and levels, and limits ensure that:

- (1) the health and well-being of *water bodies* is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous freshwater species associated with water bodies are protected and sustained, including by providing for fish passage,
- (2A) the habitats of trout and salmon are protected insofar as this is consistent with (2),
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
 - (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) resources harvested from water bodies including *mahika kai* and drinking water are safe for human consumption, and
- (5) existing *over-allocation* is phased out and future *over-allocation* is avoided, ~~and~~
- (6) ~~*fresh water* is allocated within environmental limits and used efficiently.~~

450. A number of submitters raised concerns about the phrase ‘protected and sustained’ in clause (2). Meridian and Oceana Gold considered that this clause should only apply to ‘significant indigenous species, with Oceana Gold also requesting that the protection requirement be replaced with ‘maintain and enhance. Similarly, Horticulture NZ suggests ‘maintain and improve’. Conversely, Fish and Game consider that restoration should be required as well as protection, and Contact and Kāi Tahu favour habitats to be sustained as well as protected.

451. We agree with Ms Boyd’s assertion that use of the word ‘protection’ is consistent with the NPSFM, specifically Policy 9 which reads:

Policy 9: *The habitats of indigenous freshwater species are protected.*

452. We do not accept the submitters’ requests to remove reference to ‘protected’, as softening this policy would result in the PORPS being less stringent than Policy 9.

453. Continuing with clause (2), Ballance seeks an amendment to refer to ‘indigenous freshwater species’, rather than the broader reference to ‘indigenous species associated with water bodies’. Ballance consider this terminology to be more consistent with Policy 9 and Clause 3.26 of the NPSFM, which we acknowledge that it is.

454. This proposed amendment was challenged in the evidence of Ms McIntyre from Kāi Tahu. Ms McIntyre considers that such a rewording “*could exclude species such as water and wading birds that do not spend all their time in the water but are still reliant on the health of the water body for some part of their life stages*”.¹⁷ We consider this is an important point and, similar to the view of Ms Boyd, irrespective of the wording in Policy 9 we favour Ms McIntyre’s evidence. We support the amendment that Ms Boyd has recommended to clause (2) in this regard.

455. Considering other submissions, we adopt the recommendations and reasoning of Ms Boyd. There were a number of submissions on clauses (5) and 6) requesting additional direction on the allocation and use of water. Ms Boyd has recommended deleting these clauses and that an

¹⁷ Evidence in chief of Ms McIntyre for Kāi Tahu, para 78(a).

additional policy, LF-FW-P7A, be inserted to address water allocation and use. We support this recommendation and discuss LF-FW-P7A below.

8.2.6. LF-FW-P7A – Water allocation and use

456. LF-FW-7A was recommended by Ms Boyd in the Freshwater Hearing s.42A report as follows:¹⁸

LF-FW-P7A – Water allocation and use

Within *limits* and in accordance with any relevant environmental flows and levels, the benefits of using *fresh water* are recognised and *over-allocation* is either phased out or avoided by:

(1) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within *limits*, including for:

- (a) community drinking water supplies,
- (b) renewable electricity generation, and
- (c) land-based primary production,

(2) ensuring that no more *fresh water* is abstracted than is necessary for its intended use,

(3) ensuring that the efficiency of *freshwater* abstraction, storage, and conveyancing *infrastructure* is improved, including by providing for off-stream storage capacity, and

(4) providing for spatial and temporal sharing of allocated *fresh water* between uses and users where feasible.

457. As highlighted above, LF-FW-P7A was recommended in response to submissions on LF-FW-P7(5) and (6). Given its late introduction through the s42A report, there was substantial discussion on this policy at the hearing. Some of these submitters sought amendments that would prioritise allocation to specific uses or uses based on efficiency of water use. These submitters were essentially asking that LF-FW-P7A specify what uses would be considered as priority (2) of Te Mana o Te Wai. We have addressed this previously in the Legal Issues section where we determined that it is not appropriate for the PORPS to determine what activities are to be considered as priority (2) or (3). We therefore do not accept submissions for such determinations in LF-FW-P7A.

458. Ms Styles for Manawa Energy has requested additional recognition of the use of water for REG in LF-FW-P7A to give effect to the NPS-REG.¹⁹ In response to questions from the Panel, Ms Styles amended her proposed wording in clause (1) as follows (amendments in addition to those in her EIC are in red):

(1) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within *limits*, including **prioritising allocation of available *fresh water*** for:

- (a) community drinking water supplies, **and**
- (b) **maintaining existing generation output and capacity and future generation**

¹⁸ S.42A report prepared for the Freshwater Hearings, para 1417.

¹⁹ Evidence in Chief of Ms Styles for Manawa Energy, para 8.21-8.27.

from existing renewable electricity generation schemes, and then

(c) land-based primary production, and then (d) other commercial and industrial uses, ...

459. We do not support including the phrase “*prioritising allocation of available fresh water*” in clause (1), as we consider that this is akin to the prioritisation that was discussed in the previous paragraph. In addition, such a phrase as proposed would apply to all uses listed in clause (1) and not just to REG. We note that LF-FW-P7A would need to be considered alongside the provisions in the EIT chapter which give effect to the enabling stance of the NPS-REG for REG activities. We do support Ms Styles’ amendments to clause (1)(b), as we consider that limiting this provision to existing REG is consistent with the visions.
460. The policy as proposed in the s.42A report did not address water harvesting and storage. In response to submissions by Horticulture NZ, the Chair invited them to file a memorandum that suggests policy wording to address this gap.²⁰ Mr Hodgson for Horticulture NZ proposed amendments to LF-FM-P7A, LF- VM-M3, and LF-FW-M6. However, LF-VM-M3 is not an FPI provision and Ms Boyd did not recommend a consequential amendment through the non-FPI process, as it occurred prior. Ms Boyd accepted Mr Hodgson’s proposed amendments to LF-FM-P7A and LF-FW-M6, with some amendments to ensure consistency with other provisions. We accept these changes and the reasoning of Horticulture NZ and Ms Boyd. We consider that LF-VM-M3 should also be amended to ensure consistency and address this in relation to this method.
461. The Panel is unclear how water would be allocated for ‘aspirations’ in clause (2)(c). We consider that ‘aspirations’ does not provide sufficient certainty and recommend that this clause read as “*mana whenua customary or cultural needs and activities*”. We consider that this amendment is consistent with the relief sought by Kāi Tahu ki Otago.
462. Ms Hunter for Oceana Gold requested that ‘land based primary production’ in clause (2)(d) be amended to ‘primary production’ so that it also includes mining and quarrying and associated processing and production.²¹ Ms Boyd considers that in community feedback on the freshwater visions, such activities “*were not highlighted as being important region-wide in the way that pastoral, arable and horticultural activities were*”.²² While we accept this, we acknowledge the importance of mining and quarrying at a regional level and the requirement of these activities for water. For these reasons, we accept Ms Hunter’s proposed amendment.

8.2.6.1. Recommendation

463. We recommend the following wording for LF-FW-P7A:

LF-FW-P7A – Water allocation and use

Within *limits* and in accordance with any relevant environmental flows and levels, the benefits of using *fresh water* are recognised and *over-allocation* is either phased out or avoided by:

- (1) managing over-allocation as set out in LF-FW-M6,
- (2) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities, including for:

²⁰ Memorandum of counsel for Horticulture NZ dated 13 September 2023.

²¹ Evidence in Chief of Ms Hunter for Oceana Gold, paras 48-49.

²² FPI Reply Report of Ms Boyd, para 144.

- (a) community drinking water supplies,
- (b) maintaining generation output and capacity from existing *renewable electricity generation schemes,*
- (c) *mana whenua* customary or cultural needs and activities, and
- (d) primary production,
- (3) ensuring that no more *fresh water* is abstracted than is necessary for its intended use,
- (4) ensuring that the efficiency of *freshwater* abstraction, storage, and conveyancing *infrastructure* is improved,
- (5) providing for the harvesting and storage of *fresh water* to meet increasing demand for *water*, to manage *water* scarcity conditions and to provide resilience to the *effects* of *climate change*, and
- (6) providing for spatial and temporal sharing of allocated *fresh water* between uses and users where feasible.

464. We recommend the follow consequential change to LF-FW-M6:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* ~~no later than 31 December 2023~~ and, after it is made operative, maintain that *regional plan* to:

...

(5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A, including for *water* harvesting and storage,

...

8.3. Outstanding water bodies

8.3.1. LF-FW-P11 – Identifying outstanding water bodies

465. Outstanding water bodies are addressed through LF-FW-P11 and LF-FW-P12 and LF-FW-M5. LF-FW-P11 and LF-FW-M5 refer to the criteria for identifying outstanding water bodies that are provided in APP1. We discuss each of these provisions in turn below.

466. LF-FW-P11 was notified as follows:²³

LF-FW-P11 – Identifying outstanding water bodies

Otago’s *outstanding water bodies* are:

- (1) the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997,
- (2) Lake Wanaka and the outflow and tributaries described in the Lake Wanaka Preservation Act 1973,

²³ S.42A report prepared for the Freshwater Hearings, para 1417.

- (3) any *water bodies* identified as being wholly or partly within an outstanding natural feature or landscape in accordance with NFL–P1, and
- (4) any other *water bodies* identified in accordance with APP1.

467. Once again confusion arises in this LF-FW area between the two processes in respect of these related water body provisions now under consideration here. LF-FW-P11 as to outstanding water bodies, LF-FW-P12 as to identifying and managing those water bodies, LF-FW-P13 as to protecting instream values, LF-FW-P14 as to instream values, and LF-FW-M5 as to outstanding water bodies are not shaded blue as FPI provisions. (Nor was the definition of ‘effects management hierarchy’ in the notified version shaded blue as part of the FPI, despite it specifically adopting the NPSFM definition in that respect.) These are so integrally freshwater issues located in the LF-FW chapter, (even the very title used is ‘FW’ i.e. freshwater), that we have dealt with the subject matter in this Appendix Two report. This is a classic illustration of the reason why, out of caution, because of the lack of shading, we have also formally included this consideration of those provisions in the non-freshwater report in Appendix One as well.

468. There were several submissions on LF-FW-P11, including three in support and several seeking amendments. Ms Boyd recommended deleting clause (3) in response to submissions by Beef + Lamb and DINZ and Federated Farmers. We consider this to be appropriate and agree with the submitters that being wholly or partly in an outstanding natural feature or landscape does not necessarily mean that a waterbody is outstanding. We agree with Ms Boyd’s amendments and reasoning provided in her s.42A report and Reply Report and do not discuss LF-FW-P11 further.

8.3.1.1. Recommendation

469. We recommend the following amendments to LF-FW-P11:

LF-FW-P11 – Identifying Otago’s outstanding water bodies

Otago’s *outstanding water bodies* are:

- (1) the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997,
- (2) Lake Wanaka and the outflow and tributaries described in the Lake Wanaka Preservation Act 1973, and
- ~~(3) any *water bodies* identified as being wholly or partly within an outstanding natural feature or landscape in accordance with NFL–P1, and~~
- (4) any other *water bodies* identified in accordance with APP1.

8.3.2. LF-FW-P12 – Protecting outstanding water bodies

470. Turning to LF-FW-P12, as notified this provision reads:

LF–FW–P12 – Protecting outstanding water bodies

The significant and outstanding values of outstanding water bodies are:

- (1) identified in the relevant regional and district plans, and
- (2) protected by avoiding adverse effects on those values.

471. Forest and Bird and Federated Farmers expressed concern that LF-FW-P12 was not well aligned with Policy 8 of the NPSFM, which reads:

Policy 8: *The significant values of outstanding water bodies are protected.*

472. As notified, LF-FW-P12 requires the significant and outstanding values of outstanding water bodies to be identified, rather than identifying outstanding water bodies and protecting their significant values. We agree with the submitters that there are differences between the two provisions. We also agree with Ms Boyd that “*if significant values must be protected then to my mind it is consistent to apply the same requirement to outstanding values*”.

473. We do not agree with Meridian Energy who considers there is no difference between outstanding values and significant values. They sought to delete references to “outstanding values” in LF-FW-P12 and LF-FW-M5. The Panel’s view is that outstanding is a ‘higher’ classification than significant and therefore, by default, any value that is outstanding would also be significant and therefore requiring protection under Policy 8 of the NPSFM.

474. Several submitters sought a way through the ‘protected’ restriction in Policy 8 of the NPSFM, requesting varying relief to qualify the protection or manage effects to a certain level. Similarly, OWRUG, Aurora Energy, Waka Kotahi, and Transpower sought a pathway for infrastructure that may have an operational and functional need to operate in a way that would affect an outstanding waterbody. We consider that the ‘protective’ direction of Policy 8 of the NPSFM is clear and do not consider that we can ‘water down’ the requirements in the ways proposed by submitters.

475. Relevant to this, the NPSFM defined ‘outstanding waterbody’ as follows:

outstanding water body means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values.

476. It therefore follows that outstanding values have to be identified in order to determine whether a waterbody is outstanding. To achieve Policy 8 of the NPSFM, significant values would also have to be identified for such waterbodies to enable the protection of those significant values.

8.3.2.1. Recommendation

477. We accept Ms Boyd’s final recommended wording for LF-FW-P12 in her Reply Report and recommend the following amendments:

LF-FW-P12 – ~~Protecting~~ Identifying and managing outstanding water bodies

~~The significant and outstanding values of outstanding water bodies are:~~

~~(1) identified in the relevant regional and district plans, and~~

~~(2) protected by avoiding adverse effects on those values.~~

Identify *outstanding water bodies* and their significant and outstanding values in the relevant *regional plans* and *district plans* and protect those values.

8.3.3. LF-FW-M5 – Outstanding water bodies

478. LF-FW-M5 sets out the process for identifying outstanding waterbodies and was notified as follows:

LF-FW-M5 – Outstanding water bodies

No later than 31 December 2023, Otago Regional Council must:

- (1) undertake a review based on existing information and develop a list of *water bodies* likely to contain outstanding values, including those *water bodies* listed in LF-VM-P6,
- (2) identify the outstanding values of those *water bodies* (if any) in accordance with APP1,
- (3) consult with the public during the identification process,
- (4) map *outstanding water bodies* and identify their outstanding and significant values in the relevant *regional plan(s)*, and
- (5) include provisions in *regional plans* to avoid the adverse effects of activities on the significant and outstanding values of *outstanding water bodies*.

479. We generally agree with the analyses of submissions and Ms Boyd’s recommended amendments as per her Reply report and the 10 October 2023 version of the PORPS. We note that the date in the chapeau has not been recommended to change, and our understanding is that the work to identify outstanding waterbodies has largely been completed by ORC. That said, clauses (4) and (5) of LF-FW-M5 are to map outstanding waterbodies in the relevant regional plan and include provisions to protect the significant and outstanding waterbodies, respectively. Our understanding is that the date that the regional plan will be publicly notified is uncertain and we consider it appropriate to delete the date requirement in the chapeau to reflect this. This would be consistent with other references in the PORPS that refer to regional plan requirements, including LF-FW-M6.

8.3.3.1. Recommendation

480. We recommend the following amendments to LF-FW-M5:

LF-FW-M5 – Outstanding water bodies

~~No later than 31 December 2023,~~ Otago Regional Council must:

- (1) ~~in partnership with Kāi Tahu,~~ undertake a review based on existing information and develop a list of *water bodies* likely to contain outstanding values, including those *water bodies* listed in ~~LF-VM-P6~~ LF-FW-P11,
- (2) identify the outstanding values of those *water bodies* (if any) in accordance with APP1,
- (3) consult with the public and relevant local authorities during the identification process,
- (4) map *outstanding water bodies* and identify their outstanding and significant values in the relevant *regional plan(s)*, and

- (5) include provisions in *regional plans* that protect to avoid the adverse effects of activities on the significant and outstanding values of outstanding water bodies.

8.3.4. APP1 – Criteria for identifying outstanding waterbodies

481. Turning to APP1, several submissions were received on APP1 which sought to improve the clarity of the criteria. In her s.42A report Ms Boyd recommended accepting Manawa Energy's submission to replace the notified APP1 criteria with those adopted in Hawke's Bay Regional Council's Plan Change 7. Following responses by parties in evidence and at the hearing, Ms Boyd changed her recommendation to that of amending the notified APP1 criteria rather than adopting the Hawkes Bay criteria.
482. Concerns were raised by submitters in evidence about use of the Hawkes Bay criteria, particularly by the Director General for Conservation and Fish and Game. The evidence of Dr Richarson for the Director General considered that the notified APP1 provided for more expert evaluation and interpretation.²⁴ She expressed concern about the ecological considerations in the Hawke's Bay criteria and considered that aspects weren't relevant to the Otago region. Her recommendations were supported by Mr Brass for the Director General, who helpfully provided suggested amendments to APP1.
483. The evidence of Mr Couper and Mr Paragreen for Fish and Game discussed their concerns with the Hawke's Bay criteria for recreation²⁵ and, in his statement to the LF hearing, Mr Paragreen also helpfully provided tracked amendments to APP1 to address their concerns.²⁶
484. As mentioned previously, Ms Boyd also explained to us, both at the hearing and in her Reply Report, that ORC staff have done a considerable amount of work to determine outstanding waterbodies against the notified criteria and that changing to the Hawkes Bay criteria would mean that at least some of this work would need to be redone. We support her recommendation to retain and modify the notified APP1, rather than adopting the Hawkes Bay criteria.
485. Of importance, Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku sought that the reference to cultural and spiritual values be deleted, as ranking waterbodies does not reflect the relationship of Kāi Tahu with water. The two submitters sought different relief: Kāi Tahu ki Otago sought an addition to Table 4 to ensure that the cultural and spiritual values are recognised and protected for the waterbodies that are identified using APP1; while Ngāi Tahu ki Murihiku sought to separate the outstanding waterbody process from the process for developing wāhi tupuna relevant to waterbodies, noting that wāhi tupuna should be identified through APP7 – identifying wāhi tupuna.
486. The Hawkes Bay criteria do not include consideration of cultural and spiritual values and Ms McIntyre stated at the hearing that:

The s. 42A report recommendation to change the criteria for identification of outstanding waterbodies resolved this problem by adopting a set of criteria that does not include cultural and spiritual values ... If the recommendation is reversed, then the Kai Tahu submissions on this matter will also need to be considered.

²⁴ Dr Marine Richarson for DOC, para 123-127

²⁵ Jayde Couper for Fish and Game, paras [146]-[157]; Nigel Paragreen for Fish and Game, para [125]

²⁶ Opening statement of Nigel Paragreen for LF hearing, Appendix 2

487. We note that in the absence of a values criterion for cultural and spiritual values, LF-FW-P12 (and NPSFM Policy 8) would still require that significant cultural and spiritual values are protected for each waterbody that is identified as outstanding – the criteria in APP1 are only for identifying outstanding waterbodies and are not to be used to identify the significant values of those outstanding waterbodies. It is Policy 8 of the NPSFM that requires that significant values of outstanding waterbodies are protected, i.e. there will be more significant values for a waterbody that is identified as outstanding through APP1. Therefore, while the absence of a criterion would mean that waterbodies would not be ranked according to their cultural and spiritual values, it would not mean that such values would go unprotected. We recognise the importance of APP7 in assisting to identify these significant values, as part of the process of identifying wāhi tūpuna.

488. Ms Boyd has recommended amendments to APP1 following consideration of submissions and evidence. We accept these recommendations, with the following amendments:

- (a) For landscape values, deletion of ‘high’ in clause (2), as criteria should relate to outstanding rather than high values;
- (b) Similarly, for natural character values, delete ‘high’ from the introductory sentence in the description.

8.3.4.1. Recommendation

489. We recommend the following amendments to APP1 – Criteria for outstanding waterbodies, which are consistent with those recommended in the 10 October 2023 version of the PORPS.

APP1 – Criteria for identifying outstanding water bodies

Outstanding water bodies include any *water body* with one or more of the following outstanding values, noting that sub-values are not all-inclusive:

Table 1 - Values of outstanding water bodies

Values	Description	Example sub-values
Cultural and spiritual	A water body which has outstanding cultural and spiritual values.	Wāhi tapu, wāhi taoka, wai tapu, rohe boundary, battle sites, pa, kāika, tauraka waka, mahika kai, pa tuna; and acknowledged in korero tuku iho, pepeha, whakatauki or waiata
Ecology	A <i>water body</i> which has outstanding ecological value as a habitat for: <ul style="list-style-type: none"> • Native birds • Native fish • Salmonid fish • Other aquatic species 	Native birds, native fish, native plants, aquatic macroinvertebrates
Landscape	A <i>water body</i> <u>that</u> : (1) is an essential <u>which forms a key component of a landscape or natural feature</u> that is “conspicuous, eminent, remarkable or iconic” within the region, and or is critical to an outstanding natural feature.	Scenic, association, natural characteristics (includes hydrological, ecological and geological features)

	<u>(2) has landscape, wild and/or scenic values that contain distinctive qualities which are outstanding in the context of the region.</u>	
Natural character	A <i>water body</i> with high naturalness that: <u>(1) exhibits an exceptional combination of natural processes, natural patterns and natural elements with low levels of modification to its form, ecosystems and the surrounding landscape that is exceptional in the context of the region, and</u> <u>(2) has little to no human modification to its form, ecosystems, and the surrounding landscape.</u>	Natural characteristics (includes hydrological, ecological and geological features)
Recreation	A <i>water body</i> which is recognised as providing an outstanding recreational experience for an activity which is directly related to the <i>water</i> .	Angling, fishing, kayaking, rafting, jetboating
Physical	A <i>water body</i> which has an outstanding geomorphological, geological or hydrological feature which is dependent on the <i>water body's</i> condition and functioning.	Science

8.4. Natural character and instream values

490. Natural character and instream values are addressed through LF-FW-P13 and LF-FW-P14. We discuss each of these provisions in turn below.

8.4.1. LF-FW-P13 – Preserving natural character and in stream values

491. LF-FW-P13 was notified as follows:

LF–FW–P13 – Preserving natural character

Preserve the natural character of *lakes* and *ivers* and their *beds* and margins by:

- (1) avoiding the *loss of values* or extent of a *river*, unless:
 - (a) there is a *functional need* for the activity in that location, and
 - (b) the *effects* of the activity are managed by applying:
 - (i) for *effects* on indigenous *biodiversity*, either ECO-P3 or ECO-P6 (whichever is applicable), and
 - (ii) for other effects, the effects management hierarchy,
- (2) not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:
 - (a) the application demonstrates how each step of the *effects management hierarchies* in (1)(b) will be applied to the *loss of values* or extent of the *river*, and

- (b) any consent is granted subject to conditions that apply the *effects management hierarchies* in (1)(b),
- (3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*,
- (4) wherever possible, sustaining the form and function of a *water body* that reflects its natural behaviours,
- (5) recognising and implementing the restrictions in Water Conservation Orders,
- (6) preventing the impounding or control of the level of Lake Wanaka,
- (7) preventing modification that would reduce the braided character of a *river*, and
- (8) controlling the use of *water* and *land* that would adversely affect the natural character of the *water body*.

492. This provision attracted over 40 submission points which have some common themes. These include:

- (a) That the policy should recognise instream values alongside natural character;
- (b) Concerns about clause (1)(b) which refers to ‘functional need’;
- (c) How the effects management hierarchy is referred to in clause (2);
- (d) Exclusions for regionally significant infrastructure;
- (e) Requests to have a separate policy for environmental flows and levels (clause (3));
- (f) Providing for some modification of natural character, particularly if it is associated with mitigating risks to health and safety; and
- (g) An additional clause that addresses the values of riparian margins.

493. Ms Boyd recommended a number of amendments to LF-FW-P13, which are presented in the PORPS version dated 10 October 2023 and with reasoning in her s42A report, supplementary evidence and reply report.²⁷ Barring one exception which we address below, we agree with her recommendations and reasons and recognise that some of the amendments are discussed elsewhere in our report. These include amendments to the reference to the effects management hierarchy in clause (2), which we address in Legal Issues section, and the provision for regional infrastructure which we address in the EIT section of our report.

494. Kāi Tahu ki Otago’s requested addition of a new clause that specifically related to riparian margins was discussed in Ms Boyd’s Reply Report.²⁸ Ms Boyd recommended:

²⁷ S42A Report 1: Introduction and general themes, para 1095-1124; Fourth brief of supplementary evidence of Felicity Ann Boyd, LF – Land and freshwater (NPSFM amendments), dated 24 February 2023; Reply Report from para 170.

²⁸ Paras 174-175 and 178-179

... I am not convinced that listing the specific outcomes to be achieved from maintaining or enhancing the values of riparian margins is necessary. In my view, there are many reasons to implement this action and they are not necessary to specify in this policy. I recommend ending this clause after 'riparian margins.'²⁹

495. This recommendation is not incorporated into the recommended amendment to clause (9) in Ms Boyd's Reply Report or in the PORPS version dated 10 October 2023. In any event, we prefer the additional phrase 'supporting natural flow behaviour' that Ms McIntyre for Kāi Tahu proposed at the hearing.³⁰ We consider that the addition of this phrase, and retaining the proposed wording after 'riparian margins', will assist to clarify the intent of the clause.

496. We have considered the appropriateness of LF-FW-P13(2)(c) referring to 'Appendix 6 and 7 of the NPSFM' rather than these appendices being included as appendices in the PORPS. Our view is that these should be included as PORPS appendices, both to provide additional certainty to the policy and to be consistent with the ECO chapter, where Appendix 3 and 4 of the NPSIB are included as APP3 and APP4 of the PORPS. Therefore we have recommended that Appendix 6 and 7 of the NPSFM are included in the PORPS as APP4A and APP4B, with the wording of LF-FW-P13(2)(c) amended accordingly.

8.4.1.1. Recommendation

497. We recommend the following amendments to LF-FW-P13:

LF-FW-P13 – Preserving natural character and instream values

Preserve the natural character and instream values of lakes and rivers and the natural character of their beds and margins by:

- (1) avoiding the *loss of values* or extent of a river, unless:
 - (a) there is a *functional need* for the activity in that location, and
 - (b) the *effects* of the activity are managed by applying:
 - (i) ~~for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and~~
 - (ii) ~~for other effects~~ the *effects management hierarchy (in relation to natural inland wetlands and rivers)*,
- (2) not granting *resource consent* for activities in (1) unless ~~Otago Regional Council~~ the consent authority is satisfied that:
 - (a) the application demonstrates how each step of the ~~effects management hierarchies in (1)(b)~~ *effects management hierarchy (in relation to natural inland wetlands and rivers)* will be applied to the *loss of values* or extent of the river, and
 - (b) any consent is granted subject to conditions that apply the ~~effects management hierarchies in (1)(b)~~ *effects management hierarchy (in*

²⁹ Para 178

³⁰ Sandra McIntyre for Kāi Tahu ki Otago, Appendix 2

relation to natural inland wetlands and rivers) in respect of any loss of values or extent of the river,

(c) if aquatic offsetting or aquatic compensation is applied, the applicant has complied with principles 1 to 6 in APP4A and APP4B, and has had regard to the remaining principles in APP4A and APP4B, as appropriate, and

(d) if aquatic offsetting or aquatic compensation is applied, any consent granted is subject to conditions that will ensure that the offsetting or compensation will be maintained and managed over time to achieve the conservation outcomes,

- (3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*,
- (4) ~~wherever possible~~ to the extent practicable, sustaining the form and function of a *water body* that reflects its natural behaviours,
- (5) recognising and implementing the restrictions in Water Conservation Orders,
- (6) preventing the impounding or control of the level of Lake Wanaka,
- (7) preventing modification that would permanently reduce the braided character of a *river*, ~~and~~
- (8) controlling the use of *water* and *land* that would adversely affect the natural character of the *water body*, and
- (9) maintaining or enhancing the values of riparian margins to support habitat and biodiversity, reduce contaminant loss to water bodies and support natural flow behaviour.

498. We also recommend that Appendix 6 of the NPSFM is included in the PORPS as APP4A and Appendix 7 of the NPSFM is included in the PORPS as APP4B.

8.4.2. LF-FW-P14 – Restoring natural character and instream values

499. LF-FW-P14 was notified as follows:

LF–FW–P14 – Restoring natural character

Where the natural character of *lakes* and *rivers* and their margins has been reduced or lost, promote actions that:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems,
- (4) improve *water body* margins by naturalising bank contours and establishing indigenous vegetation and habitat, and

- (5) restore *water* pathways and natural connectivity between *water* systems.

500. Submissions on LF-FW-P14 varied from support for the notified provision, to requests to make the provision more directive by replacing 'promote' with 'require', to relaxing the provision by replacing 'promote' with 'support' or 'encourage' or adding 'where practicable'.
501. We consider that 'promoting' is appropriate for a restoration policy such as LF-FW-P14. Instances where restoration is required should be determined through the regional plan, for example where restoration is needed to meet desired environmental outcomes. We do not have the information before us to determine such requirements and do not consider that a blanket requirement is appropriate. Conversely, we do not see a material difference between 'promoting' and 'supporting' or 'encouraging', and consider that 'where practicable' is more appropriate for directive provisions.
502. Many of the submission points have been accepted by Ms Boyd, either in full or in part, and we consider that these amendments strengthen the intent and clarity of the policy. The submission points that have not been accepted seek, in many instances, to soften the policy. For example, Contact and OWRUG consider that restoring some waterbodies would result in significant adverse effects. We acknowledge that restoring a highly modified waterway such as the Clutha-Mata-au would not be a feasible proposition, however the policy is not determinative and there would likely be actions that could improve the natural character and instream values of the Clutha-Mata-au. We discussed this earlier in relation to LF-VM-O2 – Clutha Mata-au vision.

8.4.2.1. Recommendation

503. We recommend the following amendments to LF-FW-P14:

LF-FW-P14 – Restoring natural character and instream values

Where the natural character or instream values of *lakes* and *rivers* ~~and~~ or the natural character of their margins has been reduced or lost, promote actions that, where practicable:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems and, where necessary and appropriate, creating fish barriers to prevent incursions from undesirable species,
- (4) improve *water body* margins by naturalising bank contours and establishing *indigenous vegetation* and habitat, and
- (5) restore ~~water pathways and~~ natural connectivity between and within *water* systems.

8.5. Stormwater, animal effluent and wastewater

504. LF-FW-P15 was notified as follows:

LF-FW-P15 – Stormwater and wastewater discharges

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* and *wastewater* to *fresh water* by:

(1) except as required by LF–VM–O2 and LF–VM–O4, preferring *discharges* of *wastewater* to *land* over *discharges* to *water*, unless adverse *effects* associated with a *discharge* to *land* are greater than a *discharge* to *water*, and

(2) requiring:

(a) all sewage, industrial or trade waste to be *discharged* into a reticulated *wastewater* system, where one is available,

(b) all *stormwater* to be *discharged* into a reticulated system, where one is available,

(c) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated *stormwater* and *wastewater* systems,

(d) on-site *wastewater* systems to be designed and operated in accordance with best practice standards,

(e) *stormwater* and *wastewater discharges* to meet any applicable water quality standards set for *FMUs* and/or *rohe*, and

(f) the use of water sensitive urban design techniques to avoid or mitigate the potential adverse *effects* of *contaminants* on receiving *water bodies* from the *subdivision*, use or development of *land*, wherever practicable, and

(3) promoting the reticulation of *stormwater* and *wastewater* in urban areas.

505. DOC, Fonterra, DCC, Ravensdown, and Kāi Tahu ki Otago sought that LF-FW-P15 be split into two policies. The submitters' requests varied, with Fonterra considering that industrial and trade waste should be included in the direction on *stormwater*, while DCC, Ravensdown, and Kāi Tahu ki Otago considering that it should be included with *wastewater*. Ms Boyd's s.42A report recommended that LF-FW-P15 address *stormwater*, while a new policy LF-FW-P16 be included to address animal effluent, sewage and industrial and trade waste.³¹ Ms Tait for Fonterra considered that this split was appropriate but sought that the title and wording of LF-FW-P16 should also include *greywater*.

506. We agree with the general proposition that *stormwater* and *wastewater* should be the subject of separate policies. Ms Boyd's s.42A report directed us to the National Planning Standards definition of industrial and trade waste, which reads:

liquid waste, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes sewage and greywater.

507. We agree with Ms Boyd that the contaminants and treatment associated with industrial and trade waste are more closely aligned with *wastewater* than *stormwater* and support their inclusion in LF-FW-P16.

³¹ At para 1552.

508. Turning to greywater, we note that ‘wastewater’ is defined by the National Planning Standards and in the PORPS as follows:

Means any combination of two or more the [sic] following wastes: sewage, greywater or industrial and trade waste.

509. The proposed policy split sees LF-FW-P16 addressing animal effluent, sewage, and industrial and trade waste, in place of wastewater that was included alongside stormwater in the notified LF-FW-P15.

510. Industrial and trade waste is defined in the National Planning Standards, and in the pORPS, as:

liquid waste, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes sewage and greywater.

[Panel’s emphasis]

511. Sewage is defined in the National Planning Standards, and in the pORPS, as:

Means human excrement and urine.

512. The definition of sewage therefore also excludes greywater.

513. We consider that Ms Tait for Fonterra has a justified concern that greywater is excluded. We support her recommended amendments to include greywater in the heading and in the chapeau of LF-FW-P16.³² We note that greywater would be addressed by the policy wording by its inclusion in the definition of ‘wastewater’, a term which is used in clauses (2)(d) to (e) and clause (3). We agree with Ms Tait that a consequential change is required to include greywater in LF-FW-M6(8). A further consequential change is needed to insert the National Planning Standard definition of greywater into the Interpretation section of the PORPS.

514. Unsurprisingly, there was considerable discussion in evidence and at the hearing about whether there should be some provision for direct wastewater overflows to surface water. We heard from Kāi Tahu ki Otago witnesses that direct discharges of human or animal effluent to surface water are unacceptable, with Mr Ellison stating that:

The discharge of human waste to water is contrary to tikaka and kawa and renders affected waterways inaccessible for customary practices such as harvesting and eating mahika kai or using water for cultural purposes and rituals.³³

515. Mr Ellison provided the example of wastewater discharging from the Waihola wastewater treatment plant into the Waihora (Lake Waihora) outflow channel. Ms McIntyre for Kāi Tahu told us that change in practice away from direct discharge has been slow in Otago and she considers that the qualifier “to the greatest extent possible” in clause (1) of LF-FW-P16 “does not recognise the strength of the concern about the impact of these discharges on mauri”.³⁴ She sought that this phrase be deleted from clause (1).

³² Evidence in chief of Ms Susannah Tait for Fonterra, para 7.15.

³³ Evidence in chief of Mr Edward Ellison for Kāi Tahu ki Otago, para. 71.

³⁴ Evidence in chief of Ms Sandra McIntyre for Kāi Tahu ki Otago, para. 73.

516. We heard from DCC about the degraded state of their three waters infrastructure, with Ms Moffat (DCC 3 Waters Planning Manager) providing a useful overview.³⁵ She stated that over 50 per cent of DCC's infrastructure is expected to require renewal by 2060. She discussed the Council's 3 Waters Strategic Direction Statement 2010-2060 and told us that \$3.6 billion would need to be invested in the next 30 years to maintain the existing levels of service.
517. The DCC operates seven wastewater treatment plants and hold four resource consents to discharge wastewater overflow to waterways or the coast. These overflows operate during heavy rain when stormwater and/or groundwater enters wastewater pipes. The overflows are part of the system design, with the alternative being the back-up of wastewater onto private property. While Ms Moffat outlined the Council's commitment to reducing direct discharges to freshwater, we acknowledge that this is a long-term project.
518. Mr Simon Mason from QLDC informed us that the four wastewater plants in the Queenstown district discharge to land, although he acknowledged that the Shotover treatment plant discharges into gravels in close proximity to the river. Waitaki District Council, Clutha District Council and Central Otago District Council did not submit on the FPI however Ms Boyd's Table 1 of her Opening Statement provided a useful summary of municipal wastewater discharges in the Otago Region.³⁶ It shows that these smaller councils all have consented wastewater discharges to freshwater, with Clutha and Central Otago District Councils each having several.
519. We also heard from Fonterra about the importance of their Stirling processing plant and the difficulties they have disposing of wastewater. Mr Watt's evidence stated that Fonterra are consented to discharge up to 3,700 m³/day of treated wastewater from the plant into the Clutha Mata-Au, with the consent expiring in 2043.³⁷ Mr Watt told us that, while discharge volumes and contaminant concentrations have reduced with upgrades to the plant and Fonterra continue to investigate improvement options, the steep topography and wet soils surrounding the site make land disposal challenging.³⁸
520. We support phasing out direct discharges of wastewater to surface water and acknowledge the impact that these discharges have on Kāi Tahu values. Ms McIntyre pragmatically acknowledged at the hearing that only a certain amount of progress can be made in 10 years and, from the evidence that we have received from DCC and Fonterra, we have concluded that full removal of such discharges is not feasible within the lifetime of this RPS.
521. That said, we consider that the PORPS should send a clear signal that such discharges are to be phased out. We consider that this is achieved by clause (1). Some submitters suggested that 'to the greatest extent possible' be replaced with 'to the greatest extent practicable'. We consider that the use of 'to the extent practicable' is appropriate, primarily to ensure consistency with LF-FW-O1A(8) which we have discussed earlier.
522. Turning to the LF-FW-M6, our understanding is that the date that the regional plan is to be publicly notified is uncertain and we consider it appropriate to delete the date requirement in the chapeau to reflect this. This is consistent with our approach to LF-FW-M5 and LF-LS-M11.

³⁵ Evidence in chief of Ms Zoe Moffat for DCC, paras. 47-52.

³⁶ Opening Statement of Ms Felicity Boyd, 28 August 2023.

³⁷ Evidence in chief of Mr Morgan Watt for Fonterra, para. 18.

³⁸ Evidence in chief of Mr Morgan Watt for Fonterra, para. 29

8.5.1. Recommendation

523. Other than the points discussed above, we adopt the recommendations and reasoning of Ms Boyd. We recommend the following amendments to LF-FW-P15:

LF-FW-P15 – ~~Stormwater and wastewater discharges~~

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* ~~and wastewater~~ to *fresh water* by:

- (1) ~~except as required by LF-VM-O2 and LF-VM-O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water, and~~
- (2) requiring:
 - (a) ~~all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available,~~
 - (ab) integrated catchment management plans for management of stormwater in urban areas,
 - (b) all *stormwater* to be discharged into a reticulated system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in the same or improved outcomes for fresh water,
 - (c) implementation of methods to progressively reduce unintentional stormwater inflows to the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems,
 - (d) ~~on-site wastewater systems to be designed and operated in accordance with best practice standards,~~
 - (e) that any stormwater and wastewater discharges do not prevent water bodies from ~~to~~ meeting any applicable water quality standards set for FMUs and/or rohe, and
 - (f) the use of water sensitive urban design techniques ~~to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and~~
- (3) promoting the reticulation of *stormwater* ~~and wastewater~~ in *urban areas* where appropriate, and
- (4) promoting source control as a method for reducing contaminants in discharges and the use of good practice guidelines for managing stormwater.

8.5.2. Recommendation

524. We recommend the following amendments to new LF-FW-P16 recommended in the Reply Report:

LF-FW-P16 – Discharges containing animal effluent, sewage, greywater and industrial and trade waste

Minimise the adverse *effects* of direct and indirect *discharges* containing animal effluent, *sewage, greywater* and *industrial and trade waste* to *fresh water* by:

- (1) phasing out existing *discharges* containing *sewage* or *industrial and trade waste* directly to water to the extent practicable,
- (2) requiring:
 - (a) *new discharges* containing *sewage* or *industrial and trade waste* to be to *land*,
 - (b) *discharges* of animal effluent from *land-based primary production* to be to *land*,
 - (c) that all *discharges* containing *sewage* or *industrial and trade waste* are discharged into a *reticulated wastewater system*, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for *fresh water*,
 - (d) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring from *reticulated wastewater systems*,
 - (e) *on-site wastewater systems* and animal effluent systems to be designed and operated in accordance with best practice standards,
 - (f) that any *discharges* do not prevent *water bodies* from meeting any applicable water quality standards set for FMUs and/or rohe,
- (3) to the greatest extent practicable, requiring the *reticulation of wastewater* in *urban areas*, and
- (4) promoting source control as a method for reducing *contaminants* in *discharges*.

8.5.3. Recommendation

525. We recommend a consequential change to include the definition of greywater in the Interpretation section as follows:

Greywater	has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below) <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"><p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include <i>sewage</i>, or <i>industrial and trade waste</i>.</p></div>
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8.5.4. Recommendation

526. We recommend a further consequential change is required to include 'greywater' in LF-FW-M6(8) as follows:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

...

(8) manage the adverse *effects* of *stormwater* and ~~wastewater~~ *discharges containing animal effluent, sewage, greywater or industrial and trade waste* in accordance with LF-FW-P15 and LF-FW-P16, and-

...

8.6. LF-VM-M3 – Community involvement

527. LF-VM-M3 was notified as follows:

LF-VM-M3 – Community involvement

Otago Regional Council must work with communities to achieve the objectives and policies in this chapter, including by:

- (1) engaging with communities to identify *environmental outcomes* for Otago's *FMUs* and rohe and the methods to achieve those outcomes,
- (2) encouraging community stewardship of *water* resources and programmes to address *freshwater* issues at a local catchment level,
- (3) supporting community initiatives that contribute to maintaining or improving the health and well-being of *water bodies*, and
- (4) supporting industry-led guidelines, codes of practice and environmental accords where these would contribute to achieving the objectives of this RPS.

528. This method is intended to implement provisions that are part of the freshwater process, including the vision objectives, LF-FW P7, LF-FW-P7A and some wetland provisions, and non-freshwater process, for example natural character and outstanding water body provisions.

529. Some submitters sought amendments to clause (1) to more directly reference the requirements of the NPSFM National Objectives Framework, including in identifying attributes, target attribute states, timeframes for achieving target attribute states, limits, and action plans. The notified clause (1) refers to environmental outcomes, which are defined in the NPSFM and the PORPS as follows:

means, in relation to a value that applies to an FMU or part of an FMU, a desired outcome that a regional council identifies and then includes as an objective in its regional plan.

530. Environmental outcomes are expressed in Clause 3.9 of the NPSFM, whereby regional councils must identify values that apply to an FMU or part of an FMU (clauses (1) and (2)) and identify an environmental outcome for each of these values (clause 3). These are to be expressed as an objective(s) in the regional plan (clause 4). Once the values and environmental outcomes are determined, the NPSFM requires attributes and their baseline states to be identified (clause

3.10), target attribute states set (clause 3.11), limits set (clause 3.12) and action plans prepared (clause 3.15).

531. We agree with Ms Boyd that there is no need to specify these requirements, but that reference to 'values' in clause (1) alongside 'environment outcomes' is appropriate. This better reflects clause 3.9 of the NPSFM which then applies to the next steps in the NOF process.
532. The Panel is in agreement with Ms Boyd's recommended amendments and reasons for LF-VM-M3.
533. We also addressed LF-VM-M3 in the FPI report in our discussion on LF-FW-P7A. We considered that a consequential amendment to LF-VM-M3 to add clause (4A) is appropriate for consistency with recommended amendments to freshwater provisions LF-FW-P7A and LF-FW-M6. These amendments were in response to a request by Mr Hodgson for Horticulture NZ as part of the freshwater process.

8.6.1. Recommendation

534. We therefore recommend the following consequential change to LF-VM-M3.

LF-VM-M3 – Community involvement

Otago Regional Council must work with Kāi Tahu and communities to achieve the objectives and policies in this chapter, including by:

- (1) engaging with Kāi Tahu, communities and stakeholders to identify values and environmental outcomes for Otago's *FMUs* and rohe and the methods to achieve those outcomes,
- (2) encouraging community stewardship of *water* resources and programmes to address *freshwater* issues at a local catchment level, including through catchment groups,
- (3) supporting community initiatives, industry-led guidelines, codes of practice and environmental accords that contribute to maintaining or improving the health and well-being of *water bodies*, and
- ~~(4) supporting industry-led guidelines, codes of practice and environmental accords where these would contribute to achieving the objectives of this RPS.~~
- (4A) education, advocacy and co-ordination to encourage efficient use of freshwater, including water harvesting, use of storage and consideration of alternative water supply.

8.7. LF-FW-M6 – Regional plans

535. LF-FW-M6 was notified as follows:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and, after it is made operative, maintain that *regional plan* to:

- (1) identify the compulsory and, if relevant, other values for each *Freshwater*

Management Unit,

- (2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,
- (3) identify *water bodies* that are *over-allocated* in terms of either their *water* quality or quantity,
- (4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that give effect to *Te Mana o te Wai* and provide for:
 - (a) the behaviours of the *water body* including a base flow or level that provides for variability,
 - (b) healthy and resilient mahika kai,
 - (c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*,
 - (d) the hydrological connection with other *water bodies*, estuaries and coastal margins,
 - (e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and
 - (f) community *drinking water* supplies, and
- (5) include limits on resource use that:
 - (a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long-term certainty in relation to those uses of available *water*,
 - (b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,
 - (c) control the *effects* of existing and potential future development on the ability of the *water body* to meet, or continue to meet, *environmental outcomes*,
 - (d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and
- (6) provide for the off-stream storage of surface *water* where storage will:
 - (a) support *Te Mana o te Wai*,
 - (b) give effect to the objectives and policies of the LF chapter of this RPS, and
 - (c) not prevent a surface *water body* from achieving identified *environmental outcomes* and remaining within any limits on resource use, and
- (7) identify and manage *natural wetlands* in accordance with LF–FW–P7, LF–FW–P8 and LF–FW–P9 while recognising that some activities in and around *natural wetlands* are managed under the NESF, and
- (8) manage the adverse *effects* of *stormwater* and *wastewater* in accordance with LF–FW–P15.

536. This method pertains to the regional plan which is the main regulatory document that will implement the land and water provisions in the PORPS. A number of amendments were requested through submissions and evidence, many of which are consequential to requested changes to objective and/or policy wording, to plug gaps in references to policies, or to improve consistency with the NPSFM. We have discussed many of these matters already in this section. The s.42A recommended changes in response include:

- (a) Deleting notified clauses (1), (2), (4) and (5) and replacing them with a new clause (1A) to “implement the required steps in the NOF process in accordance with the NPSFM”,³⁹
- (b) Amending clause (3) to better reflect the methods to address over-allocation;⁴⁰
- (c) Adding a new clause (5A) to implement the new recommended policy LF-FW-P7A regarding allocation and use of water;⁴¹
- (d) Amending the policy references in clause (7) to delete LF-FW-P8 and include LF-FW-P10, and include reference to the NPSFM in this clause;⁴² and
- (e) Consequential amendments to clause (8) to add reference to LF-FW-P16 to reflect the splitting of LF-FW-P15.

537. Some submitters, for example McArthur Ridge and COWA, sought amendments that would result in allocation priority for certain water use activities based on water use efficiency or industry type. We consider that such considerations are better addressed through the NOF process with resulting provisions included in a regional plan. Such submissions are also dangerously close to seeking what uses would be considered as priority (2) of Te Mana o Te Wai. We have addressed this previously in this section in relation to LF-FW-P7A and in the Legal Issues section, where we determined that it is not appropriate for the PORPS to determine what activities are to be considered as priority (2) or (3). We therefore do not accept submissions for such determinations in LF-FW-M6.

8.7.1. Recommendation

538. We recommend the following amendments to LF-FW-M6:

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023⁴³ and, after it is made operative, maintain that *regional plan* to:

(1A) implement the required steps in the NOF process in accordance with the NPSFM,⁴⁴

³⁹ FPI025.030 Beef + Lamb and DINZ

⁴⁰ FPI012.007 Minister for the Environment

⁴¹ ⁴¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from including LF-FW-P7A

⁴² FPI035.017 Wise Response, FPI014.003 Rayonier Matariki

⁴³ Clause 16(2), Schedule 1, RMA

⁴⁴ FPI025.030 Beef + Lamb and DINZ

- ~~(1) identify the compulsory and, if relevant, other values for each *Freshwater Management Unit*,~~
- ~~(2) state *environmental outcomes* as objectives in accordance with clause 3.9 of the NPSFM,~~
- ~~(3) identify *water bodies* that are *over-allocated* in terms of either their *water quality or quantity* and the methods and timeframes for phasing out that *over-allocation* (including through environmental flows and levels and *limits*) within the timeframes required to achieve the relevant *freshwater vision*,~~
- ~~(4) include environmental flow and level regimes for *water bodies* (including *groundwater*) that give effect to *Te Mana o te Wai* and provide for:~~
 - ~~(a) the behaviours of the *water body* including a base flow or level that provides for variability,~~
 - ~~(b) healthy and resilient mahika kai,~~
 - ~~(c) the needs of indigenous fauna, including taoka species, and aquatic species associated with the *water body*,~~
 - ~~(d) the hydrological connection with other *water bodies*, estuaries and coastal margins,~~
 - ~~(e) the traditional and contemporary relationship of Kāi Tahu to the *water body*, and~~
 - ~~(f) community *drinking water* supplies, and~~
- ~~(5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A, including by providing for off-stream water storage,~~
- ~~(5) include *limits on resource use* that:~~
 - ~~(a) differentiate between types of uses, including *drinking water*, and social, cultural and economic uses, in order to provide long term certainty in relation to those uses of available *water*,~~
 - ~~(b) for *water bodies* that have been identified as *over-allocated*, provide methods and timeframes for phasing out that *over-allocation*,~~
 - ~~(c) control the *effects* of existing and potential future development on the ability of the *water body* to meet, or continue to meet, *environmental outcomes*,~~
 - ~~(d) manage the adverse *effects* on *water bodies* that can arise from the use and development of *land*, and~~
- ~~(6) provide for the off-stream storage of surface *water* where storage will:~~
 - ~~(a) support *Te Mana o te Wai*,~~
 - ~~(b) give effect to the objectives and policies of the LF chapter of this RPS, and~~

~~(c) not prevent a surface water body from achieving identified environmental outcomes and remaining within any limits on resource use, and~~

- (7) identify and manage *natural wetlands* in accordance with LF-FW-P7, ~~LF-FW-P8~~ and LF-FW-P9 and LF-FW-P10 while recognising that some activities in and around *natural wetlands* are managed under the NESF and the NESPF, ~~and~~
- (8) manage the adverse *effects* of *stormwater* and ~~wastewater discharges~~ containing animal effluent, sewage, or industrial and trade waste in accordance with LF-FW-P15 and LF-FW-P16, ~~and~~
- (9) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments.

8.8. LF-FW-M7 – District plans

539. LF-FW-M7 was notified as follows:

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026 to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
- (2) include provisions to avoid the adverse *effects* of activities on the significant and outstanding values of *outstanding water bodies*,
- (3) require, wherever practicable, the adoption of water sensitive urban design techniques when managing the *subdivision*, use or development of *land*, and
- (4) reduce the adverse *effects* of *stormwater discharges* by managing the *subdivision*, use and development of *land* to:
 - (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,
 - (b) minimise adverse *effects* on *fresh water* and *coastal water* as the ultimate receiving environments, and the capacity of the *stormwater* network,
 - (c) encourage on-site storage of rainfall to detain peak *stormwater* flows, and
 - (d) promote the use of permeable surfaces.

540. Similar to LF-FW-M6 for regional plans, LF-FW-M7 is the method for district councils to implement the policies in the LF-FW section through their district plans. Similar to LF-FW-M6, some of the issues raised by submitters are consequential to submissions on other provisions in this section and have been addressed previously. For example, submissions requesting

amendments to clauses (1) and (2) have been addressed above in our discussion of the outstanding waterbody provisions.

541. The Panel agrees with Ms Boyd's proposed amendments and her reasons. While some of the requested amendments have merit, we agree that they are too detailed for an RPS and should be left for the district plan to address. The key recommended amendment to LF-FW-M7 is the addition of a new clause (2A) that addresses the natural character of the margins and surface of lakes and rivers. We consider that this addresses a gap in this method and reflects the functions of territorial authorities. It also implements LF-FW-P13 which is part of the non-freshwater process.

8.9. LF-FW-M8 –Action plans

542. LF-FW-M8 was notified as follows:

LF-FW-M8 – Action plans

Otago Regional Council:

- (1) must prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2B of the NPSFM,
- (2) may prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2A of the NPSFM, and
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

543. This method reflects the NPSFM requirement to prepare action plans as part of the NOF process, specifically clause 3.15. Action plans can be appended to a regional plan or published separately, and so are not necessarily covered by LF-FW-M6 – Regional plans.

544. LF-FW-M8 largely reflects the requirements of the NPSFM and, for that reason, DairyNZ sought that it be deleted. We can understand the reasons for this request, however action plans are a key requirement under the NPSFM in some circumstances and sit alongside regional plans as the ORC's means to achieve target attribute states. The requirements of the NPSFM are reflected through other provisions in this section and we consider it appropriate to include a method to reflect the requirement for action plans.

545. This method sits alongside LF-VM-M3 which provides for community involvement and reflects the requirements of clause 3.7(1) to engage with communities and tangata whenua.

546. The Panel considers that this method should be retained, with the addition of clause (2A) sought by The Fuel Companies to better reflect clause 3.15 of the NPSFM, as recommended by the Reply Report.

8.10. New method –Identifying and managing species interactions between trout and salmon and indigenous species

547. Fish and Game sought the addition of a new method to manage the interactions between trout and salmon and indigenous species through both the freshwater and non-freshwater processes. Such a method would give effect to LF-FW-P7 as well as Policies 9 and 10 of the NPSFM.

548. The legal submissions of Ms Baker-Galloway, Fish and Game’s counsel, addressed this method through both processes however expressed a preference for the provision to be included as a freshwater provision. Ms Baker-Galloway submitted that the new method would implement LF-FW-O8 and LF-FW-P7 which are freshwater provisions, and that the full suite of trout and salmon habitat provisions should be considered together.

549. Ms Boyd considered the proposed method in her non-freshwater s.42A report and reply report. She recommended that such a method be included in the PORPS and recommended wording based on that proposed by Mr Paragreen from Fish and Game. Ms Boyd considered the requested method again in her freshwater s.42A report, where she stated:⁴⁵

Fish and Game made a similar request in its submission on the non-FPI part of the pORPS. Legal advice confirmed that was the appropriate process for including the new method, therefore I have recommended the method sought be included in the non-FPI part of the pORPS.

550. We respectfully disagree with the ORC’s advice and consider that the appropriate place for such a method to be considered is through the freshwater process. We have found the split between freshwater and non-freshwater provisions particularly difficult to decipher where related provisions are split between the two processes. In our view, the proposed method would qualify for inclusion as a freshwater provision and we consider that there are distinct advantages of it being in the same process as its associated objectives and policy, in particular if these provisions should be appealed.

551. We support the wording proposed and acknowledge the collaborative way in which it was developed with input from Fish and Game, ORC, DoC and Kāi Tahu.

8.10.1. Recommendation

552. We recommend that a new LF-FW-M8A be included as a freshwater provision:

LF-FW-M8A – Identifying and managing species interactions between trout and salmon and indigenous species

(1) When making decisions that might affect the interactions between trout and salmon and indigenous species, local authorities will have particular regard to the recommendations of the Department of Conservation, the Fish and Game Council for the relevant area, Kāi Tahu, and the matters set out in LF-FW-M8A(2)(a) to (c), and

(2) Otago Regional Council will work with the Department of Conservation, the relevant Fish and Game Council and Kāi Tahu to:

(a) describe the habitats required to provide for the protection of indigenous species for the purposes of (2)(a), (b), and (c),

(b) identify areas where the protection of the habitat of trout and salmon, including fish passage, will be consistent with the protection of the habitat of indigenous species and areas where it will not be consistent,

⁴⁵ Freshwater s.42A report, para 1654.

(c) for areas identified in (b), develop provisions for any relevant action plans(s) prepared under the NPSFM, including for fish passage, that will at minimum:

- (i) determine information needs to manage the species,
- (ii) set short, medium and long-term objectives for the species involved,
- (iii) identify appropriate management actions that will achieve the objectives determined in (ii), including measures to manage the adverse effects of trout and salmon on indigenous species where appropriate, and
- (iv) consider the use of a range of tools, including those in the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, as appropriate.

8.11. LF-FW-M9 – Monitoring

553. LF-FW-M9 attracted three submissions, with QLDC in support and DCC and Kāi Tahu seeking amendments. Ms Boyd discussed these requests at paragraphs 1315 to 1316 of her s.42A report and recommended amendments to address the submitters' concerns. We agree with Ms Boyd's recommendations and consider that they address the submitters' concerns.

8.12. LF-FW-M10 – Other methods

554. QLDC and Kāi Tahu ki Otago submitted in support of LF-FW-M10, while the Director General of Conservation sought amendments to recognise that the methods in the ECO chapter also apply. As notified, the LF chapter comprised four sections. This has been reduced to three, LF-WAI, LF-FW and LF-LS, and LF-FW-M10 aims to ensure that the three sections are treated as a coherent whole. We agree with Ms Boyd that referring to the ECO chapter methods is not consistent with the intent of this method. There are a number of methods in other chapters that would assist with achieving the policies in the LF chapter and which would need to be considered if we were to refer to the ECO chapter.

555. We support Ms Boyd's recommendation in the 10 October 2023 reply version of the PORPS to delete the reference to LF-VM, the provisions of which we are recommending be incorporated into the LF-FW section.

8.13. LF-VM-E2 - Explanation and LF-FW-E3 - Explanation

556. We recommended that the LF-VM and LF-FW sections be combined, as recommended by Ms Boyd. As a consequence, LF-VM-E2 and LF-FW-E3 were recommended to be combined in the 10 October 2023 reply version of the PORPS with the combined version being numbered LF-VM-E2. We agree with this recommendation.

557. OWRUG sought consequential amendments to LF-VM-E2 to reflect relief sought elsewhere that we have not accepted.⁴⁶ Similarly, Ngāi Tahu ki Murihiku sought consequential amendments to LF-FW-E3 to reflect relief sought to LF-FW-M5. We did not accept the relief sought elsewhere by either of these submitters, therefore we do not accept the relief they seek for this explanation.

⁴⁶ For example, *Uncoded submission point – p.54 of submission by OWRUG*

558. Ms Boyd recommended accepting what we consider to be reasonably minor amendments requested by Kāi Tahu ki Otago. We agree that these better reflect the policy direction and aid in consistency with the remainder of the PORPS.

559. Some of the paragraphs in this explanation are shaded blue as freshwater provisions and some are non-freshwater. We consider this to be a good example of the nonsensical way that the freshwater and non-freshwater provisions are split. The amendments that we are recommending are all in the third paragraph of the 10 October 2023 version of the PORPS, which is a freshwater paragraph. However for ease of digestion, we are duplicating the discussion and recommendation for LF-VM-E2 (that is, the combined LF-VM-E2 and LF-FW-E3) in both the freshwater and non-freshwater sections of our recommendation report. Those paragraphs that are part of the freshwater planning instrument are shaded blue.

8.13.1. Recommendation

560. We recommend that LF-FW-E3 is incorporated into LF-VM-E2 and that the combined LF-VM-E2 is amended as follows:

LF-VM-E2 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM. [Note to reader: originally LF-FW-E3 para 1]

Implementing the NPSFM requires Council to identify *Freshwater Management Units (FMUs)* that include all *freshwater bodies* within the region. Policy LF-VM-P5 identifies Otago's five *FMUs*: Clutha Mata-au *FMU*, ~~Tairā~~ Tairā *FMU*, North Otago *FMU*, Dunedin & Coast *FMU* and Catlins *FMU*. The Clutha Mata-au *FMU* is divided into five sub-*FMUs* known as 'rohe'. Policy LF-VM-P6 sets out the relationship between *FMUs* and rohe which, broadly, requires rohe provisions to be no less stringent than the parent *FMU* provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the *FMU* to achieve its stated outcomes.

The outcomes sought for *natural wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *natural wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of *takata mana whenua* and the community that *fresh* and *coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where *natural wetlands* have been *degraded* or lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of *wetlands* in Otago and the indigenous biodiversity and hydrological values of wetland systems. [Note to reader: originally LF-FW-E3 para 2]

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly

within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse effects. [Note to reader: originally LF-FW-E3 para 3]

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character. [Note to reader: originally LF-FW-E3 para 4]

The impact of *discharges* of *stormwater* and *wastewater* on *freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water* quality issues in some *water bodies*. The policies set out a range of actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse effects on receiving environments.

8.14. LF-VM-PR2 – Principal reasons and LF-FW-PR3 – Principal reasons

561. For the same reasons as LF-VM-E2 and LF-FW-E3, Ms Boyd recommended that LF-FW-PR3 be incorporated into LF-VM-PR2. We agree with amalgamation of these principal reasons and also with the amendments and reasons recommended by Ms Boyd. Some of these amendments are in response to direct submissions while others are consequential to amendments to other provisions in the LF chapter.
562. Similar to the explanation discussed previously, two of the paragraphs in LF-VM-PR2 are shaded blue as freshwater provisions and one is non-freshwater, LF-FW-PR3 is solely freshwater and the resulting combined principal reason comprises both freshwater and non-freshwater provisions. Again, for ease of digestion, we are duplicating the discussion and recommendation for LF-VM-PR2 (that is, the combined LF-VM-PR2 and LF-FW-PR3) in both the freshwater and non-freshwater sections of our recommendation report. Those paragraphs that are part of the freshwater planning instrument are shaded blue.

8.14.1. Recommendation

563. We recommend that LF-FW-PR3 is incorporated into LF-VM-PR2 and that the combined LF-VM-PR2 is amended as follows:

LF-VM-PR2 – Principal reasons

To support the implementation of the NPSFM, the Council is required to develop long-term visions for *fresh water* across the Otago region. *Fresh water* visions for each *FMU* and *rohe* have been developed through engagement with Kāi Tahu and communities. They set out the long-term goals for the *water bodies* (including *groundwater*) and *freshwater ecosystems* in the region that reflect the history of, and environmental pressures on, the *FMU* or *rohe*. They also establish ambitious but reasonable

timeframes for achieving these goals. The Council must assess whether each *FMU* or *rohe* can provide for its long-term vision, or whether improvement to the health and well-being of *water bodies* (including *groundwater*) and *freshwater* ecosystems is required to achieve the visions. The result of that assessment will then inform the development of *regional plan* provisions in the *FMU*, including *environmental outcomes*, *attribute* states, target *attribute* states and *limits* (*in relation to freshwater*).

Otago's *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. They support people and communities to provide for their social, economic, and cultural well-being. A growing population combined with increased *land* use intensification has heightened demand for *water*, and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago's historical mining privileges, coupled with contemporary urban and rural land uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects. [Note to reader: originally LF-FW-PR3 para 1]

This section of the LF chapter ~~contains more specific direction on managing fresh water to give effect to Te Mana o te Wai and contributes to achieving the long-term freshwater visions for each FMU and rohe.~~ It also reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council's *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes*, *attribute* states, target *attribute* states and limits. [Note to reader: originally LF-FW-PR3 para 2]

8.15. Anticipated environmental results: LF-VM-AER3

564. LF-VM-AER3 is the only anticipated environmental result that is not part of the freshwater planning instrument. This seems highly unusual and counter-intuitive to us given that the freshwater visions to which it refers are all part of the freshwater planning instrument. Thankfully we do not wish to make any consequential amendments to LF-VM-AER3 resulting from changes to the freshwater vision objectives – concerningly, we would have been unable to do so had this been the case.
565. We support the recommendation and reasoning provided by Ms Boyd at paragraph 696 of her s.42A report to amend LF-VM-AER3 in response to a submission by Ngāi Tahu ki Murihiku.
566. The remaining anticipated environmental result provisions, LF-FW-AER4 to LF-FW-AER11, are part of the freshwater planning instrument and are discussed in the freshwater planning instrument section of our report.

8.16. Anticipated environmental results: LF-FW-AER4 to LF-FW-AER11

567. LF-FW-AER4 to LF-FW-AER11 are all part of the freshwater planning instrument, with LF-VM-AER3 being the sole non-freshwater anticipated environmental result. LF-FW-AER4 to LF-FW-AER11 were notified as follows:

LF-FW-AER4	<i>Fresh water</i> is allocated within limits that contribute to achieving specified <i>environmental outcomes for water bodies</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF–VM section of this chapter.
LF-FW-AER5	<i>Specified rivers and lakes</i> are suitable for primary contact within the timeframes set out in LF-FW-P7.
LF-FW-AER6	<i>Degraded water</i> quality is improved so that it meets specified <i>environmental outcomes</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF–VM section of this chapter.
LF-FW-AER7	Water in Otago’s aquifers is suitable for human consumption, unless that water is naturally unsuitable for consumption.
LF-FW-AER8	Where <i>water</i> is not <i>degraded</i> , there is no reduction in <i>water</i> quality.
LF-FW-AER9	The frequency of <i>wastewater</i> overflows is reduced.
LF-FW-AER10	The quality of <i>stormwater discharges</i> from existing <i>urban areas</i> is improved.
LF-FW-AER11	There is no reduction in the extent or quality of Otago’s <i>natural wetlands</i> .

568. There were few submissions on these AERs and many of these were to ensure consistency with other requested relief. We agree with the amendments recommended by Ms Boyd and her reasoning in paragraphs 1688 to 1696 of her freshwater s.42A report, including the addition of a new AER, labelled LF-FW-AER11A in the 10 October 2023 version of the PORPS.

569. The one exception to this is in relation to LF-FW-AER11 where, in response to Silver Fern Farms’ submission, Ms Boyd has recommended the following amendment:

LF-FW-AER11 There is ~~no reduction~~ an improvement⁴⁷ in the extent or quality condition⁴⁸ of Otago’s *natural wetlands*.

570. With the replacement of ‘no reduction’ with ‘an improvement’, the ‘or’ should change to ‘and’. It was appropriate for there to be no reduction ‘in the extent or condition’, but to be consistent with the objectives and policies in the LF chapter, improvement should be sought in both.

8.16.1. Recommendation

571. We recommend the following amendments and the addition of a new AER, as follows:

LF-FW-AER4	<i>Fresh water</i> is allocated within limits that contribute to achieving specified <i>environmental outcomes for water bodies</i> within timeframes set out in <i>regional plans</i> that are no less stringent than the timeframes in the LF-VM section of this chapter.
LF-FW-AER5	<i>Specified rivers and lakes</i> are suitable for primary contact within the timeframes set out in LF-FW-P7.
LF-FW-AER6	<i>Degraded water</i> quality is improved so that it meets specified <i>environmental outcomes</i> within timeframes set out in <i>regional plans</i> that are no less

⁴⁷ FPI020.027 Silver Fern Farms

⁴⁸ FPI046.023 QLDC

stringent than the timeframes in the ~~LF-VM~~ objectives in the LF-FW⁴⁹ section of this chapter.

- LF-FW-AER7** Water in Otago's aquifers is suitable for human consumption, unless that water is naturally unsuitable for consumption.
- LF-FW-AER8** Where water is not *degraded*, there is no reduction in water quality.
- LF-FW-AER9** Direct *discharges* of wastewater to water are phased out to the greatest extent practicable and the ~~The~~⁵⁰ frequency of wastewater overflows is reduced.
- LF-FW-AER10** The quality of *stormwater discharges* from existing *urban areas* is improved.
- LF-FW-AER11** There is ~~no reduction~~⁵¹ an improvement⁵² in the extent and ~~or~~ quality⁵³ condition⁵⁴ of Otago's ~~natural~~ wetlands.
- LF-FW-AER11A** The economic, social, and cultural well-being of communities is sustained.⁵⁵

⁴⁹ Clause 16(2), Schedule 1, RMA

⁵⁰ FPI032.026 Te Rūnanga o Ngāi Tahu, FPI030.040 Kāi Tahu ki Otago

⁵¹ FPI035.021 Wise Response

⁵² FPI020.027 Silver Fern Farms

⁵³ FPI024.034 DairyNZ, FPI046.023 QLDC

⁵⁴ FPI046.023 QLDC

⁵⁵ FPI043.054 OWRUG

9. LF-LS – Land and soils

9.1. Introduction

572. This section of the LF – Land and freshwater chapter is focused on the management of land and soils, including for soil quality and conservation purposes as well as in relation to the management of fresh water. The Otago region contains a land area of 31,186 square kilometres (Stats NZ, 2022). The region has a diverse and varied range of land types and landscapes, from mountains and drylands in the western and central parts of the region to coastline and rainforests in the east.

573. This section of the report addresses the following provisions:

LF-LS-O11 – Land and soil

LF-LS-O12 – Use of land

LF-LS-P16 – Integrated management

LF-LS-P17 – Soil values

LF-LS-P18 – Soil erosion

LF-LS-P19 – Highly productive land

LF-LS-P20 – Land use change

LF-LS-P21 – Land use and freshwater

LF-LS-P22 – Public access

LF-LS-M11 – Regional plans

LF-LS-M12 – District plans

LF-LS-M13 – Management of beds and riparian margins

LF-LS-AER14 – Other methods

LF-LS-E4 – Explanation

LF-LS-PR4 – Principal reasons

LF-LS-AER12

LF-LS-AER13

LF-LS-AER14

9.2. Objectives: LF-LS-O11 – Land and soil and LF-LS-O12 – Use of land

9.2.1. Discussion

574. As notified, the Land and Soil chapter had two objectives as follows:

LF-LS-O11 – Land and soil

The life-supporting capacity of Otago's soil resources is safeguarded and the availability and productive capacity of highly productive land for *primary production* is maintained now and for future generations.

LF-LS-O12 – Use of land

The use of *land* in Otago maintains soil quality and contributes to achieving *environmental outcomes for fresh water*.

575. The submissions on these provisions addressed a range of issues including how productivity is provided for, including highly productive land; provision for supporting activities; the links to achieving freshwater outcomes; the balance with urban development; and the biophysical capacity of soils. New objectives in relation to biodiversity were also sought.
576. A number of these issues were addressed by the restructuring of the UFD chapter. This led to amendments to UFD-O4 and the recommendation that it is included in the LS chapter, which we accepted in our decision on the UFD chapter. The focus of UFD-O4 is on development (including urban) that occurs in the rural area, and it reads as follows:

UFD-O4 – Development in rural areas

Development in Otago's *rural areas* occurs in a way that:

- (4) provides for the ongoing use of *rural areas for primary production and rural industry*, and
- (4A) does not compromise the *productive capacity* and long-term viability of *primary production* and rural communities.

577. The 'highly productive land' issue was complicated by the fact the pORPS was notified in 2021, well before the NPSHPL was gazetted in September 2022. Several of the reporting officers, in particular Ms White and Ms Boyd, prepared supplementary evidence on the content of the NPSHPL and its implications for the pORPS. A number of amendments were recommended as a result. This matter is dealt with later in this decision.
578. The objectives above went through a number of iterations through the hearings process, including a standalone objective dealing specifically with highly productive land. A final consideration of these provisions was undertaken in Ms Boyd's 'Introduction and General Themes' reply report, dated 23 May 2023.
579. In that report, Ms Boyd advised that some submitters still sought additions to the objectives. She identified these as follows:
- a. *The availability of rural land for primary production (Fulton Hogan),*
 - b. *Recognition of the role of resource use and development in the region and its contribution to enabling people and communities to provide for their social, economic, and cultural well-being (Oceana Gold),*
 - c. *Land environments support healthy habitats for indigenous species and ecosystems (DOC), and*
 - d. *Manage land use activities to recognise and protect terrestrial, freshwater, and coastal values which may be affected by these activities (DOC).*

580. In addressing these matters, Ms Boyd took the approach of re-drafting the “objectives to address these matters in a more integrated way ...preferable to simply inserting a range of additional objectives”. In her opinion, “*listing a series of separate objectives does not assist with attempting to address ... tension and runs the risk of ‘trading off’ objectives against one another.*” In addition to recommending the inclusion of the amended UFD-O4 (which we have previously accepted), she recommended the two existing objectives be redrafted as follows:

LF-LS-O11 – Land and soil

~~The life-supporting capacity of Otago’s soil resources is safeguarded and the availability and productive capacity of highly productive land for *primary production* is maintained now and for future generations.~~

Otago’s land and soil resources support healthy habitats for indigenous species and ecosystems.

LF-LS-O12 – Use, development, and protection of land

~~The use of *land* in Otago maintains soil quality and contributes to achieving *environmental outcomes for fresh water.*~~

The use, development, and protection of *land* and soil:

(1) safeguards the life-supporting capacity of soil,

(2) contributes to achieving *environmental outcomes for fresh water, and*

(3) recognises the role of these resources in providing for the social, economic, and cultural well-being of Otago’s people and communities.

581. Ms Boyd considered that Fulton Hogan’s request was provided for by UFD-O4(1) while the concerns of Oceana Gold and other submitters with an interest in mineral and aggregate extraction are addressed in the amended LF-LS-O12 and its reference to the importance of resource use to well-being. While she initially considered DOC’s requested objectives to be inappropriate in this chapter, given these matters are specifically addressed in the ECO chapter, Ms Boyd specifically provided for them within the amended LF-LS-O11. She also recommended deleting reference to ‘highly productive land’ in LF-LS-O11 as she considers it to be adequately addressed in her recommended LF-LS-P19.

582. While we do not necessarily agree with Ms Boyd that ‘separate’ objectives will run the risk of creating scenarios where objectives are traded off against one another, the drafting style of this RPS is particularly broad and it is difficult to now adopt a different approach of including objectives relating to specific activities. In the Panel’s view, the changes proposed to the issues by the inclusion of SRMR-I10A and now these provisions, corrects the balance of the pORPS by providing recognition that resource use is essential to the wellbeing of people and communities, where previously the provisions tended to have a more protectionism focus.

583. Hence, we are comfortable with amended LF-LS-O12. However, as with Ms Boyd in her s42A report, we do not agree that the new LF-LS-O11 is appropriate in this chapter. In managing the use of land and soil, regard will need to be given to the provisions of the ECO chapter. Hence, the new LF-LS-O11 provision is not required in this chapter.

584. As we will discuss in section 9.4 below, nor we are comfortable with the deletion of that part of LF-LS-O11 which deals with highly productive land.

9.2.2. Recommendation

585. Our recommendation is therefore to delete the notified LF-LS-O12 and the reference to life supporting capacity of soil in LF-LS-O11, and replace both of those provisions with the following objective:

LF-LS-O12 – Use, development, and protection of land

~~The use of *land* in Otago maintains soil quality and contributes to achieving *environmental outcomes for fresh water*.~~

The use, development, and protection of *land* and soil:

- (1) safeguards the life-supporting capacity of soil,
- (2) contributes to achieving *environmental outcomes for fresh water*, and
- (3) recognises the role of these resources in providing for the social, economic, and cultural well-being of Otago’s people and communities.

9.3. LF-LS-P18 – Soil erosion

9.3.1. Introduction

586. As notified LF-LS-P18 reads:

LF-LS-P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (1) implementing effective management practices to retain topsoil in situ and minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure,
- (2) maintaining vegetative cover on erosion-prone *land*, and
- (3) promoting activities that enhance soil retention.

587. While no submitters opposed LF-LS-P18 in its entirety, there were a range of amendments requested as follows:

- changes to chapeau of the policy to include an element of ‘practicability’ (Oceana Gold, Contact, Ravensdown).
- clause (1): removal of the term “effective” (DairyNZ); addition of reference to “appropriate and effective management practices” (Ravensdown); and clarity around “scale” (Fed Farmers).
- clause (2): include reference to re-establishing, as well as maintaining, vegetative cover (Silver Fern Farms), and add reference to enhancing (QLDC) to
- clause (3): reference to soil structure alongside soil retention (Wise Response).

588. Ms Boyd did not support the introduction of a practicability test on the basis that the notified wording provides flexibility for resource users to adopt practices based on the activity being

undertaken. She was also of the opinion that the use of “appropriate” as well as “effective” would introduce uncertainty into the policy. Ms Boyd did agree that maintaining vegetative cover as required by (2) will not always be possible or practicable. Her solution was to reverse the order of clauses (1) and (2) so that maintaining vegetative cover is the first step (current clause (2)), and where that is not possible, effective management practices (current clause (1)) are required to be implemented.

589. That initial amendment still required topsoil to be retained in-situ, which Ms. Hunter for both Contact and Oceana Gold took issue with at the hearing, highlighting the fact that it this is not always possible. She also considers the changes made did not make grammatical sense and suggested an amendment to remove the reference to ‘retain topsoil in situ’.

590. We note that in the final recommended version of this policy, ‘in situ’ has been removed by Ms Boyd as a ‘minor’ change in response to Ms Hunter’s evidence. However, we agree with Ms. Hunter that the rest of that phrase should also be removed. This provision is about minimising soil erosion and loss of soil to water, not retaining topsoil per se. Not all activities will retain topsoil and it is not always possible to completely reinstate topsoil once an activity is finished (for example, Oceana Gold’s mining operation). With this phrase removed, there is no need to include Ms Boyd’s proposed change.

591. We also agree with DairyNZ that the word ‘effective’ is unnecessary in this provision. The management practice is required to minimise the potential soil for loss to water. It is Implicit that this be ‘effective’.

592. We do agree with Ms Boyd that the amendment sought by QLDC to include reference to enhancement is not needed as clause (2) does not prevent this from occurring. We would also note that ‘enhancement’ may be promoted under clause (3). We also agree with Ms Boyd’s response to the Wise Response’s submission. Improving soil structure is also an activity that can be promoted under clause (3) to enhance soil retention.

9.3.2. Recommendation

593. We recommend that LF-LS-P18 be amended as follows:

LF-LS-P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (2) maintaining vegetative cover on erosion-prone *land*, to the extent practicable,
~~and~~
- (1) implementing ~~effective~~ management practices to ~~retain topsoil in situ~~ and minimise the potential for soil to be *discharged* to *water bodies*, including by controlling the timing, duration, scale and location of soil exposure, and
- (3) promoting activities that enhance soil retention.

9.4. Highly Productive Land

9.4.1. Discussion

594. As notified, highly productive land was referenced in LF-LS-O11 (as discussed above) and LF-LS-P19 which, as notified, reads as follows:

LF-LS-P19 – Highly productive land

Maintain the availability and productive capacity of highly productive *land* by:

- (1) identifying highly productive *land* based on the following criteria:
 - (a) the capability and versatility of the *land* to support primary production based on the Land Use Capability classification system,
 - (b) the suitability of the climate for primary production, particularly crop production, and
 - (c) the size and cohesiveness of the area of *land* for use for primary production, and
- (2) prioritising the use of highly productive *land* for primary production ahead of other *land* uses, and
- (3) managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD-P4, UFD-P7 and UFD-P8.

595. As noted in the previous discussion, the NPSHPL came into force after the pORPS was notified. Section 62(3) of the RMA requires that a regional policy statement must give effect to a national policy statement. However, as Mr Logan for the ORC advised, the ability to make changes to the RPS is constrained by the submissions received as the NPSHPL has been introduced ‘mid-process’.

596. Ms Boyd carefully reviewed the submissions received and identified where the NPSHPL can be given effect to, within the scope of those submissions. She advised that:

“several submitters acknowledged the proposed NPSHPL in their submissions and sought that the provisions of the pORPS better align with the (then draft) NPSHPL. The New Zealand Cherry Corp sought any further relief necessary to give effect to the NPSHPL when it is gazetted while Beef and Lamb + DINZ sought that the LF Chapter be better aligned with the NPSHPL when it is made operative.”

597. While the Panel considers this particular NPS to be a very blunt instrument, which creates a number of issues with the inclusion of LUC 3 land (particularly in the Clutha District context, where most of their flat land is LUC 3), along with its lack of flexibility and recognition of reality, we consider we are obligated to give effect to it as far as possible. The new government has signalled that there will be changes to the national planning framework, and we anticipate any review that precedes those change may include this NPS. Hence, the issues that concern us may well be addressed in due course but not in time for this process.

598. To align these provisions as closely as possible with the NPS, Ms Boyd has proposed a range of amendments, where submissions allow. Some of those amendments were supported by

submitters and some were not. Ms Boyd advised that the key matters still in contention are as follows:

- a. *whether the 'interim' identification of highly productive land in the NPSHPL will protect land in Otago valued for horticulture and viticulture and, if not, whether (and how) the pORPS should 'fill the gap'.*
- b. *Whether highly productive land is to be maintained or protected,*
- c. *Use of the term 'productive capacity'.*

599. We first discuss the matter of 'maintain' or 'protect', which is also relevant to LF-LS-O11. Horticulture NZ sought that "the outcome related to the protection of [highly productive land] is focused on protecting the productive capacity of highly productive land from inappropriate subdivision, use and development" and Ms Wharfe provided some amendments to achieve that. In her initial s42A report, Ms Boyd agreed that it would be preferable to adopt the same wording as the NPSHPL but did not consider there is scope to make this amendment. However, in her final reply she accepted there was scope and recommended the following change to the title and chapeau of the policy:

LF-LS-P19 – Rural land and highly productive land

~~Maintain~~ **Protect** the availability of rural land and the *productive capacity of highly productive land* by:

600. In her supplementary evidence on the NPSHPL, she recommended the standalone objective "the availability and productive capacity of highly productive land for land-based primary production is maintained now and for future generations", which is the second part of the original LF-LS-O11. Her final reply amendments recommended deleting this phrase altogether.

601. The changes recommended, however, do not reflect what HortNZ requested. Ms Wharfe's use of 'protection' was in relation to highly productive land (not rural land in general) in the previously recommended LF-LS-O11A and she did not request a change to the chapeau of LF-LS-P19. Furthermore, the change to that chapeau proposed by Ms Boyd significantly widens the application of the policy because it captures all rural land for protection.

602. We believe Ms Boyd's recommended LF-LS-O11A, with the changes proposed by Ms Wharfe, more appropriately reflects the NPS and we have adopted them accordingly. We note this approach to splitting the original LF-LS-O11 was also requested by Fulton Hogan. In terms of Fulton Hogan's other concerns, the request to maintain the availability of rural land for primary production is addressed by UFD-O4 while the reference to the NPS-HPL in LF-LS-P19 (2) (and UFD-P7(3)) acknowledges the consent pathway for mining activities.

603. With this change to LF-LS-O11, no change is required to the chapeau of LF-LS-P19.

604. In relation to the interim identification criteria, the issue related to the view of several submitters that some land in Otago valued for horticulture and viticulture will not be considered 'highly productive land' in the interim period because it is not located on LUC 1, 2, or 3. Ms Boyd agreed that this is problematic and was of the opinion that productive land outside LUC classes 1, 2, and 3 should be protected until such time as the mapping process is undertaken. Ms Boyd stated "that many of these areas are under pressure from urban development, which makes their protection even more important" although no evidence was produced to back up this statement.

605. However, Horticulture NZ raised concern with the amendments recommended in Ms Boyd's supplementary evidence. They felt that land valued for horticulture and viticulture that would have been identified as highly productive land using notified LF-LS-P19, would not be identified as such under the recommended amendments.
606. Ms Boyd took this onboard in her reply but was reluctant to support either of Ms Wharfe's proposed amendments. Being mindful of Mr Logan's legal submissions, she did not attempt to redefine criteria or definitions from the NPSHPL, but rather recommended a simpler amendment to LF-LS-P19 to protect additional areas of land that are valuable for horticulture and viticulture as follows:
- (2A) until clause 3.5(1) of the NPSHPL has been implemented, protecting land that is suitable for horticulture or viticulture from uses that are not *land-based primary production or rural industry*.³⁵
607. We were presented with a significant volume of evidence throughout the hearings from Otago's agriculture, horticulture, and viticulture industry about the importance of the region as a primary producer. We have accepted that and have made changes to the pORPS to provide more recognition of what a significant contributor this sector is to not only the local economy, but also the national economy as the country's most significant export.
608. However, as with our concern over the inclusion of LUC 3 land in the NPS, we are now being asked to widen a protectionist/prioritisation approach further, through the proposed amendment. Mr Ford for HortNZ went so far as suggesting LUC 4 and 5 land should be included in the definition of HPL, while Mr Dicey for OWRUG stated that grapevines flourish on LUC 1 to LUC 6 land. Ms Wharfe's first suggested amendments would have had a region wide effect although her supplementary evidence restricted its application to central Otago (a restriction that would be difficult to define).
609. Our concern is that while submitters spoke broadly about urban and lifestyle encroachment on this land, very limited evidence was provided as to any reality about such a threat, where it was occurring, and what form it was taking. Nor was any cost benefit analysis provided on the effect of widening this restriction as requested, in terms of the impact it may have on other land uses (for example, the activities of Matakanui Gold) that look to operate, or can only operate, in rural areas. Furthermore, the issue does not appear to be a regional issue, being confined to certain parts of central Otago (in the geographic sense as opposed to local authority boundaries) so it does not seem to meet the threshold test of being a significant resource management issue for the region.
610. We do not necessarily agree with Ms Wharfe and Ms Boyd that it can be said, with any certainty, that the notified provision would provide protection for LUC 4 and 5 land, as that has not historically been seen as highly productive land (and we observe in passing the same can be said about LUC 3 land). Hence, the Panel does not think it appropriate to extend interim RPS protection this far, when the implications of it are unclear to us. However, there is nothing stopping the relevant District Council from initiating its own process to address the issue raised by HortNZ and the viticulture industry, if they think it is significant in the context of their district.
611. We do, however, accept Ms Boyd's recommendations in relation Ms Wharfe's concerns about the use of the term 'productive capacity' in the pORPS and where it should be deleted.

612. We also agree with the consequential amendments to the methods proposed by Ms Boyd in her supplementary evidence on the NPSHPL which require the identification and mapping of highly productive land.

9.4.2. Recommendation

613. As a consequence of the foregoing, the Panel recommend the following amendments:

1. In SRMR-I10 – Economic, replacing ‘productive capacity of agricultural land’ with ‘the ability of land to support primary production’.
2. Amend LF-LS-O11 to read as follows:

LF-LS-O11 – Land and soil

~~The life supporting capacity of Otago’s soil resources is safeguarded and~~ The availability and productive capacity of highly productive land for land based *primary production* is ~~maintained~~ protected now and for future generations.

3. Amend LF-LS-P19 as follows:

LF-LS-P19 – Highly productive land

Maintain the availability and the *productive capacity of highly productive land* by:

- (1) identifying *highly productive land* based on the following criteria:
 - ~~(a) the capability and versatility of the land to support primary production based on the Land Use Capability classification system,~~
 - ~~(b) the suitability of the climate for primary production, particularly crop production, and~~
 - ~~(c) the size and cohesiveness of the area of land for use for primary production, and~~
 - (d) land must be identified as *highly productive land* if:
 - (i) it is in a general rural zone or rural production zone, and
 - (ii) it is predominantly *LUC 1, 2, or 3 land*, and
 - (iii) it forms a large and geographically cohesive area,
 - (e) land may be identified as *highly productive land* if:
 - (i) it is in a general rural zone or rural production zone, and
 - (ii) it is not *LUC 1, 2, or 3 land*, and
 - (iii) it is or has the potential to be highly productive for *land-based primary production* in Otago, having regard to the soil type, the physical characteristics of the land and soil, and the climate.
 - (f) land must not be identified as *highly productive land* if it was *identified for future urban development* on or before 17 October 2022, and
- (2) prioritising the use of *highly productive land* for *land-based primary production* in accordance with the NPSHPL ahead of other land uses, and

- (3) ~~managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD P4, UFD P7 and UFD P8.~~

4. Add a new method as follows:

LF-LS-M11A – Identification of highly productive land

- (1) In collaboration with territorial authorities and in consultation with mana whenua, Otago Regional Council must identify highly productive land in Otago in accordance with LF-LS-P19(1), and
- (2) Otago Regional Council must include maps of the highly productive land identified in accordance with (1) in the Regional Policy Statement by the date specified in the National Policy Statement for Highly Productive Land.

5. Add the following new clause to LF-LS-M12:

- (4) maintain the availability and productive capacity of highly productive land identified and mapped under LF-LS-M11A in accordance with LF-LS-P19, and

9.5. LF-LS-P16 – Integrated management

9.5.1. Discussion

614. As notified, LF-LS-P16 reads:

LF-LS-P16 – Integrated management

Recognise that maintaining soil quality requires the integrated management of *land* and *freshwater* resources including the interconnections between soil health, vegetative cover and *water* quality and quantity.

615. While most submitters supported this policy, Ravensdown opposes the provision in its entirety, because of duplication. Kāi Tahu ki Otago submitted that the policy direction should be stronger. Ms Boyd originally rejected the submissions of both Ravensdown and Kāi Tahu, but after further discussion with them, she recommended changes to ensure there is no duplication, and that maintaining soil quality requires managing land and freshwater was specifically highlighted as suggested by Kāi Tahu.

616. We agree with her changes and recommend them accordingly.

9.5.2. Recommendation

617. That LF-LS-P16 be amended as follows:

LF-LS-P16 – ~~Integrated management~~ Maintaining soil quality

~~Recognise that maintaining~~ Maintain soil quality ~~requires the integrated management of~~ by managing both *land* and *freshwater* resources, including the interconnections between soil health, vegetative cover and *water* quality and quantity.

9.6. LF-LS-P17 – Soil values

9.6.1. Introduction

618. As notified, LF-LS-P17 reads:

LF-LS-P17 – Soil values

Maintain the mauri, health and productive potential of soils by managing the use and development of *land* in a way that is suited to the natural soil characteristics and that sustains healthy:

- (1) soil biological activity and *biodiversity*,
- (2) soil structure, and
- (3) soil fertility.

619. No submitters oppose the provision in its entirety with several supporting it. The DCC submitted that urban development cannot avoid effects on soil and also requested clarity on how forestry fits within this. They suggested replacing the term ‘maintain’ with “minimise to the degree practical, considering other objectives in the RPS”. OWRUG sought the reference to ‘mauri’ be replaced with well-being, and that the word “natural” is deleted. Toitū Te Whenua seeks that the soil characteristics and values listed in the policy are replaced with the national soil quality indicators, and soil biology. J Griffin requested that the policy promote management systems that build soil carbon, which will in turn improve soil biodiversity, structure and fertility, and provide some degree of climate remediation.

620. In relation to the DCC submission, Ms Boyd considered the policy provides flexibility for a range of actions to occur, so no changes were required. She recommended rejecting the OWRUG submission because clauses (1)-(3) of LF-LS-P17 are considered to provide clear guidance on this. With respect to the Toitū Te Whenua and Griffin submissions, she felt the factors they discuss are already provided for under the three clauses of the policy as notified. In addition, she was of the view that specific details relating to target ranges, if any, are best placed in a regional plan.

621. While the DCC did not address their submission at the hearing, the Panel has some sympathy for their position. Quite clearly, many activities that people and communities carry out will not maintain the productive potential of soils. Urban development is one such example, but mining is another. Hence, we consider the phrase to ‘the extent reasonably practical’ is also appropriate in this policy.

622. While we agree with Ms Boyd in relation to the Toitū Te Whenua and Griffin submissions, we do not agree with her position in relation to ‘mauri’. We have discussed this elsewhere in our decision, and the same reasoning applies here. As we said there, “‘mauri’ is not readily definable as it relates to a combination of physical and ecological elements which are scientifically demonstrable, as well as amenity aspects which are far less capable of precise description. In addition, it can involve a range of te ao Māori concepts, both physical and metaphysical.” We agree with OWRUG that the focus should be on the health and productive potential of soil which, if taken care of, will maintain mauri.

623. We also agree with OWRUG that the reference to ‘natural’ should be removed as this suggests soils that might have improved fertility compared to their natural state, would need to revert back. It also suggests any improvement in fertility may not be possible.

9.6.2. Recommendation

624. The Panel recommends that LF-LS-P17 be amended as follows:

LF-LS-P17 – Soil values

Maintain the ~~mauri~~, health and productive potential of soils, to the extent reasonably practicable by managing the use and development of *land* in a way that is suited to the ~~natural~~ soil characteristics and that sustains mauri through healthy:

- (1) soil biological activity and *biodiversity*,
- (2) soil structure, and
- (3) soil fertility.

9.7. LF-LS-P20 – Land use change

9.7.1. Discussion

625. As notified, LF-LS-P20 reads:

LF-LS-P20 – Land use change

Promote changes in *land* use or *land* management practices that improve:

- (1) the sustainability and efficiency of *water* use,
- (2) resilience to the impacts of *climate change*, or
- (3) the health and quality of soil.

626. There were several submissions on this policy, including two in support and one seeking its deletion. Several submitters sought amendments ranging from minor adjustments to the addition of new clauses addressing a range of matters.

627. Ms Boyd made two small changes to the policy in her s42A report. We agree with her response to the submissions and have accepted her recommendations accordingly.

9.7.2. Recommendation

628. The Panel recommends LF-LS-P20 be amended as follows:

LF-LS-P20 – Land use change

Promote changes in *land* use or *land* management practices that support and improve:

- (1) the sustainability and efficiency of *water* use,
- (2) resilience to the impacts of *climate change*, ~~or~~
- (3) the health and quality of soil, ~~or~~ or
- (4) water quality.

9.8. LF-LS-P21 – Land use and fresh water

9.8.1. Introduction

629. As notified LF-LS-P21 reads:

LF-LS-P21 – *Land use and fresh water*

Achieve the improvement or maintenance of fresh water quantity or quality to meet environmental outcomes set for Freshwater Management Units and/or rohe by:

- (1) reducing direct and indirect discharges of contaminants to water from the use and development of land, and
- (2) managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge on groundwater.

630. A wide range of submissions were received on this provision, with Beef + Lamb and DINZ seeking that the policy be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter. Ms. Boyd disagreed with this, and we accept her position as the policy is addressing land use activities.

631. Several submitters sought changes to the chapeau of the policy and Ms Boyd agreed that the chapeau wording of the could be simplified. She adopted the amendment sought by Contact and others, as she considered this consistent with the wording of LF-FW-P7 and that gives effect to policy 5 of the NPSFM. This amendment also included changing ‘fresh water’ to ‘water bodies’. This was in response to the DairyNZ submission to ensure ‘coastal water’ is not addressed within this policy, as that would be inconsistent with the NPSFM.

632. The amendment promoted did not include the request from Kāi Tahu ki Otago and DOC which seeks to include reference to ecosystem values. While she agreed with their reasoning for the change, she was unsure what is meant by the term ‘ecosystem values’. In response to this, Ms McIntyre for Kai Tahu noted that *“other amendments recommended to the chapeau align wording more closely to that in the sole NPSFM objective, but without the reference to freshwater ecosystems included in that sole objective.”* In her view including reference to freshwater ecosystems in this policy would give better effect to the NPSFM objective.

633. We agree with Ms McIntyre and have included reference to ‘freshwater ecosystems’ in the chapeau. This change will also better reflect Policy 5 of the NPSFM.

634. Several submitters also sought amendments to clause (1) to recognise that it is not necessary to reduce discharges of contaminants to water, and that there are often circumstances where management of discharges may be more appropriate than their reduction or avoidance. Ms Boyd agreed with these submitters and promoted a change to the wording to include “or otherwise managing” after “reducing”. This wording was generally accepted by submitters who presented evidence at the hearing, with the exception of Kai Tahu who felt this change does not provide clear guidance. We disagree with Ms McIntyre as the reason for the management of adverse effects is clear – it is to maintain the health and well-being of water bodies and freshwater ecosystems. Hence, we agree with Ms Boyd’s approach to this matter and recommend her changes accordingly.

635. Ms Boyd did not recommend any changes to clause (2). In relation to DairyNZ’s request to delete “may” from clause (2), she considered a more cautious approach to managing those activities is

required on the basis that it may not be certain if some land uses will have adverse effects on freshwater. Given such land uses could be for long time periods (e.g. production forestry), the Panel agrees that caution is warranted in catchments that may be susceptible to this.

636. Three submitters sought the addition of a new clause regarding the maintenance and enhancement of riparian margins. Ms Boyd agreed that healthy riparian margins contribute to the wider health and well-being of freshwater bodies and that this should be recognised in the policy. However, she did not consider it necessary to identify specific reasons for this in the policy (such as reducing sedimentation, improving the functioning of catchment processes etc. as requested) because there may be many reasons for this action. We agree and have accepted her recommended amendment as appropriate.

637. In the Reply Report, a recommended subclause (2A) was advanced which we believe may have emanated from DOC's submission on the FMU Vision objectives. We are comfortable with the recommended wording in that subclause say for the wording being amended to refer to some catchments. To avoid any issues about scope for its inclusion, we rely upon clause 49(2)(b) of the First Schedule.

9.8.2. Recommendation

638. We recommend that LF-LS-P21 is amended as follows:

LF-LS-P21 – Land use and fresh water

~~Achieve the improvement or maintenance of fresh water quantity, or quality~~ The health and well-being of water bodies and freshwater ecosystems is maintained to meet environmental outcomes set for Freshwater Management Units and/or rohe by:

- (1) ~~reducing or otherwise managing the adverse effects of direct and indirect discharges of contaminants to water from the use and development of land,~~ and
- (2) ~~managing land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater-, and~~
- (2A) recognising the drylands nature of some of Otago's catchments and the resulting low water availability, and
- (3) maintaining or, where degraded, enhancing the values of riparian margins.

9.9. LF-LS-P22 – Public access

9.9.1. Discussion

639. As notified, LF-LS-P22 reads:

LF-LS-P22 – Public access

Provide for public access to and along lakes and rivers by:

- (1) maintaining existing public access,
- (2) seeking opportunities to enhance public access, including by *mana whenua* in their role as kaitiaki and for gathering of mahika kai, and

- (3) encouraging landowners to only restrict access where it is necessary to protect:
- (a) public health and safety,
 - (b) significant natural areas,
 - (c) areas of outstanding natural character,
 - (d) outstanding natural features and landscapes,
 - (e) places or areas with special or outstanding *historic heritage* values, or
 - (f) places or areas of significance to *takata whenua*, including wāhi tapu and wāhi tūpuna.

640. This policy was supported by four submitters while several others sought amendments to, and clarification of, the notified wording. A number of submitters sought the addition of sub-clauses in (3) to include other values or circumstances where access should be restricted. These included:

- Areas of establishing vegetation/restoration projects, on the basis that access should be restricted to avoid or minimise damage to young and establishing vegetation,
- Against negative impacts of public access on farming business, to ensure negative impacts from public access on farming businesses can be mitigated.
- Protect against interruption of business operations, for health and safety matters, and for animal welfare issues, in order to provide for landowner's interests.
- Critical farming activities including lambing, fawning, mustering and the movement of stock.
- Biosecurity.
- To ensure a level of security with the operational requirements of a lawfully established activity.

641. Ms Boyd recommended several changes to the policy including an addition to clause (3) to restrict access to reflect the operational requirements of an activity. Overall, we are comfortable with the recommendations made by Ms Boyd and have adopted them accordingly.

9.9.2. Recommendation

642. The Panel recommends that LF-LS-P22 be amended as follows:

LF-LS-P22 – Public access

Provide for public access to and along *lakes* and *rivers* by:

- (1) maintaining existing public access,
- (2) seeking opportunities to enhance public access, including access by *mana whenua* in their role as kaitiaki and for gathering of ~~mahika kai~~ *mahika kai*, and
- (3) encouraging landowners to ~~only~~ avoid restricting access ~~where~~ unless it is necessary to protect:

- (a) ~~public~~ public health and safety,
- (b) significant natural areas,
- (c) areas of outstanding natural character,
- (d) outstanding natural features and landscapes,
- (e) places or areas with special or outstanding *historic heritage* values,
or
- (f) places or areas of significance to ~~takata whenua~~ Kāi Tahu, including wāhi taoka, wāhi tapu and wāhi tūpuna,
- (g) establishing vegetation, or
- (h) a level of security consistent with the operational requirements of a lawfully established activity.

9.10. Pest species (including wilding conifers)

9.10.1. Discussion

643. As notified, the pORPS contains two policies focused on managing the impacts of wilding conifers on outstanding natural features and landscapes and significant natural areas through NFL-P5 and ECO-P9. These were as follows:

ECO-P9 – Wilding conifers

Reduce the impact of *wilding conifers* on indigenous *biodiversity* by:

- (1) avoiding *afforestation* and *replanting* of *plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as *significant natural areas*, and
 - (b) buffer zones adjacent to *significant natural areas* where it is necessary to protect the *significant natural area*, and
- (2) supporting initiatives to control existing *wilding conifers* and limit their further spread.

NFL-P5 – Wilding conifers

Reduce the impact of *wilding conifers* on outstanding and *highly valued natural features and landscapes* by:

- (1) avoiding *afforestation* and *replanting* of *plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as outstanding natural features or landscapes, and
 - (b) buffer zones adjacent to outstanding natural features and landscapes where it is necessary to protect the outstanding natural feature or landscape, and
- (2) supporting initiatives to control existing *wilding conifers* and limit their further spread.

644. A number of submitters sought inclusion of new provisions, or amendments to existing provisions, to provide clear policy direction on pest control. DOC sought a new policy in the ECO chapter addressing pests to complement ECO-P9. However, their planning witness, Mr Brass,

suggested this would be better placed in LF-LS section. Ms Lynette Baish for Ernslaw One also sought a new policy, focused specifically on wilding conifers. At the hearing, many of the witnesses who appeared for OWRUG, Federated Farmers, and DairyNZ noted the impacts of pests on productive land while Mr Brass for DOC also highlighted the need to enable pest control activities such as the use of pesticides. Associated with this issue was the request from some submitters to include in the pORPS, the definition of ‘pest’ from the Biosecurity Act 1993.

645. In her opening statement for the LF hearing, Ms Boyd addressed this issue, stating that she “was not opposed to incorporating this type of direction in the pORPS and that the LF-LS section was the appropriate place for this given its focus on land resources.” After hearing the evidence presented at the various hearings, Ms Boyd’s final assessment of the matter was carried out in her reply report on ‘Introduction and General Theme’ matters. She noted that the evidence confirmed that “biodiversity has been lost or degraded due to human activities and the presence of pests and predators” and that “the direction on managing pest species in the pORPS is unnecessarily narrowed to only managing the effects of specific wilding conifer species on outstanding natural features and landscapes and significant natural areas.” As a consequence, she recommended a new policy for inclusion in the LS chapter that addressed both pests and wilding conifers, which incorporate the direction from ECO-P9 and NFL-P5, as generally supported by submitters.
646. A number of submitters sought to expand the scope of ECO-P9 and APP5, which currently just lists conifers prone to spread, to apply to all invasive/wilding tree species, not only wilding conifers. Others sought the restriction of such plantings in not just plantation forests but in shelterbelts and amenity plantings also.
647. While Ms Boyd accepted that there are other tree species that may result in wilding spread, she did not make any changes to the policy or APP5. Nor did she recommend widening the framework to include smaller plantings. While she considered it appropriate for the pORPS to contain broader direction on the management of pests, she was concerned that this should not duplicate the requirements of the Biosecurity Act 1993 or the Otago Regional Pest Management Plan 2019-2029 (Otago PMP). Furthermore, she was unsure if this was a region wide concern. Despite this, she felt that her recommendation to incorporate additional direction on pest species will assist with addressing the concerns of the submitters. As a part of that, she accepted the need for the definition of pest as requested.
648. Having reviewed Ms Boyd’s recommended policy, and other evidence the Panel is of the view that pest species, particularly wilding conifers, are a region-wide issue. The Panel are comfortable that Ms Boyd’s recommended wording addresses the issue appropriately. While the policy framework does not identify other wilding tree species, there is nothing stopping local authorities from addressing these concerns in lower order planning documents. That is in fact what currently occurs in District Plans.

9.10.2. Recommendation

649. The Panel recommends as follows:

- (1) the deletion of ECO-P9 and NFL-P5 and their replacement with the following new policy in the LF-LS chapter:

LF-LS-P16A – Managing pests

Reduce the impact of *pests*, including *wilding conifers*, by:

- (1) avoiding *afforestation* and *replanting of plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as outstanding natural features, outstanding natural landscapes, or *significant natural areas*, and
 - (b) buffer zones adjacent to the areas listed in (a) where it is necessary to protect those areas,
- (2) outside *plantation forests*, avoiding the planting of *wilding conifer* species listed in APP5 and any other *pests* in a way that is consistent with the Otago Regional Pest Management Plan 2019-2029,
- (3) enabling the control of *pests* on *land*, and
- (4) supporting initiatives to control *pests* and limit their further spread.

- (2) Include the following new clause in LF-LS-M12 (District plans):

LF-LS-M12 – District plans

- (1) manage *land* use change by:
 - (aa) avoiding the planting of *pest* plants in accordance with LF-LS-P16A,
- (3) Include reference to the policies of the LF chapter seeking to ‘reduce the impacts of pests’ in the first line of LF-LS-E4 (Explanation).
- (4) Including the following new paragraph at the beginning of LF-LS-PR4 (Principal Reasons):

Pests, including wilding conifers, pose a range of threats to Otago’s environment. While the regional pest management plan is the primary tool for controlling pests under the Biosecurity Act 1993, it is important that the management of land works alongside that tool to reduce the impacts of pests.

9.11. LF-LS-M12, LF-LS-M13, Explanation and Principal Reasons

650. In addition to the consequential amendments already discussed, Ms Boyd has recommended several other relatively minor amendments to these provisions, generally to reflect amendments in the policy approach. We have reviewed the submissions and Ms Boyd’s final response to those, and are generally comfortable with the position she reached, with one exception in relation to LF-LS-M12.
651. City Forests Limited opposes clause 1(a), which requires “controlling the establishment of new or any spatial extension of existing plantation forestry activities or permanent forestry activities where necessary to give effect to an objective developed under the NPSFM” and requested that it be deleted. Rayonier and Ernslaw One also raised concern with this provision while the Waitaki DC sought two new sub-clauses that would provide guidance for managing water short catchments.
652. Mr Peter Oliver for City Forests and Ms Lynette Baish for Ernslaw One addressed this issue at the hearing. Mr Oliver and Ms Baish did not consider the evidence was as clear as Ms Boyd suggested in her s42A report when she said that afforestation can affect water yield and “*given the dry*

nature of some of Otago’s catchments and recent increases in forestry expansion, it may be necessary to control forestry activities in order to give effect to environmental outcomes established under the NPSFM.”

653. In this context, Ms Boyd highlighted regulation 4(1)(a) of the NESPF that specifically allows plan rules to be more stringent than the NES if those rules give effect to an objective developed to give effect to the NPSFM. However, we note that LF-LS-P21 (2) requires the management of land uses that may have adverse effects on the flow of water in surface water bodies or the recharge of groundwater. This provision does not identify specific activities and in our view, nor should the method.

654. Hence, we agree with Ms Baish that the method “is overly directive and narrowly targeted” and as a consequence, we prefer her recommended amendment, as follows:

“controlling the establishment of new or any spatial extension of existing land use activities where necessary to give effect to an objective developed under the NPSFM;”

9.12. LF-LS-M11 – Regional plans

9.12.1. Discussion

655. As notified LF-LS-M11 reads:

LF–LS–M11 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* no later than 31 December 2023 and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans* as required by the RMA and any regulations,
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of effluent storage and applications systems, and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient allocation and use of *fresh water*, and
- (3) implement policies LF–LS–P16 to LF–LF–P22.

656. There were several submissions received on this provision, with Beef + Lamb and DINZ again seeking that it be deleted, or moved to the LF-FW chapter, on the basis that it is in the wrong subchapter. Ms. Boyd disagreed with this, and we again accept her position given the policy is addressing land use activities.

657. Ms Boyd agreed with Fish & Game and Kāi Tahu ki Otago that the clause (1)(a) reference to the 'RMA and any regulations' is not necessary and recommended its removal. She did not recommend any further amendments to the method in her s42A report except in relation to a consequential amendment to enable implementation of a new policy (LF-LS-P16A) that was recommended during the non-freshwater process.
658. The proposed sub-clause 2A addition by way of an amendment to LF-LS-M11 is required because this method specifies how the full suite of LF-LS policies will be implemented in regional plans, and therefore needs to reflect any amendments to non-FPI provisions as well as FPI provisions. The proposed wording is "enable the discharge of contaminants to land for pest control". Ms Boyd notes that "although arising from the non-FPI part, I consider this also responds to DOC's FPI submission." We agree the amendment is appropriate and have recommended the change accordingly.
659. Ms. Boyd did, however, make some further amendments in response to submissions in her opening statement. However, these were not discussed but were merely referred to as 'minor' changes. We do not consider them to be minor as they broaden the impact of the provisions. One such change was to clause (1)(b), where 'reduce' was deleted and replaced with 'avoid or minimise' in response to a submission from Fish & Game, who sought reference to avoiding land uses which result in any pugging in critical source areas and limiting high risk activities on steep slopes. Given the direction in LF-LSP18 and 21 (which refer to 'minimising' and 'reducing'), we consider 'reduce' to be the appropriate word in this instance so have not recommended that change.
660. Ms Boyd initially rejected Kāi Tahu ki Otago's request to amend clause (2) to delete 'efficient allocation' and instead reference reducing demand on freshwater resources to give effect to objectives developed under the NPSFM. She subsequently made this amendment as a 'minor' change. While we do not agree that it is a minor change, we do agree that the change is appropriate based on Ms McIntyre's reasoning in her evidence for Kai Tahu. She advised that Kai Tahu sought that:

this method refer to the ability for regional plans to provide for changes in land use that reduce demand for water by methods other than simply improving efficiency of use. This has not been accepted in the section 42A report, but no clear reason is given for this. I consider that in areas where there is a need to reverse over-allocation, a broad range of tools must be available to ORC to achieve this. In some areas I consider that improvements in water use efficiency alone are unlikely to achieve this. In such circumstances, controls on water demanding land uses should be a tool that ORC can consider in development of the LWRP.

661. We agree with Ms McIntyre so have recommended the change accordingly.
662. As discussed above in relation to LF-FW-M5 and LF-FW-M6, our understanding is that the date that the regional plan is to be publicly notified is uncertain and we consider it appropriate to delete the date requirement in the chapeau to reflect this.
663. The Panel has carefully considered Ms Boyd's response to the other submissions made on this provision. We are comfortable with her conclusions so adopt them accordingly.

9.12.2. Recommendation

664. We recommend that LF-LS-M11 is amended as follows:

LF-LS-M11 – Regional Plans

Otago Regional Council must publicly notify a Land and Water Regional Plan ~~no later than 31 December 2023~~ and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans*, ~~as required by the RMA and any regulations~~,
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of effluent storage and application systems, and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient ~~allocation and use of *fresh water* and that reduce water demand where~~ there is existing over-allocation, and
- (2A) enable the *discharge of contaminants to land* for *pest* control, and



Proposed Otago Regional Policy Statement June 2021

Integrating the management of Otago's natural and physical resources

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PART 1 – INTRODUCTION AND GENERAL PROVISIONS

Foreword or mihi

Regional policy statements are significant planning tools; overarching documents that identify our most pressing environmental issues and provide direction to district plans and other resource management plans on how we will manage them. Developing this new Regional Policy Statement (RPS) has provided an opportunity for renewed partnership between Kāi Tahu and the Otago Regional Council (ORC). We present this foreword to the notified version together, in recognition of that partnership and in anticipation of the work to come.

ORC didn't expect to find itself writing another Regional Policy Statement so soon. The ink is hardly dry on the 2019 Partially Operative Regional Policy Statement (in fact, as the name suggests, all the ink isn't even there yet), and here is the notification for the next. Nonetheless, a 2019 review of ORC's water management framework and a slew of new national regulation meant a new RPS was needed to set the scene for work on a new Land and Water Regional Plan.

Having this new RPS developed so soon after the last has allowed it to build directly on the previous process. With issues and concerns still fresh, more refinement has been possible, building better processes and driving rapid progress on significant issues facing the region, including resilience to climate change and natural hazards, managing urban development, improving freshwater and coastal environmental management, and supporting biodiversity. Mana whenua, the community and ORC have faced this planning challenge together. Our long-term vision recognises that use of resources and protection of the environment must occur in an integrated, sustainably managed way.

The management of natural and physical resources, by and for the people of Otago, in partnership with Kāi Tahu, achieves a healthy and resilient natural environment, including the ecosystem services it provides, and supports the well-being of present and future generations.

This statement reflects that a healthy, flourishing environment is fundamental to our well-being. Integration is the central tenet, seeing the environment as a single connected system, ki uta ki tai, and weaving this into the RPS fabric.

Our long-term vision takes its cue from the holistic perspective of Te Mana o te Wai in the National Policy Statement for Freshwater Management 2020. Guided by the need to give effect to Te Mana o te Wai we have worked with mana whenua and the wider community to develop long-term visions for Otago's water bodies. The purpose of these visions is to protect the well-being of water bodies in Otago, so as to protect their mauri, a responsibility shared by all. The aim is to achieve positive outcomes for water and habitat that also address the community's needs and interests.

A broad section of people from all walks of life have contributed to developing the Regional Policy Statement. Through a variety of means, including in-person public workshops, community reference groups, online surveys, and reports, people have helped shape policy development in its earliest stages and fed into the long-term freshwater visions for their own parts of Otago.

Thank you to all who have been involved in bringing this RPS to notification: mana whenua; staff from ORC, Aukaha, and Te Ao Marama Inc; councillors; stakeholders; and community members.

The objectives and policies in this RPS signal a significant step change in Otago, mindful of the need to consider the environment that will be inherited by future generations. We are asking our communities to join us in that change, to create a future of opportunity and security for all of us.

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Purpose

As a community, we in Otago are moving into an age that requires solutions to both entrenched legacy issues and significant emerging issues in order to promote positive sustainable change while also enabling the Otago community to flourish, and to enjoy all that the region has to offer.

The Otago Regional Policy Statement (ORPS) provides a policy framework that aims to achieve long-term environmental sustainability by integrating the protection, restoration, enhancement, use and development of Otago's natural and physical resources. The ORPS also aims to provide communities, including mana whenua, with opportunities to carry out their activities to achieve their economic, cultural and social needs and intentions, while at the same time promoting a thriving and healthy natural *environment* as being vital to sustaining our wellbeing.

The ORPS responds to identified significant regional values and resource management issues relating to Otago's *environment, historic heritage, economy, food production and recreational opportunities and communities*. The ORPS sets out objectives, policies, and methods to address and resolve, over time, the identified issues as effectively and efficiently as possible. The ORPS gives effect to the statutory requirements set out in the Resource Management Act 1991 (RMA), as well as relevant national direction instruments, and is informed by iwi authority planning documents. *Regional plans* and *district plans* must give effect to the ORPS.

Description of the region

At 32,000 km², the Otago region is the second largest region in New Zealand, making up 12% of New Zealand's land mass.

The region's eastern edge is entirely marine, extending 12 nautical miles out to sea from a scenic and varied coastline. Otago meets Canterbury at the southern bank of the Waitaki River, its northern border following the river upstream then branching off along Awamoko Stream, following the north branch of the Kakanui River before heading inland once again along the Hawkdun Range, following catchment boundaries and ridgelines into the Southern Alps at Otago's westernmost border. In the south, beginning at Brother's Point in the scenic Catlins, the border with Southland tends northeasterly, taking in the Pomahaka River catchment, and Umbrella and Kōpūwai Ranges to encompass the headwaters of the glacial alpine lakes, Whakatipu-wai-māori (Lake Wakatipu), Wānaka, and Hāwea.

Otago is made up of five *territorial authorities*: Dunedin City Council, and Queenstown Lakes, Waitaki, Central Otago, and Clutha District Councils.

Otago's population at the 2018 Census was 225,186¹. Dunedin City has the largest population of the Otago *territorial authorities* at 126,255, followed by Queenstown Lakes District at 39,153, Waitaki District at 22,308, Central Otago District at 21,558, and Clutha District at 17,667. Growth is not evenly distributed across the region, with the fastest growing district being Queenstown Lakes.

Otago's history recognises the early exploration and occupation of Otago by Māori followed by the arrival of settlers from Europe and Asia. Otago's economy centres around construction, *primary production*, tourism, and education. The construction industry is a major contributor to employment numbers in Otago, supported by the region's population growth. The primary production sector is a source of domestic and export revenue and employment for the districts and the wider region and the nation. Otago's farms are also a key contributor to the national food supply network. The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the economy. Tourism also has a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.

Renewable energy generation facilities² meet a large portion of regional and national energy requirements. Significant hydroelectric generation facilities in Otago are located in the Central Otago, Clutha, and Queenstown Lakes Districts. Additionally, Otago has two wind farms, located in the Clutha District.

Otago is home to important indigenous biodiversity for Aotearoa, some of which is specific to Otago. Nationally significant indigenous biodiversity features include inland saline habitats, ephemeral wetlands, endemic and threatened inland galaxiid fish and lizard populations, western forest habitats, and coastal fauna.

Climate

The Otago region experiences two distinct climates due to the geographic variety between the temperate coastal areas, and the almost continental inland areas. The coastal settlements experience

¹ 2018 Census place summaries: Stats NZ. (n.d.). <https://www.stats.govt.nz/tools/2018-census-place-summaries/otago-region> (accessed 26 May 2021)

² Fitzgerald, W. (2019). *Dunedin Energy Study 2017-2018*. University of Otago

a cyclic weather pattern that alternates frequently between a warmer and drier climate, and a cooler, damper climate. Central Otago's climate is characterised by hot, dry summers and contrastingly cold, frosty winters. The unique climate supports many of the diverse industries in Otago.

General temperature ranges for the region fall between 18°C and 24°C on summer afternoons, and -2°C and 3°C during winter nights.³ The mean daily temperatures in summer in Central Otago range between approximately 10°C and 25°C, while the mean daily temperatures in winter range between approximately -1°C and 10°C.⁴ Central Otago has held national records for both the hottest and coldest temperature readings in New Zealand. Ophir, a small settlement in Central Otago, has recorded temperatures of 35.2°C in 1959 and -21.6°C in 1995. Significant rises in the use of heating sources occur during the drastically colder winter periods. The highest regional rainfalls, averaging 2000mm per year, occur typically over western areas of Otago such as around the Lakes District and Southern Alps. In contrast, the average rainfall in Central Otago is the lowest in New Zealand averaging around 400-500mm per year.

Coast

The Otago coastline stretches for 480 km and is extremely diverse, encompassing pebble and sandy beaches, basalt formations, dune systems, eelgrass and saltmarshes, estuaries, rolling downlands, and striking cliff heads. Working farms abut most of the coastline, while remnant swathes of native bush clad coastline are a distinct feature of the Catlins area. Significant coastal settlements include Dunedin and Ōamaru. The Otago port is based in Port Chalmers within the Otago Harbour, and is the region's only commercial freight handling harbour. However commercial fishing ramps (supporting fishing fleets) are present in Ōamaru, Moeraki, Karitāne, and Taieri Mouth. Coastal erosion and the decline of the regional coastline is well documented, posing a long-term threat to residential and commercial coastal developments and *historic heritage*, particularly *wāhi tūpuna*.

Otago's benthic and marine ecosystems are varied and diverse including rocky reef systems, sponge gardens, bryozoan and horse mussel beds, biogenic reefs, kelp forests and submarine canyons within 12 nautical miles of the shore. More than thirty species of seabird are regularly found off the coast of Otago. Rare sea birds such as the Royal Albatross and hoiho (Yellow-eyed penguin) can be found along the landward coastal environment. Surfing is a significant recreational activity, in Dunedin particularly, and there are four *surf breaks* of national significance along the Otago coastline.

Water bodies

The Otago region has significant *freshwater* resources in the form of surface water, natural and artificial *lakes*, *groundwater*, and *wetlands*. Otago's communities are reliant on the use of these *water* resources for their social, cultural and economic well-being. *Rivers* and *lakes* make up most of the regional surface *water*. The big *lakes*, such as Wanaka, Whakatipu-wai-māori (Lake Wakatipu) and Hāwea and including artificial *lakes* Dunstan, Roxburgh and Onslow, constitute about 23% of New Zealand's total *lake* surface area. The primary catchments are Lakes Wanaka, Whakatipu-wai-māori (Lake Wakatipu) and Hāwea, which feed into Otago's largest *river*, the Clutha River/Mata-Au. Otago also has many *groundwater* sources. *Wetlands* make up many significant landscape and ecosystem elements in Otago, including blanket and string bogs, saline areas, swamp forest remnants, shallow *lake* complexes, estuarine saltmarshes, and valley floor swamps.

³ Macara, G. R. (2015). The Climate and Weather of Otago, Second Edition. *NIWA SCIENCE AND TECHNOLOGY SERIES*, 67th ser.

⁴ Central Otago Climate. (n.d.). <https://centralotagonz.com/opportunities/working-here> (accessed 26 May 2021)

Natural character and landscapes

Otago's landscapes are diverse. Moving inland from Otago's diverse and varied coastline, the landscapes change dramatically. Rolling plains separated by mountain ranges, steep hillsides of tussock, and deep gorges make up a lot of rural Otago. This *land* is dissected by flowing bodies of water, towering mountainscapes, and fascinating geological formations. Modified landscapes encompassing farmland and remnants of the region's early gold mining activity are ever-present, creating a rich sense of heritage and regional identity. National Parks and other Public Conservation areas provide important areas of unmodified *land* and water.

Urban form

Urbanised areas in Otago occupy only about 1% of total *land* area, however 87% of people live in urban settlements. Dunedin is Otago's largest urban area, surrounded by hills and harbour, and has a large suburban area and commuter catchment especially to the south, with more recent expansion moving out to connect with an expanding Mosgiel. The Queenstown Lakes District population is approximately 91% urban. Its outstanding landscape has, and will continue to, influence how urban form develops.

In the remainder of the region, smaller urban settlements are geographically scattered, maintaining clear distinctions between rural and urban forms, and with significant variability in growth pressures and infrastructure capacity. Growth in overall numbers of people is not the only driver of urban change pressures in Otago; many areas face low or no growth, and all areas are expected to have an aging population.

How the policy statement works

Statutory context

Resource Management Act 1991

The Resource Management Act 1991 is the primary resource management statute in New Zealand and sets out the related responsibilities and powers of national, regional, and city/district government.

The RMA requires regional councils to have a regional policy statement (RPS) under Section 60, prepared in accordance with the process set out in Schedule 1. The purpose of the RPS, as set out in Section 59 of the RMA, is to provide an overview of the specific resource management issues for the region and establish policies and methods to achieve the integrated management of both the *natural and physical resources* of the region. The RPS must be prepared in accordance with and contain the matters set out in Sections 30, 60, 61, and 62 of the RMA.

The regional policy statement must be prepared in accordance with and/or give effect to higher order national direction instruments, including any regulations, National Policy Statements (NPS), the New Zealand Coastal Policy Statement (NZCPS) and be written to comply with the National Planning Standards. Further ORC must observe and enforce observance of any National Environmental Standards (NES) to the extent to which their powers enable them to do so. The RPS sets out requirements that *regional plans, district plans*, and regional coastal plans must give effect to. More information about the relevant national direction instruments can be found in the ‘national direction instruments’ section of this Regional Policy Statement.

Figure 2 – Position of the Regional Policy Statement within the resource management planning framework



Partnership, Te Tiriti o Waitangi and Kāi Tahu⁵

The Otago Regional Policy Statement has been developed in partnership with Kāi Tahu, the iwi and *tangata whenua* of Otago. The partnership between the Otago Regional Council and Kāi Tahu is an important and valuable relationship, evident throughout the ORPS and woven into its provisions. The RMA requires Regional and Local Councils to address matters of National Importance, including matters associated with Te Tiriti o Waitangi (The Treaty of Waitangi) and key issues and concerns of iwi.⁶

The ORC has also considered the Kāi Tahu ki Otago 2005 Resource Management Plan and Te Tangi a Taura: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008. ORPS chapters on Significant Resource Management Issues for Iwi and on *Mana Whenua* provide an in-depth discussion of iwi issues and set a basis for the remaining policy framework.

The key issues identified by Kāi Tahu include:

- recognising the rights and interests of Kāi Tahu in natural and resource management processes;
- recognising the important role of mātauraka in natural resource management;
- recognising the integral relationship of Kāi Tahu with *natural and physical resources*, including the coast, waterways, lakes, wetlands and indigenous flora and fauna, protecting these resources from degradation, improving them where they have been degraded, and sustaining them for future generations;
- protecting and restoring the abundance of *mahika kai* and restoring access to *mahika kai* areas;
- protecting the values of *wāhi tūpuna* and the ability for Kāi Tahu to maintain their relationship with these areas;
- enabling development of *land* and resources within native reserves, including *papakāika*; and
- the need for integrated management that recognises the interconnections between resources and across different parts of the environment.

Cross-boundary matters

Ecosystems and human activities cross jurisdictional boundaries. When different jurisdictions manage similar activities or resources in different ways there is potential for inconsistent outcomes, resulting in inefficient and ineffective management.

To achieve integration, those involved in resource management need to coordinate their policies, plans and actions. This is encompassed by the philosophy “ki uta ki tai”, often translated as “from the mountains to the sea”. Accordingly, section 62 of the RMA 1991 requires regional councils to include in the RPS the processes to be used to deal with issues that cross *local authority* boundaries, and issues between *territorial authorities* or between regions.

⁵ In the South Island, the local Māori dialect uses a ‘k’ interchangeably with ‘ng’. The preference in Otago is to use a ‘k’ so southern Māori are known as Kāi Tahu, rather than Ngāi Tahu. In this RPS, the ‘ng’ is used for iwi in general or where there is reference to Ngāi Tahu ki Murihiku (Southland).

⁶ These matters are addressed throughout the Resource Management Act 1991, see in particular sections 6, 8 and 62.

Cross-boundary issues can arise in several ways, and generally manifest in issues for either plan preparation and review, or plan administration and the processing of applications for *resource consents*. Otago's cross-boundary matters include:

- *effects* in one jurisdiction due to the activities in another, including where *territorial authority* boundaries do not match catchment boundaries, as with the Clutha Mata-au, or the Waitaki River catchment over which Otago and Canterbury Regional Councils share jurisdiction, or Otago's coastal environment, which covers three *territorial authorities'* jurisdictions, and may be affected by *land* uses and dam *structures* in the other two (through sediment flowing down the Clutha Mata-au, for instance). *Effects* within the Otago Coastal environment may also have *effects* on adjoining regional council jurisdiction;
- Kāi Tahu interests, which span Otago as a whole, across *local authority* boundaries;
- natural resources that cross *local authority* boundaries which must be managed in a uniform manner, such as water, outstanding natural features, outstanding natural landscapes and *significant natural areas*;
- differences in policies or methods across plans, particularly where *district plans* and *regional plans* are at different planning stages and may be out of step with current regulation;
- physical resources such as local, *regionally significant infrastructure* or *nationally significant infrastructure* being developed and operated across *local authority* boundaries, as with transport and electricity networks, and potentially shared services such as *waste* management and minimisation; and
- duplicated effort for *local authorities* and increased cost for people seeking consents for activities that occur across *local authority* boundaries or require *resource consent* from two or more consent authorities.

Processes that will be used to address these matters are described in the sections below.

Clear direction in the ORPS

The ORPS provides a vision and broad policy framework for all resource management in Otago, including various methods that require *local authorities* to work together to achieve good outcomes and, in some cases, set implementation timeframes. *Regional plans* and *district plans* as they develop over the next 10 years and beyond, are required to give effect to the ORPS. In doing so one result should be consistency between them. The ORPS has been drafted using direct language and clarity of outcomes sought.

ORPS methods also indicate actions that fall outside the RMA framework. This recognises that only *district plans* and *regional plans* are required to give effect to a regional policy statement, and non-regulatory methods may sometimes be useful to help address cross-boundary matters and achieve desired outcomes.

Cooperation and partnerships with stakeholders

Stakeholders, including Government agencies, industry representatives, landowners, and community-based volunteer groups, provide valuable strategic input to planning and decision-making. Inter-agency groups, such as Te Roopu Taiao, can assist with managing cross-boundary issues and issues affecting people across Otago strategically and collaboratively.

ORC will seek to establish and build upon working relationships with other resource management stakeholders. This will help ensure that the processes it undertakes are efficient and, wherever possible, reduce duplication of effort. As new issues emerge in the region and work on existing issues continues, they are best managed through collaboration, which will improve effectiveness and deliver better outcomes. This is particularly important for enhancing and managing important region-wide matters such as *regionally significant infrastructure* and *significant natural areas*.

Cooperation and partnerships with other *local authorities*

There are many opportunities to work more closely with other *local authorities* to achieve a consistent and integrated approach to managing *natural and physical resources*.

Local authorities together can:

- share information, for instance to understand the long-term growth and economic development opportunities and threats and the spatial pattern of *land use* and development, or to ensure natural resources are not artificially fragmented;
- hold joint processes for processing *resource consents* and associated hearings where activities or *effects* cross jurisdictional boundaries. This allows all *effects* of activities to be considered holistically at the same time, including any cumulative *effects*. Joint processes could also reduce the processing cost (in both money and time) for the applicant;
- work collaboratively on plan changes and develop combined planning documents for shared areas of responsibility;
- clearly define their resource management roles and responsibilities to reduce duplication of effort and streamline processes for Otago's communities; and
- cooperate and budget for joint processes and major projects through Annual and Long-term Planning processes under the LGA. This allows pooling resources, reducing inefficiency and integrating management approaches through time, to ensure that cooperation between agencies is budgeted for, including setting up structures and processes for joint management.

These approaches are more likely to properly address cross-boundary issues and *effects* than *local authorities* working alone.

Triennial agreement

Triennial agreements under the LGA are an opportunity for *local authorities* within a region to set out processes for consultation, protocols and processes for resolving cross-boundary issues.

Cooperation at a national level

Cross-boundary issues may arise that are significant at a national level. This is particularly likely when addressing nationally significant infrastructure such as the National Grid or *land* transport infrastructure.

In such cases, ORC will advise and work with the Minister for the Environment, the Minister of Conservation in the *coastal marine area* and any other relevant agency to identify and resolve cross boundary issues or proposals, to ensure that consideration of the matter occurs in a transparent and timely manner. ORC will endeavour to represent its communities' interests in such situations.

Transferring and delegating functions, powers and duties to other authorities

The RMA enables ORC to transfer its powers, functions and duties to another public authority, including an iwi authority or other statutory body. It may also delegate these to committees, community boards, commissioners or employees. ORC can also enter joint management agreements with other statutory bodies and an iwi authority (such as Te Rūnanga o Ngāi Tahu).

These tools can be used to achieve integrated management and to reduce duplication of effort by local and public authorities, and to enable a Treaty partnership approach to resource management. Joint management agreements enable iwi partners and important stakeholders to have an active role in the management of specific resources, and for specific purposes. They can also be used to build community capacity and share understanding in resource management.

Helping to build capacity for, and improve, *takata whenua* involvement

Takata whenua have the prerogative to express and explain how their tikaka and mātauraka should be realised in resource management. Councils have a vital role in assisting this process through finding ways to partner, resource, and upskill rūnaka so they can be fully involved in the resource management partnership.

Establishing and implementing relationship agreements such as Mana Whakahono a Rohe agreements, protocols and charters can provide a framework for the council to provide necessary support. Increasing skills and capacity within council staff and decision-makers through training in Te Tiriti o Waitangi, locally relevant Treaty Settlement mechanisms and tikanga Māori, and developing familiarity with Kāi Tahu documents, are also important means of improving takata whenua involvement in council processes.

Interpretation

Definitions

Term	Definition
Active transport	<p>has the same meaning as in clause 1.3 of the National Policy Statement on Urban Development 2020 (as set out in the box below)</p> <div data-bbox="592 557 1374 669" style="border: 1px solid black; padding: 5px;"> <p>means forms of transport that involve physical exercise, such as walking or cycling, and includes transport that may use a mobility aid such as a wheelchair</p> </div>
Additional infrastructure	<p>has the same meaning as in clause 1.3 of the National Policy Statement on Urban Development 2020 (as set out in the box below)</p> <div data-bbox="592 775 1382 1312" style="border: 1px solid black; padding: 5px;"> <p>means:</p> <ul style="list-style-type: none"> (a) public open space (b) community infrastructure as defined in section 197 of the Local Government Act 2002 (c) land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities (d) social infrastructure, such as schools and healthcare facilities (e) a network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001) (f) a network operated for the purpose of transmitting or distributing electricity or gas </div>
Airshed	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (as set out in the box below)</p> <div data-bbox="592 1453 1382 1677" style="border: 1px solid black; padding: 5px;"> <p>means—</p> <ul style="list-style-type: none"> (a) the region of a regional council excluding any area specified in a notice under paragraph (b): (b) a part of the region of a regional council specified by the Minister by notice in the Gazette to be a separate airshed </div>

Term	Definition
Afforestation	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (as set out in the box below)</p> <div data-bbox="592 365 1382 600" style="border: 1px solid black; padding: 5px;"> <p>(a) means planting and growing plantation forestry trees on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but</p> <p>(b) does not include vegetation clearance from the land before planting</p> </div>
Ambient air quality standards	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (as set out in the box below)</p> <div data-bbox="592 741 1382 779" style="border: 1px solid black; padding: 5px;"> <p>means the standard prescribed by regulation 13(1)</p> </div>
Amenity values	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 891 1382 1003" style="border: 1px solid black; padding: 5px;"> <p>means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes</p> </div>
Ancillary activity	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 1106 1315 1184" style="border: 1px solid black; padding: 5px;"> <p>means an activity that supports and is subsidiary to a primary activity</p> </div>
Aquaculture activities	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1301 1382 1955" style="border: 1px solid black; padding: 5px;"> <p>(a) means any activity described in section 12 done for the purpose of the breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed for harvest if the breeding, hatching, cultivating, rearing, or ongrowing involves the occupation of a coastal marine area; and</p> <p>(b) includes the taking of harvestable spat if the taking involves the occupation of a coastal marine area; but</p> <p>(c) does not include an activity specified in paragraph (a) if the fish, aquatic life, or seaweed—</p> <p style="margin-left: 20px;">(i) are not in the exclusive and continuous possession or control of the person undertaking the activity; or</p> <p style="margin-left: 20px;">(ii) cannot be distinguished or kept separate from naturally occurring fish, aquatic life, or seaweed; and</p> <p>(d) does not include an activity specified in paragraph (a) or (b) if the activity is carried out solely for the purpose of monitoring the environment</p> </div>

Term	Definition
Aquatic compensation	<p>has the same meaning as in clause 3.21(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="587 331 1374 512" style="border: 1px solid black; padding: 5px;"> <p>means a conservation outcome resulting from actions that are intended to compensate for any more than minor residual adverse effects on a wetland or river after all appropriate avoidance, minimisation, remediation, and aquatic offset measures have been sequentially applied</p> </div>
Aquatic offset	<p>has the same meaning as in clause 3.21(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="587 669 1364 1202" style="border: 1px solid black; padding: 5px;"> <p>means a measurable conservation outcome resulting from actions that are intended to:</p> <ul style="list-style-type: none"> (a) redress any more than minor residual adverse effects on a wetland or river after all appropriate avoidance, minimisation, and remediation, measures have been sequentially applied; and (b) achieve no net loss, and preferably a net gain, in the extent and values of the wetland or river, where: <ul style="list-style-type: none"> (i) no net loss means that the measurable positive effects of actions match any loss of extent or values over space and time, taking into account the type and location of the wetland or river, and (ii) net gain means that the measurable positive effects of actions exceed the point of no net loss </div>
Archaeological site	<p>Has the same meaning as in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014 (as set out in the box below)</p> <div data-bbox="587 1308 1380 1776" style="border: 1px solid black; padding: 5px;"> <p>means</p> <ul style="list-style-type: none"> (a) any place in New Zealand, including any building or structure (or part of a building or structure), that— <ul style="list-style-type: none"> (i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and (ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and (b) includes a site for which a declaration is made under section 43(1) of the Heritage New Zealand Pouhere Taonga Act 2014. </div>
Attribute (in relation to freshwater)	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="587 1870 1364 1980" style="border: 1px solid black; padding: 5px;"> <p>means a measurable characteristic (numeric, narrative, or both) that can be used to assess the extent to which a particular value is provided for</p> </div>

Term	Definition
Bed	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 331 1382 1294" style="border: 1px solid black; padding: 5px;"> <p>means,—</p> <p>(a) in relation to any river—</p> <p style="padding-left: 20px;">(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the river cover at its annual fullest flow without overtopping its banks:</p> <p style="padding-left: 20px;">(ii) in all other cases, the space of land which the waters of the river cover at its fullest flow without overtopping its banks; and</p> <p>(b) in relation to any lake, except a lake controlled by artificial means,—</p> <p style="padding-left: 20px;">(i) for the purposes of esplanade reserves, esplanade strips, and subdivision, the space of land which the waters of the lake cover at its annual highest level without exceeding its margin:</p> <p style="padding-left: 20px;">(ii) in all other cases, the space of land which the waters of the lake cover at its highest level without exceeding its margin; and</p> <p>(c) in relation to any lake controlled by artificial means, the space of land which the waters of the lake cover at its maximum permitted operating level; and</p> <p>(d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea</p> </div>
Biodiversity	see <i>biological diversity</i>
Biological diversity	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1447 1382 1563" style="border: 1px solid black; padding: 5px;"> <p>means the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems</p> </div>
Biodiversity compensation	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="592 1648 1382 1868" style="border: 1px solid black; padding: 5px;"> <p>means a conservation outcome that meets the requirements in Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied</p> </div>

Term	Definition
Biodiversity offset	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="592 322 1374 667" style="border: 1px solid black; padding: 5px;"> <p>means a measurable conservation outcome that meets the requirements in Appendix 3 and results from actions that are intended to:</p> <ul style="list-style-type: none"> (a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and (b) achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost. </div>
Building	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 752 1374 999" style="border: 1px solid black; padding: 5px;"> <p>means a temporary or permanent movable or immovable physical construction that is:</p> <ul style="list-style-type: none"> (a) partially or fully roofed; and (b) fixed or located on or in land; <p>but excludes any motorised vehicle or other mode of transport that could be moved under its own power</p> </div>
Business land	<p>has the same meaning as in clause 1.3 of the National Policy Statement on Urban Development 2020 (as set out in the box below)</p> <div data-bbox="592 1102 1374 1525" style="border: 1px solid black; padding: 5px;"> <p>means land that is zoned, or identified in an FDS or similar strategy or plan, for business uses in urban environments, including but not limited to land in the following:</p> <ul style="list-style-type: none"> (a) any industrial zone (b) the commercial zone (c) the large format retail zone (d) any centre zone, to the extent it allows business uses (e) the mixed use zone, to the extent it allows business uses (f) any special purpose zone, to the extent it allows business uses </div>
Cascading hazards	<p>means where the occurrence of one natural hazard is likely to trigger another natural hazard event e.g. an earthquake triggering a landslide which dams a river causing flooding.</p>
Certified freshwater farm plan	<p>has the same meaning as section 217B of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1733 1374 1809" style="border: 1px solid black; padding: 5px;"> <p>means a freshwater farm plan certified under section 217G, as amended from time to time in accordance with section 217E(2) or (3)</p> </div>

Term	Definition
Climate change	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 331 1382 479" style="border: 1px solid black; padding: 5px;"> <p>means a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods</p> </div>
Climate change adaptation	<p>means the process of adjustment to actual or expected climate and its effects</p>
Climate change mitigation	<p>means a human intervention to reduce the sources of, or enhance the sinks of <i>greenhouse gases</i></p>
Coastal hazard	<p>means a subset of <i>natural hazards</i> covering tidal or coastal storm inundation, rising sea level, tsunami or meteorological tsunami inundation, coastal erosion (shorelines or cliffs), rise in <i>groundwater</i> levels from storm tides and sea-level rise (plus associated liquefaction), and salinisation of surface <i>fresh waters</i> and <i>groundwater</i> aquifers</p>
Coastal marine area	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 931 1382 1361" style="border: 1px solid black; padding: 5px;"> <p>means the foreshore, seabed, and coastal water, and the air space above the water—</p> <p>(a) of which the seaward boundary is the outer limits of the territorial sea:</p> <p>(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—</p> <p style="padding-left: 20px;">(i) 1 kilometre upstream from the mouth of the river; or</p> <p style="padding-left: 20px;">(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5</p> </div>
Coastal water	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1469 1382 1653" style="border: 1px solid black; padding: 5px;"> <p>means seawater within the outer limits of the territorial sea and includes—</p> <p>(a) seawater with a substantial fresh water component; and</p> <p>(b) seawater in estuaries, fiords, inlets, harbours, or embayments</p> </div>
Commercial activity	<p>has the same meaning as in the Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 1762 1382 1877" style="border: 1px solid black; padding: 5px;"> <p>means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices)</p> </div>

Term	Definition
Commercial port activity	<p>means commercial shipping operations associated with the Otago Harbour and the activities carried out at the ports at Port Chalmers and Dunedin, (including the wharf at Ravensbourne) which include:</p> <ul style="list-style-type: none"> (a) Operation of commercial ships in Otago Harbour; (b) Loading and unloading of goods and passengers carried by sea (except for loading and unloading of passengers at Ravensbourne); (c) Facilities for the storage of goods carried by sea (except at Ravensbourne); (d) Buildings, installations, other structures or equipment at or adjacent to a port and used in connection with the ports' operation or administration (except at Ravensbourne); (e) Structures, facilities and pipelines for fuel storage, and refuelling of ships; (f) Provision, maintenance and development of shipping channels and swing basins; (g) Disposal of dredged materials at A0 Heyward Point, Aramoana and Shelly Beach referred to at MAP2; (h) Installation and maintenance of beacons and markers for navigation safety; and (i) Provision and maintenance of the mole at Aramoana.
Competitiveness margin	<p>has the same meaning as in clause 3.22 of the National Policy Statement on Urban Development 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means a margin of development capacity, over and above the expected demand that tier 1 and tier 2 local authorities are required to provide, that is required in order to support choice and competitiveness in housing and business land markets</p> </div>
Contaminant	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—</p> <ul style="list-style-type: none"> (a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or (b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged </div>
Contaminated land	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means land that has a hazardous substance in or on it that—</p> <ul style="list-style-type: none"> (a) has significant adverse effects on the environment; or (b) is reasonably likely to have significant adverse effects on the environment </div>

Term	Definition
Critical buildings	<p>for the purposes of the consequence table within APP6, these are buildings which have a post-disaster function. These include:</p> <ul style="list-style-type: none"> (a) Buildings and facilities designed as essential facilities; (b) Buildings and facilities with special post-disaster function; (c) Medical emergency or surgical facilities; (d) Emergency service facilities such as fire and police stations; (e) Designated emergency shelters; (f) Designated emergency centres and ancillary facilities; and (g) Buildings and facilities containing hazardous materials capable of causing hazardous conditions that extends beyond the property boundaries.
Degraded (in relation to freshwater)	<p>where it is used in the <i>LF – Land and freshwater</i> chapter, has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px;"> <p>in relation to an FMU or part of an FMU, means that as a result of something other than a naturally occurring process:</p> <ul style="list-style-type: none"> (a) a site or sites in the FMU or part of the FMU to which a target attribute state applies: <ul style="list-style-type: none"> (i) is below a national bottom line; or (ii) is not achieving or is not likely to achieve a target attribute state; or (b) the FMU or part of the FMU is not achieving or is not likely to achieve an environmental flow and level set for it; or (c) the FMU or part of the FMU is less able (when compared to 7 September 2017) to provide for any value described in Appendix 1A or any other value identified for it under the NOF </div>
Depositional landform	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below);</p> <div style="border: 1px solid black; padding: 5px;"> <p>means a landform that is alluvial (matter deposited by water, (eg, fans, river flats, and terraces), colluvial (matter deposited by gravity at the base of hillslopes, (eg, talus), or glacial (matter deposited by glaciers, (eg, moraines and outwash).</p> </div>
Development capacity	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Urban Development 2020 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 5px;"> <p>means the capacity of the land to be developed for housing or for business use, based on:</p> <ul style="list-style-type: none"> (a) the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and (b) the provision of adequate development infrastructure to support the development of land for housing or business use </div>

Term	Definition
Development infrastructure	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Urban Development 2020 (as set out in the box below)</p> <div data-bbox="588 331 1382 622" style="border: 1px solid black; padding: 5px;"> <p>means the following, to the extent that they are controlled by a local authority or council controlled organisation (as defined in section 6 of the Local Government Act 2002):</p> <p>(a) network infrastructure for water supply, wastewater, or stormwater</p> <p>(b) land transport (as defined in section 5 of the Land Transport Management Act 2003)</p> </div>
Discharge	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="588 725 1382 770" style="border: 1px solid black; padding: 5px;"> <p>includes emit, deposit, and allow to escape</p> </div>
Distribution network	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (as set out in the box below)</p> <div data-bbox="588 909 1382 1111" style="border: 1px solid black; padding: 5px;"> <p>(a) means lines and associated equipment that are used for conveying electricity and are operated by a business engaged in the distribution of electricity; but</p> <p>(b) does not include lines and associated equipment that are part of the national grid</p> </div>
District plan	<p>has the same meaning as in section 43AA of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="588 1211 1382 1375" style="border: 1px solid black; padding: 5px;"> <p>(a) means an operative plan approved by a territorial authority under Schedule 1; and</p> <p>(b) includes all operative changes to the plan (whether arising from a review or otherwise)</p> </div>
Drinking water	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="588 1491 1382 1603" style="border: 1px solid black; padding: 5px;"> <p>means water intended to be used for human consumption; and includes water intended to be used for food preparation, utensil washing, and oral or other personal hygiene</p> </div>
Dwelling	<p>has the same meaning as that given for dwellinghouse in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="588 1715 1382 1895" style="border: 1px solid black; padding: 5px;"> <p>means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited</p> </div>

Term	Definition
Earthworks	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 331 1382 510" style="border: 1px solid black; padding: 5px;"> <p>means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts</p> </div>
Ecological district	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023, adapted to apply to the Otago context (as set out in the box below):</p> <div data-bbox="592 656 1382 768" style="border: 1px solid black; padding: 5px;"> <p>means: the ecological districts as shown in McEwen, W Mary (ed), 1987. <i>Ecological regions and districts of New Zealand</i>. Wellington: Department of Conservation.</p> </div>
Ecosystem function	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below):</p> <div data-bbox="592 880 1382 947" style="border: 1px solid black; padding: 5px;"> <p>means the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem</p> </div>
Effect	<p>has the same meaning as in section 3 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1059 1382 1619" style="border: 1px solid black; padding: 5px;"> <p>In this Act, unless the context otherwise requires, the term effect includes—</p> <ul style="list-style-type: none"> (a) any positive or adverse effect; and (b) any temporary or permanent effect; and (c) any past, present, or future effect; and (d) any cumulative effect which arises over time or in combination with other effects— <p>regardless of the scale, intensity, duration, or frequency of the effect, and also includes—</p> <ul style="list-style-type: none"> (e) any potential effect of high probability; and (f) any potential effect of low probability which has a high potential impact </div>
Effects management hierarchy (in relation to natural inland wetlands and rivers)	<p>has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 1715 1382 1995" style="border: 1px solid black; padding: 5px;"> <p>in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:</p> <ul style="list-style-type: none"> (a) adverse effects are avoided where practicable, (b) where adverse effects cannot be avoided, they are minimised where practicable, </div>

Term	Definition
	<ul style="list-style-type: none"> (c) where adverse effects cannot be minimised, they are remedied where practicable, (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided, and (e) if aquatic compensation is not appropriate, the activity itself is avoided
Effects management hierarchy (in relation to indigenous biodiversity)	<p>means an approach to managing the adverse effects of an activity of <i>indigenous biodiversity</i> that requires that:</p> <div style="border: 1px solid black; padding: 10px;"> <ul style="list-style-type: none"> (a) adverse effects are avoided where practicable; then (b) where adverse effects cannot be avoided, they are minimised where practicable; then (c) where adverse effects cannot be minimised, they are remedied where practicable; then (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, <i>biodiversity offsetting</i> is provided where possible; then (e) where <i>biodiversity offsetting</i> of more than minor residual adverse effects is not possible, <i>biodiversity compensation</i> is provided; then (f) if <i>biodiversity compensation</i> is not appropriate, the activity itself is avoided, unless the activity is <i>regionally significant infrastructure</i> and <i>nationally significant infrastructure</i> that is either <i>renewable electricity generation</i> or the <i>National Grid</i> then: (g) if compensation is not appropriate to address any residual adverse effects: <ul style="list-style-type: none"> (i) the activity must be avoided if the residual adverse effects are significant; but (ii) if the residual adverse effects are not significant, the activity must be enabled if the national significance and benefits of the activity outweigh the residual adverse effects. </div>
Electricity sub-transmission infrastructure	<p>means electricity infrastructure which conveys electricity between energy generation sources, the National Grid and zone substations and between zone substations.</p>

Term	Definition
Environment	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 331 1382 692" style="border: 1px solid black; padding: 5px;"> <p>includes—</p> <ul style="list-style-type: none"> (a) ecosystems and their constituent parts, including people and communities; and (b) all natural and physical resources; and (c) amenity values; and (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters </div>
Environmental outcome	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="587 790 1382 902" style="border: 1px solid black; padding: 5px;"> <p>means, in relation to a value that applies to an FMU or part of an FMU, a desired outcome that a regional council identifies and then includes as an objective in its regional plan(s)</p> </div>
Esplanade reserve	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 999 1366 1368" style="border: 1px solid black; padding: 5px;"> <p>means a reserve within the meaning of the Reserves Act 1977—</p> <ul style="list-style-type: none"> (a) which is either— <ul style="list-style-type: none"> (i) a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or (ii) a reserve vested in the Crown or a regional council under section 237D; and (b) which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229 </div>
Esplanade strip	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 1473 1382 1585" style="border: 1px solid black; padding: 5px;"> <p>means a strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229</p> </div>
Exceedance	<p>has the same meaning as in regulation 13 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (as set out in the box below)</p> <div data-bbox="587 1731 1382 1809" style="border: 1px solid black; padding: 5px;"> <p>for a contaminant, means an instance where the contaminant exceeds its threshold concentration in an airshed</p> </div>
Existing, for a heat device (for the interpretation of EIT-EN-P5)	<p>has the same meaning as in section 3 of the Resource Management (National Environment Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023 (as set out in the box below)</p> <div data-bbox="587 1951 1382 2024" style="border: 1px solid black; padding: 5px;"> <p>(a) means a device that, before 27 July 2023, is installed and operational, or able to be operated, at a site; and</p> </div>

Term	Definition
	<p>(b) includes a device described in paragraph (a) after it is upgraded or improved; but</p> <p>(c) does not include a device that, on or after 27 July 2023, is installed in replacement of a device described in paragraph (a)</p>
Exotic pasture species	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="592 528 1382 607" style="border: 1px solid black; padding: 5px;"> <p>means a pasture species identified in the National List of Exotic Pasture Species (see clause 1.8)</p> </div>
Food and fibre production	<p>means the primary sector production industries (other than mining) including Arable, Dairy, Forestry and Wood Processing, Horticulture (including vegetables, viticulture and winemaking), Pork, Poultry, Bees, Red Meat and Wool (Sheep, Beef and Deer), Seafood and Cross-Sector and the related processing industries.</p> <p>Note: This definition is intended to describe the suite of activities that occur throughout Otago from a rural land use perspective and is not intended to prioritise one primary sector production industry over another.</p>
Fossil fuel	<p>has the same meaning as in section 3 of the Resource Management (National Environment Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023 (as set out in the box below)</p> <div data-bbox="592 1066 1374 1431" style="border: 1px solid black; padding: 5px;"> <p>(a) means any carbon-based fuel sourced from fossil hydrocarbon deposits; and</p> <p>(b) includes—</p> <p style="padding-left: 20px;">(i) coal, coke, diesel, liquid petroleum gas, natural gas, oil, peat, plastics, and used oil; and</p> <p style="padding-left: 20px;">(ii) any fuel wholly or partly derived from a fuel described in paragraph (a), including tyres used as fuel; but</p> <p>(c) does not include biomass or biogas</p> </div>
Freshwater or fresh water	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1525 1382 1570" style="border: 1px solid black; padding: 5px;"> <p>means all water except coastal water and geothermal water</p> </div>
Freshwater management unit or FMU	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 1671 1382 1883" style="border: 1px solid black; padding: 5px;"> <p>means all or any part of a water body or water bodies, and their related catchments, that a regional council determines under clause 3.8 is an appropriate unit for freshwater management and accounting purposes; and part of an FMU means any part of an FMU including, but not limited to, a specific site, river reach, water body, or part of a water body</p> </div>

Term	Definition
Functional need	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 331 1382 443" style="border: 1px solid black; padding: 5px;"> <p>means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment</p> </div>
Future development strategy	<p>has the same meaning as in the National Policy Statement for Urban Development 2020 (as set out in the box below)</p> <div data-bbox="592 546 1382 624" style="border: 1px solid black; padding: 5px;"> <p>means the Future Development Strategy required by subpart 4 of Part 3</p> </div>
Greenhouse gas	<p>has the same meaning as in section 4(1) of the Climate Change Response Act 2002 (as set in in the box below)</p> <div data-bbox="592 725 1366 1043" style="border: 1px solid black; padding: 5px;"> <p>means—</p> <ul style="list-style-type: none"> (a) carbon dioxide (CO₂): (b) methane (CH₄): (c) nitrous oxide (N₂O): (d) any hydrofluorocarbon: (e) any perfluorocarbon: (f) sulphur hexafluoride (SF₆) </div>
Greywater	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 1151 1366 1263" style="border: 1px solid black; padding: 5px;"> <p>means liquid waste from domestic sources including sinks, basins, baths, showers and similar fixtures, but does not include <i>sewage</i>, or <i>industrial and trade waste</i>.</p> </div>
Groundwater	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 1361 1366 1440" style="border: 1px solid black; padding: 5px;"> <p>means water occupying openings, cavities, or spaces in soils or rocks beneath the surface of the ground</p> </div>
Habitat (in relation to indigenous biodiversity)	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below);</p> <div data-bbox="592 1547 1366 1727" style="border: 1px solid black; padding: 5px;"> <p>means the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern; but does not include built structures or an area or environment where an organism is present only fleetingly.</p> </div>

Term	Definition
Hard protection structure	<p>within the coastal environment, has the same meaning as in the Glossary of the New Zealand Coastal Policy Statement 2010 (as set out in the box below)</p> <div data-bbox="592 365 1377 510" style="border: 1px solid black; padding: 5px;"> <p>includes a seawall, rock revetment, groyne, breakwater, stop bank, retaining wall or comparable structure or modification to the seabed, foreshore or coastal land that has the primary purpose or effect of protecting an activity from a coastal hazard, including erosion</p> </div> <p>and</p> <p>outside the coastal environment, means any kind of structure which is specifically established for the purpose of natural hazard risk mitigation, including dams, weirs, stopbanks, carriageways, groynes, reservoirs and rip rap.</p>
Heat device	<p>has the same meaning as in section 3 of the Resource Management (National Environment Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023 (as set out in the box below)</p> <div data-bbox="592 846 1377 1223" style="border: 1px solid black; padding: 5px;"> <p>(a) means a device that produces <i>industrial process heat</i> (for example, a boiler, furnace, engine, or other combustion device); but</p> <p>(b) does not include a device used for the primary purpose of—</p> <p style="margin-left: 20px;">(i) generating electricity, including a generator used for back-up electricity or for maintaining the electricity network; or</p> <p style="margin-left: 20px;">(ii) transmitting electricity, including in mobile and fixed substations</p> </div>
Highly mobile fauna area	<p>has the same meaning as in the Interpretation in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="592 1323 1377 1402" style="border: 1px solid black; padding: 5px;"> <p>means an area outside an <i>SNA</i> that is an area used intermittently by <i>specified highly mobile fauna</i></p> </div>
Highly productive land	<p>has the same meaning as in clause 1.3 of the National Policy Statement for Highly Productive Land (as set out in the box below)</p> <div data-bbox="592 1514 1377 1727" style="border: 1px solid black; padding: 5px;"> <p>means <i>land</i> that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when <i>land</i> is rezoned and therefore ceases to be highly productive land</p> </div>

Term	Definition
Historic heritage	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 331 1382 1066" style="border: 1px solid black; padding: 5px;"> <p>(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:</p> <ul style="list-style-type: none"> (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and <p>(b) includes—</p> <ul style="list-style-type: none"> (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with the natural and physical resources </div>
Housing and Business Development Capacity Assessment	<p>has the same meaning as in the National Policy Statement for Urban Development Capacity 2020 (as set out in the box below)</p> <div data-bbox="592 1160 1366 1238" style="border: 1px solid black; padding: 5px;"> <p>means the Housing and Business Development Capacity Assessment (HBA) required by subpart 5 of Part 3</p> </div>
Identified for future urban development	<p>has the same meaning as in clause 1.3 of the National Policy Statement for Highly Productive Land (as set out in the box below)</p> <div data-bbox="592 1350 1382 1727" style="border: 1px solid black; padding: 5px;"> <p>(a) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or</p> <p>(b) identified:</p> <ul style="list-style-type: none"> (i) in a strategic planning document as an area suitable for commencing urban development over the next 10 years; and (ii) at a level of detail that makes the boundaries of the area identifiable in practice </div>
Improved pasture	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below):</p> <div data-bbox="592 1821 1366 1962" style="border: 1px solid black; padding: 5px;"> <p>means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.</p> </div>

Term	Definition
Indigenous biodiversity	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="592 331 1366 443" style="border: 1px solid black; padding: 5px;"> <p>means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their <i>habitats</i>.</p> </div>
Indigenous vegetation	<p>means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district⁷ or freshwater or marine bioregion in which that area is located</p>
Indigenous species (in relation to the ECO chapter)	<p>means species that occur naturally in Otago.</p>
Industrial activities	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 723 1377 869" style="border: 1px solid black; padding: 5px;"> <p>means an activity that manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed, or partly processed materials) or goods. It includes any ancillary activity to the industrial activity</p> </div>
Industrial and trade waste	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 981 1382 1126" style="border: 1px solid black; padding: 5px;"> <p>means liquid <i>waste</i>, with or without matter in suspension, from the receipt, manufacture or processing of materials as part of a commercial, industrial or trade process, but excludes <i>sewage</i> and greywater.</p> </div>
Industrial process heat	<p>has the same meaning as in section 3 of the Resource Management (National Environment Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023 (as set out in the box below)</p> <div data-bbox="592 1272 1382 1615" style="border: 1px solid black; padding: 5px;"> <p>(a) means thermal energy that is used—</p> <ul style="list-style-type: none"> (i) in industrial processes, including in manufacturing and in the processing of raw materials; or (ii) to grow plants or other photosynthesising organisms indoors; but <p>(b) does not include thermal energy used in the warming of spaces for people’s comfort (for example, heating of commercial offices)</p> </div>

⁷ McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation

Term	Definition
Infrastructure	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div style="border: 1px solid black; padding: 10px;"> <p>means—</p> <ul style="list-style-type: none"> (a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy: (b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001: (c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989: (d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person— <ul style="list-style-type: none"> (i) uses them in connection with the generation of electricity for the person’s use; and (ii) does not use them to generate any electricity for supply to any other person: (e) a water supply distribution system, including a system for irrigation: (f) a drainage or sewerage system: (g) structures for transport on land by cycleways, rail, roads, walkways, or any other means: (h) facilities for the loading or unloading of cargo or passengers transported on land by any means: (i) an airport as defined in section 2 of the Airport Authorities Act 1966: (j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990: (k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988: (l) anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166 </div>

Term	Definition
Intrinsic values	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 331 1382 584" style="border: 1px solid black; padding: 5px;"> <p>In relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including –</p> <ul style="list-style-type: none"> (a) their biological and genetic diversity; and (b) the essential characteristics that determine an ecosystem’s integrity, form, functioning and resilience </div>
Kāika	means a settlement of Kāi Tahu or their tūpuna.
Kaitiakitanga or kaitiakitaka	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 725 1362 853" style="border: 1px solid black; padding: 5px;"> <p>means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship</p> </div>
Lake	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 958 1382 1037" style="border: 1px solid black; padding: 5px;"> <p>means a body of fresh water which is entirely or nearly surrounded by land</p> </div>
Land	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 1144 1382 1467" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> (a) includes land covered by water and the airspace above land; and (b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and (c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river </div>
Land-based primary production	<p>has the same meaning as in clause 1.3 of the National Policy Statement for Highly Productive Land 2022 (as set out in the box below)</p> <div data-bbox="587 1570 1382 1648" style="border: 1px solid black; padding: 5px;"> <p>means production, from agricultural, pastoral, horticulture, or forestry activities, that is reliant on the soil resource of the <i>land</i></p> </div>
Landfill	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="587 1742 1382 1821" style="border: 1px solid black; padding: 5px;"> <p>means an area used for, or previously used for, the disposal of solid waste. It excludes cleanfill areas</p> </div>
Lifeline utilities	means utilities provided by those entities listed in Schedule 1 of the Civil Defence Emergency Management Act 2002
Limit	In the LF – Land and Freshwater chapter, has the same meaning defined in the NPSFM, and elsewhere, “limit” has its natural and ordinary meaning

Term	Definition
Limit (in relation to freshwater)	<p>has the same meaning as in clause 1.4(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 331 1382 371" style="border: 1px solid black; padding: 2px;"> <p>means either a limit on resource use or a take limit</p> </div>
Local authority	<p>has the same meaning as in section 5 of the Local Government Act 2002 (as set out in the box below)</p> <div data-bbox="592 488 1382 528" style="border: 1px solid black; padding: 2px;"> <p>means a regional council or <i>territorial authority</i></p> </div>
LUC 1, 2, or 3 land	<p>has the same meaning as in clause 1.3 of the National Policy Statement for Highly Productive Land (as set out in the box below)</p> <div data-bbox="592 645 1382 752" style="border: 1px solid black; padding: 2px;"> <p>means <i>land</i> identified as Land Use Capability Class 1, 2, or 3, as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification</p> </div>
Mahika kai	<p>means gathering of food and natural materials by Kāi Tahu whānui in accordance with tikaka, the places where those resources are gathered, and the work, methods and cultural activities involved in obtaining them</p>
Maintenance of improved pasture	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below):</p> <div data-bbox="592 1025 1382 1200" style="border: 1px solid black; padding: 2px;"> <p>includes the removal of indigenous vegetation for the purpose of maintaining the improved pasture, whether the removal is by way of cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of exotic pasture species, mob stocking, or making changes to soils, hydrology, or landforms.</p> </div>
Maintenance of indigenous biodiversity	<p>has the same meaning as in the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below):</p> <div data-bbox="592 1317 1382 1984" style="border: 1px solid black; padding: 2px;"> <p>means:</p> <ul style="list-style-type: none"> (a) the maintenance and at least no overall reduction of all the following: <ul style="list-style-type: none"> (i) the size of populations of <i>indigenous</i> species: (ii) indigenous species occupancy across their natural range: (iii) the properties and function of ecosystems and <i>habitats</i> used or occupied by <i>indigenous biodiversity</i>: (iv) the full range and extent of ecosystems and <i>habitats</i> used or occupied by <i>indigenous biodiversity</i>: (v) connectivity between, and buffering around, ecosystems used or occupied by <i>indigenous biodiversity</i>: (vi) the resilience and adaptability of ecosystems; and (b) where necessary, the restoration and enhancement of ecosystems and <i>habitats</i>. </div>

Term	Definition
Māori land	<p>for the purposes of this RPS, means land within the region that is:</p> <ol style="list-style-type: none"> (1) owned by Te Rūnanga o Ngāi Tahu or its constituent papatipu rūnaka and to be used for the purpose of: <ol style="list-style-type: none"> (a) locating papakāika development away from land that is either at risk from natural hazards, including climate change effects such as sea level rise, or is otherwise unsuitable for papakāika development, (b) extending the area of an existing papakāika development, (2) Māori communal land gazetted as Māori reservation under s338 Te Ture Whenua Māori Act 1993, (3) Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Māori Act 1993, (4) former Māori land or general land owned by Māori (as those terms are defined in Te Ture Whenua Māori Act 1993) that has at any time been acquired by the Crown or any local or public body for a public work or other public purpose, and has been subsequently returned to its former Kāi Tahu owners or their successors and remains in their ownership, (5) general land owned by Māori (as defined in Te Ture Whenua Māori Act 1993) that was previously Māori freehold land, has ceased to have that status under an order of the Māori Land Court made on or after 1 July 1993 or under Part 1 of the Māori Affairs Amendment Act 1967 on or after 1 April 1968, that is in the ownership of Kāi Tahu whānui, (6) vested in a Trust or Māori incorporation under Te Ture Whenua Māori Act 1993, (7) held or claimed (whether as an entitlement, part of an ancillary claim, or because it was transferred or vested) either, <ol style="list-style-type: none"> (a) as part of redress for the settlement of Treaty of Waitangi claims, or (b) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed (as those terms are defined under the Urban Development Act 2020), or (c) as SILNA lands, (8) owned by a person or persons with documentary evidence of Kāi Tahu whakapapa connection to the land, where that evidence is provided by either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit.
Mana whenua	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below) and in this RPS also refers to the people who hold customary authority</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>means customary authority exercised by an iwi or hapu in an identified area</p> </div>

Term	Definition
Mineral	<p>has the same meaning as in section 2(1) of the Crown Minerals Act 1991 (as set out in the box below)</p> <div data-bbox="592 331 1382 512" style="border: 1px solid black; padding: 5px;"> <p>means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945</p> </div>
Mixing zone	<p>has the same meaning as in the Glossary of the New Zealand Coastal Policy Statement 2010 (as set out in the box below)</p> <div data-bbox="592 618 1382 730" style="border: 1px solid black; padding: 5px;"> <p>the area within which 'reasonable mixing' of contaminants from discharges occurs in receiving waters and within which the relevant water quality standards do not apply</p> </div>
National grid	<p>has the same meaning as in the Interpretation section of the National Policy Statement on Electricity Transmission 2008 (as set out in the box below)</p> <div data-bbox="592 842 1382 882" style="border: 1px solid black; padding: 5px;"> <p>means the assets used or owned by Transpower New Zealand</p> </div>
National Objectives Framework	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 1016 1382 1095" style="border: 1px solid black; padding: 5px;"> <p>means the framework for managing freshwater as described in subpart 2 of Part 3</p> </div>
Nationally significant infrastructure	<p>has, to the extent applicable to the Otago Region, the same meaning as in clause 1.4(1) of the National Policy Statement for Urban Development 2020 (as set out in the box below):</p> <div data-bbox="592 1234 1382 2007" style="border: 1px solid black; padding: 5px;"> <p>means all of the following:</p> <ul style="list-style-type: none"> (a) State highways (b) the national grid electricity transmission network (c) renewable electricity generation facilities that connect with the national grid (d) the high-pressure gas transmission pipeline network operating in the North Island (e) the refinery pipeline between Marsden Point and Wiri (f) the New Zealand rail network (including light rail) (g) rapid transit services (as defined in this clause) (h) any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers (i) the port facilities (but not the facilities of any ancillary commercial activities) of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002 </div>

Term	Definition
Natural and physical resources	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 331 1382 443" style="border: 1px solid black; padding: 5px;"> <p>includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures</p> </div>
Natural hazard	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 544 1382 723" style="border: 1px solid black; padding: 5px;"> <p>means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment</p> </div>
Natural hazard works	<p>has the same meaning as in regulation 51(1) of the National Environmental Standard for Freshwater 2020 (as set out in the box below)</p> <div data-bbox="592 864 1382 1077" style="border: 1px solid black; padding: 5px;"> <p>means works for the purpose of removing material, such as trees, debris, and sediment, that—</p> <ul style="list-style-type: none"> (a) is deposited as the result of a natural hazard, and (b) is causing, or is likely to cause, an immediate hazard to people or property </div>
Naturally rare	<p>has the same meaning as in the Glossary of the New Zealand Coastal Policy Statement 2010 (as set out in the box below)</p> <div data-bbox="592 1182 1382 1227" style="border: 1px solid black; padding: 5px;"> <p>originally rare: Rare before the arrival of humans in New Zealand</p> </div>
New, for a heat device (for the interpretation of EIT-EN-P5)	<p>has the same meaning as in section 3 of the Resource Management (National Environment Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023 (as set out in the box below)</p> <div data-bbox="592 1361 1382 1406" style="border: 1px solid black; padding: 5px;"> <p>means not <i>existing</i></p> </div>
Nohoaka or nohoanga	<p>means a site occupied by Kāi Tahu on a seasonal and temporary basis for mahika kai or other customary purposes.</p>
Occupancy	<p>means, in relation to measuring indigenous biodiversity, the number of units per area occupied by a species or taxa</p>
Operational need	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 1688 1382 1800" style="border: 1px solid black; padding: 5px;"> <p>means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints</p> </div>
Outstanding water body	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 1912 1382 2024" style="border: 1px solid black; padding: 5px;"> <p>means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values</p> </div>

Term	Definition
Over-allocation, or over-allocated	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 331 1382 638" style="border: 1px solid black; padding: 5px;"> <p>in relation to both the quantity and quality of freshwater, means the situation where:</p> <ul style="list-style-type: none"> (a) resource use exceeds a limit; (b) if limits have not been set, an FMU or part of an FMU is degraded or degrading; or (c) an FMU or part of an FMU is not achieving an environmental flow or level set for it under clause 3.16 </div>
Papakāika	<p>means <i>subdivision</i>, use and development by <i>mana whenua</i> of <i>Māori land</i> and associated resources to provide for themselves in general accordance with tikaka Māori for their cultural and traditional purposes, which may include cultural, social, housing, educational, recreational, environmental or home occupation purposes.</p>
Pest	<p>has the same meaning as in section 2 of the Biosecurity Act 1993 (as set out in the box below)</p> <div data-bbox="592 902 1382 947" style="border: 1px solid black; padding: 5px;"> <p>means an organism specified as a pest in a pest management plan</p> </div>
Plantation forestry	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (as set out in the box below)</p> <div data-bbox="592 1084 1382 1854" style="border: 1px solid black; padding: 5px;"> <p>means a forest deliberately established for commercial purposes, being—</p> <ul style="list-style-type: none"> (a) at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and (b) includes all associated forestry infrastructure; but (c) does not include— <ul style="list-style-type: none"> (i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or (ii) forest species in urban areas; or (iii) nurseries and seed orchards; or (iv) trees grown for fruit or nuts; or (v) long-term ecological restoration planting of forest species; or (vi) willows and poplars space planted for soil conservation purposes </div>

Term	Definition
PM₁₀	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (as set out in the box below)</p> <div data-bbox="588 360 1382 651" style="border: 1px solid black; padding: 5px;"> <p>means particulate matter that is—</p> <ul style="list-style-type: none"> (a) less than 10 micrometres in aerodynamic diameter; and (b) measured in accordance with the United States Code of Federal Regulations, Title 40—Protection of Environment, Volume 2, Part 50, Appendix J — Reference method for the determination of particulate matter as PM₁₀ in the atmosphere </div>
PM_{2.5}	<p>means particulate matter that is less than 2.5 micrometres in aerodynamic diameter.</p>
Polluted airshed	<p>has the same meaning as in regulation 17(4) of the National Environmental Standards for Air Quality 2004 (as set out in the box below)</p> <div data-bbox="588 842 1382 1290" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> (a) an airshed becomes a polluted airshed on and from 1 September 2012 or any later day if, for the immediately prior 5-year period— <ul style="list-style-type: none"> (i) the airshed has meaningful PM₁₀ data for at least a 12-month period; and (ii) the airshed’s average exceedances of PM₁₀ (as calculated under regulation 16D) was more than 1 per year; and (b) an airshed stops being a polluted airshed on and from any day if the PM₁₀ standard was not breached in the airshed in the immediately prior 5-year period </div>
Primary production	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="588 1395 1382 1827" style="border: 1px solid black; padding: 5px;"> <p>means:</p> <ul style="list-style-type: none"> (a) an aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and (b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a); (c) includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but (d) excludes further processing of those commodities into a different product </div>

Term	Definition
Productive capacity	<p>has the same meaning as in clause 1.3 of the National Policy Statement for Highly Productive Land (as set out in the box below)</p> <div data-bbox="592 331 1382 674" style="border: 1px solid black; padding: 5px;"> <p>in relation to <i>land</i>, means the ability of the <i>land</i> to support land-based <i>primary production</i> over the long term, based on an assessment of:</p> <ul style="list-style-type: none"> (a) physical characteristics (such as soil type, properties, and versatility); and (b) legal constraints (such as consent notices, <i>local authority</i> covenants, and easements); and (c) the size and shape of existing and proposed <i>land</i> parcels </div>
Public transport	<p>has the same meaning as in clause 1.4 of the National Policy Statement for Urban Development 2020 (as set out in the box below)</p> <div data-bbox="592 775 1382 1077" style="border: 1px solid black; padding: 5px;"> <p>means any existing or planned service for the carriage of passengers (other than an aeroplane) that is available to the public generally by means of:</p> <ul style="list-style-type: none"> (a) a vehicle designed or adapted to carry more than 12 persons (including the driver), or (b) a rail vehicle, or (c) a ferry </div>
Receiving environment (in relation to <i>freshwater and the coastal marine area</i>)	<p>has the same meaning as in in clause 1.4 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="592 1178 1382 1256" style="border: 1px solid black; padding: 5px;"> <p>includes, but is not limited to, any water body (such as a river, lake, wetland or aquifer) and the coastal marine area (including estuaries)</p> </div>
Reclamation	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 1357 1382 1637" style="border: 1px solid black; padding: 5px;"> <p>means the manmade formation of permanent dry land by the positioning of material into or onto any part of a waterbody, bed of a lake or river or the coastal marine area, and:</p> <ul style="list-style-type: none"> (a) includes the construction of any causeway; but (b) excludes the construction of natural hazard protection structures such as seawalls, breakwaters or groynes except where the purpose of those structures is to form dry land </div>
Regional plan	<p>has the same meaning as in section 43AA of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1744 1382 1912" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> (a) means an operative plan approved by a regional council under Schedule 1 (including all operative changes to the plan (whether arising from a review or otherwise)); and (b) includes a regional coastal plan </div>
Regionally significant infrastructure	<p>means:</p> <ul style="list-style-type: none"> (1) roads which provide a lifeline connection for a community OR roads classified as being of regional importance in accordance with the

Term	Definition
	<p>One Network Framework,</p> <p>(2) electricity sub-transmission infrastructure,</p> <p>(2A) significant electricity distribution infrastructure,</p> <p>(3) renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility,</p> <p>(4) telecommunication and radiocommunication networks,</p> <p>(5) public transport, terminals and stations,</p> <p>(6) the following airports: Dunedin, Queenstown, Wānaka, Alexandra, Balclutha, Cromwell, Ōamaru, Taiari.</p> <p>(7) navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant,</p> <p>(8) defence facilities for defence purposes in accordance with the Defence Act 1990,</p> <p>(8A) established community-scale irrigation and stockwater <i>infrastructure</i>,</p> <p>(9) community drinking water abstraction, supply treatment and distribution <i>infrastructure</i> that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution <i>infrastructure</i> (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking-water supplies),</p> <p>(10) community stormwater <i>infrastructure</i>,</p> <p>(11) wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households,</p> <p>(11A) oil terminals, bulk fuel storage and supply infrastructure, and ancillary pipelines at Port Chalmers and Dunedin,</p> <p>(12) Otago Regional Council’s hazard mitigation works including flood protection infrastructure and drainage schemes,</p> <p>(13) landfills and associated solid waste sorting and transfer facilities which are designated by, or are owned or operated by a local authority,</p> <p>(14) <i>ski area infrastructure</i>, and</p> <p>(15) any <i>infrastructure</i> identified as <i>nationally significant infrastructure</i>.</p>
Renewable electricity generation	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Renewable Electricity Generation 2011 (as set out in the box below)</p> <div data-bbox="592 1563 1382 1641" style="border: 1px solid black; padding: 5px;"> <p>means generation of electricity from solar, wind, hydroelectricity, geothermal, biomass, tidal, wave, or ocean current energy sources</p> </div>
Renewable electricity generation activities	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Renewable Electricity Generation 2011 (as set out in the box below)</p> <div data-bbox="592 1787 1382 2002" style="border: 1px solid black; padding: 5px;"> <p>means the construction, operation and maintenance of structures associated with renewable electricity generation. This includes small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity</p> </div>

Term	Definition
Replanting	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (as set out in the box below)</p> <div data-bbox="592 365 1382 439" style="border: 1px solid black; padding: 5px;"> <p>means the planting and growing of plantation forestry trees on land less than 5 years after plantation forestry harvesting has occurred</p> </div>
Resilient or resilience	<p>means the capacity and ability to withstand or recover quickly from adverse conditions.</p>
Resource consent	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 636 1382 710" style="border: 1px solid black; padding: 5px;"> <p>has the meaning set out in section 87; and includes all conditions to which the consent is subject</p> </div>
Restoration (in relation to indigenous biodiversity)	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="592 833 1382 1012" style="border: 1px solid black; padding: 5px;"> <p>means the active intervention and management of modified or degraded <i>habitats</i>, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities</p> </div>
Reverse sensitivity	<p>means the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the effects of the established activity.</p>
Riprap	<p>a permanent layer or large, angular rocks, concrete or boulders typically used to armour, stabilize and protect the <i>land</i> surface and margins of <i>water bodies</i> against erosion and scour in areas of concentrated <i>water</i> flow or wave energy</p>
Risk (in relation to natural hazards)	<p>has the same meaning as in the Glossary in the New Zealand Coastal Policy Statement 2010 (as set out in the box below)</p> <div data-bbox="592 1413 1382 1561" style="border: 1px solid black; padding: 5px;"> <p>Risk is often expressed in terms of a combination of the consequences of an event (including changes in circumstances) and the associated likelihood of occurrence (AS/NZS ISO 31000:2009 <i>Risk management – Principles and guidelines</i>, November 2009)</p> </div>
River	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 1671 1382 1850" style="border: 1px solid black; padding: 5px;"> <p>means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)</p> </div>
Rural area	<p>means any area of land that is not an <i>urban area</i></p>

Term	Definition
Rural industry	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 331 1382 405" style="border: 1px solid black; padding: 5px;"> <p>means an industry or business undertaken in a rural <i>environment</i> that directly supports, services, or is dependant on <i>primary production</i></p> </div>
Sensitive activities	<p>has the same meaning as in the Interpretation section of the National Policy Statement on Electricity Transmission 2008 (as set out in the box below)</p> <div data-bbox="592 555 1382 595" style="border: 1px solid black; padding: 5px;"> <p>includes schools, residential buildings and hospitals</p> </div>
Sewage	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="592 701 1382 741" style="border: 1px solid black; padding: 5px;"> <p>means human excrement and urine</p> </div>
Ship	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 891 1382 965" style="border: 1px solid black; padding: 5px;"> <p>has the same meaning as in section 2(1) of the Maritime Transport Act 1994</p> </div>
Significant electricity distribution infrastructure	<p>means electricity infrastructure identified in a district plan which supplies:</p> <ul style="list-style-type: none"> (a) essential public services (such as hospitals and lifeline facilities); (b) other regionally significant infrastructure or individual consumers requiring supply of 1MW or more; (c) 700 or more consumers; or (d) communities that are isolated and which do not have an alternative supply in the event the line or cable is compromised and where the assets are difficult to replace in the event of failure.
Significant natural area	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (except that a reference to Appendix 2 rather than Appendix 1) as set out below:</p> <div data-bbox="592 1496 1382 1953" style="border: 1px solid black; padding: 5px;"> <p>means:</p> <ul style="list-style-type: none"> (a) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 2; and (b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an significant natural area unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna. </div>

Term	Definition
Ski area infrastructure	<p>has the same meaning as in the clause 3.21(1) of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <div data-bbox="590 331 1380 544" style="border: 1px solid black; padding: 5px;"> <p><i>infrastructure</i> necessary for the operation of a ski area and includes: transport mechanisms (such as aerial and surface lifts, roads, and tracks); facilities for the loading or unloading of passengers or goods; facilities or systems for <i>water</i>, sewerage, electricity, and gas; communications networks; and snowmaking and snow safety systems</p> </div>
Small and community scale distributed electricity generation	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Renewable Electricity Generation 2011 (as set out in the box below)</p> <div data-bbox="590 674 1380 786" style="border: 1px solid black; padding: 5px;"> <p>means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network</p> </div>
Social and cultural buildings	<p>For the purposes of the consequence table within APP6, these are buildings that are of social and cultural importance. These include:</p> <ul style="list-style-type: none"> (a) Places of worship; (b) Museums; (c) Art galleries; (d) Marae; and (e) Educational facilities
Solid fuel	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (as set out in the box below)</p> <div data-bbox="590 1151 1380 1229" style="border: 1px solid black; padding: 5px;"> <p>means a solid substance that releases useable energy when burnt (for example, wood and coal)</p> </div>
Specified highly mobile fauna	<p>has the same meaning as in the Interpretation in the National Policy Statement for Indigenous Biodiversity 2023, except that reference to Appendix 2 is amended to APP12 (as set out in the box below):</p> <div data-bbox="590 1368 1380 1447" style="border: 1px solid black; padding: 5px;"> <p>means the <i>Threatened or At Risk species</i> of highly mobile fauna that are identified in APP12.</p> </div>
Specified infrastructure (in relation to indigenous biodiversity)	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below)</p> <div data-bbox="590 1547 1380 2022" style="border: 1px solid black; padding: 5px;"> <p>means any of the following:</p> <ul style="list-style-type: none"> (a) <i>infrastructure</i> that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002); (b) regionally or nationally significant infrastructure identified as such in a National Policy Statement, the New Zealand Coastal Policy Statement, or a regional policy statement or plan; (c) <i>infrastructure</i> that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority, in an urban environment (as defined in the National Policy Statement on Urban </div>

Term	Definition
	<p>Development 2020):</p> <p>(d) any public flood control, flood protection, or drainage works carried out:</p> <p>(i) by or on behalf of local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or</p> <p>(ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908:</p> <p>(e) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990.</p>
Specified rivers and lakes	<p>has the same meaning as in Appendix 3 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below)</p> <p>means:</p> <p>(a) rivers that are fourth order or greater, using the methods outlined in the River Environment Classification System, National Institute of Water and Atmospheric Research, Version 1, and</p> <p>(b) lakes with a perimeter of 1.5km or more</p>
Stormwater	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <p>means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within</p>
Structure	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <p>means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft</p>
Structure plan	<p>means a framework to prescribe development of an area, including land use patterns, infrastructure, linkages and other key features and constraints that affect the development.</p>

Term	Definition
Subdivision	<p>has the same meaning as “subdivision of land” in section 218(1) of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 331 1378 1223" style="border: 1px solid black; padding: 5px;"> <p>means—</p> <p>(a) the division of an allotment—</p> <p style="margin-left: 20px;">(i) by an application to the Registrar-General of Land for the issue of a separate record of title for any part of the allotment; or</p> <p style="margin-left: 20px;">(ii) by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or</p> <p style="margin-left: 20px;">(iii) by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or</p> <p style="margin-left: 20px;">(iv) by the grant of a company lease or cross lease in respect of any part of the allotment; or</p> <p style="margin-left: 20px;">(v) by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate record of title for any part of a unit on a unit plan; or</p> <p>(b) an application to the Registrar-General of Land for the issue of a separate record of title in circumstances where the issue of that record of title is prohibited by section 226,—</p> <p>and the term subdivide land has a corresponding meaning</p> </div>
Surf break	<p>has the same meaning as in the Glossary in the New Zealand Coastal Policy Statement 2010 (as set out in the box below)</p> <div data-bbox="587 1317 1378 1800" style="border: 1px solid black; padding: 5px;"> <p>A natural feature that is comprised of swell, currents, water levels, seabed morphology, and wind. The hydrodynamic character of the ocean (swell, currents and water levels) combines with seabed morphology and winds to give rise to a ‘surfable wave’. A surf break includes the ‘swell corridor’ through which the swell travels, and the morphology of the seabed of that wave corridor, through to the point where waves created by the swell dissipate and become non-surfable. ‘Swell corridor’ means the region offshore of a surf break where ocean swell travels and transforms to a ‘surfable wave’.</p> <p>‘Surfable wave’ means a wave that can be caught and ridden by a surfer. Surfable waves have a wave breaking point that peels along the unbroken wave crest so that the surfer is propelled laterally along the wave crest</p> </div>
Takata whenua or tangata whenua	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="587 1895 1378 1975" style="border: 1px solid black; padding: 5px;"> <p>in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area</p> </div>

Term	Definition
Taxa	<p>has the same meaning as in the Glossary of the New Zealand Coastal Policy Statement 2010 (as set out in the box below)</p> <div data-bbox="587 331 1378 407" style="border: 1px solid black; padding: 5px;"> <p>Named biological classification units assigned to individuals or sets of species (eg species, subspecies, genus, order, variety)</p> </div>
Te Mana o te Wai	<p>has the same meaning as in clause 1.3 of the National Policy Statement for Freshwater Management 2020</p>
Territorial authority	<p>has the same meaning as in section 5 of the Local Government Act 2002 (as set out in the box below)</p> <div data-bbox="587 600 1378 676" style="border: 1px solid black; padding: 5px;"> <p>means a city council or a district council named in Part 2 of Schedule 2</p> </div>
Threatened or At Risk, and Threatened or At Risk (declining)	<p>has the same meaning as in the Interpretation section of the National Policy Statement for Indigenous Biodiversity 2023 (as set out in the box below);</p> <div data-bbox="587 779 1378 1028" style="border: 1px solid black; padding: 5px;"> <p>have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication</p> </div>
Urban area	<p>means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that is, or is intended to be, predominantly urban in character. This includes but is not limited to any land identified in District Plans as being within any urban growth boundary or equivalent however described, any residential zone, commercial and mixed use zone, industrial zone and future urban zone as listed in the National Planning Standards or its present District Plan zone equivalent. <i>Urban environments</i> are a subset of <i>urban areas</i>.</p>
Urban environment	<p>has the same meaning as in clause 1.4 of the National Policy Statement on Urban Development 2020 (as set out in the box below)</p> <div data-bbox="587 1395 1378 1644" style="border: 1px solid black; padding: 5px;"> <p>means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:</p> <ul style="list-style-type: none"> (a) is, or is intended to be, predominantly urban in character; and (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people </div>
Vulnerability	<p>means the conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards.</p>
Wāhi tūpuna	<p>means landscapes and places that embody the relationship of manawhenua and their culture and traditions with their ancestral lands, water, sites. wāhi tapu and other taoka.</p>

Term	Definition
Waste	<p>has the same meaning as in the Waste Minimisation Act 2008 (as set out in the box below)</p> <div data-bbox="590 331 1380 618" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> (a) means any thing disposed of or discarded; and (b) includes a type of <i>waste</i> that is defined by its composition or source (for example, <i>organic waste</i>, <i>electronic waste</i>, or <i>construction and demolition waste</i>); and (c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded </div>
Wastewater	<p>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</p> <div data-bbox="590 712 1380 797" style="border: 1px solid black; padding: 5px;"> <p>means any combination of two or more the following wastes: sewage, greywater or industrial and trade waste</p> </div>
Water	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="590 896 1380 1120" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> (a) means water in all its physical forms whether flowing or not and whether over or under the ground: (b) includes fresh water, coastal water, and geothermal water: (c) does not include water in any form while in any pipe, tank, or cistern </div>
Water body	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="590 1227 1380 1346" style="border: 1px solid black; padding: 5px;"> <p>means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area</p> </div>
Well-functioning urban environments	<p>has the same meaning as in Policy 1 of the National Policy Statement on Urban Development 2020 (as set out in the box below)</p> <div data-bbox="590 1440 1380 2011" style="border: 1px solid black; padding: 5px;"> <p>well-functioning urban environments are urban environments that, as a minimum:</p> <ul style="list-style-type: none"> (a) Have or enable a variety of homes that: <ul style="list-style-type: none"> (i) meet the needs, in terms of type, price, and location, of different households; and (ii) enable Māori to express their cultural traditions and norms; and (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and (d) support, and limit as much as possible adverse impacts on, </div>

Term	Definition
	<p>the competitive operation of land and development markets; and</p> <p>(e) support reductions in greenhouse gas emissions; and</p> <p>(f) are resilient to the likely current and future effects of climate change</p>
Wetland	<p>has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below)</p> <div data-bbox="592 551 1378 658" style="border: 1px solid black; padding: 5px;"> <p>includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions</p> </div>
Wetland utility structure	<p>has the same meaning as in regulation 3 of the National Environmental Standard for Freshwater 2020 (as set out in the box below)</p> <div data-bbox="592 763 1369 1294" style="border: 1px solid black; padding: 5px;"> <p>(a) means a structure placed in or adjacent to a wetland whose purpose, in relation to the wetland, is recreation, education, conservation, restoration, or monitoring, and</p> <p>(b) for example, includes the following structures that are placed in or adjacent to a wetland for a purpose described in paragraph (a):</p> <ul style="list-style-type: none"> (i) jetties (ii) boardwalks and bridges connecting them, (iii) walking tracks and bridges connecting them, (iv) signs, (v) bird-watching hides, (vi) monitoring devices, (vii) maimai </div>
Wilding conifer	<p>has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017 (as set out in the box below)</p> <div data-bbox="592 1440 1378 1547" style="border: 1px solid black; padding: 5px;"> <p>means a self-established conifer species tree resulting from seed spread from plantation forestry, shelter belts, amenity planting, or an already established wilding conifer species tree population</p> </div>

Abbreviations

Abbreviation	Full Terms
Air Plan	Regional Plan: Air for Otago
CDC	Clutha District Council
CODC	Central Otago District Council
DCC	Dunedin City Council
FMU	Freshwater Management Unit
NESAQ	National Environmental Standards for Air Quality 2004
NESCS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NESETA	National Environmental Standard for Electricity Transmission Activities 2009
NESF	National Environmental Standards for Freshwater 2020
NESPF	National Environmental Standards for Plantation Forestry 2017
NESTF	National Environmental Standards for Telecommunication Facilities 2016
NOF	National Objectives Framework
NPS	National Policy Statement
NPSET	National Policy Statement on Electricity Transmission 2008
NPSFM	National Policy Statement for Freshwater Management 2020
NPSHPL	National Policy Statement for Highly Productive Land 2022
NPSREG	National Policy Statement for Renewable Electricity Generation 2011
NPSUD	National Policy Statement on Urban Development 2020
NTCSA	Ngāi Tahu Claims Settlement Act 1998
NZCPS	New Zealand Coastal Policy Statement 2010
ORC	Otago Regional Council
QLDC	Queenstown Lakes District Council
RPS	Regional Policy Statement
RMA	Resource Management Act 1991
SNA	Significant Natural Area
Waste Plan	Regional Plan: Waste for Otago
Water Plan	Regional Plan: Water for Otago
WDC	Waitaki District Council

National direction instruments

National policy statements and New Zealand Coastal Policy Statement

National Policy Statements	
<p>National policy statements (NPSs) and the New Zealand Coastal Policy Statement (NZCPS) form part of the Resource Management Act's policy framework and are prepared by central government. NPSs and the NZCPS contain objectives, policies and methods that must be given effect to by policy statements and plans. NPSs and the NZCPS must also be given regard to by consent authorities when making decisions on <i>resource consent</i> applications, alongside other considerations.</p> <p>The following table provides an overview of whether any relevant review/s of the Otago Regional Policy Statement has been undertaken in relation to NPSs and the NZCPS.</p>	
National Policy Statement on Electricity Transmission 2008	The policy statement has been reviewed in May 2021
New Zealand Coastal Policy Statement 2010	The policy statement has been reviewed in May 2021
National Policy Statement for Renewable Electricity Generation 2011	The policy statement has been reviewed in May 2021
National Policy Statement for Freshwater Management 2020	The policy statement has been reviewed in May 2021
National Policy Statement on Urban Development (2020)	The policy statement has been reviewed in May 2021

National environmental standards

National Environmental Standards
<p>National environmental standards (NESs) are prepared by central government and can prescribe technical standards, methods (including rules) and/or other requirements for environmental matters throughout the whole country or specific areas. If an activity doesn't comply with an NES, it is likely to require a <i>resource consent</i>. NESs must be observed and enforced by <i>local authorities</i>. The following relevant NESs are currently in force:</p> <ul style="list-style-type: none"> • Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (amended 2011) • Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 • Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 • Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 • Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016

- [Resource Management \(National Environmental Standard for Commercial Forestry\) Regulations 2017](#)
- [Resource Management \(National Environmental Standards for Freshwater\) Regulations 2020](#)
- [Resource Management \(National Environmental Standards for Marine Aquaculture\) Regulations 2020](#)

Regulations

Regulations

The regulations included in this chapter come under the Resource Management Act 1991 (excluding the national environmental standards listed above). These regulations are:

- [Resource Management \(Transitional, Fees, Rents, and Royalties\) Regulations 1991](#)
- [Resource Management \(Exemption\) Regulations 1996](#)
- [Resource Management \(Marine Pollution\) Regulations 1998](#)
- [Resource Management \(Infringement Offences\) Regulations 1999](#)
- [Resource Management \(Forms, Fees, and Procedure\) Regulations 2003](#)
- [Resource Management \(Discount on Administrative Charges\) Regulations 2010](#)
- [Resource Management \(Measurement and Reporting of Water Takes\) Regulations 2010](#)
- [Resource Management \(Network Utility Operations\) Regulations 2016](#)
- [Resource Management \(Exemption\) Regulations 2017.](#)
- [Resource Management \(Stock Exclusion\) Regulations 2020](#)

Water conservation orders

Water Conservation Orders

Regional policy statements, *regional plans* and *district plans* cannot be inconsistent with the provisions of a water conservation order. A water conservation order can prohibit or restrict a regional council issuing new water and discharge permits, although it cannot affect existing permits.

The following table provides an overview of whether any relevant review/s of the Otago Regional Policy Statement have been undertaken in relation to relevant water conservation orders.

Water Conservation (Kawarau) Order 1997	The policy statement has been reviewed in May 2021
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MW – *Mana whenua*

Recognition of hapū and iwi

Kāi Tahu⁸

Kāi Tahu whānui are *takata whenua* of the Otago region. Waitaha were the first people of Te Waipounamu, the South Island. Led by Rākaihautū, they explored and settled Te Waipounamu, and their exploits are reflected in enduring place names and histories across the motu. Waitaha were followed by the arrival of Kāti Māmoe and finally Kāi Tahu. Through warfare, intermarriage and political alliances a common allegiance to Kāi Tahu was forged. Kāi Tahu means the ‘people of Tahu’, linking them by name to their common ancestor Tahu Pōtiki.

The Kāi Tahu tribal area extends from the sub Antarctic islands in the south to Te Parinuiowhiti (White Cliffs, Blenheim) in the north and to Kahurangi Point on Te Tai o Poutini (the West Coast).

Relationship of Kāi Tahu with their rohe

Te Rūnanga o Ngāi Tahu (the iwi authority) is made up of 18 papatipu rūnaka, of which seven have interests in the Otago region. Papatipu rūnaka are a focus for whānau and hapū (extended family groups) who have *mana whenua* status within their area. *Mana whenua* hold traditional customary authority and maintain contemporary relationships within an area determined by whakapapa (genealogical ties), resource use and ahikāroa (the long burning fires of occupation). Te Rūnanga o Ngāi Tahu encourages consultation with the papatipu rūnaka and takes into account the views of kā Rūnaka when determining its own position.

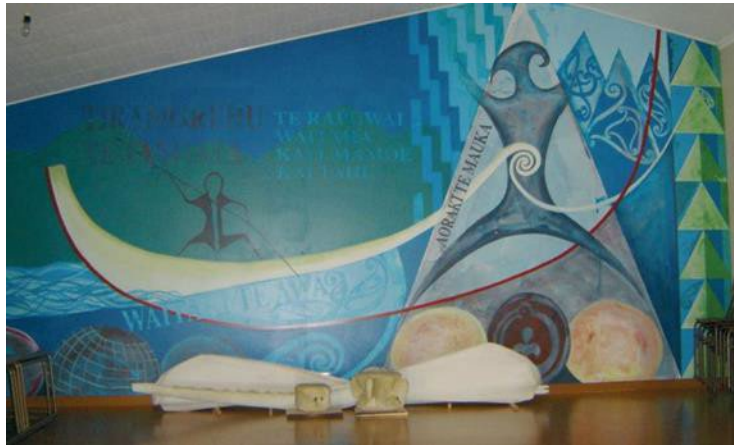
Three Kāi Tahu ki Otago papatipu rūnaka have marae based in Otago, Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou, whilst the fourth, Hokonui Rūnanga, is based in neighbouring Southland. Three Ngāi Tahu ki Murihiku Rūnaka – Awarua Rūnanga, Waihopai Rūnanga and Ōraka-Aparima Rūnanga – are based in Southland but also share interests with Kāi Tahu ki Otago in South Otago, the Mata-au Clutha River, and the inland *lakes* and mountains. The areas of shared interest originate from the seasonal hunting and gathering economy that was a distinctive feature of the southern Kāi Tahu lifestyle. Seasonal mobility was an important means by which hapū and whānau maintained customary rights to the resources of the interior and ahi kā.

Te Rūnanga o Moeraki

The takiwā of Te Rūnanga o Moeraki is centred on Moeraki and extends from the Waitaki River to the Waihemo Shag River and inland to the Main Divide. The coastal interests of Te Rūnanga o Moeraki are concentrated in the Moeraki Peninsula area and surrounds, including Te Raka-a-Hineatea Pā, Koekohe Hampden Beach, and Te Kai Hinaki with its famed boulders.

<https://www.terunangaomoeraki.org/>

⁸ In the south of the South Island, the local Māori dialect uses a 'k' interchangeably with 'ng'. The preference of Kāi Tahu ki Otago is to use a 'k' so southern Māori are known as Kāi Tahu, rather than Ngāi Tahu. In this document, the “ng” is used for the iwi in general, and the “k” for southern Māori in particular.



Te Rūnanga o Moeraki Marae, Moeraki

Kāti Huirapa ki Puketeraki

The takiwā of Kāti Huirapa ki Puketeraki centres on Karitāne and extends from the Waihemo, Shag River to Purehurehu Heyward Point, and includes an interest in Ōtepoti and the greater harbour of Ōtākou. The takiwā extends inland to the Main Divide sharing an interest in the *lakes* and mountains to Whakatipu-Waitai with kā Rūnaka to the south. The kaimoana resources of the coast from Karitāne to Okahau Blueskin Bay and Pūrākaunui, and the kai awa of the Waikōuaiti River and estuary are treasured and well utilised *mahika kai* for Kāti Huirapa ki Puketeraki.

<http://www.puketeraki.nz/>



Puketeraki Marae

Te Rūnanga o Ōtākou

The takiwā of Te Rūnanga o Ōtākou centres on Muaupoko Otago Peninsula, and extends from Pūrehurehu Heyward Point, to Te Mata-au Clutha River, and inland, sharing an interest in the *lakes* and mountains to the western coast with kā Rūnanga to the north and south. The Otago harbour has a pivotal role in the well-being of Ōtākou people. The harbour is a source of identity, a bountiful provider of kaimoana, and it is the pathway to the fishing grounds beyond. Traditionally it was the mode for other hapū to visit, and in today's world it is the lifeline to the international trade that benefits the region. The ebb and flow of the harbour tides is a valued certainty in a world of change, a taoka to be treasured and protected for the benefit of current and future generations.

<http://www.otakourunaka.co.nz/>



Ōtākou Marae, Otago Peninsula

Hokonui Rūnanga

The takiwā of Hokonui Rūnanga centres on the Hokonui region and includes a shared interest in the *lakes* and mountains between Whakatipu-Waitai and Tawhitarere with other Murihiku Rūnanga and those located from Waihemo southwards. Although Hokonui Rūnanga is based in Gore, their interests in the Otago area, especially South Otago, are significant. They hold this in common with other Otago Rūnanga through whakapapa, history and tradition.

<https://www.hokonuirunanga.org.nz/>



Hokonui Marae

Te Rūnanga o Awarua

The takiwa of Te Rūnanga o Awarua centres on Awarua and extends to the coasts and estuaries adjoining Waihopai sharing an interest in the *lakes* and mountains between Whakatipu-Waitai and Tawhitarere with other Murihiku Rūnanga and those located from Waihemo southwards.

Waihopai Rūnaka

The takiwa of Waihopai Rūnaka centres on Waihopai and extends northwards to Te Mata-au Clutha River, sharing an interest in the *lakes* and mountains to the western coast with other Murihiku Rūnaka and those located from Waihemo southwards.

Te Rūnanga o Ōraka Aparima

The takiwa of Te Rūnanga o Ōraka Aparima centres on Ōraka and extends from Waimatuku to Tawhitarere sharing an interest in the *lakes* and mountains from Whakatipu-Waitai to Tawhitarere with other Murihiku Rūnaka and those located from Waihemo southwards.

Environmental management perspectives and values of Kāi Tahu

He taura whiri kotahi mai anō te kōpunga tai nō ī te pū au

“From the source to the mouth of the sea, all things are joined together as one”

Te Tiriti o Waitangi establishes a partnership between Kāi Tahu and the Crown. The RMA requires that the relationship of Māori and their culture and traditions with their ancestral *lands, water, sites, wāhi tapu*, and other taoka, is recognised and provided for⁹ and that the principles of the Treaty of Waitangi are taken into account.¹⁰ In the spirit of this partnership and the Treaty principles, the ORPS seeks to facilitate Kāi Tahu engagement in resource management processes and decision-making in Otago.

This chapter acknowledges the principles of Te Tiriti o Waitangi and sets out general considerations for the incorporation of Kāi Tahu values and interests into resource management planning, consenting, and implementation processes. These are integrated throughout this document, and this chapter serves to tie the strands together. It reflects the philosophy embraced by Kāi Tahu of holistic resource management, *ki uta ki tai* – often described as “from the mountains to the sea”.

Kāi Tahu values

The following description is a guide to assist in understanding Kāi Tahu values. It is not a complete list of all the values held by Kāi Tahu.

Kāi Tahu do not see their existence as separate from *te ao tūroa*, the natural world, but as an integral part of it through *whakapapa* (genealogy). *Whakapapa* is central to *te ao Māori* (a Māori world view), connecting the origins of everything, past and present. It is the foundation upon which all things are built, the web that connects all things together, the anchor which holds all things in place and the means by which all things link back to the beginning of time. It is through *whakapapa* that all things are intricately linked, as well as having their individual place in the world. *Whakapapa* binds Kāi Tahu to the mountains, forests and waters and the life supported by them, and this is reflected in attitudes towards the natural world and resource management.

⁹ Section 6 of the Resource Management Act (1991).

¹⁰ Section 8 of the Resource Management Act (1991).

Whakawhanaukataka, the process of maintaining relationships, embraces whakapapa through the relationship between people, and between people and the *environment*. The nature of these relationships defines people's rights and responsibilities in relation to the use and management of resources.

All things have the qualities of wairua (spiritual dimension) and mauri (life force) and have a genealogical relationship with each other. Mauri is found in all things organic and inorganic. The nurturing of all taoka and protection of their mauri is a prime concern and a significant obligation for Kāi Tahu whānui as *mana whenua* and mana moana, and as an expression of rakatirataka.

Each papatipu rūnaka has its own takiwā determined by whakapapa and its ahi-kā-roa (historical use and occupation). Takiwā are often defined by natural boundaries such as heads, mountain ranges and rivers. Political and operational authority over an area is undertaken by Kāi Tahu as an expression of rakatirataka, *mana whenua* and mana moana. The exercise of these powers in te taiao is through the action of *kaitiakitaka*. Recognition of the rakatirataka and mana of Kāi Tahu as kaitiaki whenua can in part, be achieved by enabling Kāi Tahu to identify and exercise their preferred means of managing and maintaining resources and the *environment* (te taio). This system of rights and responsibilities (encompassing tikaka and kawa) is inherited from previous generations and has evolved over time.

The resources in any given area are a taoka; they are a source of prestige for *mana whenua* of that area and are a statement of their identity. Traditionally, the abundance or lack of resources directly determines the welfare of every hapū, and so affects their mana.

Ki uta ki tai

Ki uta ki tai is a philosophy that has become synonymous with the way Kāi Tahu think about natural resource management. Ki uta ki tai is the concept used to describe holistic natural resource management, recognising all environmental elements are interconnected and must be managed as a whole. It is a way of understanding the natural environment, including how it functions, how people relate to it and how it can be looked after appropriately.

Rakatirataka

Rakatirataka refers to the exercise of mana or authority to give effect to Kāi Tahu culture and traditions across all spheres in their takiwā, including the management of te taiao. Recognition of the relationship of Kāi Tahu and their culture and traditions with their ancestral lands, *water*, sites, wāhi tapu, and other taoka is embedded in the RMA and the Treaty of Waitangi.

Kaitiakitaka

Kaitiakitaka refers to the exercise of guardianship over *natural and physical resources*. It is an expression of rakatirataka and mana, and includes the ethic of stewardship. This statutory definition of *kaitiakitaka* is only a starting point for Kāi Tahu, as *kaitiakitaka* is a much wider cultural concept than guardianship.

Kaitiakitaka is fundamental to the relationship between Kāi Tahu and the *environment*. The objectives of *kaitiakitaka* are to protect the mauri and life supporting capacity of the *environment* and to pass the *environment* on to future generations in an enhanced state. For Kāi Tahu, *kaitiakitaka* is not passive custodianship, nor is it simply the exercise of customary property rights, but it entails an active exercise of responsibility and rakatirataka to ensure long-term sustainability of resources as taoka, and for the benefit to future generations – mō tātou, ā, mō kā uri a muri ake nei.

Hauora

Hauora is a holistic understanding of health and wellbeing. For Kāi Tahu, te hauora o te taiao (the health of the *environment*), te hauora o te wai (the health of the *waterbody*) and the te hauora o te tangata (the health of the people) are all interconnected. Due to this connection, the state of the health and well-being of wai māori and te taiao is seen as a reflection on the mana, health, and wellbeing of Kāi Tahu as *mana whenua*. Decline in te hauora o te wai and te hauora o te taiao is also understood by Kāi Tahu to adversely impact the health and well-being of the Otago community as a whole, tangata katoa.

Tikaka and kawa

Tikaka and kawa Māori encompass the beliefs, values, practices, protocols and procedures that guide appropriate codes of conduct, or ways of behaving. In the context of natural resource management, observing tikaka and kawa is part of the ethic and exercise of *kaitiakitaka*. Tikaka and kawa are underpinned by a body of mātauraka (traditional knowledge) and are based on a general understanding that people belong to the land and have a responsibility to care for and manage the land. These concepts and values incorporate forms of social control to manage the relationship of people and the *environment*, including concepts such as tapu, noa and rāhui.

Tikaka and kawa are based on traditional practices but are dynamic and continue to evolve in response to different situations.

Mātauraka

Mātauraka, within this region, is Kāi Tahu customary knowledge passed down from one generation to the next, used in the present, and will continue to be developed for the future. It involves observing, experiencing, participating, studying and understanding the world from an indigenous cultural perspective. It is a tool for thinking, organising information, considering the ethics of knowledge, and informing us on our world and our place in it. Incorporation of mātauraka in resource management decision-making is important to ensure that cultural interests are appropriately recognised and provided for.

Taoka

All natural resources - air, *land*, *water*, and indigenous *biological diversity* - are taoka. Taoka are treasured resources that are highly valued by Kāi Tahu, derived from the atua (gods), linked to the people through whakapapa, and left by tūpuna (ancestors) to provide for and sustain life. In the management of natural resources, it is important that the habitats and wider needs of taoka species are sustainably managed and enhanced.

Mahika kai

Mahika kai is one of the cornerstones of Kāi Tahu cultural identity. *Mahika kai* is a term that literally means "food workings" and refers to the customary gathering of food and natural materials and the places where those resources are gathered or produced. The term also embodies the traditions, customs and collection methods, and the gathering of natural resources for cultural use, including raraka (weaving) and rokoā (traditional medicines). Maintaining *mahika kai* sites, gathering resources, and continuing to practice the tikaka that governs each resource, is an important means of maintaining and honouring whakapapa connections to *land*, taoka and tūpuna, and passing on cultural values and mātauraka to the next generation.

Resources of significance to Kāi Tahu

Wai Māori

Like all things, *water* has a whakapapa. All *water* is seen to have originated from the separation of Rakinui and Papatūānuku and their continuing tears for one another. Rain is Rakinui's tears for his beloved Papatūānuku and mist is regarded as Papatūānuku's tears for Rakinui.

From Rakinui and Papatūānuku came the offspring who were responsible for creating the elements that constitute our total world today, both animate and inanimate - the mountains, *rivers*, forests and seas, and all fish, bird and animal life. The realm of atua such as Rakinui and his many wives and offspring overarches and informs the Kāi Tahu whānui world view, values and beliefs.

Water plays a significant role in Kāi Tahu spiritual beliefs and cultural traditions. Kāi Tahu have an obligation through whakapapa to protect wai and all the life it supports, as *ko te wai te ora o kā mea katoa* (*water is the life giver of all things*). The condition of *water* is seen as a reflection of the condition of the people. *Toitū te Marae o Tane, toitū te Marae o Takaroa, toitū te Iwi* (*Protect and strengthen the realms of the land and sea, and they will protect and strengthen the people*). When the natural environment is strong and healthy, the people are strong and healthy and so too is their mana.

Taoka species and habitats

Taoka species and habitats are those that are treasured by Kāi Tahu, and Kāi Tahu regard all indigenous species as taoka. In many cases taoka species are also *mahika kai*, treasured for their use as a resource. The NTCSA recognises the relationship Kāi Tahu has with some of these species through the Statutory Acknowledgement for Taonga Species. However, Kāi Tahu do not consider this list to be comprehensive as important taoka species such as tuna are not included.

Wāhi tūpuna

The value Kāi Tahu attached to land is evident from the fact that every part of the landscape is known and named. *Wāhi tūpuna* (ancestral landscapes) are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. The landscape of Otago includes many *wāhi tūpuna* and areas of significance, reflecting the relationship of Kāi Tahu with the land across the region. These places should not be seen in isolation from one another but are part of a wider cultural setting. For example, an archaeological site adjacent to a *wetland* is likely to be associated with *mahika kai* resources in the *wetland*. The character of *wāhi tūpuna* in past times is retained in tribal memory, for example through songs, place names and proverbs. When these references to the character of the *wāhi tūpuna* become incorrect due to modification of the *environment*, it negatively affects the Kāi Tahu relationship with that landscape. For example, a waterway named Kaituna would be expected to contain many tuna. A waterway with this name used to exist in central Dunedin, but no longer exists because there is now a city where the waterway once was.

Air and atmosphere (kōhauhau)

In Kāi Tahu traditions, air and atmosphere emerged through the creation traditions and the movement from Te Kore through Te Pō to Te Ao Marama. Following the separation of Raki and Papatūānuku, one of their many children, Tāwhirimātea, fled with Raki into the sky. From there he controls the wind and

weather. The air and atmosphere are integral parts of the *environment* that must be valued, used with respect, and passed on intact to the next generation. Pollution of the air and atmosphere adversely affects and degrades the mauri of this taoka, of te taiao, and of other taoka such as plants and animals. Poor air quality damages and degrades ancestral lands, *mahika kai* sites, and other sites such as rock art, adversely affecting the mauri of the landscape and the mana of the people.

Coastal environment (taku tai moana me te wai māori)

Takaroa is the atua associated with the oceans and seas, and their ecosystems. The marine environment is a moving force, a reminder of the power of Takaroa. As one of the children of Rakinui and Papatūānuku, Kāi Tahu are connected to Takaroa by whakapapa, affording rights and responsibilities in relation to te takutai moana.

The tūpuna of Kāi Tahu were great ocean travellers, having navigated by waka across Te Moana – nui – a – Kiwa, the Pacific Ocean for generations before settling in Te Wai Ponamu. Knowledge and practices brought with the tūpuna were adapted to meet the challenges and opportunities of the new environment. Over time, Kāi Tahu whānui developed the tikaka and mātauraka of takutai moana and mahika kaimoana that is used today.

The coastal environment is particularly significant for Kāi Tahu in the southern South Island. Most of the permanent settlements were established on the coast due, in part, to the moderating influence of the sea on temperature, making the winters less bitter. The coast also had a bounty of kaimoana resources to support coastal settlements.

The *coastal waters* and processes were integral to the way of life tūpuna enjoyed, and the coastal environment continues to support significant *mahika kai* resources. The *coastal waters* are a *receiving environment* for fresh water, gravels and sediment from the terrestrial landscape, which are important to maintaining natural processes and the domain of Takaroa. Recognising the interconnection of the *land* and sea environments is consistent with the ki uta ki tai philosophy.

Pounamu

Kāi Tahu customs are intricately linked to this special taoka. The practice of gathering, using and trading pounamu bind Kāi Tahu identity to the landscape. Pounamu conveys mana and mauri from ages past, and is reflected in its exalted whakapapa lineage, an uri (descendant) of Takaroa.

As an interim measure, until a Regional Pounamu Management Plan is developed for Otago and Murihiku, a rāhui pounamu has been in place in the Otago region since the passing of the Ngāi Tahu (Pounamu Vesting) Act 1997. This is subject to review by the collective Kaitiaki Rūnaka who will determine appropriate protection, access and use policies applicable to their membership and Ngāi Tahu whānui.

Ngāi Tahu Claims Settlement Act 1998 (NTCSA)

The NTCSA was enacted to settle historical Ngāi Tahu claims against the Crown. The NTCSA provides redress for breaches of Te Tiriti o Waitangi and to signal a new age of co-operation of the Crown and its agencies with Kāi Tahu. The Crown apology recorded in section 4 of the NTCSA explicitly recognises the rakatirataka of Kāi Tahu within its takiwā, and the Act includes specific provisions that provide for exercise of rakatirataka and *kaitiakitaka* by *mana whenua* in respect to *mahika kai*, taoka species and other resource management matters. These include rights in relation to the management of specified significant areas (statutory acknowledgement areas, tōpuni and *nohoaka*) and customary fisheries.

Statutory acknowledgement areas

Statutory acknowledgements are recorded in the NTCSA for several *water bodies*, mountains and coastal features in the Otago Region. These acknowledgements are statements by Te Rūnanga o Ngāi Tahu of the particular cultural, spiritual, historic and traditional association of Kāi Tahu with these areas.

Part 12 of the NTCSA provides details of statutory acknowledgements, and the responsibilities relating to them. Section 208 of the NTCSA requires that *local authorities* have regard to these statutory acknowledgements in *resource consent* processing under Section 95 of the RMA in deciding whether Te Rūnanga o Ngāi Tahu may be adversely affected by the granting of a *resource consent* for activities within, adjacent to or impacting directly on the area.

Statutory acknowledgements were intended as a measure to improve opportunities for *mana whenua* engagement in resource management processes, pending broader provision for areas of significance to Kāi Tahu being incorporated into resource management plans in order to protect and restore associated rights, interests and values. The statutory acknowledgements are *wāhi tūpuna*, but *wāhi tūpuna* are not confined to these areas.

The following statutory acknowledgement areas in Otago are recognised in the NTCSA, and their values are described in Schedules to that Act:

- Ka Moana Haehae (Lake Roxburgh) - Schedule 22
- Kakaunui River - Schedule 23
- Kuramea (Lake Catlins) - Schedule 28
- Lake Hāwea - Schedule 30
- Lake Wānaka - Schedule 36
- Mata-Au (Clutha River) - Schedule 40
- Matakaea (Shag Point) - Schedule 41
- Pikirakatahi (Mount Earnslaw) - Schedule 51
- Pomahaka River - Schedule 52
- Te Tauraka Poti (Merton Tidal Arm) - Schedule 60
- Te Wairere (Lake Dunstan) - Schedule 61
- Tititea (Mount Aspiring) - Schedule 62
- Tokatā (The Nuggets) - Schedule 64
- Waihola/Waipōuri Wetland - Schedule 70
- Waitaki River – Schedule 72¹¹
- Whakatipu Waimāori (Lake Wakatipu) - Schedule 75
- Te Tai O Arai Te Uru (Otago Coastal Marine Area) - Schedule 103.

Tōpuni

The concept of tōpuni derives from the traditional Kāi Tahu custom of persons of raketira status extending their mana and protection over a person or area by placing their cloak over them or it. A number of areas on public conservation land that have significant values to Kāi Tahu because of their cultural, spiritual, historic and traditional associations are recognised in the NTCSA as tōpuni.

¹¹ The Waitaki River lies within both the Otago and Canterbury regions

Sections 240 to 246 of the NTCSA provide for Kāi Tahu consultation on management of these areas, to protect their values. Although the specific provisions in the NTCSA relate only to management of conservation land, the interests of Kāi Tahu should be recognised and provided for when considering activities in nearby areas that may impact on the values of tōpuni or *waters* flowing from them.

Tōpuni recognised in Otago are:

- Matakaea (Shag Point) – Schedule 83
- Maukaatua Scenic Reserve – Schedule 84
- Pikirakatahi (Mount Earnslaw) – Schedule 87
- Te Koroka (Dart/Slipstream) – Schedule 91
- Tititea (Mount Aspiring) – Schedule 92.

Nohoaka

Nohoanga (or *nohoaka*) entitlements provide a right of seasonal occupation and use for Kāi Tahu whānui on specified areas of Crown-owned land near *water bodies* for harvest of natural resources (sections 255 to 268 of the NTCSA). These rights are intended as partial redress for the loss of *mahika kai* through alienation of land.

Kāi Tahu interests in these areas should be recognised and provided for when considering management of associated *water bodies* or activities on nearby land. The ability of Kāi Tahu whānui to access and use *nohoaka* as intended is reliant upon protection and restoration of *mahika kai* values associated with them.

Nohoaka entitlements are listed in Schedule 95 of the NTCSA. In Otago, sites are identified adjacent to the following *water bodies*:

- Waitaki River (two sites)
- Waianakarua River
- Taiari River (three sites)
- Lake Hāwea (three sites)
- Hāwea River
- Lake Wānaka (two sites)
- Whakatipu Waimāori
- Shotover River (two sites)
- Mata-au Clutha River (four sites).

Customary fisheries

Sections 297 to 311 of the NTCSA include provisions recognising Kāi Tahu rights and interests in customary fisheries, and provide for involvement in management of these resources through the Conservation Act 1987 and the Fisheries Acts 1983 and 1996.

The interests of Kāi Tahu should be recognised and provided for when considering activities under the RMA that may impact on customary fisheries, to enable protection and restoration of fisheries habitat. Mātaitai and taiāpure are mechanisms under the Fisheries Act that provide for management of customary fisheries areas and are applicable to both coastal and *freshwater* fisheries environments.

The East Otago Taiāpure is constituted by the Fisheries (East Otago Taiāpure) Order 1999. It includes the estuarine and inshore marine waters between Cornish Head and Potato Point.

There are also four mātaimai in Otago:

- Moeraki Mātaimai Reserve includes areas of *coastal waters* at Moeraki and Katiki (<https://www.mpi.govt.nz/dmsdocument/15220-Moeraki-North-Otago-Mataimai-Reserve>)
- Waikōuaiti Mātaimai Reserve includes *freshwater* and estuarine waters of the Waikōuaiti River (<https://www.mpi.govt.nz/dmsdocument/12954-Waikouaiti-South-Canterbury-Mataimai-Reserve->)
- Ōtākou Mātaimai Reserve includes most of the Otago Harbour north of a line from Harwood to Pulling Point (<https://www.mpi.govt.nz/dmsdocument/14077-Otakou-mataimai-reserve>)
- Puna-wai-Tōriki (Hays Gap) Mātaimai Reserve includes an area of *coastal waters* north of Nugget Point (<https://www.mpi.govt.nz/dmsdocument/15223-Puna-wai-Toriki-Hays-Gap-South-Otago-Mataimai-Reserve>)

Māori Commercial Aquaculture Claims Settlement Act 2004

The Māori Commercial Aquaculture Claims Settlement Act 2004 provides full and final settlement of Māori commercial aquaculture claims since 21 September 1992. Settlement is delivered via Regional Aquaculture Agreements which may describe areas to be provided to iwi for the purposes of commercial aquaculture. Any future settlement outcomes will need to be provided for in *regional plans* and *district plans*.

Native reserves

A Native Reserve is any property or site that is a:

- Native Reserve excluded from the Ōtākou Land Purchases (1844)
- Native Reserve excluded from the Kemps Land Purchases (1848)
- Reserve granted by the Native Land Court (1868)
- Half Caste Reserve (1881)
- Landless Native Reserve (1896)
- Other reserve (1890 and 1900)

A number of native reserves exist that were excluded from the land sales of the 1840s. These reserves are steeped in history and association and are places of belonging. Remaining reserves are located at Moeraki, Waikōuaiti, Ōtākou, Onumia, Taieri Mouth, and Te Karoro, Kaka Point. Other categories of native land exist at Kōpūtai, Port Chalmers, and Ōtepoti, Dunedin, where tauraka waka, landing sites, were recognised. In addition, land was held at Manuhaea, Lake Hāwea, Aramoana, Clarendon, Taieri Mouth, Tautuku-Waikawa and Glenomaru amongst others. Landing reserves were allocated at Matainaka, Waikōuaiti, and the former Lake Tatawai on the Taieri Plains.

The following table lists the reserves in Otago which are also mapped in MAP0 – Native reserves. Many of the sections within these Native Reserves now have the status of general land. While some of this general land is still in Māori ownership, many of the general titled sections have been sold to non-Māori or taken under various pieces of legislation such as the Public Works Act 1981. Although these sections are no longer in whānau ownership, descendants of the original owners retain an ancestral relationship with these lands.

Table 1: Native reserves located within the Otago region

Location	Comments	Reserve Type
Tautuku	Southern block of Tautuku sections	South Island Landless Natives Act
	Northern sections are Reserved lands	Native Reserve
Glenomaru	Located south of Kaka Point	South Island Landless Natives Act
Maranuku	Granted in 1844 as part of the Ōtakou Purchase. Originally called Te Karoro, split into two reserves	Native Reserve
Clarendon	Located inland from Taieri Mouth	Clarendon Half Caste Reserve
Taiari	Granted in 1844 as part of the Ōtakou Purchase Deed. Split into three reserves; A, B and C	Native Reserve
Lake Tatawai	Located on the Taiari Plain, south of Dunedin, includes lake that is now drained.	Native Reserve and Landing Reserve
Otago Heads Native Reserve	Granted in 1844 as part of the Ōtakou Purchase Deed. Split into four reserves	Native Reserve
Port Chalmers	Granted in 1848 as part of the Ōtakou Purchase Deed. A further grant adjacent to the Reserve was made in approximately 1888	Native Reserve
Aramoana	This reserve resulted from the Pūrākanui Half Caste grant	Half Caste Reserve
Pūrākanui	Granted in 1848 as part of Kemp's Purchase Deed. Further allocations were made in 1868 at Wharauwerawera	Native Reserve
Brinns Point	Granted in the latter part of the nineteenth century	Half Caste Reserve
Karitāne (Waikōuaiti Native Reserve)	Granted in 1848 as part of Kemp's Purchase Deed	Native Reserve
Matainaka and Hawksbury Fishing Easement	Two fishing easements fall under this reserve, Matainaka, located at Hawksbury Lagoon at Waikōuaiti and the Forks Reserve located inland from Karitāne. The legal description for the latter reserve is Section 1N Town of Hawksbury	Fishing Easement
Hawksbury	Located north of Waikōuaiti, in the vicinity of Goodwood	Hawksbury Half Caste Reserve
Moeraki	Granted in 1848 as part of Kemp's Purchase Deed. Further awards were made in 1868	Native Reserve
Kuri Bush	10 acre reserve of timber	Native Reserve
Korotuaheka	Located south of the Waitaki River mouth. Now Reserved as an urupā. It appears this originated as an occupational reserve and Fishing Easement	Native Reserve Fishing Easement
Punaomaru	376 acre reserve located approximately 14 miles from the Waitaki River mouth on the south bank of the river	Native Reserve

Lake Hāwea	Reserve of 100 acres situated in the western extremity of the middle arm of Lake Hāwea near a Lagoon. Part of the Reserve was taken for power development in 1962 and the balance of the land was alienated by the Māori Trustee in 1970	Fishing Easement
Hāwea-Wānaka block (Wānaka Plantation Reserve)	Known as Sticky Forest and being 50.7 hectares more or less to be vested in the Successors as defined in pursuant to Section 15 of the Deed of Settlement 1997 between Te Rūnanga o Ngāi Tahu and the Crown, and as enacted in Part 15 of the Ngāi Tahu Claims Settlement Act 1998.	South Island Landless Natives Act

Mana whenua – local authority relationships

Kāi Tahu relationships with local authorities

There are a number of relationship agreements between Kāi Tahu papatipu rūnaka and *local authorities* in Otago. These include:

- Memorandum of Understanding and Protocol between Otago Regional Council, Te Rūnanga Ngāi Tahu and Kāi Tahu ki Otago for Effective Consultation and Liaison (2003)
- Te Roopū Taiao Otago Charter and Hui (ORC, QLDC, DCC, WDC, CDC, CODC)
- He Huarahi mō Ngā Uri Whakatupu – Charter of Understanding 2016 between Te Ao Marama Incorporated, representing Ngāi Tahu ki Murihiku, and councils.

Kāi Tahu and Otago Regional Council use the Mana to Mana forum as a means to build a strengthened relationship between the two entities.

He Huarahi mō Ngā Uri Whakatupu¹² is the Charter of Understanding between Ngāi Tahu ki Murihiku (Awarua Rūnanga, Waihopai Rūnanga, Ōraka-Aparima Rūnanga and Hokonui Rūnanga) and *local authorities*, including Otago Regional Council, Queenstown Lakes District Council and Clutha District Council.

Hapū and iwi planning documents

There are four iwi planning documents lodged with the *local authorities* in the Otago Region:

- Te Rūnanga o Ngāi Tahu Freshwater Policy 1999
- Kāi Tahu ki Otago Natural Resources Management Plan 2005
- Te Tangi a Tauira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008
- Waitaki Iwi Management Plan 2019

¹² Available from <https://www.es.govt.nz/repository/libraries/id:26gi9ayo517q9stt81sd/hierarchy/about-us/plans-andstrategies/regional-plans/iwi-management-plan/documents/The%20Charter%20of%20Understanding.pdf> (accessed 26 May 2021)

How the iwi planning documents have been taken into account in this Regional Policy Statement

Objectives and policies of the iwi management plans are reflected in the Resource Management Issues of Significance to Kāi Tahu and have been taken into account in the development of provisions across the whole of this Regional Policy Statement.

How iwi planning documents are used in Otago

The iwi management plans are used to provide cultural context and guidance as to the natural resource values, concerns and issues of Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku.

The iwi planning documents are to be used in the development of planning policy and assist decision-makers to make informed decisions, recognising the local knowledge of the *environment* held by papatipu rūnaka and the significance of the natural resource values to Kāi Tahu.

The iwi planning documents are also used to guide consultation with rūnaka and set out the expectations for consultation. The iwi management plans are not a substitute for direct communication with papatipu rūnaka.

Involvement and participation with *mana whenua*

ORC and the *local authorities* will establish and maintain effective resource management relationships with Kāi Tahu based on a mutual obligation to act reasonably and in good faith. The *local authorities* and Otago Regional Council will consult Kāi Tahu at an early stage in resource management processes and implementation, and facilitate efficient and effective processes for applicants to consult Kāi Tahu on *resource consent* applications and private plan change requests.

Local authorities may also transfer and delegate any one or more of their functions, powers or duties to an iwi authority in accordance with section 33 (transfer) and 34A (delegation) of the RMA, and where this provides an effective service.

Mana whenua consultancy services

The papatipu rūnaka consultancy services, Aukaha, representing Kāi Tahu ki Otago, and Te Ao Marama Inc, representing Ngāi Tahu ki Murihiku, facilitate Kāi Tahu engagement in resource management processes and provide a first point of contact for the public seeking to engage with papatipu rūnaka.

Other iwi, hapū and mātāwaka

Otago is also home to Māori from other iwi, hapū, and mātāwaka. The Araiteuru marae in Dunedin and Te Whare Koa in Ōamaru are important pan-tribal cultural centres for mātāwaka and sit within the manaakitaka of *takata whenua*.

Provisions

Objectives

MW–O1 – Principles of Te Tiriti o Waitangi

The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and papatipu rūnaka to ensure that what is valued by *mana whenua* is actively protected in the region.

Policies

MW–P1 – Treaty obligations

Promote awareness and understanding of the obligations of *local authorities* in regard to the principles of Te Tiriti o Waitangi, tikaka Māori and kaupapa Māori.

MW–P2 – Treaty principles

Local authorities exercise their functions and powers in accordance with the principles of Te Tiriti o Waitangi, by:

- (1) recognising the status of Kāi Tahu as *mana whenua* and facilitating Kāi Tahu involvement in decision-making as a partner under Te Tiriti o Waitangi,
 - (2) including Kāi Tahu in resource management processes, implementation and decision-making to the extent desired by *mana whenua*,
 - (3) recognising and providing for Kāi Tahu values and addressing resource management issues of significance to Kāi Tahu, as identified by *mana whenua*, in resource management decision-making processes and plan implementation,
 - (4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, and waters, encompassing *wai māori* and *wai tai*, significant sites, *wāhi tūpuna*, *wāhi tapu* and *wāhi taoka*, and other *taoka* by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,
 - (5) ensuring that *regional plans* and *district plans* recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, *tōpuni*, *nohoaka* and customary fisheries identified in the NTCSA, including by actively protecting the *mauri* of these areas,
 - (6) having particular regard to the responsibility of Kāi Tahu to exercise their role as *kaitiaki*, as an expression of *mana* and *rakaitirataka*,
 - (7) actively pursuing opportunities for:
 - (a) delegation or transfer of functions to Kāi Tahu, and
 - (b) partnership or joint management arrangements,
 - (8) taking into account *iwi* management plans when making resource management decisions,
- (8A) *regional plans* and *district plans* recognising and providing for aquaculture settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004, and¹³

¹³ 00234.008 Te Rūnanga o Ngāi Tahu

(8B) recognising and providing for mātauraka and tikaka in environmental and resource management.¹⁴

MW–P3 – Supporting Kāi Tahu hauora

The natural environment is managed to support Kāi Tahu hauora by:

- (1) recognising that Kāi Tahu hold an ancestral and enduring relationship with all whenua, wai māori and *coastal waters* within their takiwā,
- (2) protecting customary uses, Kāi Tahu values and relationships as identified by Kāi Tahu to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,
- (3) safeguarding the mauri and life-supporting capacity of natural resources, recognising the whakapapa connections of Kāi Tahu with these resources as taoka, and the connections to practices such as *mahika kai*, and
- (4) working with Kāi Tahu to incorporate mātauraka into resource management processes and decision-making.

MW–P4 – Sustainable use of Native Reserves and Māori land

Kāi Tahu are able to:

- (1) develop and use *land* and resources within native reserves and *Māori land*, including within land affected by an ONFL overlay, in accordance with mātauraka and tikaka, to provide for their cultural and social aspirations, including for *papakāika*, marae related activities.
- (2) provide for the economic use of their Māori land or native reserves resources subject to the provisions of the RMA, this regional policy statement and any relevant plan, while:
 - (a) avoiding adverse effects on the health and safety of people,
 - (b) avoiding significant adverse *effects* on matters of national importance, and
 - (c) avoiding, remedying or mitigating other adverse *effects*.

Methods

MW–M1 – Collaboration with Kāi Tahu

Local authorities must collaborate with Kāi Tahu to:

- (1) manage, in accordance with tikaka, kawa, and mātauraka, those places, areas, landscapes, waters, taoka and other elements of cultural, spiritual or traditional significance to *mana whenua* by:
 - (a) identifying, recording, and assessing these elements using methods determined by *mana whenua* (which may include mapping), and
 - (b) protecting the values of, and *mana whenua* relationships to, these elements,

¹⁴ 00234.008 Te Rūnanga o Ngāi Tahu

- (3) identify indigenous species and ecosystems that are taoka in accordance with ECO–M3,
- (4A) determine appropriate naming for places of significance in Otago, and
- (4B) share information relevant to Kāi Tahu interests.

MW–M2 – Mātauraka Māori

Local authorities must work in partnership with Kāi Tahu to:

- (2A) incorporate mātauraka into resource management processes,
- (2B) enable use of mātauraka in decision-making where appropriate, and
- (3) develop research and monitoring programmes that incorporate mātauraka and are led by *mana whenua*.

MW–M3 – Kāi Tahu relationships

Local authorities must develop processes to:

- (1) establish and maintain effective resource management relationships with Kāi Tahu based on a mutual obligation to act reasonably and in good faith,
- (2) involve Kāi Tahu at an early stage and throughout resource management processes, decision-making, and implementation, and
- (3) facilitate efficient and effective processes for applicants to consult Kāi Tahu on *resource consent* applications, private plan change requests, notices of requirement, and notices of requirement for heritage orders.

MW–M4 – Kāi Tahu rakatirataka

Local authorities must facilitate Kāi Tahu involvement in resource management (including decision making), to the extent *mana whenua* consider themselves able to accommodate, by:

- (1) including an independent accredited commissioner approved or nominated by Kāi Tahu on hearing panels for *resource consent* applications, notices of requirement, plan changes or plans where Kāi Tahu values may be affected,
- (2) implementing actions to foster the development of *mana whenua* capacity to participate in resource management decision making,
- (3) joint management agreements and full or partial transfers of functions, duties or powers from *local authorities* to iwi authorities in accordance with section 33 of the RMA, and
- (4) entering into a Mana Whakahono ā Rohe with one or more iwi authorities.

MW–M5 – *Regional plans and district plans*

Local authorities must amend their *regional plans* and *district plans* to:

- (1) take into account iwi management plans and address resource management issues of significance to Kāi Tahu,
- (2) provide for the use of native reserves and *Māori land* in accordance with MW–P4 and recognise Kāi Tahu rakatirataka over this *land* by enabling *mana whenua* to lead approaches to manage any adverse *effects* of such use on the *environment*.

- (3) incorporate active protection of areas and resources recognised in the NTCSA, and
- (4) provide for the outcomes of settlements under the Māori Commercial Claims Aquaculture Settlement Act 2004.

MW–M6 – Incentives and education

Local authorities are encouraged to use other mechanisms or incentives to assist in achieving Policies MW–P1 to MW–P4, promoting awareness and improving knowledge of tikaka and the principles of Te Tiriti o Waitangi among staff and stakeholders, including through hiring practices, induction programmes, key performance indicators and training activities.

MW–M7 – Advocacy and facilitation

Local authorities may facilitate negotiations with landowners to provide Kāi Tahu access to sites of significance to Kāi Tahu that do not have suitable access.

Explanation

MW–E1 – Explanation

The policies in this section are designed to achieve MW–O1 by setting out the actions that must be undertaken by *local authorities* to ensure the principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, and *mana whenua* values and taoka are actively protected, supporting Kāi Tahu wellbeing. The policies also require the development and implementation of planning tools and other mechanisms that recognise the role of Kāi Tahu in resource management and ensure their engagement with and participation in resource management including through partnership with *local authorities*.

Principal reasons

MW–PR1 – Principal reasons

Te Tiriti o Waitangi creates a special relationship between *takata whenua* and the Crown, which the Crown expresses in part through the provisions of the RMA and national instruments created in accordance with the RMA. This, in turn, creates responsibilities for *local authorities*. Providing for cultural well-being is a feature of the sustainable management purpose of the RMA. Section 8 of the RMA requires *local authorities* to take the principles of Te Tiriti o Waitangi into account. These principles include kāwanataka, rakatirataka, partnership, participatory decision making and active protection of Kāi Tahu resources. Section 7(a) of the RMA requires decision makers to have particular regard to *kaitiakitaka*. Effective *kaitiakitaka* is dependent upon the extent to which Kāi Tahu can exercise rakatirataka, which requires the authority and ability to make decisions relating to management of resources.

Local authorities need to incorporate Treaty principles into their decision making and ensure they are properly applied, to account for the *effects* of resource management decisions on Kāi Tahu values, including those described in iwi resource management plans. Deliberate measures need to be taken to ensure the principles are clearly articulated and readily understood. The principles are broadly expressed, so a measure of flexibility is needed in applying them.

The provisions in this chapter assist in implementing sections 6(e), 7(a) and 8 of the RMA by requiring a partnership approach which involves Kāi Tahu and considers *mana whenua* rights, interests and

values in decision making processes, and enables Treaty principles to be applied in an appropriate way.

Implementation of the provisions in this chapter will occur primarily, but not exclusively, through *regional plans* and *district plan* provisions. *Local authorities* may adopt a range of methods, utilising statutory mechanisms and non-regulatory methods to implement the policies and support achievement of the objective.

Anticipated environmental results

MW–AER1 Resource management processes and decisions reflect the principles of Te Tiriti o Waitangi.

MW–AER2 Strong relationships between Kāi Tahu and *local authorities* facilitate the exercise of rakatirataka and *kaitiakitaka* by *mana whenua* in relation to their taoka tuku iho.

PART 2 – RESOURCE MANAGEMENT OVERVIEW

SRMR – Significant resource management issues for the region

Introduction

Otago’s people and communities rely on the *natural and physical* resources that Otago’s *environment* provides to enable their social, economic, and cultural well-being. Natural resources include *freshwater* (i.e. surface and *groundwater, wetlands, estuaries*), *land* and soil, terrestrial and *freshwater* ecosystems, coastal and marine ecosystems, and air, landscapes, vegetation and natural landforms. Physical resources include *infrastructure, buildings* and facilities.

From an economic perspective *natural and physical* resources support, and are impacted by, agricultural industries (e.g. grazing, cropping, horticulture, viticulture), urban development, industrial development, *infrastructure*, energy generation, transport, marine industries (fishing and aquaculture), tourism and mineral extraction. From a social, health, and cultural perspective *natural and physical* resources support and are impacted by food production, recreation, housing, and cultural activities.

This RPS identifies the twelve most significant issues impacting the Otago region. Issues firstly considered include *natural hazards, climate change, pest species, water quantity and quality, and biodiversity loss*, collectively the “natural asset-based issues”. Two “place-based issues” of regional significance are then addressed - being Otago’s coast and Otago’s *lake* areas. The use and development of resources is also recognised as being essential to the well-being of the community, while acknowledging that this can lead to conflicts when managing the adverse effects of this use. Finally, issues of economic and domestic pressures, cumulative impacts and *resilience* are considered.

While the issues in this section are considered individually, this RPS considers and responds to them in a joined-up manner as part of a complex system with biophysical limits, inherent uncertainty, potentially irreversible and sometimes catastrophic impacts, and interdependent behaviours.

Each issue is considered in the following manner:

- an issue statement
- context
- impacts on the *environment*, economy, and society

SRMR-I1 – *Natural hazards pose a risk to many Otago communities*

Statement

Otago is prone to a range of natural hazards that pose a risk to Otago communities, property, infrastructure, and the wider environment. A major event could cause severe damage and may isolate Otago communities for an extended time. Major events of concern include flooding, an earthquake on the Alpine fault, tsunamis, coastal erosion, wildfires, and extreme weather events.

Context

The Otago region is exposed to a wide variety of *natural hazards* that impact on people, property, *infrastructure*, historic heritage and the wider *environment*. When a *natural hazard* event occurs, it is sometimes difficult and costly for a community to recover. The *natural hazard* threats range from coastal erosion and flooding in lowland coastal areas to alluvial fan deposition, landslip, rock fall, seismic events (earthquake and tsunami), wind, snow, drought and riverbank breaches. The risk resulting from natural hazards is not just due to the hazards themselves, but also whether human activities are located and operated in ways which make them vulnerable to those hazards.

Frequent heavy rainstorms, the steep gradients of many *river* catchments and human occupation of floodplains combine to make flooding the most frequently occurring *natural hazard* event in the Otago region. For example, flooding can affect Otago's main urban centres causing damage to housing and business disruption, and primary production can be disrupted in Otago's floodplains (including lower Clutha, Lower Waitaki and Taiari).

Seismic *risks* are widespread in Otago as evidenced by the region's active faults, being the Cardrona, Dunstan, Rough Ridge, Hyde, Taieri Ridge, Waihemo and Akatore faults. The Alpine Fault in the Queenstown Lakes District has an estimated 75% probability of causing a major earthquake in the next 50 years with associated large-scale destruction.

Otago's coastline is exposed to tsunamis, from local offshore faults and nearby subduction zones, such as the Puysegur Trench (south of the South Island). The stretch of the Otago coastline north of the Otago Peninsula has a greater level of exposure to tsunamis generated from South America.

Natural hazards may be exacerbated by the *effects* of *climate change*, which include sea level rise, and greater frequency and intensity of extreme weather events. Elevated sea levels resulting in flooding can occur as a result of a combination of tides, storm surge, and waves. There are several low-lying areas in relatively close proximity to the coast that have been identified as being at *risk*, such as South Dunedin.

Parts of the Otago coastline (which is a soft coast formed by material such as sand or gravel) are also prone to significant coastal erosion. Coastal erosion is an issue in Waitaki District, Dunedin City and along the Clutha River Delta, affecting communities and *infrastructure* near the coast.

Impact snapshot

Environmental

Ecosystems (from the mountains to the coast), *water bodies* and *water quality* (*rivers, lakes, wetlands* and *ground water*) are variously at *risk* of increased frequency and intensity of flooding and landslides. Seismic events result in liquefaction of land and associated soil disturbance, elevated sea levels and associated flooding, potential permanent inundation and coastal erosion. While *effects* are localised, *natural hazard* impacts can be significant where threatened ecosystems or species are involved.

Economic

Otago's primary industries, *infrastructure*, energy and transport systems, and urban areas are exposed to the full range of hazards noted above, with potential for major-to-catastrophic economic consequences, including damage to production, *infrastructure* such as transport routes (highways, bridges), the built environment and communications, and often resulting in supply chain disruptions. Natural hazards could also impact on *renewable electricity generation* with the potential for significant national and regional consequences. New *infrastructure* should be encouraged to locate in areas where it is less vulnerable to natural hazards.

For individuals and households this can result in changes to employment, income, assets and consumption patterns, disruption to social protection, services, social safety net mechanisms and institutions.

For industry, hazards can damage production assets and *infrastructure* with associated costs, disrupt service delivery and limit availability and access to goods and services, and cause decline in sales and increased costs. Loss or changes in production flows can be either temporary or permanent depending on financial *resilience* of businesses, which is a function of their existing loan commitments, credit worthiness and insurance cover. Food security can also be affected.

Whilst the community and its businesses have substantial resilience to severe weather events and supply chain disruptions, there can be cumulative impacts from repeated events.

Social

Social impacts can be direct (e.g. physical destruction of housing or transport route, human physical harm) but equally important are indirect impacts of disasters, including the destruction of communities and the negative impacts on people. Physical impacts and community dislocation can also cause long term psychological stresses affecting people's coping mechanisms, recovery sources and capacity which can test the *resilience* of a community. There can also be cumulative impacts from events on physical and mental health.

Social impacts of events can result in immediate impacts on livelihoods for individuals and families, particularly for lower socio-economic groups. Health services disruptions can occur, including access to and changes in demand for services. Similarly, there can be disruptions to education service delivery. Housing impacts may require urgent provision for basic human needs including replacement shelter and housing, and food and *water* immediately following an event.

Damage to *infrastructure* and assets may have varying impacts on different groups, for example those with less resources may have less capacity to respond to hazard events and be more impacted as a result. The relationship between affected people and their cultural assets may also be affected, for example customs and traditions related to housing, health, livelihoods, and nutrition.

SRMR-12 – Climate change will impact our economy and environment

Statement

Otago's climate is changing, and these changes will continue for the foreseeable future. Central Otago is likely to see more varied precipitation, leading to increased flooding and reduced *water* reliability. This will be compounded by stronger winds, increased temperatures and longer dry periods, which may affect the number and types of crops and animals that the land can sustain, food production systems and related food supply and food security needs, and the potential for renewable energy generation. On the coast, low lying areas like South Dunedin are at *risk* of inundation from rising sea levels. This will also exacerbate coastal erosion, which could damage coastal *infrastructure* (including *roads*), damage historic heritage, particularly *wāhi tūpuna*, and expose old waste dumps (e.g. at Middle Beach). *Climate change* will also affect native animals and plants, compounding the impacts of existing pests and stresses and providing opportunities for new pests to establish themselves due to changed conditions. The impact of other *climate change* threats is unpredictable. Our responses to climate change, whether that be mitigation or adaptation, will also impact on our economy and environment. An example of this will be the need to protect and maximise existing renewable electricity generation activities in the region, as well as providing for the development of new renewable electricity generation activities.

Context

The rate of future *climate change* depends on how fast *greenhouse gas* concentrations increase. These changes are expected to result in higher temperatures, changes in precipitation, drought, fire weather, extreme weather events, inland and coastal flooding, landslides and soil erosion, salinity, sea level rise, erosion, reduced snow and ice, and marine heatwaves. Rainfall and temperature change may result in drier soils and changes to river flow (low flow and floods), as well as increased occurrence of slips/landslides. Sea level rise will have impacts on coastal communities, infrastructure and habitats, while the risk of wildfire will also increase. Changing climate also risks increased biosecurity issues of increased plant, fungal and animal pests and diseases.

It is expected temperatures will increase across Otago, and by 2090, Otago is projected to have from 4 to 25 extra days per year where maximum temperatures exceed 25°C, with around 13 to 45 fewer frosts per year (and consequently less snow). Precipitation overall will increase slightly (by up to 10%), more so in the western part of the region, with less precipitation in central and eastern Otago. There will be an increase in average annual flows across the region, apart from the Taiari and North Otago, and flooding will be more severe – there will be an increase in the mean annual flood by 100% in some locations by the end of the century.

Impact snapshot

Climate change impacts arising from changes in temperature, rainfall, *river* flows and flooding have been assessed in the Otago Regional Council's commissioned report: Otago Climate Change Risk Assessment Phase 1 report¹⁵. The following discussion is based on potential *climate change* impacts at 2050.

Environmental

For terrestrial ecosystems and species, higher frequency of severe events (e.g. high/low temperatures, intense rainfall, drought, fire weather) could reduce *resilience* of terrestrial ecosystems and species over time with adverse impacts on biodiversity. Native species (including *threatened species*) and ecosystems are also likely to be affected by increased competition with invasive species/pests favoured by warmer temperatures, particularly with milder winters. This could be a contributory *risk* factor (but not sole cause) for native species that are threatened or close to extinction.

For marine and coastal ecosystems and species, potential climate impacts include lower ocean productivity and impacts on feeding grounds (e.g. decreasing the population of yellow-eyed penguins); ocean acidification; and changes in species diversity/distribution (e.g. reducing kelp forests). Increased intensity of flooding would result in an increase in sediment which will change the physical composition of *freshwater* and marine waters and, for example, may reduce light availability, smother fragile habitats, or impact on the foraging ability of some species, particular those that rely on vision (e.g. yellow-eyed penguins). New pests and disease threats may arise from marine heatwaves/warmer ocean temperatures. Warmer temperatures could also reduce oxygen and cause stratification in shallow bays (resulting in *water* quality impacts). Sea level rise will also affect coastal habitats and ecosystems (inter-tidal zones, sand dunes). *Groundwater* impacts will include coastal aquifers being affected by salinisation, and reduced rainfall in some areas will affect *groundwater* recharge, flow and surface *water discharges*, with potential adverse impacts on ecosystems and species dependent on *groundwater*.

By 2090, the time spent in drought ranges from minimal change through to more than double, depending on the climate model and emissions scenario considered. More frequent droughts are likely

¹⁵ Tonkin+Taylor, 2020, Otago Climate Change Risk Assessment (Commissioned by the Otago Regional Council)

to lead to *water* shortages, increased demand for irrigation and increased *risk* of wildfires. Reduced snowfalls may affect *water* availability since snow acts as a storage mechanism until the *water* is required in summer.¹⁶ As a result, *river* ecosystems could be altered through reduced flows during drought periods with associated declining *water* quality, reduced food resources, and availability of habitats. This would affect ecosystems for key species, such as *river* nesting birds and endemic *freshwater* fish species.

Lakes could be subject to temperature increases. This can impact on the health of *lake* ecosystems, for example algal blooms. *Wetland* plant species and *wetland* habitats, and other species reliant on *wetlands* (including threatened bird species) are at *risk* of being negatively impacted. There are also likely to be cascading impacts on surrounding *environments* and ecosystems from hydrological changes (e.g. increased flood *risk*/changing *water* flows due to *wetland* loss). Coastal *wetlands* are particularly at *risk* due to salinisation from sea level rise and coastal flooding.

Human adaptation to climate change, such as building or expanding dams or flood protection schemes, will be necessary and may give rise to adverse impacts on ecosystems, in addition to those imposed by climate change itself.

Economy

Regional industry

Climate change impacts will result in both impacts and opportunities for regional industry in terms of jobs, business income and profitability. Key industries likely to be impacted include sheep, beef, dairy and deer farming, cropping and viticulture, forestry, fisheries and aquaculture, as well as tourism. For example, agriculture may benefit from warmer temperatures, longer growing seasons and elevated carbon dioxide concentrations leading to better pasture and crop growth. *Climate change* may also result in shifting land-use activities to adapt to altered climate conditions, which will incur costs, and potentially enable resources previously unviable to come into production.

However, these benefits may be limited by negative *effects of climate change* such as prolonged drought and increased flood *risk*. Some of these impacts can be mitigated by adaptation, for example, planting new crops that are better suited to new climatic conditions or through changes in crop intensification, or *water* harvesting practices. Pests and diseases could spread in range and severity, and pasture composition is likely to change with uncertain impacts on animal productivity and nutrient balances.

Some tourism activities may be affected. For example, the number of snow days experienced annually could decrease by as much as 30-40 days in some parts of the region. This reduction in natural snowfall will mean that ski fields will be more reliant on snowmaking. The duration of snow cover is also likely to decrease, particularly at lower elevations. This will also lead to reduced summer waterflows.

Built environment

For Otago, by 2050, the built environment will experience high to extreme impact *risks* to *wastewater* and *stormwater infrastructure*, *roads* and bridges, airports, stop banks and flood management schemes, and rural drainage. Medium to extreme impact *risks* are expected to affect urban and rural housing, *water* supply, *landfill* areas; and medium level *risks* are likely for commercial and public *buildings*, open space, rail, and ports.

The main threat to the *urban environment* comes from possible increases in heavy rainfall, which would put pressure on drainage and *stormwater* systems and increase the *risk* of flooding in some areas. Erosion could also increase *road* maintenance costs. There is greater risk of wastewater network overflows, and wastewater treatment plants being compromised.

¹⁶ <https://www.mfe.govt.nz/climate-change/likely-impacts-of-climate-change/how-could-climate-change-affect-my-region/otago>

Warmer conditions will substantially reduce home heating costs, leading to reduced electricity demand during the peak winter season, but possibly increase demand for air conditioning during summer. A reduced winter demand for electricity, combined with an increased availability of *water* in hydroelectric storage *lakes* from projected rainfall increases over the Main Divide, would provide the opportunity for a more balanced annual cycle in electricity supply and demand.¹⁷

Areas of particular concern include inland areas of flooding *risk* including South Dunedin, Mosgiel, and Milton; coastal erosion *risk* areas including St Kilda, St Clair, Clutha Delta, Moeraki, and Oamaru; sea level rise and salinity *risk* areas including South Dunedin, Harbor Basin, Aramoana, and Kaka Point.

Social

Changes to the economy generally and in relation to local shift in economic activity because of *climate change* may impact on community cohesion and *resilience*, and mental well-being and health. Higher temperatures could reduce illness in winter but can increase heat stress in summer. Higher levels and duration of ultraviolet radiation could increase skin cancer *risks*. Insect pests could increase, adversely impacting outdoor recreation experiences. Additionally, the visual and recreational values of Otago's landscape may be impacted on by the effects of climate change.

Differentiation may occur between highly *resilient* (high social capital, high income and politically empowered) and non-*resilient* communities (especially those with low adaptive capacity, such as low-income and marginalised groups) which has the potential to increase socio-economic and intergeneration and intrageneration inequality.

SRMR-I3 – Pest species pose an ongoing threat to indigenous biodiversity, economic activities and landscapes

Statement

Pest species can be found throughout Otago, from alpine to marine environments. Rabbits are changing Central Otago's landscape, eroding soils and affecting agriculture. Wallabies are an increasing risk with incursion beyond their contaminant zone and illegal liberations resulting in an expanding range within Otago, particularly Waitaki, Central Otago and Queenstown Lakes. *Wilding conifers* threaten high country and tussock grassland, changing the landscape and impacting primary production, recreational, hydrological and conservation values. Aquatic pests and weeds such as didymo, lake snow and *lagarosiphon* affect our *lakes* and *rivers*. Invasive marine species affect our marine waters. Native aquatic plants are displaced, impacting ecosystem and indigenous biodiversity health and recreation activities. Climate change may compound the impacts of existing pest species and provide opportunities for new pest species to establish.

Context

Otago's landscape, water and climate support many plants and animals considered to be pests. This includes weeds, vertebrate pests (e.g. rabbits), invertebrate pests, and diseases (e.g. pathogenic pest diseases (e.g. foot and mouth disease, pine needle diseases)), and *freshwater* and marine pests which are all biosecurity threats in the Otago region.

There are 35 listed weed species in Otago, and 11 listed animal pests. Pest management approaches include exclusion and surveillance (e.g. African feather grass), attempted eradication (e.g. wallabies and rooks), containment (e.g. *bomarea*) and sustained control (e.g. rabbits, gorse and broom). The approach deployed depends on the degree to which species are entrenched.

¹⁷ <https://environment.govt.nz/assets/Publications/Files/impacts-report-jun01.pdf> (Accessed 28 May 2021)

The Otago Pest Management Plan 2019-2029¹⁸ seeks to meet ORC's responsibilities under Part 2 of the Biosecurity Act 1992 to provide regional leadership through activities that prevent, reduce, or eliminate adverse *effects* resulting from harmful species that are present in the region. That plan details which approaches are to be used for which pest species, and the methods to be used for control.

In conjunction with that Plan, ORC has also established a Biosecurity Strategy (the Strategy) which sets out ORC's objectives for biosecurity management in the region using the full range of statutory and non-statutory tools available. Strategy priorities provide for protection of indigenous biodiversity, protection of landscape, recreation, cultural and *amenity values* and minimising the impact on agricultural production. The Strategy also supports pest management and seeks to integrate the regulatory and non-regulatory programmes. Collaborative partnership models of pest management are increasingly being developed and adopted in conjunction with community groups and land holders.

Impact snapshot

Environmental

Otago is one of the most biodiverse regions in New Zealand, with high levels of endemism. It is also one of the most modified regions in New Zealand. Both plant and animal species pests have significant impacts on biodiversity. Pests can also adversely impact waterways, natural features and landscapes.

Vertebrate browsing pests such as rabbits, wallabies and goats cause erosion and damage to land in both introduced pastures and native tussock communities, impacting significant lands and taoka species. Severe erosion can have adverse *effects* on *water* quality. Rats and stoats predate on native birds, while deer destroy native vegetation, and possums compete with native birds for hollows and have also been known to predate on chicks. Possums spread viruses and diseases such as bovine tuberculosis, which can have severe impacts on stock.

Weeds smother and compete with native vegetation, taking up available nutrients, *water*, space and sunlight. They reduce natural diversity and prevent native plants growing back after clearing, fire and other disturbance. Nationally, weeds will potentially affect 7% of the conservation estate within a decade, corresponding to a loss of native biodiversity equivalent to \$1.3 billion.¹⁹ For example, wilding *conifers* are a significant issue for the Otago region as well as nationally, where they threaten high country and tussock grassland, increase fire *risk*, and reduce *water* yield in *water* short catchments, impact soil nutrient cycling, change the landscape and negatively impact recreational, hydrological and conservation values.

Pest species destabilise aquatic habitats and negatively modify *water* flow with consequences for drainage, irrigation, power generation and recreational activities. The introduction of the *freshwater* diatom didymo (*Didymosphenia geminata*) in South Island streams is an example.²⁰

Economic

Pests can cause economic losses because of reduction in production, quality, efficiency and or functionality. This can include lost crop or animal production, higher *water* requirements and reductions in animal health. Weeds can affect wool quality, impact the quality of leather, taint meat and milk, damage the feet of stock and, in some instances, be toxic.

¹⁸ https://www.orc.govt.nz/media/8029/orc-pest-management-plan-2019_final_digital.pdf (accessed 26 May 2021)

¹⁹ <https://www.royalsociety.org.nz/news/pests-costing-economy-and-environment-billions> (accessed 26 May 2021)

²⁰ SL Goldson, GW Bourdôt, EG Brockerhoff, AE Byrom, MN Clout, MS McGlone, WA Nelson, AJ Popay, DM Suckling & MD Templeton (2015) New Zealand pest management: current and future challenges, *Journal of the Royal Society of New Zealand*, 45:1, 31-58, DOI: 10.1080/03036758.2014.1000343

Costs to agriculture, business and government to control pests and mitigate impacts are considerable, as are biosecurity costs to prevent pest incursion which are reflected in biosecurity fees and taxes. Biosecurity failure can have serious economic impacts on existing industries e.g. through the importation of fruit infected with fruitfly in a traveller's bag. Pests also adversely affect tourism through loss of landscape values (e.g. wilding conifers) and *amenity values* (e.g. didymo compromising fishing) which lead to reduced visitor experiences. Human health problems caused by pests can have a related economic cost.

Weeds, for example, are conservatively estimated to cost the New Zealand economy \$1.6 billion per annum²¹ in terms of loss of economic production, management and control costs. They also affect landscape amenity value and tourism experiences relied upon by the tourism sector. Weeds, including didymo and lake snow, can also adversely impact *infrastructure*, for example, *water* systems including irrigation, dams, and levies; electricity generation infrastructure and transportation systems (e.g. *road* beds, *lake* and *river* transportation, airstrips).

Social

Recreation values can be impacted through loss of amenity, access or landscape values. Pests can also cause human health problems. For example, some weed pollens can induce asthma and cause allergies (e.g. hay fever).²² Zoonoses (bacterium, viruses, parasites, prions) can result in diseases being transferred from animals to humans and include, for example, leptospirosis and campylobacter.

SRMR–I4 – Poorly managed urban and residential growth affects productive land, treasured natural assets, rural industry, infrastructure and community well-being

Statement

Natural resources used for urban development are permanently transformed – with the opportunity cost of removing urban activity being too high for land to revert to productive uses. Frequently, places that are attractive for urban growth also have landscape and productive values all of which must be balanced and where possible protected. The growth of Wānaka and Queenstown is changing the natural landscape. Mosgiel's and Cromwell's growth is occurring on some of Otago's most highly productive soil, which removes the option for agriculture. Towns like Arrowtown, Clyde and Milton experience poor air quality in winter, while experiencing pressure to grow.

Context

How urban areas function and grow now and in the future can directly impact on a significant proportion of the current and future urban population and correspondingly future environmental, economic, social and cultural outcomes and well-being. Most of Otago's population (87% or 225,186²³ in 2018) live in urban areas, while non-urban areas comprise 99% of the region.²⁴ Otago's total population under a medium scenario is projected to increase by 20% between 2018 and 2048, with Queenstown-Lakes population projected to grow by 60%, Central Otago by 42%, Dunedin and Waitaki by 8%, and Clutha by 4% over the same period.²⁵

²¹ <https://www.tandfonline.com/doi/abs/10.1080/14735903.2017.1334179?journalCode=tags20> (accessed 26 May 2021)

²² <http://www.allergy.org.nz/site/allergynz/files/Annual%20Pollen%20Calendar.pdf> (accessed 26 May 2021)

²³ 2018 Census place summaries: Stats NZ. (n.d.). Retrieved June 29, 2020, from <https://www.stats.govt.nz/tools/2018-census-place-summaries/otago-region> (accessed 26 May 2021)

²⁴ The rural/urban area definitions in this paragraph are taken from Statistics New Zealand Urban/Rural Classification at the SA2 geographic level using usually resident population data from the 2018 Census

²⁵ Statistics New Zealand Subnational Population Projections, 2018 base, published 31 March 2021 . (accessed 26 May 2021)

Otago's urban areas, like its people and landscapes, are also diverse. The attraction of urban areas results from the benefits of proximity and access to a variety of other people, experiences, goods, services (e.g. shopping, education, specialist service providers, recreation and leisure facilities and *infrastructure* (usually described as agglomeration effect)). These are generally considered to exceed the inconveniences such as congestion, pollution, and noise. Growth in some urban areas and demand for living in and visiting Otago can also be driven by proximity and access to highly valued natural features, such as the coast, mountains, *lakes*, and *rivers*. The open space and landscapes provided in rural areas also drives demand for rural residential living, particularly in areas with these qualities that are also in relative proximity to urban services.

Well-functioning urban places need to be dynamic and efficient, enable human social interactions and provide a wide variety of housing, employment, service and recreational opportunities that meet changing needs and preferences, in a way that maximises the well-being of all its present and future inhabitants, and respects its history and historic heritage, its setting and the *environment*. This requires well located development, supported by the necessary infrastructure.

Urban growth, especially if it exceeds *infrastructure* capacity (either through sheer pace and scale or by lack of planning) or if it occurs in a way or at a rate that mean that appropriate *infrastructure* is not provided, is lagging or is inefficient, can result in adverse impacts on the *environment*, existing residents, business and wider society.

In addition, the productive *land* in Otago contributes to the social and economic well-being of the community through production of food and other rural production-based products. In some parts of Otago, *land* and soil resources are particularly valuable for food production. However, where development occurs in a place or manner that removes or reduces the potential to use productive *land*, including through *reverse sensitivity effects*, the ability of *land* to support *primary production* is compromised.

Impact snapshot

Environmental

Urban areas and associated concentration of human activity result in adverse impacts on the natural *environment*, as a result of land consumption, landscape, waterway and vegetation modification for housing, industry, transport of goods and people and recreation areas, the diversion and use of *water*, and waste disposal and effluent and pollution *discharges* to air, *land* and *water*. Urban or rural lifestyle expansion can remove *land* and soil resources from productive uses, including for the production of food. All of these can also impact *mana whenua* values. These impacts can also result in loss or impediment of access to important resources including significant biodiversity or natural features and landscapes. Poorly managed urban growth can lead to additional carbon emissions, this can create tensions between the need to increase residential housing stock and the need to meet carbon reduction targets.

Urban growth within *rural areas* can also lead to reverse-sensitivity *effects* on existing *primary production* activities and related rural based activities, because urban activities can be sensitive to the *effects* generated by *primary production* activities and related rural based activities. Urban growth can also impact air quality, through increased vehicle use, but also particularly where *solid fuel* burners are used, noting they are the heating of choice in Otago. Urban areas such as Arrowtown, Cromwell, Alexandra, Clyde, Milton, and Mosgiel already do not meet National Environment Standards for Air Quality (NESAQ), for example. Emissions from existing domestic fuel burners account for more than 95% of winter *PM₁₀* emissions in all of these towns but Milton.²⁶ Air quality in urban areas in Otago

²⁶ "Alexandra, Arrowtown, Mosgiel and Milton Air Emission Inventory – 2016" & "Wanaka, Cromwell and Clyde Air Emission Inventory -2019", prepared by Emily Wilton, Environet Ltd, for Otago Regional Council.

therefore needs to be addressed from two perspectives, dealing with existing problems and, in areas where further development is planned, addressing the additional impact that development may have.

Economic

While potentially providing short term commercial returns, poorly managed urban growth and development may result in long term impacts including:

- the loss of *land* for *primary production* activities (either directly through building on it, or indirectly through reverse sensitivity effects);
- the consequences of previous decisions (low density development, including rural lifestyle, in the short term can preclude higher density development in the medium to longer term);
- increased capital and operational costs for *infrastructure* which can foreclose other more suitable investments or spending, increased costs from less efficient spatial arrangements (such as increased transportation and *infrastructure* costs to both users and operators), and loss of valued natural capital and future opportunities; and
- housing affordability challenged are present in the region and are negatively affected by urban growth where demand outpaces supply.
- conflict arising from the location of incompatible activities within proximity of each other, including the potential for *reverse sensitivity effects* on the continued operation and growth of the rural based activities.

The costs and negative impacts from 'over planning' for growth are much lower than the direct and wider costs and risks of under-planning, and largely relate to the provision of infrastructure ahead of demand. While this can cause financial and operational issues for infrastructure providers, undersized or delayed infrastructure also generates impacts for those providers, and the wider economy, through delayed, foregone, or less appropriate or efficient development, and contributes to rising housing and land costs.

Social

Adverse impacts from inefficient or poorly planned urban development affect the well-being of both individuals and communities. This shows up as health risks as a result of increased air pollution and *water* pollution, decreased social capital and mental health in fragmented, disconnected and dispersed communities and inequality impacts arising from less-competitive land and house markets and reduced housing choice and access to affordable housing.

Changes in the overall number of people and changes in preferences can alter the relative balance between supply and demand for housing and where supply is unable to respond in a timely way to demand, this can impact on prices for housing, including rent. These impacts can disproportionately affect people on lower incomes who may already face affordability issues, and accordingly have less options. While Otago has traditionally been relatively affordable, house prices have risen rapidly across almost all districts, at a rate higher than the national average.

Transportation of goods and people between and within urban areas can also generate impacts on humans. For example, increased traffic congestion and lack of safe and attractive alternatives within urban areas impacts people and businesses living near to high volume traffic routes, resulting in lost time for family and other activities for those who use them, and deaths and serious injuries on the transport network.

Urban growth has the potential, through good development planning and provision of appropriate infrastructure, to improve well-being by providing an increased range of housing types in more locations, resulting in greater range of prices. Well planned subdivisions provide opportunities to increase public access to natural environments, including to the coast (e.g. via esplanades, *lakes*, *rivers* and their margins), to protect areas of cultural or historic significance and to provide means or other measures for their protection, such as through restrictive covenants. Poorly managed growth can compromise both access to and protection of natural and cultural environments, and as subdivision and development is effectively permanent and irreversible, it is important that it is done well with an eye to the longer term.

SRMR–15 – *Freshwater* demand exceeds capacity in some places

Statement

In *water*-short catchments, *freshwater* availability may not be able to meet competing demands from the health and well-being needs of the *environment*, the health and well-being needs of people, and the ability of people and communities to provide for their social, economic and cultural well-being. Many of these catchments are also experiencing urban growth, changes in rural *land* uses, and increased demand for hydro-electric generation. Individually and cumulatively these can alter demand including further increases in demand on *freshwater* supply. Some catchments are complex, making it challenging to identify or mitigate these *effects*.

Context

Freshwater, including *rivers* and streams, *lakes*, *groundwater* systems, and *wetlands*, is a finite resource, critical to the environment, society and the economy. In Otago, access to, allocation, and *use* of *freshwater* reflects current demands and historical development associated with “deemed permits” (water permits under the RMA 1991) and a permissive water resource management regime. The deemed permits originated from mining licences issued under historic mining legislation and which enable water to continue to be used for a range of uses until October 2021.

Population growth and land-use intensification in urban and rural environments can create increased demand for *freshwater* for human consumption, irrigation, renewable electricity generation and other uses. *Freshwater* resources in some places are reaching, or are beyond, their sustainable abstraction limits. However, there continues to be debate in the community about how historical *freshwater* allocations can be adjusted to prioritise protection of the health and well-being of *water bodies*, meet the health needs of people and provide for economic, social and cultural well-being.

On 3 September 2020, new National Environmental Standards for Freshwater (NESF) and a new National Policy Statement for Freshwater Management (NPSFM)²⁷ came into force. They have a goal of making immediate improvements so that *freshwater* quality is materially improving within five years, reversing past degradation and bringing New Zealand’s *freshwater* resources, waterways and ecosystems to a healthy state within a generation. The NPS-FM also clarified the need to provide first for the health and well-being of *water bodies* and *freshwater* ecosystems; then health and needs of people (such as *drinking water*); and finally the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

²⁷ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

Impact snapshot

Environmental

Freshwater abstraction can reduce *water* level or flow and connections between different *water bodies*. This can negatively impact ecosystems by affecting²⁸ *freshwater* habitat size and the shape and condition of the *water body*, including *bed*, banks, margin, riparian vegetation, connections to *groundwater*, *water* chemistry (for example by increasing concentrations of pollutants), and interaction between species and their habitat. How much an ecosystem is affected by taking *freshwater* is determined by departure from natural flow regimes, taking into account magnitude, frequency, timing, duration and rate of change, and ecosystem capacity to recover.

Economic

Freshwater in the Otago region is a factor of production that directly contributes to human needs (*water* supply), primary production, industry and hydro-electric power supply. *Freshwater* also indirectly contributes to the tourism industry through maintenance of *freshwater* assets for aesthetic and commercial recreational purposes. Lack of *freshwater* can negatively impact economic output of those industries that rely on *water* in the production process. To varying degrees these impacts can be mitigated through *water* efficiency measures and innovation. At the same time other industries, such as tourism that rely on the aesthetic characteristic of *rivers* and *lakes*, do not have such opportunities available to them and instead rely on management regimes that sustain flows and *water* levels suitable for their activities.

Social

Ensuring appropriate *freshwater* supply for human use is essential, including as part of planned urban growth and to support rural communities. It is possible this may require consideration of additional *freshwater* storage in the future. For the wider community, *water* is a source of kai and for food harvesting and food production. The region's *freshwater* assets also support a range of recreation uses, for example camping, fishing, *water* sports, and swimming. These values are strongly linked to environmental, health, landscape and aesthetic values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values, including people's wellbeing.

SRMR-16 – Declining *water* quality has adverse effects on the environment, our communities, and the economy

Statement

While the pristine areas of Otago generally maintain very good *water* quality, some areas of Otago demonstrate poorer quality and declining trends in *water* quality which can often be attributed to *discharges* from *land use* intensification (both rural and urban) and *land* management practices. Erosion, run-off and soil loss can lead to sediment and nutrients being deposited into *freshwater* bodies resulting in declining *water* quality.

Context

The health of *water* is vital for the health of the *environment*, people and the economy. It is at the heart of culture and identity. Nationally, and in parts of Otago, *freshwater* is facing significant pressure. Population growth and land-use intensification in urban and rural environments has impacted the quality of *water*, increasing contamination from nutrients and sediment.

²⁸ Clapcott, 2018, Our Freshwater 2020

Water quality affects a wide range of environmental health factors, human health and survival needs, and cultural, social, recreational, and economic uses. Some of the biggest impacts on *water* quality in Otago are considered to come from agriculture and urbanisation, through diffuse *discharges* and point source *discharges*.

On 3 September 2020, new National Environmental Standards (NESF) and a new National Policy Statement (NPSFM)²⁹ came into force to make immediate improvements to *water* quality within five years; and reverse past degradation and bring New Zealand's *freshwater* resources, waterways and ecosystems to a healthy state within a generation.

Impact snapshot

Environmental

Despite the region's *lakes* and *rivers* being highly valued by Otago communities, reports indicate that in many areas there are reasons for concern about *water* quality and its trends with consequent potential impact on ecosystems and people.

Water quality across Otago is variable. *River water* quality is best at *river* and stream reaches located at high or mountainous elevations under predominantly native vegetation cover, and mostly good in the upper areas of large river catchment and outlets from large *lakes*. *Water* quality is generally poorer in smaller low-elevation streams and coastal shallow lakes where they receive water from upstream pastoral areas or urban catchments. For example, catchments such as the Waiareka Creek, Kaikorai Stream, and sub-catchments within the lower Clutha rohe, have some of the poorest *water* quality in the region; Otago's central lakes are impacted by increased population, urban development and tourism demand; other areas, such as urban streams in Dunedin, intensified catchments in North Otago and some tributaries, also have poor *water* quality.³⁰ Between 2006 and 2017, trends in a number of *water* quality parameters were worsening.³¹

For *E. coli*, for example, 30% of sites had a probable or significant worsening trend compared to 7% of sites that had either stable or improving trends. In urban streams in Dunedin, intensified catchments in North Otago and some tributaries of the Poumāhaka, *E. coli* was the worst performing variable³². In many cases, the specific source of contamination is unknown.

There are many different types and sizes of *lakes* in Otago. ORC monitors *water* quality in *lakes*, of which eight have generally shown good *water* quality. There have been concerns within the community about the quality of *water* in Lakes Wānaka, Whakatipu Waimāori/Lake Wakatipu and Lake Hayes.

Groundwater quality also varies across the region, with some areas having elevated *E. coli* and nitrate concentrations above the NZ Drinking Water Standards. The main areas with elevated nitrate concentrations are North Otago and the Lower Clutha. Some bores across the region have exceeded the drinking water standards for *E. coli*; highlighting localized problems, likely due to inadequate bore head security. In addition to human sources of poorer groundwater quality, low groundwater quality from natural or geologic sources may also affect the potability of bore water throughout Otago (e.g. naturally occurring arsenic or boron concentrations found in bores associated with particularly geologies).

Stock entering *water bodies* can lead to pugging and destruction of riparian soils and *beds* that play an important role in filtering *contaminants*, as well as excreting directly in waterways. The growing practice

²⁹ <https://www.mfe.govt.nz/fresh-water/freshwater-acts-and-regulations/national-policy-statement-freshwater-management> (accessed 26 May 2021)

³⁰ Rachel Ozanne and Adam Uytendaal (2017) *State of the Environment Surface Water Quality in Otago 2006 to 2017*: Otago Regional Council p ii

³¹ *Ibid.*

³² *Ibid.*

of wintering cattle in Otago can exacerbate leaching *effects*, which may not connect to surface *water* until spring, creating spikes in nutrient loads.³³

Sediment is a key issue for *freshwater* quality throughout Otago, including coastal estuaries where it can significantly impact the life supporting capacity of waterways. Urban development is a key generator of sediment input to *lakes* and *rivers* in Central Otago, from *building* platforms and from *stormwater* contamination. Activities such as agricultural *land* use, mining, and forestry also contribute.

Agricultural *land* use intensification also contributes to nutrients (nitrogen and phosphorus) leaching into underlying *groundwater* or running off into surface *water bodies*, and can also increase the risk of *E.coli* contamination from animal waste.

Urban environmental *contaminants* include hydrocarbons, and metals from *roads* and *structures*. They often wash into urban *stormwater* systems and pass unfiltered into *water bodies*, or the *coastal marine area*. *Stormwater effects*, particularly in urban areas, are poorly understood. *Wastewater* and *stormwater* systems may not be adequate in some places due to aging *infrastructure*, rapid growth pressure, or insufficient investment in replacement or upgrades. Overflows of *wastewater* (*sewage* and waste products) create significant *risks* for *water* quality. These can enter the *environment* either directly or through *stormwater* systems, particularly in flood events.

Economic

Water pollution (from nutrients, chemicals, pathogens, sediment and other contaminants) can have far-reaching *effects* potentially impacting tourism, property values, commercial fishing, recreational businesses, and many other sectors that depend on clean *water*.³⁴

These impacts can be direct (varying the quality of primary production outputs such as fish); increasing costs of production through mitigation or remediation costs (*drinking water* treatment cost, riparian restoration); loss of enjoyment and benefit from tourism uses, and indirect such as cost to human health and associated medical costs, or reduction in brand value (e.g. Brand New Zealand).

Social

For the wider community, *water* is a source of kai for harvesting and food production. *Water* is also a source of recreation, including swimming, fishing and *water* sports. There are multiple dimensions to the way *water* quality impacts on peoples' interaction with *water bodies*, including environmental, health, landscape, and aesthetic factors. Otago's *rivers*, *lakes*, estuaries and bays are important destinations for recreational *use* including swimming, fishing and *water* sports. Eighty-two percent of Otago's *rivers* and *lakes* are swimmable.³⁵ Where *water* quality cannot support these activities, the lifestyle of those living in Otago is impacted.

Degraded *water* quality reduces the mauri of the *water* and the habitats and species it supports, therefore also negatively affecting mahika kai and taoka species and places. This constitutes a loss of Kāi Tahu culture, affecting the intergenerational transfer of knowledge handed down from tūpuna over hundreds of years; and it culminates in a diminishing of mana.

³³ Science Staff Survey, June 2020.

³⁴ <https://www.epa.gov/nutrientpollution/effects-economy> (accessed 26 May 2021)

³⁵ This estimate applies to larger rivers and lakes, defined as "rivers that are fourth order in the River Environment Classification system and lakes with a perimeter of 1.5km or more" – ORC Policy Committee Report – 29 Nov 2018 - PPRM1843

SRMR-17 – Rich and varied *biodiversity* has been lost or degraded due to human activities and the presence of pests and predators

Statement

Fragmentation, loss and isolation of populations and communities of indigenous species has been ongoing across New Zealand, and Otago is no exception. *Biodiversity* mapping indicates Otago is one of the most modified regions in New Zealand³⁶. This can be attributed to habitat loss, land use changes, vegetation clearance and the presence of pests and predators. Further, many of these *effects* are a result of the cumulative changes of past and current development. These cumulative *effects* have often not been identified, managed or measured. Leadership and coordination of the various initiatives to address *biodiversity* loss has also been lacking.

Context

Otago is notable for the diversity of its landscapes, ecosystems, and climatic conditions. With that comes a diverse range of important *biodiversity* values which are at *risk*. These include rare ecosystems such as inland saline habitats, nationally rare *lake* and *river* systems, endemic and threatened lizard and fish species and important and diverse marine and coastal habitats.

Ecosystems are an interacting system of living and non-living parts such as sunlight, air, *water*, *minerals* and nutrients. *Biological diversity* (hereafter called *biodiversity*) describes the variety of all living things, including the range of species living in our *environments*, their genetics, and the ecosystems where they live. New Zealand's high level of indigenous *biodiversity* makes a unique contribution to the world's *biodiversity*. Otago is a good example of the enormous diversity in New Zealand's natural environment from toroa (albatross) and hoiho (yellow-eyed penguins) on the Otago Peninsula to the endangered species (for example, skinks) of Central Otago, the kea of the Southern Alps, galaxias species as well as the internationally significant braided *rivers* and their ecosystems.

The health of New Zealand's *biodiversity* has declined significantly since the arrival of humans. Environment Aotearoa 2019³⁷ found that our indigenous *biodiversity* is under significant pressure from introduced species, pollution, physical changes to our *environment* and harvesting of wild species.

Almost 4,000 native species are currently threatened with, or at *risk* of, extinction. The information available indicates Otago's *biodiversity* faces the same challenges.

Impact snapshot

Environmental

Threats to *biodiversity* in Otago include invasive species (weeds and predators), vegetation clearing, land fragmentation and grassland "improvement", poor *water* quality (nutrients and sediments), dredging and overfishing.

There are 61 ecosystems in the Otago region.³⁸ Whilst the average ecosystem extent compared to pre-European settlement is 62%, over 17 communities have been reduced to less than 40% extent. Forest communities have declined substantially, for example kahikatea forests have been reduced to 3.9% of pre-European extent. Matai, totara, broadleaved forest (6.5%) and Kirk's scurvy grass herbfield/loamfield (7.1%) have also been significantly reduced.

³⁶ Wildlands (2020). Unpublished Consultancy Report to Otago Regional Council R5015a. Mapping of potential natural ecosystems and current ecosystems in Otago region.

³⁷ <https://environment.govt.nz/assets/Publications/Files/environment-aotearoa-2019.pdf> (accessed 26 May 2021)

³⁸ Wildlands (2020). Unpublished Consultancy Report to Otago Regional Council R5015a. Mapping of potential natural ecosystems and current ecosystems in Otago region.

Impacts of human activities are evident both in terms of species and ecosystems. Some 44% of Otago's bird species are threatened or at *risk*; 88% of lizard species; and 72% of indigenous fish species. Inland Otago has degraded native fish communities, due to anthropogenic alteration of waterways (such as damming, abstraction, bed manipulation, draining wetlands), the discharge of contaminants and trout predation on native galaxiids. This is illustrated by the low scores for Otago's rivers in the *freshwater* fish index of biotic integrity.

The extent of impacts on marine species and environments is not well understood. Sedimentation and nutrients entrapped in land run-off is known to have contributed to the loss of kelp forests.³⁹ In addition to sedimentation, other human impacts on kelp forests include rising sea surface temperatures associated with climate change, the introduction of invasive species and fishing. There has been a 70% decline in the abundance of hoiho (yellow-eyed penguin) on the Otago coast since 2008.⁴⁰ The effects of *climate change* will add significantly to *risks* of continuing *biodiversity* decline.

Economic

Biodiversity and ecosystem services underpin primary production (ecosystem services such as *water*, soil *biodiversity*, pest protection, pollination) and tourism (the "clean green" image of "pure New Zealand" is related to a public perception of Otago's healthy *environment* and biodiversity).

Short-term impacts of loss of productivity or increased costs of pest management occur and longer-term impacts of net loss of natural capital in the region over time are also of concern. The economic costs of lost productivity due to pests, erosion and damage to land, are likely to be significant and there is potential for loss of *biodiversity* to adversely impact on the economy.

Social

Biodiversity is a significant contributor to the community's recreational experiences and intrinsic values. *Biodiversity* loss will adversely impact those values and experiences. Some introduced species such as trout, deer and pigs have social and recreation values but also have impacts on native ecosystems and species.

³⁹ Schiel et al. 2006, Sediment on rocky intertidal reefs: Effects on early post-settlement stages of habitat-forming seaweeds, *Journal of Experimental Marine Biology and Ecology* 331(2):158-172 (reference provided by Department of Conservation)

⁴⁰ Department of Conservation, 2008, Unpublished data.

SRMR-18 – Otago’s coast is a rich natural, cultural and economic resource that is under threat from a range of terrestrial and marine activities

Statement

Otago’s coast provides habitat for rare species (including toroa and hoiho), comprises some of the region’s outstanding natural landscapes, is a rich food source, provides many recreation opportunities, is the location for some industries, and has potential for further economic use (aquaculture). Threats to it are not always well understood and not always well managed. From the sedimentation *effects* of inland development to waste disposal, human activity puts stress on the marine and coastal environment. Some of those activities, like port activities and tourism, are also vital to the region’s economic well-being.

Context

Otago’s coastal environment includes land adjoining the coast where coastal characteristics apply (as outlined in NZCPS Policy 1), and the coastal marine area out to the twelve nautical mile seaward limit. The coastal environment is a finite resource which is sensitive to change. Recent rapid expansion of some types of coastal development is a significant issue for the sustainable management of the coastal environment of Otago.

Activities occurring within or affecting the coastal environment include urban development, recreational activities, transport *infrastructure*, energy generation and transmission, land and marine based (e.g. aquaculture) food production industries and other rural industry activities, carbon forestry and *plantation forestry*, fishing, tourism, and *mineral* extraction. Such activities are important contributors to the health and well-being of communities, when they are located and managed appropriately. A number of these activities provide a significant contribution to the regional economy.

Dunedin is a major coastal city with increasing urban development. It also hosts *infrastructure* of national significance such as Port Otago and associated *road* transport networks servicing the Otago region and beyond which contribute to and facilitate regional economic and social development.

The community values the coast for its landscapes, natural character, recreational uses and associated habitat for biodiversity. Recreational activities such as boating, fishing, swimming and general beach access are interconnected with coastal values. Conserving coastal biodiversity and marine reserves are associated with coastal values.⁴¹ A key challenge is the protection of the coast’s natural and cultural assets while enabling economic and social development opportunities to be realised.

Impact snapshot

Impacts of hazards, climate change, pests, freshwater, and biodiversity loss, which have been discussed above, all impact the coast. Urban development and population pressure can amplify these effects.

Environmental

These impacts can affect natural processes. For example, poor water quality can result in degradation of estuarine and ocean chemistry with adverse impacts on ecosystems, including coastal *wetlands* and marshes, benthic muds, subtidal and inter-tidal area muds/sands, reefs, and marine vegetation areas (e.g. sea grasses, kelp). Ecosystems and indigenous biodiversity, and their flora and fauna (from zooplankton to whales) can be impacted by urban and industrial development, pests, and climate change leading to biodiversity loss.

⁴¹ ORC Committee Report, *RPS Consultation Summary*, ORC Agenda 27 May 2020

Natural features, landscapes, seascapes, and *surf breaks* of national significance can be affected by human activity, climate change, and natural hazards. Susceptibility to these impacts is determined by susceptibility, spatial scale, frequency, functional impact/consequence, recovery capacity/time, and likelihood of the impact's occurrence. Around Dunedin, for example, impacts include nutrients and contaminants from Dunedin stormwater which impact on coastal waters and estuaries; declining hoiho (yellow-eyed penguins) numbers due to introduced predators and domestic pets; whilst recovering seal and sealion numbers can create conflict with recreational *uses* on the coast; and beach erosion can impact social values and beach recreation *use*.

Economic

Deterioration of coastal assets and values causes loss of production and income, increases *infrastructure* costs and costs of production, and loss of property values. There are also costs associated with mitigation, for example in the case of coastal erosion. Other economic impacts include recreation and tourism industries being adversely impacted by degraded coastal environments; marine industry production suffering because of poor *water* quality; dredging of sedimentation; and costs of mitigating adverse impacts, e.g. combatting invasive pests.

Social

Impacts on the coastal environment and its associated unique values include those on its landscapes and landforms, those on it as a place to live and work and for recreation activities, those on access, and those which give rise to coastal deterioration and which compromise general enjoyment and amenity for communities.

SRMR-19 – Otago lakes are subject to pressures from tourism and population growth

Statement

The beauty, recreational opportunities and regional climate of Lakes Wānaka, Whakatipu Waimāori/Lake Wakatipu, Lake Hāwea and Te Wairere/Lake Dunstan and their environs attract visitors and residents from around the region, the country and the world. This influx supports human health and well-being and brings economic opportunity, but the activities and services created to take advantage of it can degrade the *environment* and undermine the experience that underpins their attractiveness.

Context

Healthy *lakes* are one of Otago's most valued natural resources and for the most part *water* quality is good. The values assigned to *lakes* include the natural features and landscapes, the quality and quantity of *water* accessible to the Otago communities, the accessibility of these resources for recreation, the health of native flora and fauna associated with Otago's *rivers* and *lakes*, and renewable electricity generation.

Urban growth is adversely affecting the natural features and landscapes around the lakes. The amount of growth is demonstrated in the Queenstown Lakes District, including Queenstown and Wānaka, where the population tripled in the last 20 years from 16,750 in 1999 to 47,400 in 2020.⁴² Continued growth is projected over the 30 years from 2020 to 2050 (by 63%).⁴³

⁴² Infometrics online database (February 2021)

⁴³ Queenstown-Lakes District Council demand projections by Utility

This desire of to enjoy the outstanding natural environments of the Otago *lakes* has placed significant pressures on the *environment*, transport, energy and other *infrastructure*, health services and social structures. At the same time the economy of the Otago lakes area is heavily dependent on tourism. For example in 2020, tourism employment accounted for an estimated 56% (or 17,758) of the jobs in the Queenstown-Lakes district; tourism GDP accounted for 43.7% (or NZ \$1.7 billion) of the district's GDP and international tourism contributed 64% (or NZ \$1.89 billion).⁴⁴ The Otago-Lakes area also supplies significant renewable electricity for *use* in Otago and beyond.

Impact snapshot

Environmental

Population pressures arising from urban development, and tourism population pressures are impacting on the *environment*. Lake Wānaka, Lake Hāwea, and Whakatipu Waimāori/ Lake Wakatipu, as well as the Kawarau River and upper reaches of the Clutha Mata-au and Taiari Rivers all have good *water* quality which equates to the “A” band (being top/best level) for the *National Objectives Framework*.⁴⁵

However, *water* quality is being adversely impacted by increased population, urban development and tourism demand which is straining existing waste management infrastructure. In addition, localised degradation of some areas is occurring due to overuse and unregulated use (e.g. freedom camping). The amenity of these areas is being compromised in some places by over-crowding.

Recreation *use* impacts on the *environment* can be a *risk*, for example the distribution of pest species can be accelerated as has occurred for lake snow and *Lagarosiphon* weeds being spread by recreation boating movements. Natural features and landscape values can be adversely impacted by tourism and urban growth, and electricity generation.

Economic

The economic benefits of urban development, tourism, *primary production*, *renewable electricity generation* and *water* supply can be positive for the Otago-Lakes' communities and visitors. It also impacts on the region's natural assets with a growing cost to the region that puts at *risk* the *environment* highly prized by residents and visitors. There are also impacts between industry sectors.

For example, the clean green image of New Zealand, of which the Otago Lakes area is symbolic, is at *risk* of being compromised if the quality of *lakes* becomes degraded or visitor numbers exceed the servicing capacity of the district. This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry's social licence to operate. At the same time tourism can negatively impact on how *primary production* can operate, potentially limiting its contribution to the regional economy.

Urban development brings economic development and improved opportunities and standards of living to the Otago lakes area but can adversely impact on both the *environment* and how *primary production* can operate.

Social

Over-crowding impacts can adversely affect urban amenity and recreation experiences of both tourists and residents, particularly outdoor recreation. *Infrastructure* capacity limits can, for example, result in an increased number of wastewater overflows to the environment when demand on the network exceeds capacity. These can have significant adverse impacts on human health as well as recreational amenity.

⁴⁴ Infometrics online database; (February 2021)

⁴⁵ Land, Air, Water, Aotearoa: <https://www.lawa.org.nz/explore-data/otago-region/> (accessed 26 May 2021).

SRMR–I10A – The social, cultural and economic well-being of Otago’s communities depends on the use and development of *natural and physical resources*, but that use and development can compromise or conflict with the achievement of *environmental outcomes*

Statement

The ability to access and use *natural and physical resources*, including for *infrastructure, primary production, mineral* and aggregate extraction, tourism and *industrial activities*, is essential for the social, cultural and economic well-being of the region. Access to, and the ability to use, *natural and physical resources* can be impacted by regulatory changes, incompatible *land uses, natural hazards* and *climate change*. Equally, the use and development of the region’s *natural and physical resources* can have adverse *effects* on the *environment* which need to be appropriately managed.

Context

The well-being of Otago’s communities relies on the ability to access and use the region’s *natural and physical resources*. The quality of these resources and the ability to access them has a direct bearing on the well-being of people and communities in the region.

Failing to plan and provide for activities that contribute to the regional economy can have an adverse socioeconomic consequences. Conversely, failure of activities to sustainably manage their impact on *natural and physical resources* can also lead to poor socioeconomic outcomes.

Appropriate access and use of *natural and physical resource* needs a planning framework that recognises and provides for the essential operational, locational and functional requirements of activities while managing the adverse *effects* of these activities. The ongoing *effects of climate change* (addressed elsewhere in the Issues section) will have an ongoing impact on the operation of activities.

Impact snapshot

Environmental

The use of *natural and physical resources* can have adverse *effects* on the *environment*, which need to be appropriately managed to avoid, remedy or mitigate the adverse *effects*. Loss or degradation of resources can diminish their intrinsic values. Some of Otago’s resources are nationally or regionally important for their natural values and economic potential and so warrant careful management.

However, it is recognised that the natural environment can benefit as activities change how they interact with, access and use natural resources. Activities that use *natural and physical resources* can achieve positive *environmental outcomes*, for example riparian planting, habitat restoration and enhancement, public access, and *pest* control activities. This can be as mitigation or compensation for the *effects* of activities or as contributions from economically sustainable activities in the region. Some activities, for example renewable electricity generation and other infrastructure, will have a significant role to play in addressing climate change.

Economic

Activities that rely on *natural and physical resources* generate direct and indirect economic benefits; therefore, their ability to operate, or to improve their operational efficiency, affects the economy of the region.

The ability to access and use *natural and physical resources* may impact the ability of activities to optimise the use of investments and assets and realise their potential economic value.

Activities that rely on *natural and physical resources* also rely on clear regulatory settings to inform investment decision-making about the use and development of *natural and physical resources*.

Social

The ability for activities to access and use *natural and physical resources* provides for the social and cultural well-being of people and communities including by supporting employment, livability, recreation, resilience, food security and investment into communities. Inappropriately located *subdivision*, use and development can increase the potential for harm to human health arising from incompatible activities locating in close proximity to each other.

SRMR–I10 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause

Statement

Sediment from poorly managed development and *primary production* activities flows into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats. *Water* abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. Agriculture, and minerals extraction support employment and economic well-being but also change landscapes and habitats. Otago’s port moves freight to and from Otago and Southland, but operates alongside sensitive environments, including the Aramoana saltmarsh. Tourism and recreation, which relies on the environment, can also put pressure on natural environments.

Context

The Otago regional economy GDP totals \$13.2 billion and supports a population of 236,200 residents (over half of which are in Dunedin). A significant part of the economy relies on the region’s natural resources (air, vegetation, biodiversity, *water*, *land*, marine and *minerals*). This supports agriculture, forestry, fishing (6.9% of GDP), mining (4.5% of GDP), electricity, gas, *water* and waste services (4.4% of GDP), as well as conservation activities and hunting. Tourism (18.1% of GDP) also partially relies on the natural values of the region.⁴⁶

However, economic activity needs to more effectively account for and manage its impacts on the region’s natural resources.⁴⁷ Where business and social activity does not account for its impacts on natural resources in the long term, not only is the sustainability of the region’s natural resources threatened, but equally the associated long term economic, social and cultural values are also threatened.

Impact snapshot

Environmental

Economic activities can lead to, for example, biodiversity loss, poor *water* quality, coastal and marine

⁴⁶ Infometrics, August 2020.

⁴⁷ <https://www.orc.govt.nz/media/8882/community-consultation-summary-report-draft.pdf> (accessed 26 May 2021)

degradation, and loss of natural features and landscapes. These and other matters are considered in further detail elsewhere in this chapter.

Negative impacts on the *environment* can also compromise the ecosystems and the services economic activities depend on (ecosystem services), for example loss of *wetlands* which provide flood attenuation services, loss of biodiversity which provide pest control and pollination services, and loss of soil biodiversity. Economic activity also has the potential to compromise or destroy natural features and landscapes. Such impacts are both immediate and cumulative. Cumulative impacts that are not addressed have the potential to lead to tipping points beyond which systems can no longer properly function.

Economic

The costs of production can rise because of poor quality natural resources, for example, through higher input costs (e.g. fertiliser, weed and pest control); and remediation requirements (e.g. riverbank restoration, erosion control). Some land management practices can compromise the ability of land to support primary production, for example, loss of soil through erosion or soil structure through compaction. Marine industries (e.g. fishing and aquaculture) can also be adversely affected.

Business environmental performance is becoming increasingly important in terms of providing access to investment. Poor business environmental performance can also lead to increased regulatory requirements and associated higher costs of doing business.

Social

Damage to or loss of natural features and landscapes compromises *amenity values*. Failure of business to sustainably manage their impact on natural resources can also have social impacts. In extreme cases it can lead to reduced access to resources.

SRMR–I11 – Cumulative impacts and *resilience* – the environmental costs of our activities in Otago are adding up with tipping points potentially being reached

Statement

How and where we currently live is likely to change significantly in coming years. To respond to all the issues identified in this RPS, it is essential to consider changes to how we travel, the industries our economy relies on, the use we currently make of the *natural and physical resources* of the region, and how we provide for personal and community well-being, all while protecting our natural environment.

Context

The long term environmental, economic, and social well-being of the Otago region requires anticipating and minimising cumulative environmental impacts before they reach a tipping point, beyond which systems can no longer properly function. This requires *resilient* frameworks that take account of the dynamic relationship between the *environment*, economy and people while acknowledging that the future is always uncertain, and knowledge is imperfect. Should a tipping point be reached a *resilient* Otago society will have the ability to absorb, respond to, adapt to, and recover from disruptive events.⁴⁸

⁴⁸ <https://www.civildefence.govt.nz/cdem-sector/plans-and-strategies/national-disaster-resilience-strategy/national-disaster-resilience-strategy-summary-version/> (accessed 26 May 2021)

Impact snapshot

Environmental

While many ecosystems have a degree of *resilience*, increasing pressures on the *environment*, typically as a result of human activities (for example economic development), can have an adverse cumulative *effect*. *Climate change* also has the potential to seriously challenge ecosystem adaptive capacity. Much work is being undertaken to address this challenge, but it is still possible that permanent changes may occur (tipping point).

The first and best response is to ensure sustainable management of our natural resources and avoid immediate and long-term cumulative *effects* that degrade the *environment*. At the same time a *resilience* approach is needed that identifies thresholds or sets limits on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.

Indicators and tools for measuring *resilience* and tipping points remain in the early stages of understanding and development. Even though regulatory agencies and proponents for natural resource development and environmental rehabilitation projects have difficulties interpreting and verifying the potential for environmental recovery and *resilience* (particularly in relation to the regulatory context of impact assessment in order to provide consenting decisions for regulated activities)⁴⁹ that should not be taken as a reason to delay acting.

Social and economic

The well-being of Otago's people and communities in the long term will be sustained by the enduring ecological health and *resilience* of the *environment* and by human activity providing for the *environment* in equal or greater measure than is taken from it (in other words, net impact determines net well-being). It will also be sustained through community *resilience* so that it can adapt and nimbly respond to future challenges.

⁴⁹ <https://par.nsf.gov/servlets/purl/10047476> (accessed 26 May 2021)

RMIA – Resource management issues of significance to iwi authorities in the region

Introduction

The MW – *Mana Whenua* chapter describes the integral relationship between Kāi Tahu and the natural world, including the relationship with particular resources, and the values that influence the Kāi Tahu approach to resource management. The issues and concerns described in this chapter should be read and understood in the context of the explanations in the MW – *Mana Whenua* chapter.

RMIA–WAI – Wai Māori

Context

Water plays a significant role in Kāi Tahu spiritual beliefs and cultural traditions. Kāi Tahu have an obligation through whakapapa to protect wai and all the life it supports. Whānau have observed the health of *water* degrade through time and consider it is crucial that this degradation is reversed.

RMIA–WAI–I1 – The loss and degradation of *water* resources through drainage, abstraction, pollution, and damming has resulted in material and cultural deprivation for Kāi Tahu ki Otago

The drainage of *wetlands*, *water* abstraction, degraded *water* quality, barriers to fish passage and changes to flow regimes as a result of damming have had significant negative impacts on Kāi Tahu. These activities degrade the mauri of the *water* and the habitats and species it supports, therefore also degrading *mahika kai* and taoka species and places.

These changes to the *environment* have meant that Kāi Tahu have had to adapt and change their *use* of the *environment*. As traditional *mahika kai* places and species have declined, *mahika kai* must now be carried out in artificial habitats such as reservoirs, and whānau have had to switch to exotic species such as trout and salmon. The mātauraka associated with traditional *mahika kai* species and places cannot be passed on, and the intergenerational transfer of knowledge that has occurred for over 800 years is broken. Place names that carry tribal history are no longer reflective of their places – for example no one would now claim that the Waiareka is ‘sweet water’ to drink.

RMIA–WAI–I2 – Current water management does not adequately address Kāi Tahu cultural values and interests

Kāi Tahu values and interests are not properly considered in current *land* and *water* resource management. The well-being of *mahika kai* and taoka and protection of other cultural values is rarely given effect to in environmental policy or decision-making processes and these considerations are often compromised in favour of other values, including economic values. The mana of *mana whenua* and of the *water* is not recognised because *water* quality and quantity have been allowed to be degraded. Resource management in Otago has failed to meet its obligation to recognise Kāi Tahu values and provide for the relationship of Kāi Tahu with the *water bodies* within their rohe. The understanding of cultural values by many is still developing and, as a result, Kāi Tahu values and interests are often not well represented in plans and decision-making.

RMIA–WAI–13 – The *effects of land and water use activities on freshwater habitats have resulted in adverse effects on the diversity and abundance of mahika kai resources and harvesting activity*

Mahika kai is the gathering of foods and other resources, the places where they are gathered, and the practices used in doing so. *Mahika kai* is an intrinsic part of Kāi Tahu identity and economic well-being. Kāi Tahu fishing rights were explicitly protected by the Treaty of Waitangi. Not only was the right to engage in *mahika kai* activity confirmed, so too was the expectation that such activity will continue to be successful as measured by reference to past practice. However, as described in evidence provided to the Waitangi Tribunal in the Ngāi Tahu claim, there has been a dramatic loss of *mahika kai* resources and places of procurement since the Treaty was signed. This loss is greater than the loss of kai. It is a loss of Kāi Tahu culture, as it affects the intergenerational transfer of mātauraka handed down from tūpuna over hundreds of years. It represents a significant loss for mana whenua and diminishing of mana. *Mahika kai* continues to be degraded through the *effects of land and water use activities on freshwater habitats*. Activities such as the construction of barriers to fish passage, drainage, altered flow regimes, reduced *water* quality and removal of riparian vegetation all impact on access to and use of resources. Inadequate regulation of commercial fishing of tuna (eels) and inaka (whitebait) has also exacerbated the impacts of degradation and loss of habitat from land and water use activities on remaining populations of these species.

RMIA–WAI–14 – Effective participation of Kāi Tahu in *freshwater management is hampered by poor recognition of mātauraka*

The term ‘mātauraka Māori’ includes all branches of Māori knowledge, past, present, and still developing. It involves observing, experiencing, studying, and understanding the world from an indigenous cultural perspective. It is a tool for thinking, organising information, considering the ethics of knowledge, and informing us about our world and our place in it. Incorporation of mātauraka in resource management decision-making is important to ensure that cultural interests are appropriately recognised and provided for. Resource managers do not always appreciate the depth and value of mātauraka held by members of Kāi Tahu Whānui. Even where mātauraka is valued there may be difficulty in determining how best to apply the knowledge.

RMIA–WAI–15 – Poor integration of *water management, across agencies and across a catchment, hinders effective and holistic freshwater management*

Kāi Tahu place emphasis on the holistic management of resources. Cultural values such as whakapapa and concepts such as ki uta ki tai recognise the interconnectedness of all things, and that *effects* on one part of the whole will be felt throughout the whole. Management of *water* in Otago is not holistic. Catchments are often managed by multiple councils, and the Waitaki (a most significant *river* to Kāi Tahu) is managed by two regional councils with policies and management approaches that include some significant differences. Regional councils are responsible for managing *land use effects on land* and at sea up to 12 nautical miles offshore, but beyond that the Environmental Protection Authority manages *effects* through a separate piece of legislation. District councils, although not specifically responsible for managing *freshwater*, are responsible for managing activities that affect *freshwater*.

In Otago there are separate plans for *freshwater* and the coastal area, and they are not consistent with each other. These divisions in the management of the *environment* fail to recognise that all *water*, in *rivers*, underground, in the air and in the ocean is connected, and what occurs in the headwaters and on *land* will have an impact in the ocean. This lack of holistic *freshwater* management also makes it

difficult to understand and address the cumulative *effects* of different activities and decisions on cultural values.

Specific concerns related to RMIA-WAI-11 to RMIA-WAI-15 are interrelated, and include:

- *Water* quality concerns:
 - Deterioration in *water* quality resulting from poor *land* management practices.
 - The cultural and *water* quality impacts of point and non-point source *discharge* of human waste and other *contaminants* to *water*. Whānau cannot gather kai from places where human waste (whether treated or not) has been *discharged*, or where herbicides and pesticides have been used. Reliance on dilution rates to mitigate the *effects* of *discharges* is culturally inappropriate.
 - The *water* quality impacts of *discharges* from mining activities.
- *Water* allocation concerns:
 - Kāi Tahu consider that many of the waterways in the region are over-allocated from a cultural perspective.
 - Abstractions of greater volumes of *water* than are required, lack of *water* harvesting and continuation of inefficient methods of *water* use.
 - The implications of increased *water* demand for domestic use which will put additional pressure on the already scarce *water* resource.
 - The *effects* of long durations for *water* take consents which lock in a pattern of resource *use* for a long time, limiting the ability of Kāi Tahu to exercise their role as kaitiaki as an expression of mana and rakatirataka.
 - The impact of cross mixing of *water* from different catchments on the distinctive mauri of the *water bodies*.
 - The lack of understanding of the interactions between *groundwater* and surface *water*.
- Concerns about channel modification and *river* works:
 - The *effects* of damming on disruption of natural flow patterns, loss of *freshwater* habitats and migration of indigenous fish species.
 - The *effects* on the mauri of the water body from diversion of watercourses upstream and downstream of mines.
 - Impacts of activities such as channel maintenance and channel cleaning on *water* quality and on disruption of species living in the channel and their habitat.
 - Impacts of channel reshaping, in particular straightening, on *river* flow and habitats, and the mauri of the *water body*.
 - The *effects* of *bed* disturbance, including suction dredging and gravel extraction, on stream morphology and habitats.
 - Impacts of willow removal on *water* quality, *water* temperature and *mahika kai* habitat.
 - Introduction of exotic weeds through poorly cleaned machinery, and the subsequent impact on bank habitat and *water* ecosystems.
 - The *effects* of changes in vegetation cover, including clearance of *indigenous vegetation* and exotic *afforestation*, on the *water* retention capacity of *land* and consequent flow patterns, which can negatively affect *mahika kai* and taoka species through a reduction in their habitat.

RMIA–MKB – *Mahika kai* and biodiversity

Context

The cold climate in southern Te Waipounamu, and the consequent difficulty of growing crops, made it difficult for tūpuna to establish permanent settlements and as a result Kāi Tahu in this area traditionally had a hunter-gatherer lifestyle, and went where the *mahika kai* was abundant and in season. This lifestyle was unique to southern Kāi Tahu and *mahika kai* retains a central place in Kāi Tahu cultural identity. All indigenous species and habitats are treasured by Kāi Tahu as taoka in their own right, as well as for the *mahika kai* values associated with some species.

RMIA–MKB–I1 – The diversity and abundance of terrestrial and aquatic indigenous species has been reduced due to adverse *effects* of resource use and development

Resource use and development in Otago has led to degradation of taoka and *mahika kai* places. This has occurred in a myriad of ways, contributing to a significant negative cumulative *effect* on many species and habitats. The decrease in diversity and abundance of indigenous species causes a negative impact on the mauri and health of the natural environment.

The Kāi Tahu perspective recognises that species within ecosystems are connected, and effects on one species will be felt throughout the rest of the system. Effects on *mahika kai* and taoka species diversity and abundance affect the relationship of Kāi Tahu with these species. Whānau are unable to access traditional *mahika kai* and taoka species and places because in many cases they no longer exist, or no longer provide resources that were once abundant there.

Specific concerns include:

- Degradation of *mahika kai* due to the impacts of *contaminants* from both point and non-point source *discharges*, including human waste disposal to *mahika kai* areas.
- The effects of soil contamination from poorly managed landfills, industrial sites and waste disposal sites.
- Continued urban spread encroaching on *mahika kai* sites.
- Genetic modification of indigenous flora and fauna, which represents deliberate alteration of whakapapa.
- The impact on *mahika kai* and indigenous *biodiversity* from weed and pest invasion.
- Loss of indigenous *freshwater* species, many of which are taoka and *mahika kai*, through displacement and predation.
- Loss of indigenous flora and fauna remnants and lack of co-ordinated management of habitat corridors.
- Impacts on *mahika kai* and aquatic ecosystems from a lack of effective catchment-wide riparian management.
- Loss of recruitment of indigenous flora in remnant bush areas due to continuous stock grazing.
- The impact of inappropriate forestry developments, conversion of tussock lands and other intensification of farming on indigenous flora and fauna values, including ecological disturbance and displacement of species.
- A persistent lack of recognition of Kāi Tahu perspectives, values and mātauraka in indigenous species and habitat management, planning, and decision-making.
- The loss of cultural knowledge, mātauraka, and tikaka that has accompanied the loss of *mahika kai*, and indigenous *biodiversity*.

RMIA–MKB–I2 – Regulatory and physical barriers have impeded the ability of Kāi Tahu to access *mahika kai* and to undertake customary harvest

The ability for Kāi Tahu to exercise customary rights to *mahika kai* has been impeded by obstacles to accessing *mahika kai* sites. Obstacles include lack of physical access and the sites no longer being safe to access due to the site becoming polluted, or a change in the flow velocity and/or depth.

RMIA–MKB–I3 – Impacts of *climate change* on both species/habitat viability and increasing pest (flora/fauna) encroachments

Climate change is now affecting and will continue to affect habitat availability and suitability for species in Otago. In some cases, this will mean that species will be able to increase their distribution, which will encourage spread of pest/weed species. *Climate change* will also reduce habitat and distributions for some species and affect habitat quality. These *effects* may also accumulate; for example, a native species may have worse and less habitat and its pest/predator's distribution and population may increase due to *climate change effects*. Where possible, environmental management should include planning for these *effects* and having regard for their impacts on Kāi Tahu and *mana whenua* values.

RMIA–MKB–I4 – Shortage of protected and secure areas for biodiversity

Currently there are not enough protected and secure areas for biodiversity in Otago. To ensure the long-term survival of our region's most *threatened species*, a series of protected areas must be established, ideally in a network connected by corridors so that each individual population is more *resilient* as well as the species' overall population.

RMIA–MKB–I5 – Inconsistent approaches to biodiversity protection amongst regulatory authorities

Biodiversity is managed by several entities who have different approaches and powers through their separate governing legislation. For example, regional and district councils have obligations under the Resource Management Act and the Department of Conservation has obligations under the Conservation Act 1987 and the Wildlife Act 1953. Different pieces of legislation are not always consistent with each other. There can also be confusion about who is responsible for different aspects of biodiversity management as it is not managed by one entity.

RMIA–MKB–I6 – Lack of information on species health and viability

In many instances there is a lack of information on species. This absence of information on matters such as life histories, current and previous distributions and habitat preferences makes it difficult to make decisions about how best to manage these species.

RMIA–WTU – *Wāhi tūpuna*

Context

Wāhi tūpuna (ancestral landscapes) across Otago are made up of interconnected sites and areas reflecting the history and traditions associated with the long settlement of Kāi Tahu in Otago. Areas of significance that form part of *wāhi tūpuna* include, but are not limited to:

- Wāhi tapu
- Kāika *nohoaka* (settlements)
- Wāhi kohātu and wāhi mahi kohātu (quarry sites)
- Wāhi ikoa (place names)
- Ara tawhito (traditional travel routes)
- Mauka (mountains), awa (rivers), roto (*lakes*), tai (coasts) and moana (seas)

It is important that resource management recognises the wider cultural setting by considering effects of activities on the broader *wāhi tūpuna* rather than just on discrete sites.

RMIA–WTU–I1 – The values of *wāhi tūpuna* are poorly recognised in resource management in Otago

Land, *freshwater*, and coastal management regimes have failed to adequately provide for Kāi Tahu interests in *wāhi tūpuna*. Attention has been too narrowly focused on the cultural redress components of the NTCSA (statutory acknowledgements, place names, tōpuni areas and *nohoaka* sites), whereas *wāhi tūpuna* are considerably broader than the areas described in the legislation. The values of *wāhi tūpuna* can be adversely affected by inappropriate use and development and by a range of activities that affect *land*, *freshwater* and coastal environments when those activities are poorly managed. Cumulative adverse *effects* on *wāhi tūpuna* values can result, impacting on the intergenerational relationship of Kāi Tahu with these areas.

Specific land management concerns include:

- Changes to the recognisable character of *wāhi tūpuna* resulting from intensified *land use*, spread of exotic wilding trees and other woody weeds, forestry, subdivision, development of *buildings* and *structures*.
- Impacts on the integrity of *wāhi tūpuna* from extension and maintenance of *infrastructure* such as transport, telecommunications and other utility networks.
- Modification of landforms by *earthworks*, particularly on ridgelines and upper slopes and near waterways.
- Impacts on wāhi tapu and archaeological sites from *earthworks*.
- Sedimentation of *water bodies* within *wāhi tūpuna* from *earthworks*.
- Poor land management and inappropriate *land use* degrades the whenua itself.
- Failure to recognise Kāi Tahu connections to the land through use of traditional names for landscape features and sites.

Freshwater, *biodiversity*, coastal management and air and atmosphere issues that affect Kāi Tahu relationship with *wāhi tūpuna* are outlined in the RMIA-WAI, RMIA-MKB, RMIA-CE and RMIA-AA sections.

RMIA–WTA – Wāhi tapu and wāhi taoka

Context

Ancestral land was not just the source of economic well-being. For Māori it was also the burial ground of the placenta and of the bones of ancestors, the abode of tribal atua and a storybook through place names and traditions. This is reflected in te reo Māori, as the word ‘whenua’ means both ‘placenta’ and ‘land’. Ancestral lands were therefore regarded with deep veneration. For Kāi Tahu, wāhi tapu and wāhi taoka refers to the places with elevated mana and tapu due to their close association with atua and tūpuna. For example:

- Mauka (mountains)
- Urupā (burial places)
- Tuhituhi neherā (rock art)
- Umu (ovens)
- *Nohoaka* (seasonal camp sites)

RMIA–WTA–I1 – Activities have resulted in disturbance and degradation of wāhi tapu and wāhi taoka sites and the cultural and spiritual values associated with these areas

Wāhi tapu and wāhi taoka sites are vulnerable to disturbance or destruction from direct and indirect *effects* of resource *use* and development. Direct *effects* can include those resulting from activities that require *earthworks* in proximity. Natural or human-induced changes to biophysical processes can threaten these sites, for example, coastal erosion. Wāhi tapu and wāhi taoka values can also be adversely affected by the encroachment of culturally offensive activities e.g. it is inappropriate to have a *wastewater* treatment plant at or near a wāhi tapu or wāhi taoka. *Nohoaka*, as sites where *mahika kai* is gathered or was gathered in the past, are particularly at risk from the combination of direct and indirect *effects*, and from cumulative adverse *effects*. *Nohoaka* sites are degraded when *mahika kai* can no longer be gathered there.

Specific concerns include:

- Disturbance, modification or destruction of wāhi tapu or wāhi taoka by *earthworks*.
- Degradation of the cultural value and integrity of wāhi tapu or wāhi taoka through contamination by *discharges*, inappropriate development, and culturally inappropriate activities such as mining/quarrying, *landfills* or *wastewater* disposal.
- The resurfacing of kōiwi takata (human remains) through natural and human-induced processes, such as *climate change*, and ensuring that these are kept safe and returned to Kāi Tahu so that they can be reinterred in accordance with tikaka.
- Ineffective management of *effects* due to inappropriate and inaccurate recording of wāhi tapu and wāhi taoka, and misinterpretation of the status and importance of sites.

RMIA–WTA–I2 – Access to wāhi tapu and wāhi taoka and the ability to undertake customary activities on these sites has been impeded

Access to culturally important sites has been impeded in many ways, affecting the ability of *mana whenua* to carry out customary activities and maintain relationships with wāhi tapu and wāhi taoka. Many sites are privately owned and cannot be accessed. Some sites no longer exist, or the customary activities associated with them cannot be undertaken. For example, *nohoaka* sites associated with *mahika kai* gathering cannot be used if there is no way to reach the site or no safe way to harvest when at the site because of physical constraints. A limited number of *nohoaka* sites were granted to Kāi Tahu through the NTCSA as redress for loss of traditional sites. Some of these were traditional sites, but others were in new locations. Some *nohoaka* have also become dissociated from their customary use due to *land use*, *freshwater* management practices, change and hazard management. For example, if the *river* channel has moved and the *nohoaka* has not, whānau visiting the *nohoaka* are not able to fish there.

RMIA–AA – Air and atmosphere

Context

As discussed in Part 1, the air and atmosphere are resources of significance to Kāi Tahu. In Kāi Tahu traditions, air and atmosphere emerged through the creation traditions and Te Ao Marama. The air is an integral part of the environment that must be valued, used with respect, and passed on intact to the next generation. Pollution of the atmosphere adversely affects the mauri of this taoka and other taoka such as plants and animals.

RMIA–AA–I1 –The cultural impacts of *discharges* to air are poorly recognised in resource management

The cultural impacts of air pollution and *discharges* to air are poorly understood and seldom recognised. *Discharges* to air can adversely affect health and can be culturally offensive. Clean air is important to the health of *mahika kai* and people, and odour and other emissions impact on the tapu of wāhi tapu sites. Air emissions can also reduce the visibility of *wāhi tūpuna* features and of the moon, stars and rainbows.

Specific concerns include:

- Potential impacts of *climate change* which could negatively affect taoka such as wai māori and wai tai, *mahika kai* and biodiversity, *wāhi tūpuna*, wāhi tapu, and wāhi taoka, the well-being of all people, and the *environment* as an integrated system.
- Insufficient data has been collected and distributed about the *effects* of *discharges* to air.
- The *effects* of *discharges* to air on the health of people and *mahika kai*, including *discharges* from industrial or trade premises, agrichemical spray drift, vehicle emissions and emissions from domestic fires in built up areas prone to inversion layers.
- Culturally offensive *discharges* from crematoriums, if located in close proximity to *mahika kai* and wāhi taoka.
- Adverse *effects* of vegetation burning on the integrity and the tapu of wāhi tapu sites.
- Impacts of odour on wāhi tapu, *mahika kai* sites and *nohoaka*.
- Impacts of urban settlement and *discharges* to air on the visibility of the sky and *wāhi tūpuna* features.
- The impact of dust on the integrity of rock art sites.

RMIA–CE – Coastal environment (te takutai moana me te wai tai)

Context

The coastal environment is particularly significant for Kāi Tahu in the southern South Island. The spiritual and cultural significance of taku tai moana me te wai māori (saltwater and *freshwater*) and the interconnection between *land* and sea environments are not always well recognised in management of the coastal environment.

RMIA–CE–I1 – *Mahika kai* and coastal systems are adversely affected by lack of integrated management across the land-water interface

Management of *mahika kai* species and their habitats varies and is not holistic. Many important indigenous *mahika kai* fish species are diadromous and move between *freshwater* and the ocean

during different parts of their life cycle. The interconnection between *land* and marine environments needs to be carefully considered in order to manage *effects* that cross the *coastal marine area* boundary.

Specific concerns include:

- *Effects* on the coastal environment and natural systems resulting from modifications to waterways, such as damming and artificial openings of *river* mouths, estuary and lagoon systems.
- The *effects* of reductions in *river* flows on ingress of saltwater to *river* systems and conditions for inaka spawning.
- Barriers to species migration, and hence lifecycles, created by changes to *river* mouths from reductions in *river* flow.
- Impacts of changes in sediment transport on coastal ecosystems.
- The *effects* of *land reclamation* on *water* quality and flow in enclosed harbours and estuarine ecosystems.
- *Effects* of *land use* activities and poor management of coastal margins on *coastal water* quality.
- *Climate change effects* occur across the land-water interface and the *freshwater*-saltwater interface, and cause changes to *mahika kai* species distribution and the quality and locations of *mahika kai* habitat.

RMIA–CE–I2 – Discharges into coastal waters and marine dumping of waste degrade mahika kai and the mauri of the waters

The practice of using the marine environment as a sink for disposal of waste from activities that occur on *land* and in the marine *environment* is culturally offensive and has resulted in degradation of kaimoana resources. Leaching and overland runoff of *contaminants* from activities occurring near the coast have also contributed to the adverse *effects* on the marine area.

Specific concerns include:

- Point source industrial *discharges* to the coastal environment.
- Contamination of *coastal waters* by leachate from inappropriately sited *landfills* and other waste disposal sites and runoff from coastal subdivisions.
- *Discharges* of *sewage* from marine outfalls, poorly designed or inadequate coastal sewerage *infrastructure* and freedom camping.
- The *effects* of *contaminants* such as oil and carbon particles in *discharges* of *stormwater* from urban *roads*.
- *Discharges* of *sewage* and contaminated bilge and ballast *water* from *ships*.
- Proliferation of rubbish in the coastal environment and in lakes and rivers, including materials such as lengths of rope from boats and moorings, plastic packaging strips, discarded and lost fishing gear, glass and plastic bottles as well as other dumped material.
- *Discharge* or disposal of waste products from the processing of marine species.
- Oil and chemical spills negatively affecting the natural environment
- Inappropriate disposal of human *wastes*, including indiscriminate *discharge* of human ashes in sensitive areas such as kaimoana areas, or without the knowledge of *takata whenua*, and *discharge* of washdown *wastes* from mortuaries and funeral homes to *coasal waters* through *stormwater* drains.

RMIA–CE–I3 – The ability for Kāi Tahu ki Otago to access and harvest kaimoana has been impeded by the *effects* of activities in the coastal and marine environment

Parts of the coastal environment in Otago have been heavily modified since the arrival of settlers. Many parts of the coast around Dunedin have been reclaimed to establish the city, and the harbor has been dredged to enable the growth of the port. This has limited the ability for whānau to carry out customary harvest of kaimoana resources and to access sites of significance for customary fishing. Whānau are often unable to physically access the foreshore and seabed for the collection of kaimoana, or find that kai is no longer safe to eat due to pollution.

Specific concerns include:

- Impacts on kaimoana and associated habitats from the *effects* of waterway modifications on estuarine systems and the *freshwater/saltwater* interface.
- Modification or loss of marine habitats as a result of *reclamation*, dredging and dumping.
- Disturbance of intertidal habitats by vehicle access along beaches.
- Potential for modification and displacement of habitats by *aquaculture activities*.
- The negative *effects* of point and non-point source *discharges* on *water* quality.
- The introduction and spread of exotic species, such as the invasive seaweed *undaria*, through ballast, hull cleaning, and other shipping activities.
- Loss of access due to development of coastal *land*.

RMIA–CE–I4 – Habitat disturbance and modification has contributed to decline in populations of indigenous marine species, including marine mammals

Indigenous marine species, including marine mammals, are regarded as taoka by Kāi Tahu, and in many cases these are recognised through the NTCSA. The health and abundance of marine species populations are threatened by modification and loss of natural habitat as a result of the impacts identified in RMIA–CE–I2 and RMIA–CE–I3.

RMIA–CE–I5 – Wāhi tapu and *wāhi tūpuna* values in the coastal environment are poorly recognised and protected

The coastal environment is the domain of Takaroa and includes the *coastal waters* of Te Tai o Arai Te Uru as well as the adjoining land. Tauraka waka (waka landing places) occur up and down the coast in their hundreds and wherever a tauraka waka is located there is also likely to be a *nohoaka*, fishing ground, kaimoana resource, or rimurapa (seaweed) with the sea trail linked to a land trail or *mahika kai* resource. Burial sites and other wāhi tapu are also associated with these *wāhi tūpuna*. Seascaping such as reef systems also form part of *wāhi tūpuna*.

Wāhi tapu and the broader *wāhi tūpuna* can be adversely affected by inappropriate activities and developments on coastal land and in the *coastal marine areas*.

Specific concerns include:

- Damage to and disturbance of wāhi tapu resulting from coastal erosion and the impacts of *climate change*, earthworks associated with *subdivisions*, and development of coastal walkways.
- The *effects* of *land* fragmentation on access to sites of significance.
- Loss of the integrity of *wāhi tūpuna* by *reclamation* and the inappropriate location of *structures* and activities associated with aquaculture, tourism activities, *infrastructure*, and vessel

- moorings.
- Disturbance from mining of the seabed and foreshore.
 - Restriction of access to tauraka waka and associated trails due to *land* development.
 - The cumulative *effect* of incremental, uncoordinated *subdivisions*, *land use* change and building within the coastal environment.
 - Failure to recognise and provide for the *effects* of *climate change* and of changing sea levels on coastal landscapes.

RMIA–PO – Pounamu

Context

Kāi Tahu customs are intricately linked to this special taoka. Many ara tāwhito, ancient trails, in Otago lead from coastal settlements to inland pounamu resources. Management of this taoka is currently dependent on the provisions of the Ngāi Tahu (Pounamu Vesting) Act which vests pounamu with Te Rūnanga o Ngāi Tahu. Papatipu rūnaka act as kaitiaki pounamu. There is currently no Regional Pounamu Plan for Otago. However, a rāhui pounamu is in place in the Otago region.

RMIA–PO–I1 – Pounamu resources need protection

Pounamu is a taoka for Kāi Tahu and pounamu management according to mātauraka, tikaka and kawa is a tribal priority. Lack of recognition and protection of pounamu resources may lead to these resources, the areas where they are found and Kāi Tahu relationship with them being degraded. Pounamu resources may be present on *land* or in waterways. Kāi Tahu relationship with these resources can be affected by extractive activities, for example by extraction of material for *road* aggregate, and by reduced *water* quality and poor *water body* management.

IM – Integrated management

Objectives

IM–O1 – Long term vision (mō tatou, ā, mō kā uri ā muri ake nei)

The management of *natural and physical resources*, by and for the people of Otago, in partnership with Kāi Tahu, achieves a healthy and resilient natural *environment*, including the ecosystem services it provides and supports the well-being of present and future generations.

IM–O2 – Ki uta ki tai

The management of *natural and physical resources* embraces ki uta ki tai, recognising that the *environment* is an interconnected system which depends on its connections to flourish and must be managed as an interdependent whole.

IM–O3 – Sustainable impact

Otago’s communities provide for their social, economic, and cultural well-being in ways that support or restore environmental integrity, form, functioning, and *resilience*, so that the life-supporting capacities of air, *water*, soil, and ecosystems are sustainably managed, for future generations.

IM–O4 – Climate change

Otago’s communities, including Kāi Tahu, understand what *climate change* means for their future, and responses to *climate change* in the region (including *climate change* adaptation and *climate change* mitigation):

- (1) are aligned with national level *climate change* responses,
- (2) assist with achieving the national target for emissions reduction, including by having a highly renewable energy system, and
- (3) are recognised as integral to achieving the outcomes sought by this RPS.

Policies

IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS and other relevant statutory provisions requires decision-makers to:

- (1) consider all provisions relevant to an issue or decision and apply them purposively according to the terms in which they are expressed and
- (2) if after (1) there is an irreconcilable conflict between any of the relevant RPS and/or statutory provisions which apply to an activity, only consider the activity if:
 - (a) the activity is necessary to give effect to a relevant policy or statutory provision and not merely desirable, and
 - (b) all options for the activity have been considered and evaluated, and

- (c) if possible, the chosen option will not breach any other relevant policy or statutory provision, and
 - (d) if (c) is not possible, any breach is only to the extent required to give effect to the policy or statutory provision providing for the activity, and
- (3) if 2(d) applies, evaluate all relevant factors in a structured analysis to decide which of the conflicting policies or statutory provisions should prevail, or the extent to which any relevant policy or statutory provision should prevail, and
- (4) in the analysis under (1), (2) or the structured analysis under (3), assess the nature of the activity against the values inherent in the relevant policies or statutory provisions in the particular circumstances.

IM–P3 – Providing for *mana whenua* cultural values in achieving integrated management

Recognise and provide for the relationship of Kāi Tahu with natural resources by:

- (1) enabling *mana whenua* to exercise *rakatirataka* and *kaitiakitaka*,
- (2) facilitating active participation of *mana whenua* in resource management processes and decision making,
- (3) incorporating *mātauraka Māori* in processes and decision-making, and
- (4) ensuring resource management provides for the connections of Kāi Tahu to *wāhi tūpuna*, *wai māori* (including *awa* [rivers] and *roto* [lakes] and *wai tai* (including *te takutai moana* [coastal marine area]) and *mahika kai* and habitats of *taoka* species.

IM–P4 – Setting a strategic approach to ecosystem health

Healthy and *resilient* ecosystems and ecosystem services are achieved by developing *regional plans* and *district plans* that:

- (1) have particular regard to the *intrinsic values* of ecosystems,
- (2) take a long-term strategic approach that recognises ongoing environmental change, including the impacts of *climate change*,
- (3) recognise and provide for ecosystem complexity and interconnections, and
- (4) anticipate, or respond swiftly to, changes in activities, pressures, and trends.

IM–P5 – Managing environmental interconnections

Manage the use and development of interconnected *natural and physical resources* by recognising:

- (1) situations where the value and function of a *natural or physical resource* extends beyond the immediate, or directly adjacent, area of interest,
- (2) situations where *effects* of an activity extend to a different part of the *environment*, and
- (3) the impacts of management of one *natural or physical resource* on the values of another, or on the *environment*.

IM–P6 – Managing uncertainties

In resource management decision-making, manage uncertainties by using the best information available at the time, including scientific data and mātauraka Māori, and:

- (1) taking all practicable steps to reduce uncertainty, and
 - (a) in the absence of complete and scientifically robust data, using information obtained from modelling, reliable partial data, and local knowledge, with preference for sources of information that provide the greatest level of certainty, and
 - (b) avoiding unreasonable delays in making decisions because of uncertainty about the quality or quantity of the information available, and
- (2) adopting a precautionary approach, including through use of adaptive management, towards activities whose *effects* are uncertain, unknown, or a little understood, but potentially significantly adverse.

IM–P7 – Cross boundary management

Coordinate the management of *natural and physical resources* and the environment across jurisdictional boundaries and, whenever possible, between overlapping or related agency responsibilities.

IM–P8 – Effects of *climate change*

Recognise and provide for the *effects of climate change* by:

- (1) identifying the *effects of climate change* in Otago, including from the perspectives of Kāi Tahu as mana whenua,
- (2) assessing how the *effects* are likely to change over time, and
- (3) taking into account those changes in resource management processes and decisions.

IM–P10 – *Climate change* adaptation and *climate change* mitigation

Identify and implement *climate change* adaptation and *climate change mitigation* methods for Otago that:

- (1) minimise the *effects of climate change* to existing activities and the wider environment,
- (3) provide Otago’s communities, including Kāi Tahu, with the best chance to thrive, and
- (4) enhance environment, social, economic, and cultural *resilience* to the adverse *effects of climate change*, including by facilitation activities that reduce those effects, and
- (5) protects Otago’s existing renewable electricity facilities and provides for the development of new renewable electricity generation and infrastructure.

IM–P12 – Contravening limits for *climate change* mitigation and *climate change* adaptation

If a proposed activity provides or will provide enduring regionally or nationally significant *climate change mitigation* or *climate change adaptation* with commensurate benefits for the well-being of people and communities and the wider *environment*, decision makers may allow non-compliance with limits set in, or resulting from, any policy or method of this RPS if they are satisfied that:

- (3) adverse *effects* on the *environment* are avoided, remedied, or mitigated so that they are minimised to the extent reasonably practicable, and any significant residual adverse *effects* are offset, or compensated for, and
- (5) the activity will not contravene a national policy statement or national environmental standard.

IM–P13 – Managing cumulative *effects*

In resource management decision-making, recognise and manage the impact of cumulative *effects* on the form, functioning and *resilience* of Otago’s *environment* (including *resilience to climate change*) and the opportunities available for future generations.

IM–P14 – Sustaining resource potential

When preparing *regional plans* and *district plans*, sustainably manage opportunities for future generations by:

- (1) where necessary to achieve the objectives of this RPS, identifying limits beyond which the *environment* will be degraded,
- (2) requiring that activities are established in places, and carried out in ways, that are within those limits and are compatible with the natural capabilities and capacities of the resources they rely on,
- (3) regularly assessing and adjusting limits and the way activities are managed over time in light of the actual and potential environmental impacts, including those related to *climate change*, and
- (4) providing for activities that reduce, mitigate, or avoid adverse *effects* on the *environment*.

Methods

IM–M1 – *Regional and district plans*

Local authorities must prepare or amend and maintain their *regional* and *district plans* to:

- (1) establish, by December 2030, policy frameworks designed to achieve the objectives for Otago set out in IM–O1 to IM–O4,
- (2) include provisions to manage the *effects*, resources, and communities identified in accordance with IM-M3,
- (3) provide for activities that support *climate change adaptation* and *climate change mitigation* in accordance with IM-P10,
- (4) ensure cumulative *effects* of activities on *natural and physical resources* are accounted for in resource management decisions by recognising and managing such *effects*, including:
 - (a) the same *effect* occurring multiple times,
 - (b) different *effects* occurring at the same time,
 - (c) different *effects* occurring multiple times,
 - (d) one *effect* leading to different *effects* occurring over time,
 - (e) different *effects* occurring sequentially over time,

- (f) *effects* occurring in the same place,
 - (g) *effects* occurring in different places,
 - (h) *effects* that are spatially or temporally distant from their cause or causes, and,
 - (i) more than minor cumulative *effects* resulting from minor or transitory *effects*,
- (5) 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, including collaboration between local authorities to achieve consistent management of resources or *effects* that cross jurisdictional boundaries, and
- (6) establish clear thresholds for, and limits on, activities that have the potential to adversely affect healthy ecosystem services and *intrinsic values*.

IM–M2 – Relationships

Local *authorities* must:

- (1) partner with Kāi Tahu to ensure *mana whenua* involvement in resource management processes and decision-making,
- (2) work together and with other agencies (including local authorities in neighbouring regions) to enable consistent implementation of the objectives, policies and methods of this RPS where appropriate, and
- (3) consult with Otago’s communities to ensure policy frameworks adequately respond to the diverse facets of environmental, social, cultural, and economic well-being.

IM–M3 – Identification of *climate change* impacts and community guidance

Local authorities must:

- (1) identify the specific types and locations of the *effects of climate change* in Otago by undertaking a *climate change risk* assessment, including an assessment that incorporates a Kāi Tahu approach to *climate change risk* identification and evaluation,
- (1A) identify natural and built resources vital to environmental (including indigenous *biodiversity* and ecosystems) and community *resilience* and well-being,
- (1B) identify vulnerable resources and communities and develop adaptation pathways for them where possible, and
- (2) develop guidance to support communities to be prepared and *resilient*.

IM–M5 – Other methods

Local *authorities* should:

- (1) align (to the extent practicable) all strategies and management plans prepared under other legislation to contribute to the attainment of the long-term vision for Otago, and
- (2) facilitate community involvement in achieving IM–O1 through non-regulatory means,
- (3) encourage changes to business practice that will enable businesses and communities to

function in a net-zero carbon economy, and

- (4) advocate for and incentivise activities that reduce, mitigate, or eliminate risk of environmental degradation.

Explanation

IM–E1 – Explanation

The policies in this chapter provide direction on integrated management across the region, to achieve the revitalisation, *resilience* and safeguarding of Otago’s environment and ensure that it supports people and the community’s cultural, social, and economic well-being. The policies seek to apply a *ki uta ki tai* approach and ensure that the *effects* of *climate change* are understood and responded to across the region. Further, they are designed to ensure that environmental integrity, form, function, and *resilience*, including *resilience* to *climate change*, are at the centre of all resource management decision making and that changes are made where necessary to ensure the environment’s life-supporting capacity continues to support people’s health and well-being both now and into the future.

The policies in this chapter include direction for resolving issues when multiple Regional Policy Statement provisions need to be applied simultaneously. This direction reinforces the primacy of national legislation and regulation, as some provisions of National Policy Statements and National Environmental Standards are prescriptive enough that they do not need a regional interpretation and are only referred to in the RPS when necessary. Further, some direction in the NZCPS, such as in Policy 3, is considered appropriate to apply to the management of resources throughout Otago, rather than solely within the coastal environment.

Principal reasons

IM–PR1 – Principal reasons

Integrated management is at the core of the RMA. The provisions in this chapter set out core facets of integration - the interconnections and interdependencies within the environment, involvement of *mana whenua* in resource management, the fundamental importance of environmental health to human well-being, and holistic assessment of human *effects* on the *environment*. They also address the *effects* of *climate change* as the key threat to environmental stability.

The provisions set an expectation of integrated resource management that flows through to all other provisions of the RPS, and informs the limits and thresholds we set on human activities for protecting environmental health. It sets explicit expectations that local authorities will work with each other and with other agencies to ensure management approaches are clear, coordinated, and able to support Otago’s communities into the future. This applies to plan making and resource consenting processes.

Anticipated environmental results

IM–AER1 Monitoring shows the limits set for human activities are adhered to and are resulting in *resilience* in the natural *environment*.

IM–AER2 *Resilience* in the natural *environment* is resulting in sustainable social, cultural, and economic well-being for all communities including Kāi Tahu.

IM–AER3

Communities, including Kāi Tahu, are aware of the potential impacts of *climate change* and there are observable changes in community behaviour towards more sustainable lifestyles.

IM–AER4

Plan development and decision-making processes demonstrate improved awareness of the interdependencies and interconnectedness of *natural and physical resources* within the region, and across regional and jurisdictional boundaries.

PART 3 – DOMAINS AND TOPICS

DOMAINS

AIR – Air

Objectives

AIR–O1 – Ambient air quality

Ambient air quality provides for the health and well-being of the people of Otago, *amenity values* and *mana whenua values*, and the life-supporting capacity of ecosystems.

AIR–O2 – Discharges to air

The localised adverse effects of *discharges to air* do not compromise human health, *amenity values*, and *mana whenua values* and the life-supporting capacity of ecosystems.

Policies

AIR–P1 – Maintain ambient air quality

Ambient air quality is, at a minimum, maintained across Otago by:

- (1) ensuring *discharges to air* comply with ambient air quality limits, including *ambient air quality standards* and guidelines, where those have been set as limits, and
- (2) where limits, including *ambient air quality standards* and guidelines, have not been set, only allowing *discharges to air* if the adverse effects on ambient air quality are avoided, remedied or mitigated no more than minor.

AIR–P2 – Improve degraded ambient air quality

Degraded ambient air quality is improved across Otago by:

- (1) establishing, maintaining and enforcing plan provisions that set limits and timeframes for improving ambient air quality, including by managing the spatial distribution of activities and transport, and
- (2) prioritising actions to reduce PM_{10} and $PM_{2.5}$ concentrations in *polluted airsheds*, including:
 - (a) phasing out existing domestic *solid fuel* burning appliances, and
 - (b) preventing any *discharges* from new domestic *solid fuel* burning appliances that do not comply with the standards set in the NESAQ.

AIR–P3 – Providing for discharges to air

Provide for *discharges to air* that do not adversely affect human health, *amenity values*, *mana whenua values* and the life supporting capacity of ecosystems.

AIR-P4 – Managing certain discharges

Manage the adverse *effects* of *discharges* to air by:

- (1) avoiding noxious or dangerous *effects*,
- (2) ensuring *discharges* to air do not cause offensive or objectionable *effects*,
- (3) avoiding, remedying or mitigating other adverse *effects* from *discharges* to air, including but not limited to *discharges* arising from:
 - (a) outdoor burning of organic material,
 - (b) agrichemical and fertiliser applications,
 - (c) *primary production* activities,
 - (d) activities that produce dust, and
 - (e) industrial and trade activities.
- (4) locating new sensitive activities to avoid potential reverse sensitivity effects from existing consented or permitted discharges to air, unless these can be appropriately managed.

AIR-P6 – Impacts on *mana whenua* values

Ensure that *discharges* to air do not adversely affect *mana whenua* values by having particular regard to values and areas of significance to *mana whenua*, including *wāhi tūpuna*, *wāhi tapu* and *wāhi taoka*.

Methods

AIR-M1 – Review *airshed* boundaries

Prior to implementing AIR-M2, and within 12 months of the AIR chapter being made operative, the Otago Regional Council must review existing *airshed* boundaries and apply to the Ministry for the Environment to gazette amended boundaries where *airsheds* do not account for:

- (1) current or anticipated areas of development,
- (2) weather patterns and geography, or
- (3) existing areas of degraded air quality.

AIR-M2 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1A) set limits (including *ambient air quality standards* and *guidelines*) to maintain ambient air quality in accordance with AIR-P1, and improve ambient air quality in accordance with AIR-P2,
- (1) manage the adverse effects of discharges to air by avoiding noxious or dangerous effects and ensuring discharges to air do not cause offensive or objectionable effects,
- (2) include provisions to avoid, remedy, or mitigate other adverse *effects* from *discharges* to air,
- (3) prioritise the actions set out in AIR-P2 to reduce *PM₁₀* and *PM_{2.5}* concentrations in *polluted airsheds*,

- (4) mitigate the adverse *effects* of *discharges* to air in areas adjacent to *polluted airsheds* where the *discharge* will adversely affect air quality in the *polluted airshed*, and
- (6) Include measures to ensure that discharges to air do not adversely affect *mana whenua* values.

AIR–M3 – Territorial authorities

Territorial authorities must prepare or amend and maintain their *district plans* to include provisions that direct an urban form that assists in achieving good air quality by:

- (1) encouraging or facilitating a reduced reliance on private non-electric motor vehicles and enabling the adoption of *active transport*, shared transport and *public transport* options to assist in achieving good air quality, and
- (2) managing the spatial distribution of activities.
- (3) managing new sensitive activities to avoid reverse sensitivity effects in relation to consented and permitted activities that discharge to air.

AIR–M4 – Monitoring and reporting

Otago Regional Council must monitor and report no less frequently than annually on:

- (1) air quality in accordance with the NESAQ to identify changes in ambient air quality within *airsheds*, and
- (2) progress towards attainment of the *ambient air quality standards*.

AIR–M5 – Incentives and other mechanisms

In partnership with Kāi Tahu ki Otago and in collaboration with *territorial authorities*, key stakeholders and industry, Otago Regional Council must, on an on-going basis, use other mechanisms or incentives to assist with achieving the air quality objectives, including:

- (1) improving community awareness of air quality issues in Otago associated with home heating,
- (2) educating communities and promoting the use of alternative methods for home heating including the use of new technology (including low emission or ultra-low emission home heating appliances) and cleaner fuels or energy sources,
- (3) advocating, promoting and supporting upgrading Otago's housing stock and changes to the Building Act 2004 and Building Code to require houses to create and maintain warmth more efficiently and reduce reliance on non-compliant domestic *solid fuel* burning appliances as described in AIR-P2,
- (4) advocating to energy providers to improve the *resilience* and reliability of electricity infrastructure so alternative sources of heating are available and reliable,
- (5) measures to encourage the use of *active transport*, shared transport and *public transport* over the use of private motor vehicles, and
- (6) providing financial incentives (such as funding schemes, subsidies or rates relief) and support to improve home heating efficiency and assist with the transition towards cleaner heating, improved energy efficiency and home insulation, including the replacement of *solid fuel* burners that do not comply with the NESAQ standards.

Explanation

AIR-E1 – Explanation

The policies in this chapter are designed to achieve and maintain good air quality for Otago by requiring improvements where air quality is poor, maintaining it where it is good. Managing air quality does not include emissions from ships which are managed under separate national regulation. The policies in this chapter focus on preventing further decline in air quality by preventing use of new domestic *solid fuel* burning appliances that do not comply with the NESAQ, and phasing out the use of existing domestic *solid fuel* burning appliances that are non-compliant. The policies also require the boundaries of *airsheds* be amended to accurately reflect current and anticipated areas of urban growth. This is required to ensure monitoring of ambient air quality is accurate and that all activities that contribute to poor ambient air quality within an *airshed* are subject to the same measures to improve ambient air quality. This policy framework also directs future reviews of the Air Plan to manage the adverse effects of discharges to air.

Principal reasons

AIR-PR1

Clean air is vital for supporting a healthy population and *environment*. Air quality monitoring shows that for most of the year air quality in the Otago Region is very good. During winter months however, temperatures drop and emissions from home heating increase. This, coupled with the topography of some areas and cold, calm conditions, leads to poor winter air quality in many towns and cities across the region. At times, parts of Otago have some of the poorest air quality in New Zealand. This is intensifying through urban growth.

The provisions in this chapter set out the framework for a review of the Air Plan and supports ORC's obligation to both observe and enforce the NESAQ. Implementation of the provisions in this chapter will occur primarily through regional *plans* and *district plan* provisions, however a collaborative approach with central government, other *local authorities*, stakeholders, communities and industry, and in partnership with Kāi Tahu as *mana whenua*, will support the achievement of the objectives over time.

Anticipated environmental results

- | | |
|-----------------|---|
| AIR-AER1 | Where air quality is degraded there is a decreasing trend in concentrations of <i>PM₁₀</i> and <i>PM_{2.5}</i> . |
| AIR-AER2 | Otago has an urban form that takes into account the <i>effects</i> of activities, and any <i>discharges</i> to air they create, on Otago's air quality. |
| AIR-AER3 | Homes have cleaner forms of heating and non-compliant burners are no longer in use. |
| AIR-AER4 | There is a decrease in the number of complaints regarding offensive, objectionable, noxious or dangerous <i>discharges</i> into air. |
| AIR-AER5 | Where air quality complies with ambient air quality limits it is maintained. |
| AIR-AER6 | Otago is compliant with NESAQ requirements. |

CE – Coastal environment

Objectives

CE–O1A – Te Mauri o te Moana

The health of Otago's *coastal water* is:

- (a) protected from inappropriate activities so as to protect the health and well-being of the wider environment and the mauri of coastal waters, and
- (b) restored where it is degraded, including through enhancing *coastal water* quality where it has deteriorated from its natural condition.

CE–O1 – Safeguarding the coastal environment (Te Hauora o Te Tai o Arai Te Uru)

The health, integrity, form, functioning and *resilience* of Otago's coastal environment is safeguarded so that:

- (2) *coastal water* quality supports healthy ecosystems, natural habitats, water-based recreational activities, existing activities, and customary uses, including practices associated with *mahika kai* and kaimoana,
- (3) the dynamic and interdependent natural biological and physical processes in the coastal environment are maintained or enhanced,
- (4) the diversity of indigenous coastal flora and fauna is maintained, and areas of significant indigenous *biodiversity* are protected
- (5) *surf breaks* of national significance are protected,
- (6) the interconnectedness of wai Māori and wai tai is protected, and the *effects* of terrestrial and *fresh water* uses and activities on *coastal waters* and ecosystems, are recognised and understood, and
- (7) the ongoing effects of *climate change* within the coastal environment are identified and planned for.

CE–O2 – Public access and recreation

Public walking access and recreation opportunities in the coastal environment are maintained and enhanced, and vehicle access is controlled.

CE–O3 – Natural character, features and landscapes

Areas of natural character are preserved and natural features and landscapes (including seascapes) within the coastal environment are protected from inappropriate activities, and restoration is encouraged where the values of these areas have been compromised.

CE–O4 – Mana moana

The enduring cultural relationship of Kāi Tahu with Otago’s coastal environment is recognised and provided for, and *mana whenua* are able to:

- (1) exercise their rakatirataka role, manaakitaka and their kaitiaki duty of care within the coastal environment, and
- (2) engage in customary fishing and other *mahika kai*.

CE–O5 – Activities in the coastal environment

Activities in the coastal environment:

- (1) make efficient use of space occupied in the *coastal marine area*,
- (2) are of a scale, density and design compatible with their location,
- (3) are only provided for within appropriate locations and limits acknowledging that some activities have a *functional need* to be located in the coastal environment, and
- (4) maintain or enhance public access to and along the *coastal marine area*, including for customary uses, such as *mahika kai*, except where public access needs to be restricted for reasons of health and safety or ecological or cultural sensitivity.

Policies

CE-P1A – Integrated management/ki uta ki tai

Implement an integrated approach to managing Otago’s coastal environment that:

- (1) recognises the interactions, ki uta ki tai, between the terrestrial *environment*, *fresh water*, and the *coastal marine area*, including the migration of fish species between *fresh water* and *coastal water*,
- (2) provides for the natural functioning of coastal processes at the physical interface between *land*, *fresh water*, and the *coastal water*,
- (3) ensures the *effects* of the use and development of *land* and *fresh water* maintain or enhance the health and well-being of the coastal environment, and
- (4) takes into account the ongoing *effects* of *climate change*.

CE–P1 – Links with other chapters

- (1) the provisions of the ECO, EIT, and HAZ chapters apply within the coastal environment, except for the following provisions:
 - (a) ECO-P3 to ECO-P6 and associated methods,
 - (b) EIT-INF-P13 and associated methods,
 - (c) HAZ-NH-P1 to HAZ-NH- P4 and associated methods, and
- (2) the provisions within the following chapters of this RPS apply in addition to the provisions within this chapter:

- (a) MW – Mana whenua,
 - (b) IM – Integrated management,
 - (c) AIR – Air,
 - (d) LF – Land and freshwater,
 - (e) HCV – Heritage and historical values, and
 - (f) UFD – Urban form and development, and
- (3) the provisions of the NFL – Natural features and landscapes chapter do not apply in the coastal environment.

CE–P2 – Identification

Identify the following in the coastal environment:

- (1) the landward extent of the coastal environment, recognising that the coastal environment includes:
- (a) the *coastal marine area*,
 - (b) islands within the *coastal marine area*,
 - (c) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these,
 - (d) areas at risk from coastal hazards as identified in HAZ-NH-P1A,
 - (e) coastal vegetation and the habitat of indigenous coastal species including migratory birds,
 - (f) elements and features that contribute to the natural character, landscape, visual qualities or *amenity values*,
 - (g) items of Kāi Tahu cultural association and *historic heritage* in the *coastal marine area* or on the coast,
 - (h) inter-related coastal marine and terrestrial systems, including the intertidal zone, and
 - (i) physical resources and built facilities, including *infrastructure*, that have modified the coastal environment,
- (2) areas of *water* quality in the *coastal marine area* that are considered to have deteriorated so that:
- (a) it is having a significant adverse *effect* on:
 - (i) the health of *coastal water*, or
 - (ii) ecosystems, and natural habitats, or
 - (iii) water-based recreational activities, or
 - (b) is restricting existing uses, such as:
 - (i) customary fisheries, including mātaimai reserves and taiāpure,
 - (ii) cultural activities such as *mahika kai*, including harvesting of kaimoana, or
 - (iii) aquaculture and shellfish gathering,

- (3) areas of *coastal water* where *mana whenua* have a particular interest, including *wāhi tupuna*, *mātaītai* and *taiapure*, and any aquaculture settlement areas gazetted under the Māori Commercial Aquaculture Claims Settlement Act 2004, and
- (5) the nationally significant *surf breaks* at Karitāne, Papatowai, The Spit, and Whareakeake.

CE–P3 – Coastal water quality

Manage water quality in the coastal environment by:

- (1A) restoring coastal water quality where it is considered to have deteriorated to the extent described within CE-P2(2),
 - (1) maintaining or enhancing healthy coastal ecosystems, indigenous habitats provided by the coastal environment, *indigenous vegetation* and fauna, and the migratory patterns of indigenous *coastal water* species,
 - (2) sustaining Kāi Tahu relationships with and customary uses of *coastal water*,
 - (3) maintaining or enhancing recreation opportunities and existing uses of *coastal water*,
 - (5) controlling activities outside the coastal marine area that have an effect on coastal water quality,
 - (6) maintaining or enhancing water quality within areas of coastal water identified in CE-P2(3) where *mana whenua* have a particular cultural interest, and
 - (7) setting appropriate limits and targets for coastal water quality, including for ecosystem health, habitats of taoka species, sediment, contact recreation and safe kaimoana gathering.

CE–P4 – Natural character

Identify, preserve and restore the natural character of the coastal environment by:

- (1) identifying areas and values of high and outstanding natural character which may include matters such as:
 - (a) natural elements, processes and patterns,
 - (b) biophysical, ecological, geological and geomorphological aspects,
 - (c) natural landforms such as headlands, peninsulas, cliffs, dunes, *wetlands*, estuaries, reefs, *freshwater* springs and *surf breaks*,
 - (d) the natural movement of *water* and sediment,
 - (e) the natural darkness of the night sky,
 - (f) places or areas that are wild or scenic,
 - (g) a range of natural character from pristine to modified,
 - (h) experiential attributes, including the sounds and smell of the sea, and their context or setting,
- (2) avoiding adverse *effects* on natural character in areas identified as having outstanding natural character,
- (3) avoiding significant adverse *effects* and avoiding, remedying or mitigating other adverse *effects*

- on natural character outside the areas in (2) above, and
- (5) promoting *activities* and projects that will restore or rehabilitate natural character in the coastal environment where it has been reduced or lost.

CE-P5 – Coastal indigenous *biodiversity*

Protect indigenous *biodiversity* in the coastal environment by:

- (1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:
- (a) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists,
 - (b) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened,
 - (c) indigenous ecosystems and vegetation types in the coastal environment that are threatened or are naturally rare,
 - (d) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare,
 - (e) areas containing nationally significant examples of indigenous community types, and
 - (f) areas set aside for full or partial protection of indigenous *biodiversity* under other legislation, and
- (2) identifying and avoiding significant adverse *effects* and avoiding, remedying or mitigating other adverse *effects* on the following ecosystems, vegetation types and areas:
- (a) areas of predominantly indigenous vegetation in the coastal environment,
 - (b) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species,
 - (c) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable,
 - (d) areas sensitive to modification, including estuaries, lagoons, coastal *wetlands*, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh,
 - (e) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes,
 - (f) habitats, including areas and routes, important to migratory species, ~~and~~
 - (g) ecological corridors, and areas important for linking or maintaining biological values identified under this policy²,
 - (h) *significant natural areas* identified in accordance with APP2 that are not included in (1) above, and
 - (i) indigenous species and ecosystems identified as taoka in accordance with ECO-M3 that are not included in (1) above.

CE–P6 – Natural features and landscapes (including seascapes)

Protect natural features, and landscapes (including seascapes) in the coastal environment by:

- (1) identifying their areas and values, at minimum by *land* typing, soil characterisation and landscape characterisation, in accordance with APP9,
- (2) avoiding adverse *effects* of activities on outstanding natural features and landscapes (including seascapes),
- (3) avoiding significant adverse *effects* and avoiding, remedying, or mitigating other adverse *effects* of activities on other natural features and natural landscapes (including seascapes), and
- (4) promoting restoration or enhancement of natural features, and landscapes (including seascapes) where the values of these areas have been reduced or lost.

CE–P7 – Surf breaks

Manage Otago’s nationally significant *surf breaks* so that nationally significant *surf breaks* are protected by avoiding adverse *effects* on the *surf breaks*, including on access to and use and enjoyment of them.

CE–P8 – Public access

Manage public walking and vehicle access to, along and adjacent to the *coastal marine area* by:

- (1A) maintaining or enhancing public walking access,
- (1B) controlling vehicle access, and
- (1C) restricting public walking and vehicle access where necessary:
 - (a) to protect public health and safety,
 - (b) to protect *significant natural areas*,
 - (c) to protect dunes, estuaries and other sensitive natural areas or habitats,
 - (d) to protect places or areas of special or outstanding *historic heritage*,
 - (e) to protect places or areas of significance to *mana whenua*, including wāhi tapu, wāhi tupuna and wāhi taoka,
 - (f) for defence purposes in accordance with the Defence Act 1990,
 - (g) for temporary activities or special events, or
 - (h) to ensure a level of security consistent with the operational requirements of a lawfully established activity.

CE–P9 – Activities on *land* within the coastal environment

The strategic and co-ordinated use of *land* within the coastal environment is achieved by:

- (1) encouraging the consolidation of existing coastal settlements and *urban areas* where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth,
- (2) considering the rate at which built development should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the values of the coastal environment,

- (2A) recognising and providing for the functional needs and operational needs of infrastructure,
- (3) recognising the importance of the provision of *infrastructure*, and food production, and pastoral farming activities to the social, economic and cultural well-being of people and communities,
- (4) requiring development to be set back from the *coastal marine area* and other *coastal water* where practicable and reasonable, to protect the natural character, open space, public access and *amenity values* of the coastal environment,
- (5) considering where activities that maintain the character of the existing built environment should be encouraged, and where activities resulting in a change in character would be acceptable,
- (6) taking into account the ongoing *effects of climate change* and *coastal hazard risk*.
- (7) enabling mana whenua to provide for their cultural and social needs for papakāinga, marae and associated developments and make appropriate provision for them.

CE-P10 – Activities within the *coastal marine area*

Use and development in the *coastal marine area* must:

- (1) enable multiple uses of the *coastal marine area* wherever reasonable and practicable, and
- (2) maintain or improve the health, integrity, form, function and *resilience* of the *coastal marine area*, or
- (3) have a *functional need* or *operational need* to be located in the *coastal marine area*, or
- (4) have a public benefit or opportunity for public recreation that cannot practicably be located outside the *coastal marine area*.

CE-P11 – Aquaculture

Provide for the development and operation of *aquaculture activities* taking into account policies CE-P3 to CE-P12, and:

- (1) the need for high quality *water* required for an *aquaculture activity*,
- (2) the need for *land*-based facilities and infrastructure required to support the operation of *aquaculture activities*, and
- (3) the potential social, economic and cultural benefits associated with the operation and development of *aquaculture activities*.

CE-P12 – Reclamation and de-reclamation

Manage reclamation and de-reclamation by:

- (1A) avoiding *reclamation* in the *coastal marine area*, unless:
 - (a) *land* outside the *coastal marine area* is not available for the proposed activity,
 - (b) the activity to be established on the reclamation can only occur immediately adjacent to the *coastal marine area*,
 - (c) there are no practicable alternative methods of providing for the activity,

- (d) the reclamation will provide significant regional or national benefit, and
- (1B) encouraging de-reclamation of redundant reclaimed *land* where it would restore natural character, resources of the *coastal marine area*, and/or provide for more public open space.

CE–P13 – Rakatirataka and *kaitiakitaka*

Recognise and give practical effect to Kāi Tahu rakatirataka and the role of Kāi Tahu as kaitiaki of the coastal environment by:

- (1) facilitating partnership with, and actively involving *mana whenua* in decision making and management processes in respect of the coast,
- (2) identifying, protecting, and improving where degraded, sites, areas and values of importance to Kāi Tahu within the coastal environment, and managing these in accordance with tikaka,
- (3) providing for customary uses, including *mahika kai* and the harvesting of kaimoana,
- (4) incorporating the impact of activities on customary fisheries, mātaimai reserves and taiāpure in decision making, and
- (5) incorporating mātauraka Maōri in the management and monitoring of activities in the coastal environment.

Methods

CE-M1A – *Mana whenua/mana moana* involvement

Otago Regional Council must partner with Kāi Tahu in coastal management by:

- (1) actively identifying and pursuing opportunities for *mana whenua* to be involved in coastal governance, including through use of available mechanisms such as transfers of functions (under section 33 of the RMA 1991) and supporting the establishment of mātaimai reserves and taiāpure,
- (2) implementing actions to foster the development of *mana whenua* capacity to contribute to the Council’s decision-making processes,
- (3) supporting *mana whenua* initiatives that contribute to maintaining or improving the health and well-being of coastal water and ecosystems, and
- (4) providing relevant information to *mana whenua* for the purposes of (1), (2), and (3).

CE–M1 – Identifying the coastal environment

Local authorities must:

- (1) work collaboratively, including with *local authorities* in neighbouring regions, to:
 - (a) identify the landward extent of the coastal environment, in accordance with CE-P2(1),
 - (b) map the landward extent of the coastal environment area in the relevant *regional plans* and *district plans*.

CE–M2 – Identifying other areas

Local authorities must work collaboratively, with Kāi Tahu and *local authorities* in neighbouring regions, together to:

- (1) identify areas and values of high and outstanding natural character within their jurisdictions in accordance with CE–P4(1), map the areas and describe their values in the relevant *regional plans* and *district plans*, and identify their capacity to accommodate change through use or development while protecting the values that contribute to the natural character of the area being considered high or outstanding,
- (2) identify, at an appropriate scale, areas and values of outstanding natural features and landscapes (including seascapes) in the coastal environment within their jurisdictions in accordance with CE–P6(1), map the areas and describe their values in the relevant *regional plans* and *district plans*, and identify their capacity to accommodate change through use or development while protecting the values that contribute to the natural features and landscapes (including seascapes) being considered outstanding,
- (3) identify areas and values of indigenous *biodiversity* within their jurisdictions in accordance with CE–P5, map the areas and describe their values in the relevant *regional* and *district plans*, and
- (4) prioritise identification under (1) – (3) in areas that are likely to face development or growth pressure over the life of this RPS.

CE–M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* no later than 31 December 2028 to:

- (1) map areas of deteriorated *water* quality in the coastal environment, in accordance with CE–P2(2)
- (1A) identify, manage, and improve where degraded, areas of *coastal water* where *mana whenua* have a particular interest, including *wāhi tūpuna*, statutory acknowledgement areas, tōpuni and *nohoaka* identified in the NTCSA, and customary fisheries,
- (1B) set water quality limits and targets for *coastal waters* in accordance with CE–P3,
- (2) map the areas and characteristics of, and access to, *surf breaks* of national significance,
- (3) require development to be set back from the *coastal marine area* and other *coastal water* where practicable to protect the natural character, open space, public access and *amenity values* of the coastal environment,
- (4) manage the *discharge* of *contaminants* into *coastal water* to achieve limits or targets for water quality by:
 - (a) using the smallest *mixing zone* necessary to achieve the required *water* quality standards in the *receiving environment*; and minimise adverse *effects* on the life-supporting capacity of *water* within any mixing zone,
 - (b) prohibiting any new *discharge* of untreated human *sewage* directly to water in the coastal environment,
 - (ba) requiring the implementation of methods to progressively reduce the volume and frequency of existing *discharges* of untreated human *sewage* from reticulated *wastewater* systems in the event of a system failure or overloading the system, including

- by minimising *stormwater* inflows and infiltration into *wastewater* systems,
- (bb) encouraging methods and actions to reduce *contaminant discharges* at source,
- (c) prohibiting the *discharge* of treated human *sewage* directly to water in the coastal environment unless:
 - (i) there has been adequate consideration of alternative methods, sites and routes for undertaking the *discharge*, and
 - (ii) it can be demonstrated that the proposal has been informed by consultation with *tangata whenua* and the affected community, and
- (d) reducing the *discharge* of sediment by:
 - (i) requiring that *subdivision*, use, or development will not increase sedimentation of the *coastal marine area* or other *coastal water*,
 - (ii) controlling the impacts of vegetation removal on sedimentation including the impacts of harvesting *plantation forestry*, and
 - (iii) reducing sediment loadings in runoff and in *stormwater* systems through controls on *land* use activities, and
- (e) designing, installing, operating and maintaining new reticulated *wastewater* systems to avoid cross-contamination between *wastewater* and *stormwater* systems and remedying cross-contamination where it currently exists in established systems, and
- (f) having particular regard to:
 - (i) the sensitivity of the receiving environment,
 - (ii) the nature of the *contaminants* to be *discharged*, the *contaminant* concentration thresholds not to be exceeded to achieve the required *water* quality in the receiving environment, and the risks if that concentration of *contaminants* is exceeded,
 - (iii) the capacity of the receiving environment to assimilate the *contaminants*, and
 - (iv) avoiding significant adverse *effects* on ecosystems and habitats after reasonable mixing,
- (5) control the use and development of the *coastal marine area*, in order to:
 - (a) manage *coastal water* quality; preserve and restore natural character; and protect natural features and landscapes (including seascapes), *wāhi tūpuna* and indigenous *biodiversity* of the *coastal marine area* in accordance with CE-P3, CE-P4, CE-P5, CE-P6 and HCV-WT-P2, and
 - (b) manage Otago's *surf breaks* of national significance in accordance with CE- P7,
- (6) include provisions requiring the adoption of a precautionary approach to assessing the *effects* of activities in the coastal environment in accordance with IM- P6 where:
 - (a) there is scientific uncertainty or a lack of relevant knowledge, or
 - (b) there are potentially significant or irreversible adverse *effects*, or
 - (c) coastal resources are potentially vulnerable to effects from climate change,
- (7) identify areas that may be appropriate for aquaculture,

- (8) provide for walking access to, along, and adjacent to the *coastal marine area* in accordance with Policy 19 of the NZCPS,
- (9) control vehicle access to, along, and adjacent to the *coastal marine area* in accordance with Policy 20 of the NZCPS,
- (10) manage *reclamation* and de-reclamation activities in accordance with CE-P12, and when *reclamation* is considered suitable in accordance with CE-P12, have particular regard to the matters listed in Policy 10(2) and (3) of the NZCPS,
- (11) require stock to be excluded from the *coastal marine area*, adjoining intertidal areas and *coastal water* and riparian margins in the coastal environment, and
- (12) provide for and encourage activities undertaken for the primary purpose of enhancing *coastal water* quality, coastal habitats and ecosystems, customary fisheries, *mahika kai* and kaimoana activities, and restoring natural character, features and landscapes (including seascapes) in accordance with CE-P3, CE-P4, CE-P5, CE-P6, and CE-P13, and
- (13) identify any aquaculture settlement areas gazetted under the Māori Commercial Aquaculture Claims Settlement Act 2004.

CE-M4 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) control the location, density and form of *subdivision* in the coastal environment (outside the *coastal marine area*),
- (2) control the location, scale and form of *buildings* and *structures* in the coastal environment (outside the *coastal marine area*),
- (3) control the location and scale of *earthworks*, mining, and vegetation planting, modification and removal in the coastal environment (outside the *coastal marine area*),
- (3A) achieve the integrated management of, and control over, land use activities which could cause direct or indirect *effects* on the *coastal marine area* in accordance with CE-P1A,
- (4) require *resource consent* for uses of *land* on reclamations that have occurred after the date this RPS becomes operative,
- (5) provide for the establishment of *esplanade reserves* and *esplanade strips*,
- (6) include provisions requiring the adoption of a precautionary approach to assessing the *effects* of activities in the coastal environment in accordance with IM-P6 where:
 - (a) there is scientific uncertainty or a lack of relevant knowledge, or
 - (b) there are potentially significant or irreversible adverse *effects*,
 - (c) coastal resources are potentially vulnerable to the effects of climate change.
- (7) provide for walking access to, along, and adjacent to the *coastal marine area* in accordance with Policy 19 of the NZCPS,
- (8) control vehicle access to, along, and adjacent to the *coastal marine area* in accordance with Policy 20 of the NZCPS,
- (9) recognise *mana whenua* needs for *papakāika*, marae and associated developments within the coastal environment and make appropriate provision for them,

- (10) provide access to *surf breaks* of national significance, and
- (11) provide for and encourage activities undertaken for the primary purpose of enhancing coastal water quality, coastal habitats and ecosystems, customary fisheries and other *mahika kai* activities restoring natural character, features, or landscapes in accordance with CE-P1, CE-P3, CE-P4, CE-P6 and CE-P13.

CE–M5 – Other incentives and mechanisms

Local authorities shall consider the use of other mechanisms or incentives to assist in achieving Policies CE–P2 to CE–P13, including:

- (1) identifying areas and opportunities within the coastal environment for restoration or rehabilitation,
- (2) identifying opportunities to enhance or restore public walking access in accordance with Policy 19(c) of the NZCPS,
- (3) promoting the removal of abandoned or redundant structures that have no heritage, amenity or reuse value,
- (4) funding assistance for restoration projects (for example, through Otago Regional Council’s ECO Fund),
- (5) development or design guidelines (for example, colour palettes for *structures* in the coastal environment),
- (6) rating differentials for *land* that is protected due to its status as a high or outstanding natural character area,
- (7) education and advice,
- (8) research relevant to the *effects* of activities on:
 - (a) coastal network *infrastructure*,
 - (b) coastal values,
 - (c) coastal hazards,
 - (d) riparian vegetation cover or any *land* cover that contributes to supporting coastal values or mitigating coastal hazards, or
 - (e) areas particularly sensitive to *land* use changes, or
 - (f) coastal water quality, or
 - (g) coastal habitats and ecosystems,
- (9) facilitating the restoration, rehabilitation or creation of coastal habitats, particularly when it:
 - (a) encourages the natural regeneration of indigenous species,
 - (b) buffers or links ecosystems, habitats and areas of significance that contribute to ecological corridors, or
 - (c) maintains or enhances the provision of indigenous ecosystem services,
 - (d) benefits *mahika kai* and kaimoana species or customary fisheries areas, or
 - (e) will lead to the improvement of areas of deteriorated water quality, and

- (10) bylaws controlling vehicle access to and along the *coastal marine area* in accordance with Policy 20 of the NZCPS.

CE–M6 – Monitoring

Otago Regional Council shall:

- (1) establish a long-term monitoring programme for coastal waters and coastal ecosystems that incorporates cultural health monitoring,
- (2) record information (including monitoring data) about the state of coastal waters and coastal ecosystems and the challenges to their health and well-being,
- (3) regularly prepare reports on the matters in (1) and (2) and publish those reports, and
- (4) take action where the results of monitoring show that this is necessary to achieve the objectives of this policy statement.

Explanation

CE–E1 – Explanation

The provisions in this chapter recognise that the coastal environment is a finite resource with a range of values that need to be preserved. The policies within the chapter are designed to protect the coastal environment from inappropriate activities. The coastal environment is also recognised as dynamic and the policies, in association with others in the ORPS, seek to prevent increasing *risks* to life, *infrastructure* and property.

The policies in this chapter require the identification and management of a range of values within the coastal environment. They also set out a number of environmental bottom lines that give effect to the requirements of the NZCPS. Provided these environmental bottom lines are achieved, the chapter also acknowledges that there are a range of activities including port activities, aquaculture, and appropriately designed and located *subdivision*, use and development that can be undertaken within the coastal environment. The policies also provide specific direction on how activities in the coastal environment are to be undertaken. The combination of protective and enabling policies within this chapter are designed to implement the objectives by requiring that activities in the coastal environment are undertaken in a manner that preserves or restores the values of the coastal environment.

Kāi Tahu tūpuna had an extensive knowledge of the coastal environment and weather patterns, passed from generation to generation. This knowledge continues to be held by whānau and hapū and is regarded as a taoka. The seasonal lifestyle of Kāi Tahu led to their dependence on the resources of the coast. This enduring relationship with the coastal environment, arising from long whakapapa associations and the use of tikaka to guide resource management practices, is manifested in the rakatirataka and *kaitiakitaka* responsibilities that Kāi Tahu hold as *mana whenua*.

Coastal waters can be influenced by activities which are undertaken beyond the coastal environment. This interconnectedness between coastal and freshwater environments means provisions contained within the LF – Land and freshwater chapter may also need to be considered to manage the coastal environment.

Some of the policies in the NZCPS are highly prescriptive and will be most effectively implemented through *regional* and *district plans*. In those cases, the policies in this RPS have included additional region-specific context where that is possible, but have not sought to restate the content of NZCPS

policies with the expectation that those policies will be implemented by the *regional* and *district plans*.

In addition to the policies in this chapter, the values of the coastal environment are recognised and provided for in a number of other chapters of the ORPS, as set out in CE-P1.

Principal reasons

CE–PR1 – Principal reasons

The coastal environment includes the *coastal marine area*, islands within the *coastal marine area* and the area landward of the line of mean high-water springs. The landward extent of the coastal environment is determined by the natural and physical elements, features and processes set out in Policy 1(2) of the NZCPS. The importance of the coastal environment is reflected in the statutory resource management framework, particularly as identified in sections 6 and 7 of the RMA and as set out in the NZCPS.

A number of activities occur within or affect the coastal environment including urban development, recreational activities, transport infrastructure, port activities, *infrastructure*, energy generation and transmission, food production and other farming activities, *plantation forestry*, rural industry and *mineral* extraction. These activities can be important contributors to the existing and future health and well-being of communities. However, poorly located or managed activities can have adverse *effects* that compromise the values of the coastal environment such as natural character, biophysical processes, *water* quality, *surf breaks*, indigenous *biodiversity* and natural landscapes.

The coastal environment is highly valued by Kāi Tahu *mana whenua*, with a number of areas in the coastal environment recognised in statutory acknowledgments in the NTCSA 1998. The marine environment is a moving force, a reminder of the power of Takaroa. The *coastal waters* and processes were integral to the way of life *tūpuna* enjoyed, and the coastal environment supports significant *mahika kai* /kaimoana resources and *wāhi tūpuna*. This environment was traditionally important for settlement and travel and continues to provide for settlement and *mahika kai* and fisheries resources. Kaimoana is essential to coastal iwi and hapū relationships with the *environment* and in particular as part of the tikaka of food gathering and as indicators of the health of coastal environments.

The *coastal waters* are a *receiving environment* for *freshwater*, gravels, sediment and *contaminants* from the terrestrial landscape - of particular concern are the significant *discharges* of sediments, transported by *rivers* and waterways, that have a smothering effect on the benthic systems of the coastal area, including the important kelp beds. The interconnection of the *land* and sea environments is central to the ki uta ki tai ('mountains to the sea') philosophy. This interconnection requires careful consideration in managing the *effects* of *land* use activities.

Other chapters of the Regional Policy Statement are also relevant for managing the coastal environment as land-based activities can have a significant *effect* on the health of the marine environment. Sediment, *contaminants* and litter that are carried by waterways or pipes into the sea affect *water* quality and the ecological health of the coastal environment.

Implementation of the provisions in this chapter will occur primarily through *regional plans* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Anticipated environmental results

CE–AER1

The values of the coastal environment are not adversely affected or lost because of inappropriate uses of the *natural and physical resources* in the

coastal environment.

- CE–AER2** There is no reduction in the extent of identified areas of high and outstanding natural character in the coastal environment.
- CE–AER3** Areas where natural character has been reduced or lost are restored.
- CE–AER4** There is an improvement in the quality of *water* in areas identified as having deteriorated *water* quality.
- CE–AER5** The quality of *coastal water* supports healthy coastal ecosystems and provides for contact recreation and customary uses.
- CE–AER6** New building and development in the coastal environment is consistent with the character of the area and avoids increasing the *risks* from *natural hazards* to people and communities.
- CE–AER7** The public have improved access to, along, and adjacent to the *coastal marine area*.
- CE–AER8** The mauri of the coastal environment is protected, and restored where it has been degraded.
- CE–AER9** Customary uses, including practices associated with *mahika kai* and kaimoana, are supported, and *mana whenua* exercise their kaitiaki role within the coastal environment.

LF – Land and freshwater

LF–WAI – Te Mana o te Wai

Objectives

LF–WAI–O1 – Te Mana o te Wai

Otago’s *water bodies* and their health and well-being are protected, and restored where they are *degraded*, so that the *mauri* of those water bodies is protected, and the management of *land* and *water* recognises and reflects that:

- (1) *water* is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,
- (2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,
- (3) each *water body* has a unique whakapapa and characteristics,
- (4) *fresh water, land, and coastal water* have a connectedness that supports and perpetuates life,
- (4A) protecting the health and well-being of *water* protects the wider *environment*,
- (5) Kāi Tahu exercise rakatirataka, manaakitaka and their *kaitiakitaka* duty of care and attention over wai and all the life it supports, and
- (6) all people and communities have a responsibility to exercise stewardship, care, and respect in the management of *fresh water*.

Policies

LF–WAI–P1 – Prioritisation

In all decision-making affecting *fresh water* in Otago, prioritise:

- (1) first, the health and well-being of *water bodies* and *freshwater* ecosystems (te hauora o te wai) and the contribution of this to the health and well-being of the *environment* (te hauora o te taiao) together with and the exercise of *mana whenua* to uphold these,⁵⁰
- (2) second, the health needs of people, (te hauora o te tangata) interacting with *water* through ingestion (such as *drinking water* and consuming resources harvested from the *water body*) and immersive activities (such as harvesting resources and primary contact), and
- (3) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

⁵⁰ In matters of mana, the associated spiritual and cultural responsibilities connect natural resources and *mana whenua* in a kinship relationship that is reciprocal and stems from the time of creation.

LF-WAI-P2 – Mana whakahaere

Recognise and give practical effect to Kāi Tahu rakatirataka in respect of *fresh water* by:

- (1) facilitating partnership with, and the active involvement of, *mana whenua* in *freshwater* management and decision-making processes,
- (2) sustaining the environmental, social, cultural and economic relationships of Kāi Tahu with *water bodies*,
- (3) providing for a range of customary uses, including *mahika kai*, specific to each *water body*,
- (4) incorporating mātauraka into decision making, management and monitoring processes, and
- (5) managing wai and its connections with whenua in a holistic and interconnected way – ki uta ki tai.

LF-WAI-P3 – Integrated management/ki uta ki tai

Manage the use of *fresh water* and *land*, using an integrated approach that is consistent with tikaka and kawa, that:

- (1) sustains and, to the greatest extent practicable, restores or improves:
 - (a) the natural connections and interactions between *water bodies* (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral),
 - (b) the natural connections and interactions between *land* and *water*, from the mountains to the sea,
 - (c) the habitats of *mahika kai* and indigenous species, including taoka species associated with the *water bodies*,
- (4) manages the effects of the use and development of land to maintain or enhance the health and well-being of *freshwater*, *coastal water* and associated ecosystems,
- (5) encourages the coordination and sequencing of regional or urban growth to ensure it is sustainable,
- (6) has regard to foreseeable *climate change risks*, and the potential effects of *climate change* on *water bodies*, including on their natural functioning,
- (7) has regard to cumulative *effects*, and
- (8) applies a precautionary approach where there is limited available information or uncertainty about potential adverse *effects*, in accordance with IM-P6.

LF-WAI-P4 – Giving effect to *Te Mana o te Wai*

All persons exercising functions and powers under this RPS and all persons who use, develop or protect resources to which this RPS applies must recognise that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding *Te Mana o te Wai*, and must be given effect to when making decisions affecting *fresh water*, including when interpreting and applying the provisions of the LF chapter.

Methods

LF–WAI–M1 – Kāi Tahu rakatirataka

Otago Regional Council must partner with Kāi Tahu in *freshwater* management by:

- (1) implementing the actions in MW–M3 and MW–M4,
- (2) actively identifying and pursuing opportunities for *mana whenua* to be involved in *freshwater* governance, including through use of available mechanisms such as transfers of functions (under section 33 of the RMA) and supporting the establishment of *freshwater* mātaaitai,
- (3) implementing actions to foster the development of *mana whenua* capacity to contribute to the Council’s decision-making processes, including resourcing,
- (4) supporting *mana whenua* initiatives that contribute to maintaining or improving the health and well-being of *water bodies*,
- (5) providing relevant information to *mana whenua* for the purposes of (1), (2), (3) and (4), and
- (6) developing a Kaupapa Kāi Tahu monitoring programme and facilitating the use of mātauraka to inform *freshwater* management decision-making processes, methods and outcomes, in combination with environmental science.

LF–WAI–M2 – Other methods

In addition to method LF–WAI–M1, the methods in the LF–FW and LF–LS sections are also applicable.

Explanation

LF–WAI–E1 – Explanation

Water is a central element in Kāi Tahu creation traditions. It was present very early in the whakapapa of the world: in the beginning there was total darkness, followed by the emergence of light and a great void of nothingness. In time Maku mated with Mahoronuiatea which resulted in great expanses of water, then Papatūānuku and Takaroa met and had children after which Takaroa took a long absence. Papatūānuku met Rakinui and they had many children who conspired to force their parents’ coupled bodies apart to let the light in. They were also responsible for creating many of the elements that constitute our world today - the mountains, rivers, forests and seas, and all fish, bird and animal life. To Kāi Tahu, the whakapapa and spiritual source of *water* and *land* are connected, and *water bodies* are the central unifying feature that connects our landscapes together. The spiritual essence of *water* derives from the atua and the life it exudes is a reflection of the atua.

To Kāi Tahu, the whakapapa of *mana whenua* and water are also integrally connected. There is a close kinship relationship, and *mana whenua* and the wai cannot be separated. The tūpuna relationship with *water*, and the different uses made of the *water*, provide a daily reminder of greater powers – of both the atua and tūpuna. This relationship continues into the present and future and is central to the identity of Kāi Tahu. The mana of wai is sourced from the time of creation and the work of kā Atua, invoking a reciprocal relationship with *mana whenua* based in kawa, tikaka and respect for *water’s* life-giving powers and its sanctity.

The kinship connection engenders a range of rights and responsibilities for *mana whenua*, including rakatirataka rights and the responsibility of *kaitiakitaka*. *Kaitiakitaka* encompasses a high duty to uphold and maintain the mauri (life-force) of the wai. If the mauri is degraded it has an impact not only on the

mana of the wai but also on the kinship relationship and on *mana whenua*. The mauri expresses mana and connection, which can only be defined by *mana whenua*. Recognising rakatirataka enables *mana whenua* to enjoy their rights over *water bodies* and fulfil their responsibilities to care for the wai and the communities it sustains.

The condition of *water* is seen as a reflection of the condition of the people - when the wai is healthy, so are the people. Kawa and tikaka have been developed over the generations, based on customs and values associated with the Māori world view that span the generations. Giving effect to *Te Mana o te Wai* and upholds the mauri of the wai and is consistent with this value base.

To Kāi Tahu, each *water body* is unique. This is a reflection of its unique whakapapa and characteristics, and it means that each *water body* has different needs. Management and use must recognise and reflect this.

The concept of *Te Mana o te Wai* aligns closely with the Kāi Tahu approach to *freshwater* management, but it is not confined to Kāi Tahu. *Water* is valued by the community. The life-giving qualities of *freshwater* support the health and well-being of the whole community and all people have a shared responsibility to respect and care for the health and well-being of *freshwater bodies*. Access to *water*, within *limits* (in relation to *water*), is an important contributor achieving social, cultural and economic well-being within Otago.

Principal reasons

LF-WAI-PR1 – Principal reasons

In accordance with the NPSFM, councils are required to implement a framework for managing *freshwater* that gives effect to *Te Mana o te Wai*. This places the mauri (life-force) of the *water* at the forefront of decision making, recognising that te hauora o te wai (the health of the *water*) is the first priority, and supports te hauora o te taiao (the health of the environment) and te hauora o te takata (the health of the people). It is only after the health of the *water* and the health of the people is sustained that *water* can be used for economic purposes. When water is available for use, different uses may be prioritised in different FMUs or rohe depending on the values identified by communities and the environmental outcomes seeking to be achieved. Giving effect to *Te Mana o te Wai* requires actively involving *mana whenua* in *freshwater* planning and management.

The NZCPS also recognises the interconnectedness of *land* and *water*. It notes inland activities can have a significant impact on *coastal water* quality which, in many areas around New Zealand, is in decline. This is a consequence of point and diffuse sources of contamination which can have environmental, social, cultural and economic implications. For example, poor *water* quality adversely effects aquatic life and opportunities for mahika kai gathering and recreational uses such as swimming and kayaking.

Anticipated environmental results

LF-WAI-AER2 The mauri of Otago’s water bodies and the health and well-being of *water bodies* and *freshwater* ecosystems is protected, and restored where degraded.

LF-WAI-AER1 Kāi Tahu are actively involved in the management of *fresh water* and able to effectively exercise their rakatirataka, manaakitaka and kaitiakitaka.

LF-FW – Fresh water

Note to readers: This chapter combines the LF-VM and LF-FW provisions as notified. The numbering in this section reflects the notified numbering of the provisions so that it is clear that the provision has been moved rather than introduced as 'new'. The numbering will be corrected when the RPS is made operative.

Objectives

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

In each FMU and rohe in Otago and within the timeframes specified in the *freshwater* visions in LF-VM-O2 to LF-VM-O6:

- (1) healthy *freshwater* and estuarine ecosystems support healthy populations of indigenous species (including non-diadromous galaxiids and Canterbury mudfish) and *mahika kai* that are safe for consumption,
- (2) the interconnection of *land, freshwater* (including springs, *groundwater*, ephemeral *water bodies*, *wetlands*, *rivers*, and *lakes*) and *coastal water* is recognised,
- (3) fish passage within and between catchments is provided for except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats,
- (4) the form, function and character of *water bodies* reflects their natural characteristics and natural behaviours to the extent reasonably practicable,
- (5) the ongoing relationship of Kāi Tahu with *wāhi tūpuna*, including access to and use of *water bodies*, is sustained,
- (6) the health of the *water* supports the health of people and their connections with *water bodies*,
- (7) sustainable *land* and *water* management practices:
 - (a) support food and fibre production and the continued social, economic, and cultural well-being of Otago's people and communities, and
 - (b) improve the resilience of communities to the *effects of climate change*, and
 - (c) ensure communities are appropriately serviced by community water supplies, and other three waters infrastructure,
- (8) direct *discharges* of *wastewater* to *water bodies* are phased out to the extent reasonably practicable, and
- (9) *freshwater* is managed as part of New Zealand's integrated response to climate change and renewable electricity generation activities are provided for.

LF-VM-O2 – Clutha Mata-au FMU vision

In the Clutha Mata-au FMU, and in addition to the matters in LF-FW-O1A:

- (1) management of the FMU recognises that:
 - (a) the Clutha Mata-au is a single connected system ki uta ki tai, and
 - (b) the source of the wai is pure, coming directly from Tāwhirimātea to the top of the mauka

and into the awa,

- (1A) sustainable abstraction occurs from *lakes, river* main stems or *groundwater* in preference to tributaries, to the extent reasonably practicable,
- (6) the national significance of the ongoing operation, maintenance and upgrading of the Clutha hydro-electricity generation scheme, including its generation capacity, storage and operational flexibility and its contribution to climate change mitigation, is recognised and protected, and potential further development is provided for within this modified catchment,
- (6A) *water bodies* support a range of outdoor recreation opportunities,
- (7) in the Upper Lakes rohe, the high quality *waters* of the *lakes* and their tributaries are protected, and if degraded are improved recognising the significance of the purity of these *waters* to Kāi Tahu and to the wider community,
- (7A) in the Lower Clutha rohe, opportunities to restore the natural form and function of *water bodies* are promoted wherever practicable, and
- (8) the outcomes sought are to be achieved within the following timeframes:
 - (c) by 2030 in the Upper Lakes rohe,
 - (d) by 2045 in the Dunstan and Roxburgh rohe, and
 - (e) by 2050 in the Manuherekia and Lower Clutha rohe.

LF-VM-O3 – North Otago FMU vision

By 2050 in the North Otago FMU, and in addition to the matters in LF-FW-O1A:

- (1) the Waitaki River is managed holistically, *ki uta ki tai*, despite its catchments spanning the Canterbury and Otago regions,
- (1A) the national significance of the Waitaki hydroelectricity generation scheme is recognised,
- (3) healthy riparian margins, *wetlands*, estuaries and lagoons support the health of downstream coastal ecosystems,

LF-VM-O4 – Taiari FMU vision

By 2050 in the Taiari FMU, and in addition to the matters in LF-FW-O1A:

- (3) the upper and lower catchment *wetland* complexes, including the Waipōuri/Waihola wetland complex, Upper Taiari wetland complex, and connected tussock areas are protected, restored or enhanced where they have been degraded or lost,
- (4) the gravel *bed* of the lower Taiari is restored and sedimentation of the Waipōuri/Waihola wetland complex is reduced,
- (4A) the national significance of the Waipōuri hydro-electricity generation scheme, and the regional significance of the Deep Stream and Paerau/Patearoa hydro-electricity generation schemes, is recognised and their operation, maintenance and upgrading is provided for, while potential further development of these schemes is provided for, and
- (5) creative ecological approaches contribute to reduced occurrence of didymo.

LF-VM-O5 – Dunedin & Coast FMU vision

By 2040 in the Dunedin & Coast FMU, and in addition to the matters in LF-FW-O1A:

- (3) healthy riparian margins, *wetlands*, estuaries and lagoons support the health of downstream coastal ecosystems,
- (4) opportunities to restore the natural form and function of *water bodies* are promoted wherever practicable.

LF-VM-06 – Catlins FMU vision

By 2035 in the Catlins *FMU*, and in addition to the matters in LF-FW-01A:

- (4) the high degree of naturalness of the *water bodies* and ecosystem connections between the forests, *freshwater* and coastal environment are preserved, and
- (6) healthy, clear and clean *water* supports opportunities for recreation.

LF-FW-08 – Fresh water

In Otago's *water bodies* and their catchments:

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

LF-FW-09 – Wetlands

Otago's *wetlands* are protected from inappropriate subdivision, use and development and, where degraded, restoration is promoted so that:

- (1) mahika kai and other *mana whenua* values are sustained and enhanced now and for future generations,
- (2) there is no net decrease, and preferably an increase, in the extent and diversity of wetland indigenous ecosystem types and habitats, and
- (3) there is no reduction and, where degraded, there is an improvement in wetland ecosystem health, hydrological functioning, *amenity values*, extent or *water* quality, and
- (4) their flood attenuation and water storage capacity is maintained or improved.

LF-FW-010 – Natural character

The natural character of *wetlands*, *lakes* and *rivers* and their margins is preserved and protected from inappropriate subdivision, use and development.

Policies

LF-VM-P5 – Freshwater Management Units (FMUs) and rohe

Otago's *fresh water* resources are managed through the following *freshwater management units* or rohe which:

- (1) have coastal boundaries that follow either mean high water springs or, where this crosses a *water body*, the inner limit of the territorial sea, and
- (2) are shown on MAP1:

Table 3 – Freshwater Management Units and rohe

Freshwater Management Unit	Rohe
Clutha Mata-au	Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha
Taiari	n/a
North Otago	n/a
Dunedin & Coast	n/a
Catlins	n/a

LF-VM-P6 – Relationship between FMUs and rohe

Where rohe have been defined within FMUs:

- (1) *environmental outcomes* must be developed for the FMU within which the rohe is located,
- (2) any additional rohe-specific *environmental outcomes*:
 - (a) must set target *attribute* states that are no less stringent than the parent FMU *environmental outcomes* if the same *attributes* are adopted in both the rohe and the FMU, and
 - (b) may include additional *attributes* and target *attribute* states provided that any additional *environmental outcomes* give effect to the *environmental outcomes* for the FMU,
- (3) *limits* and action plans to achieve *environmental outcomes*, including by achieving target *attribute* states, may be developed for the FMU or the rohe or a combination of both,
- (4) any *limit* or action plan developed to apply within a rohe:
 - (a) prevails over any *limit* or action plan developed for the FMU for the same *attribute*, unless explicitly stated to the contrary, and
 - (b) must be no less stringent than any *limit* or action plan set for the parent FMU for the same *attribute*, and
 - (c) must not conflict with any *limit* set or action plan developed for the parent FMU for *attributes* that are not the same, and
- (5) the term “no less stringent” in this policy applies to *attribute states* (numeric and narrative) and any other metrics and timeframes (if applicable).

LF-FW-P6A – Transitions over time

Provide for ambitious and reasonable transitions in the use of *land* and *water* to achieve the long-term visions by:

- (1) recognising that changes to practices and activities will need to occur overtime; and
- (2) managing the adverse impacts of implementing these changes on people and communities, including by phasing implementation of new requirements and building on actions undertaken by catchment and other community groups, and

- (3) enabling innovation and the development of new practices.

LF-FW-P7 – Fresh water

Environmental outcomes, attribute states (including target *attribute states*), environmental flows and levels, and limits ensure that:

- (1) the health and well-being of *water bodies* and *freshwater* ecosystems is maintained or, if *degraded*, improved,
- (2) the habitats of indigenous species with life stages dependent on *water bodies* are protected and sustained,
 - (2A) the habitats of trout and salmon are protected insofar as this is consistent with (2),
 - (2B) fish passage is provided for, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats,
- (3) *specified rivers and lakes* are suitable for primary contact within the following timeframes:
 - (a) by 2030, 90% of *rivers* and 98% of *lakes*, and
 - (b) by 2040, 95% of *rivers* and 100% of *lakes*, and
- (4) resources harvested from *water bodies* including *mahika kai* and *drinking water* are safe for human consumption.

LF-FW-P7A – Water allocation and use

Within *limits* and in accordance with any relevant environmental flows and levels, the benefits of using *fresh water* are recognised and *over-allocation* is either phased out or avoided by:

- (1) managing over-allocation as set out in LF-FW-M6,
- (2) allocating *fresh water* efficiently to support the social, economic, and cultural well-being of people and communities to the extent possible within *limits*, including for:
 - (a) community drinking water supplies,
 - (b) maintaining generation output and capacity from existing *renewable electricity generation schemes*,
 - (c) *mana whenua* customary or cultural needs and activities, and
 - (d) primary production,
- (3) ensuring that no more *fresh water* is abstracted than is necessary for its intended use,
- (4) ensuring that the efficiency of *fresh water* abstraction, storage and conveyancing *infrastructure* is improved,
- (5) providing for the harvesting and storage of *fresh water* to meet increasing demand for *water*, to manage *water* scarcity conditions and to provide resilience to the *effects* of *climate change*, and
- (6) providing for spatial and temporal sharing of allocated *fresh water* between uses and users where feasible.

LF-FW-P8 – Identifying wetlands

By 3 September 2030, identify and map:

- (1) any wetland at risk of loss of extent or values,
- (2) any wetland identified in a farm environment plan, or that may be affected by any application for, or a review of, a resource consent, and
- (3) all other natural inland wetlands that are:
 - (i) 0.05 hectares or greater in extent, or
 - (ii) of a type that is naturally less than 0.05 hectares in extent (such as an ephemeral *wetland*) and known to contain threatened species.

LF-FW-P10A – Managing wetlands

Otago's *wetlands* are managed:

- (1) in the coastal environment, in accordance with the NZCPS in addition to (2) and (3) below,
- (2) by applying clause 3.22(1) to (3) of the NPSFM to all wetlands, and
- (3) to improve the ecosystem health, hydrological functioning and extent of wetlands that have been degraded or lost by promoting:
 - (a) an increase in the extent and condition of habitat for indigenous species,
 - (b) the restoration of hydrological processes,
 - (c) control of pest species and vegetation clearance, and
 - (d) the exclusion of stock, except where stock grazing is used to enhance wetland values.

LF-FW-P11 – Otago's outstanding water bodies

Otago's *outstanding water bodies* are:

- (1) the Kawarau River and tributaries described in the Water Conservation (Kawarau) Order 1997,
- (2) Lake Wanaka and the outflow and tributaries described in the Lake Wanaka Preservation Act 1973, and
- (4) any other *water bodies* identified in accordance with APP1.

LF-FW-P12 – Identifying and managing outstanding water bodies

Identify *outstanding water bodies* and their significant and outstanding values in the relevant *regional plans* and *district plans* and protect those values.

LF-FW-P13 – Preserving natural character and instream values

Preserve the natural character and instream values of *lakes* and *rivers* and the natural character of their *beds* and margins by:

- (1) avoiding the *loss of values* or extent of a *river*, unless:

- (a) there is a *functional need* for the activity in that location, and
 - (b) the *effects* of the activity are managed by applying the *effects management hierarchy (in relation to natural inland wetlands and rivers)*,
- (2) not granting resource consent for activities in (1) unless the consent authority is satisfied that:
- (a) the application demonstrates how each step of the *effects management hierarchy (in relation to natural inland wetlands and rivers)* will be applied to the *loss of values* or extent of the *river*, and
 - (b) any consent is granted subject to conditions that apply the *effects management hierarchy (in relation to natural inland wetlands and rivers)* in respect of any *loss of values* or extent of the *river*,
 - (c) if *aquatic offsetting* or *aquatic compensation* is applied, the applicant has complied with principles 1 to 6 in Appendix 6 and 7 of the NPSFM, and has had to regard to the remaining principles in Appendix 6 and 7 of the NPSFM, as appropriate, and
 - (d) if *aquatic offsetting* or *aquatic compensation* is applied, any consent granted is subject to conditions that will ensure that the offspring or compensation will be maintained and managed over time to achieve the conservation outcomes,
- (3) establishing environmental flow and level regimes and *water* quality standards that support the health and well-being of the *water body*,
- (4) to the extent practicable, sustaining the form and function of a *water body* that reflects its natural behaviours,
- (5) recognising and implementing the restrictions in Water Conservation Orders,
- (6) preventing the impounding or control of the level of Lake Wanaka,
- (7) preventing modification that would permanently reduce the braided character of a *river*,
- (8) controlling the use of *water* and *land* that would adversely affect the natural character of the *water body*, and
- (9) maintaining or enhancing the values of riparian margins to support habitat and biodiversity, reduce *contaminant* loss to *water bodies* and support natural flow behaviour.

LF–FW–P14 – Restoring natural character and instream values

Where the natural character or instream values of *lakes* and *rivers* or the natural character of their margins has been reduced or lost, promote actions that, where practicable:

- (1) restore a form and function that reflect the natural behaviours of the *water body*,
- (2) improve *water* quality or quantity where it is *degraded*,
- (3) increase the presence, *resilience* and abundance of indigenous flora and fauna, including by providing for fish passage within *river* systems, and where necessary and appropriate, creating fish barriers to prevent incursions from undesirable species,
- (4) improve *water body* margins by naturalising bank contours and establishing indigenous vegetation and habitat, and
- (5) restore natural connectivity between and within *water* systems.

LF-FW-P15 – Stormwater discharges

Minimise the adverse *effects* of direct and indirect *discharges* of *stormwater* to *fresh water* by:

(2) requiring:

- (ab) integrated catchment management plans for management of *stormwater* in *urban areas*,
- (b) all *stormwater* to be *discharged* into a reticulated system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in the same or improved outcomes for *fresh water*,
- (c) implementation of methods to progressively reduce unintentional stormwater inflows to *wastewater* systems,
- (e) that any *stormwater discharges* do not prevent *water bodies* from meeting any applicable water quality standards set for *FMUs* and/or *rohe*, and
- (f) the use of water sensitive design techniques wherever practicable, and

(3) promoting the reticulation of *stormwater* in urban areas where appropriate, and

(4) promoting source control as a method for reducing *contaminants* in *discharges* and the use of good practice guidelines for managing *stormwater*.

LF-FW-P16 – Discharges containing animal effluent, sewage, greywater and industrial and trade waste

Minimise the adverse *effects* of direct and indirect *discharges* containing animal effluent, *sewage*, *greywater* and *industrial and trade waste* to *fresh water* by:

(1) phasing out existing *discharges* containing *sewage* or *industrial and trade waste* directly to water to the extent practicable,

(2) requiring:

- (a) new *discharges* containing *sewage* or *industrial and trade waste* to be to *land*,
- (b) *discharges* of animal effluent from *land-based primary production* to be to *land*,
- (c) that all *discharges* containing *sewage* or *industrial and trade waste* are discharged into a reticulated *wastewater* system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for *fresh water*,
- (d) implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring from reticulated *wastewater* systems,
- (e) on-site *wastewater* systems and animal effluent systems to be designed and operated in accordance with best practice standards,
- (f) that any *discharges* do not prevent *water bodies* from meeting any applicable water quality standards set for *FMUs* and/or *rohe*,

(3) to the greatest extent practicable, requiring the reticulation of *wastewater* in *urban areas*, and

(4) promoting source control as a method for reducing *contaminants* in *discharges*.

Methods

LF-VM-M3 – Community involvement

Otago Regional Council must work with Kāi Tahu and communities to achieve the objectives and policies in this chapter, including by:

- (1) engaging with Kāi Tahu, communities and stakeholders to identify values and *environmental outcomes* for Otago's *FMUs* and rohe and the methods to achieve those outcomes,
- (2) encouraging community stewardship of *water* resources and programmes to address *freshwater* issues at a local catchment level, including through catchment groups,
- (3) supporting community initiatives, industry-led guidelines, codes of practice and environmental accords that contribute to maintaining or improving the health and well-being of *water bodies*, and
- (4A) education, advocacy and co-ordination to encourage efficient use of freshwater, including water harvesting, use of storage and consideration of alternative water supply.

LF-VM-M4 – Other methods

In addition to method LF-VM-M3, the methods in the LF-WAI, LF-FW, and LF-LS sections are also applicable.

LF-FW-M5 – Outstanding water bodies

Otago Regional Council must:

- (1) undertake a review based on existing information and develop a list of *water bodies* likely to contain outstanding values, including those *water bodies* listed in LF-FW-P11,
- (2) identify the outstanding values of those *water bodies* (if any) in accordance with APP1,
- (3) consult with the public and relevant local authorities during the identification process,
- (4) map *outstanding water bodies* and identify their outstanding and significant values in the relevant *regional plan(s)*, and
- (5) include provisions in *regional plans* that protect the significant and outstanding values of *outstanding water bodies*.

LF-FW-M6 – Regional plans

Otago Regional Council must publicly notify a Land and Water *Regional Plan* and, after it is made operative, maintain that *regional plan* to:

- (1A) implement the required steps in the NOF process in accordance with the NPSFM,
- (3) identify *water bodies* that are *over-allocated* and the methods and timeframes for phasing out that *over-allocation* (including through environmental flows and levels and *limits*) within the timeframes required to achieve the relevant *freshwater* vision,
- (5A) provide for the allocation and use of *fresh water* in accordance with LF-FW-P7A, including by providing for off-stream water storage,

- (7) identify and manage *wetlands* in accordance with LF-FW-P7, LF-FW-P9 and LF-FW-P10 while recognising that some activities in and around *wetlands* are managed under the NESF and the NESCF,
- (8) manage the adverse *effects* of *stormwater* and discharges containing animal effluent, *sewage*, or *industrial and trade waste* in accordance with LF-FW-P15 and LF-FW-P16, and
- (9) recognise and respond to Kāi Tahu cultural and spiritual concerns about mixing of water between different catchments.

LF-FW-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) map *outstanding water bodies* and identify their outstanding and significant values using the information gathered by Otago Regional Council in LF-FW-M5, and
- (2) include provisions to protect the significant and outstanding values of *outstanding water bodies*,
- (1A) include provisions to preserve the natural character of lakes and rivers and their margins from the adverse effects of land use and development and activities on the surface of water,
- (3) require, wherever practicable, the adoption of water sensitive design techniques when managing the *subdivision*, use or development of *land*, and
- (4) reduce the adverse *effects* of *stormwater discharges* by managing the *subdivision*, use and development of *land* to:
 - (a) minimise the peak volume of *stormwater* needing off-site disposal and the load of *contaminants* carried by it,
 - (b) minimise adverse *effects* on *fresh water* and *coastal water* as the ultimate receiving environments, and the capacity of the *stormwater* network,
 - (c) encourage on-site storage of rainfall to detain peak *stormwater* flows, and
 - (d) promote the use of permeable surfaces.

LF-FW-M8 – Action plans

Otago Regional Council:

- (1) must prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2B of the NPSFM,
- (2) may prepare an action plan for achieving any target *attribute* states for *attributes* described in Appendix 2A of the NPSFM, and
- (2A) may prepare an action plan for any other purpose set out in the NPSFM, and
- (3) must prepare any action plan in accordance with clause 3.15 of the NPSFM.

LF-FW-M8A – Identifying and managing species interactions between trout and salmon and indigenous species

- (1) When making decisions that might affect the interactions between trout and salmon and indigenous species, *local authorities* will have particular regard to the recommendations of the Department of Conservation, the Fish and Game Council for the relevant areas, Kāi Tahu, and the matters set out in

LF-FW-M8A(2)(a) to (c), and

(2) Otago Regional Council will work with the Department of Conservation, the relevant Fish and Game Council and Kāi Tahu to:

(a) describe the habitats required to provide for the protection of indigenous species for the purposes of (2)(a), (b) and (c),

(b) identify areas where the protection of the habitat of trout and salmon, including fish passage, will be consistent with the protection of the habitat of indigenous species and areas where it will not be consistent,

(c) for areas identified in (b) develop provisions for any relevant action plan(s) prepared under the NPSFM, including for fish passage, that will at minimum:

(i) determine information needs to manage the species,

(ii) set short, medium and long term objectives for the species involved,

(iii) identify appropriate management actions that will achieve the objectives determined in (ii), including measures to manage the adverse effects of trout and salmon on indigenous species where appropriate, and

(iv) consider the use of a range of tools, including those in the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, as appropriate.

LF-FW-M8AA – Integrated catchment management

Otago Regional Council may:

(1) develop and implement an integrated catchment management programme for the region,

(2) work in partnership with mana whenua and in collaboration with communities to develop catchment action plans that:

(a) collate and build on existing work in the catchments,

(b) incorporate science and mātauraka Māori, and

(c) identify and target effective environmental management actions, and

(3) encourage and support community initiatives, at varying catchment levels, that help to deliver catchment action plans.

LF-FW-M9 – Monitoring

Otago Regional Council, for every *FMU*, must:

(1) establish a long-term monitoring programme that incorporates cultural health monitoring,

(2) record information (including monitoring data) about the state of *water bodies* and *freshwater* ecosystems and the challenges to their health and well-being

(3) regularly prepare reports on the matters in (1) and (2) and publish those reports in accordance with clause 3.30 of the NPSFM, and

(4) where the results of monitoring show the objectives of this regional policy statement are not being met, take the necessary action to achieve the objectives.

LF-FW-M10 – Other methods

In addition to methods LF-FW-M5 to LF-FW-M9, the methods in the LF-WAI, LF-VM and LF-LS sections are also applicable.

Explanation

LF-VM-E2 – Explanation

This section of the LF chapter outlines how the Council will manage *fresh water* within the region. To give effect to *Te Mana o te Wai*, the *freshwater* visions, and the policies set out the actions required in the development of *regional plan* provisions to implement the NPSFM. [Note to reader: originally LF-FW-E3 para 1]

Implementing the NPSFM requires Council to identify *Freshwater Management Units (FMUs)* that include all *freshwater bodies* within the region. Policy LF-VM-P5 identifies Otago's five *FMUs*: Clutha Mata-au *FMU*, Taiari *FMU*, North Otago *FMU*, Dunedin & Coast *FMU* and Catlins *FMU*. The Clutha Mata-au *FMU* is divided into five sub-*FMUs* known as 'rohe'. Policy LF-VM-P6 sets out the relationship between *FMUs* and rohe which, broadly, requires rohe provisions to be no less stringent than the parent *FMU* provisions. This is to avoid any potential for rohe to set lower standards than others which would affect the ability of the *FMU* to achieve its stated outcomes.

The outcomes sought for *wetlands* are implemented by requiring identification, protection and restoration. The first two policies reflect the requirements of the NPSFM for identification and protection but apply that direction to all *wetlands*, rather than only inland natural wetlands (those outside the *coastal marine area*) as the NPSFM directs. This reflects the views of *mana whenua* and the community that *fresh* and *coastal water*, including *wetlands*, should be managed holistically and in a consistent way. While the NPSFM requires promotion of the restoration of natural inland wetlands, the policies in this section take a stronger stance, requiring improvement where *wetlands* have been *degraded* or lost. This is because of the importance of restoration to Kāi Tahu and in recognition of the historic loss of *wetlands* in Otago and the indigenous biodiversity and hydrological values of wetland systems. [Note to reader: originally LF-FW-E3 para 2]

The policies respond to the NPSFM by identifying a number of *outstanding water bodies* in Otago that have previously been identified for their significance through other processes. Additional *water bodies* can be identified if they are wholly or partly within an outstanding natural feature or landscape or if they meet the criteria in APP1 which lists the types of values which may be considered outstanding: cultural and spiritual, ecology, landscape, natural character, recreation and physical. The significant values of *outstanding water bodies* are to be identified and protected from adverse *effects*. [Note to reader: originally LF-FW-E3 para 3]

Preserving the natural character of *lakes* and *rivers*, and their *beds* and margins, is a matter of national importance under section 6 of the RMA 1991. The policies in this section set out how this is to occur in Otago, reflecting the relevant direction from the NPSFM but also a range of additional matters that are important in Otago, such as recognising existing Water Conservation Orders, the Lake Wanaka Act 1973 and the particular character of braided *rivers*. Natural character has been reduced or lost in some *lakes* or *rivers*, so the policies require promoting actions that will restore or otherwise improve natural character. [Note to reader: originally LF-FW-E3 para 4]

The impact of *discharges* of *stormwater* and *wastewater* on *freshwater bodies* is a significant issue for *mana whenua* and has contributed to *water quality* issues in some *water bodies*. The policies set out a range of

actions to be implemented in order to improve the quality of these *discharges* and reduce their adverse effects on receiving environments.

Principal reasons

LF–VM–PR2 – Principal reasons

To support the implementation of the NPSFM, the Council is required to develop long-term visions for *fresh water* across the Otago region. *Fresh water* visions for each *FMU* and *rohe* have been developed through engagement with Kāi Tahu and communities. They set out the long-term goals for the *water bodies* (including *groundwater*) and *fresh water* ecosystems in the region that reflect the history of, and environmental pressures on, the *FMU* or *rohe*. They also establish ambitious but reasonable timeframes for achieving these goals. The Council must assess whether each *FMU* or *rohe* can provide for its long-term vision, or whether improvement to the health and well-being of *water bodies* (including *groundwater*) and *fresh water* ecosystems is required to achieve the visions. The result of that assessment will then inform the development of *regional plan* provisions in the *FMU*, including *environmental outcomes*, *attribute states*, *target attribute states* and *limits (in relation to freshwater)*.

Otago's *water bodies* are significant features of the region and play an important role in Kāi Tahu beliefs and traditions. They support people and communities to provide for their social, economic, and cultural well-being. A growing population combined with increased *land* use intensification has heightened demand for *water* and increasing nutrient and sediment contamination impacts *water* quality. The legacy of Otago's historical mining privileges, coupled with contemporary urban and rural *land* uses, contribute to ongoing *water* quality and quantity issues in some *water bodies*, with significant cultural effects. [Note to reader: originally LF-FW-PR3 para 1]

This section of the LF chapter reflects key direction in the NPSFM for managing the health and well-being of *fresh water*, including *wetlands* and *rivers* in particular, and matters of national importance under section 6 of the RMA 1991. The provisions in this section will underpin the development of the Council's *regional plans* and provide a foundation for implementing the requirements of the NPSFM, including the development of *environmental outcomes*, *attribute states*, *target attribute states* and *limits*. [Note to reader: originally LF-FW-PR3 para 2]

Anticipated environmental results

- LF–VM–AER3** The *fresh water* visions in this section implement *Te Mana o Te Wai* according to the particular characteristics of *FMUs* and *rohe* and the outcomes they seek are achieved within the timeframes specified.
- LF–FW–AER4** *Fresh water* is allocated within limits that contribute to achieving specified *environmental outcomes* for *water bodies* within timeframes set out in *regional plans* that are no less stringent than the timeframes in the LF–VM section of this chapter.
- LF–FW–AER5** *Specified rivers* and *lakes* are suitable for primary contact within the timeframes set out in LF–FW–P7.
- LF–FW–AER6** *Degraded water* quality is improved so that it meets specified *environmental*

outcomes within timeframes set out in *regional plans* that are no less stringent than the timeframes in the objectives in the LF-FW section of this chapter.

- LF-FW-AER7** Water in Otago’s aquifers is suitable for human consumption, unless that *water* is naturally unsuitable for consumption.
- LF-FW-AER8** Where *water* is not *degraded*, there is no reduction in *water* quality.
- LF-FW-AER9** Direct *discharges* of *wastewater* to *water* are phased out to the greatest extent practicable and the frequency of *wastewater* overflows is reduced.
- LF-FW-AER10** The quality of *stormwater discharges* from existing *urban areas* is improved.
- LF-FW-AER11** There is an improvement in the extent and condition or quality of Otago’s *wetlands*.
- LF-FW-AER11A** The economic, social, and cultural well-being of communities is sustained.

LF-LS – Land and soil

Note to readers: As a result of reporting officer recommendations, the following provisions have been moved to the LF-LS chapter:

- (a) UFD-O4 – Development in rural areas
- (b) UFD-P7 – Rural areas
- (c) UFD-P8 – Rural lifestyle and residential zones
- (d) UFD-M2(8) and (9)
- (e) UFD-E1 – Explanation (third paragraph)
- (f) UFD-PR1 – Principal reasons (sixth paragraph)

The notified numbering of UFD-O4 and UFD-P7 has been retained in the LF-LS chapter as an interim measure so that it is easier to link submission points to provisions. The numbering of both chapters will be updated and made chronological following a final decision by Council.

Objectives

LF-LS-O11 – Land and soil

The availability and productive capacity of highly productive land for *primary production* is protected now and for future generations.

LF-LS-O12 – Use, development, and protection

The use, development, and protection of *land* and soil:

- (1) safeguards the life-supporting capacity of soil,
- (2) contributes to achieving *environmental outcomes* for *fresh water*, and
- (3) recognises the role of these resources in providing for the social, economic, and cultural well-being of Otago’s people and communities.

UFD–O4 – Development in *rural areas*

Development in Otago’s *rural areas* occurs in a way that:

- (4) provides for the ongoing use of *rural areas* for *primary production* and *rural industry*, and
- (4A) does not compromise the long term viability of *primary production* and rural communities.

Policies

LF–LS–P16A – Managing *pests*

Reduce the impact of *pests*, including *wilding conifers*, by:

- (1) avoiding *afforestation* and *replanting* of *plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as outstanding natural features, outstanding natural landscapes, or *significant natural areas*, and
 - (b) buffer zones adjacent to the areas listed in (a) where it is necessary to protect those areas,
- (2) outside *plantation forests*, avoiding the planting of *wilding conifer* species listed in APP5 and any other *pests* in a way that is consistent with the Otago Regional Pest Management Plan 2019-2029,
- (3) enabling the control of *pests* on *land*, and
- (4) supporting initiatives to control *pests* and limit their further spread.

LF–LS–P16 – Maintaining soil quality

Maintain soil quality by managing both *land* and *freshwater* resources, including the interconnections between soil health, vegetative cover and *water* quality and quantity.

LF–LS–P17 – Soil values

Maintain the health and productive potential of soils, to the extent reasonably practicable by managing the use and development of *land* in a way that is suited to the soil characteristics and that sustains mauri through healthy:

- (1) soil biological activity and *biodiversity*,
- (2) soil structure, and
- (3) soil fertility.

LF–LS–P18 – Soil erosion

Minimise soil erosion, and the associated risk of sedimentation in water bodies, resulting from *land* use activities by:

- (2) maintaining vegetative cover on erosion-prone *land*, to the extent practicable,
- (1) implementing management practices to minimise the potential for soil to be *discharged to water bodies*, including by controlling the timing, duration, scale and location of soil exposure, and

- (3) promoting activities that enhance soil retention.

LF–LS–P20 – Land use change

Promote changes in *land* use or *land* management practices that support and improve:

- (1) the sustainability and efficiency of *water* use,
- (2) resilience to the impacts of *climate change*, or
- (3) the health and quality of soil, or
- (4) *water* quality

LF–LS–P21 – Land use and fresh water

The health and well-being of *water bodies* and freshwater ecosystems is maintained to meet *environmental outcomes* set for *Freshwater Management Units* and/or rohe by:

- (1) reducing or otherwise maintaining the adverse effects of direct and indirect *discharges* of *contaminants* to *water* from the use and development of *land*,
- (2) managing *land* uses that may have adverse *effects* on the flow of *water* in surface *water bodies* or the recharge of *groundwater*,
- (3) recognising the drylands nature of some of Otago and the resulting *low* water availability, and
- (4) maintaining or, where degraded, enhancing the habitat and biodiversity values of riparian margins.

LF–LS–P19 – Highly productive land

Maintain the availability and productive capacity of highly productive *land* by:

- (1) identifying highly productive *land* based on the following criteria:
 - (d) land must be identified as *highly productive land* if:
 - (i) it is in a general rural zone or rural production zone, and
 - (ii) it is predominantly *LUC 1, 2, or 3 land*, and
 - (iii) it forms a large and geographically cohesive area,
 - (e) land may be identified as *highly productive land* if;
 - (i) it is in a general rural zone or rural production zone, and
 - (ii) it is not *LUC 1, 2, or 3 land*, and
 - (iii) it is or has potential to be highly productive for *land-based primary production* in Otago, having regard to the soil type, the physical characteristics of the land and soil, and the climate, and
 - (f) land must not be identified as *highly productive land* if it was *identified for future urban development* on or before 17 October 2022, and
- (2) prioritising the use of highly productive *land* for *land-based* primary production in accordance with the NPSHPL

UFD–P7 –Rural Areas

The management of development in *rural areas*:

- (2) maintains *rural areas* as places where people live, work and recreate and where a range of activities and services are required to support these rural functions, and provide for social and economic wellbeing within rural communities and the wider region,
- (3) prioritises land-based *primary production* on highly productive land in accordance with the NPS-HPL, except as provided for in (5) below,
- (5) enables the use by Kāi Tahu of Native Reserves and Māori Land, for papakāika, kāika, nohoaka, marae and marae related activities in accordance with MW-P4,
- (6) restricts the establishment of non-rural activities which could adversely affect, including by way of reverse sensitivity or fragmentation, the productive capacity of highly productive *land*, or existing or anticipated *primary production* and *rural industry* activities, except as provided for in (5) or the NPS-HPL.

UFD–P8 – Rural lifestyle development

The establishment, development or expansion of rural lifestyle development only occurs where:

- (2) it avoids *land* identified for future urban development in a relevant plan or *land* reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential,
- (3) it minimises impacts on existing or anticipates *primary production*, *rural industry* and other rural activities and the potential for reverse sensitivity *effects*.
- (4) it avoids *highly productive land* except as provided for in the NPS-HPL,
- (5) the suitability of the area to accommodate the proposed development is demonstrated, including
 - (a) capacity for servicing by existing or planned *development infrastructure* (including self-servicing requirements),
 - (b) particular regard is given to the individual and cumulative impacts of *water* supply, *wastewater* disposal, and *stormwater* management including self-servicing, on the receiving or supplying environment and impacts on capacity of *development infrastructure*, if provided, to meet other planned urban area demand, and
 - (c) likely future demands or implications for publicly funded services including emergency services and *additional infrastructure*

LF–LS–P22 – Public access

Provide for public access to and along *lakes* and *rivers* by:

- (1) maintaining existing public access,
- (2) seeking opportunities to enhance public access, including access by *mana whenua* in their role as kaitiaki and for gathering of *mahika kai*, and

- (3) encouraging landowners to avoid restricting access unless it is necessary to protect:
 - (a) health and safety,
 - (b) *significant natural areas*,
 - (c) areas of outstanding natural character,
 - (d) outstanding natural features and landscapes,
 - (e) places or areas with special or outstanding *historic heritage* values, or
 - (f) places or areas of significance to Kāi Tahu, including wāhi taoka, wāhi tapu and wāhi tūpuna,
 - (g) establishing vegetation, or
 - (h) a level of security consistent with the operational requirements of a lawfully established activity.

Methods

LF-LS-M11A – Identification of *highly productive land*

- (1) In collaboration with *territorial authorities* and in consultation with *mana whenua*, Otago Regional Council must identify *highly productive land* in Otago in accordance with LS-LS-P19(1), and
- (2) Otago Regional Council must include maps of the *highly productive land* identified in accordance with (1) in the Regional Policy Statement by the date specified in the National Policy Statement for Highly Productive Land.

LF-LS-M11 – *Regional plans*

Otago Regional Council must publicly notify a Land and Water *Regional Plan* and then, when it is made operative, maintain that *regional plan* to:

- (1) manage *land* uses that may affect the ability of *environmental outcomes* for *water* quality to be achieved by requiring:
 - (a) the development and implementation of *certified freshwater farm plans*
 - (b) the adoption of practices that reduce the *risk* of sediment and nutrient loss to *water*, including by minimising the area and duration of exposed soil, using buffers, and actively managing critical source areas,
 - (c) effective management of effluent storage and applications systems, and
 - (d) *earthworks* activities to implement effective sediment and erosion control practices and setbacks from *water bodies* to reduce the *risk* of sediment loss to *water*, and
- (2) provide for changes in *land* use that improve the sustainable and efficient use of *fresh water* and that reduce water demand where there is existing over-allocation, and
- (2A) enable the *discharge* of *contaminants* to *land* for *pest* control, and
- (3) implement policies LF-LS-P16 to LF-LS-P22.

LF-LS-M12 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* no later than 31 December 2026 to:

- (1) manage *land* use change by:
 - (aa) avoiding the planting of *pest plants* in accordance with LF-LS-P16A,
 - (a) controlling the establishment of new or any spatial extension of existing *land use activities* where necessary to give effect to an objective developed under the NPSFM, and
 - (b) minimising the removal of montane tall tussock grasslands, to recognise their ability to capture and hold precipitation, and
- (2) provide for and promote the creation and enhancement of vegetated riparian margins and constructed *wetlands*, and maintain these where they already exist,
- (3) facilitate public access to and along *lakes* and *rivers* by:
 - (a) requiring the establishment of *esplanade reserves* and *esplanade strips*, and
 - (b) promoting the use of legal *roads*, including paper *roads*, and any other means of public access rights that connect with *esplanade reserves* and *esplanade strips*., and
- (4) maintain the availability and *productive capacity* of *highly productive land* identified and mapped under LF-LS-M11A in accordance with LF-LS-P19, and
- (8) manage development in *rural areas* in accordance with UFD-P7,
- (9) manage and rural lifestyle activities development in in accordance with UFD-P8.

LF-LS-M13 – Management of *beds* and riparian margins

Local authorities must prepare or amend and maintain their *regional plans* and *district plans* to manage the condition of the *bed* and banks of *water bodies*, riparian margins and associated *lands*, including vegetative cover, to:

- (1) maintain or enhance existing indigenous *biodiversity* values,
- (2) increase the presence, resilience and abundance of indigenous flora and fauna, particularly taoka species, including by providing for *wetlands* and *biodiversity corridors* within *river* systems, and requiring riparian buffers that are sufficient to maintain indigenous *biodiversity*,
- (3) support improvement in the functioning of catchment processes where these have been adversely affected by changes in margins and connected *lands* over time, and
- (4) reduce unnatural sedimentation of *water bodies*.

LF-LS-M14 – Other methods

In addition to methods LF-LS-M11 to LF-LS-M13, the methods in the LF-WAI and LF-FW sections are also applicable.

Explanation

LF-LS-E4 – Explanation

The policies in this section of the LF chapter seek to maintain the health of Otago’s soils, reduce the impact of pests and manage *land* uses as part of an integrated approach to sustaining soil and *water* health and maintaining the *productive capacity* of rural land. The connections and interactions between these resources require a holistic approach to management.

The policies require managing the use and development of *land* and *fresh water* to maintain soil values, recognising that soil can be valued for more than its productive use and those values should be maintained. Soil erosion is problematic and has adverse impacts on both soil and *water* health. The policies provide direction for managing erosion resulting from *land* use activities to ensure soil is retained and to prevent its *discharge* to *water*.

In addition, this chapter seeks to manage development in Otago’s *rural areas*, to support the viability of the rural sector. This includes direction on the different types of development within *rural areas*, including rural lifestyle development. These provisions work closely with those in the UFD chapter, which include direction on managing the impacts of urban growth on *rural areas*.

Highly productive land is *land* used for *land-based primary production* that provides economic and employment benefits. Providing for and managing such *land* types is essential to ensure its sustainability. The policies seek to identify and prioritise *land* used for productive purposes managing urban encroachment into rural environments where appropriate.

Responding to *climate change* and achieving *freshwater* visions is likely to require changes in *land* uses and land management practices in parts of Otago. This is recognised in the policies which seek to promote changes in *land* use or management that improve efficient and sustainable use of *water*, *resilience* to *climate change*, the health and quality of soil, and water quality. The policies also require reducing *discharges* to *water* from the use and development of *land* and managing *land* uses that are unsupportive of *environmental outcomes* for *fresh water* as identified by each *FMU*.

Maintaining public access to and along *lakes* and *rivers* is a matter of national importance under section 6 of the RMA. The policies in this section seek to maintain existing public access opportunities and where appropriate promote enhanced public access to and along *lakes* and *rivers*. Circumstances which restrict public access are set out where, for example, health and safety is at *risk* or valued parts of the *environment* may be compromised.

Principal reasons

LF-LS – PR4 – Principal reasons

Pests, including *wilding conifers*, pose a range of threats to Otago’s environment. While the regional pest management plan is the primary tool for controlling *pests* under the Biosecurity Act 1993, it is important that the management of *land* works alongside that tool to reduce the impacts of *pests*.

Population growth and *land* use intensification in urban and rural environments has increased demand for *land* and soil resources. It has also impacted on the quality of our *water*, increasing contamination such as by nutrients and sediment and harming ecosystems. In Otago, historical and contemporary *land* uses have *degraded* some *water bodies*, both in terms of their quantity and quality, leading to adverse effects on the *mauri* of *water* and the diversity and abundance of *mahika kai* resources.

Soil health is vital to wider ecological health, human health, and economic *resilience*. Otago has a rich and

long history of varied forms of *land-based primary production* on a wide range of soil types and in variable climatic conditions. Otago’s highest quality soils (in terms of suitability for *land-based primary production*) are mainly on the Taieri Plain, North Otago downlands, South Otago lowlands, parts of Central Otago and the Strath Taieri, and along some *river* margins. Their extent is limited and use of these soils can be constrained by external factors such as economics, erosion, natural and human induced hazards, animal, and plant pests.

Managing *land* uses is a critical component of implementing the NPSFM due to the effects of *land* use on the health and well-being of *water*. This chapter assists the Council to recognise and provide for the connections and interactions between Otago’s *land* and *fresh water*, while managing the use and development of this *land*, and its effects on *fresh water*.

Rural areas contain activities and resources critical for rural production. There is pressure from non-rural activities and rural lifestyle development to locate within the rural area, but these activities can be sensitive to *primary production* or *rural industry* and can adversely affect rural production. The provisions in this chapter focus on managing the potential *effects* of development on productive potential and the wide range of environmental values, features and resources that *rural areas* contain are. The supply of rural lifestyle opportunities to meet demand should be directed to suitably located and zoned areas to minimise impacts on values in *rural areas*. In designing and planning for rural lifestyle development, local authorities will need to be aware of the potential future constraints on future urban expansion and development, including the cumulative impacts of infrastructure servicing irrespective of whether this is onsite, community or through connections to urban reticulated schemes.

Riparian areas, in particular, play a key role in supporting the *water* quality and ecosystem values of *water bodies*, and it is important that this role is maintained.

Anticipated environmental results

LF-LS-AER12A	The area of <i>land</i> vegetated by <i>wilding conifers</i> is reduced.
LF-LS-AER12B	The extent and distribution of <i>pests</i> does not increase.
LF-LS-AER12	The life-supporting capacity of soil is maintained or improved throughout Otago.
LF-LS-AER13	The availability and capability of Otago’s highly productive land is maintained.
LF-LS-AER14	The use of <i>land</i> supports the achievement of <i>environmental outcomes</i> and objectives in Otago’s <i>FMUs</i> and rohe.
UFD-AER11	New rural lifestyle development occurs within areas appropriate for this use.
LF-LS-AER15	The establishment of activities within <i>rural areas</i> does not result in adverse <i>effects</i> on activities functionally dependent on rural resources and rural surroundings.

TOPICS

ECO – Ecosystems and indigenous *biodiversity*

Objectives

ECO–O1 – Indigenous *biodiversity*

Otago's *indigenous biodiversity* is healthy and thriving and any overall decline in condition, quantity and diversity is halted.

ECO–O2 – Restoring and enhancing

Restoration and enhancement activities result in an overall increase in the extent and *occupancy* of Otago's *indigenous biodiversity*.

ECO–O3 – *Kaitiakitaka* and stewardship

Mana whenua exercise their role as *kaitiaki* of Otago's *indigenous biodiversity*, and Otago's communities are recognised as stewards, who are responsible for:

- (1) te hauora o te koiora (the health of *indigenous biodiversity*), te hauora o te taoka (the health of species and ecosystems that are taoka), and te hauora o te taiao (the health of the wider *environment*), while
- (2) providing for te hauora o te takata (the health of the people).

Policies

ECO–P1 – *Kaitiakitaka*

Enable Kāi Tahu to exercise their role as *kaitiaki* of Otago's *indigenous biodiversity* by:

- (1) partnering with Kāi Tahu in the management of *indigenous biodiversity* to the extent desired by *mana whenua*,
- (1A) working with Kāi Tahu to identify *indigenous species* and ecosystems that are taoka,
- (2) incorporating the use of mātauraka Māori in the management and monitoring of *indigenous biodiversity*, and
- (3) facilitating access to and use of *indigenous biodiversity* by Kāi Tahu, including mahika kai, according to tikaka.

ECO–P2 – Identifying *significant natural areas* and taoka

Identify and map:

- (1) the areas of significant *indigenous vegetation* or significant *habitat* of indigenous fauna that qualify as *significant natural areas* using the assessment criteria in APP2 and in accordance with ECO-M2, and
- (2) where appropriate, indigenous species and ecosystems that are taoka, including those identified by *mana whenua* as requiring protection, in accordance with ECO-M3.

ECO-P3 – Protecting *significant natural areas* and taoka

Outside the coastal environment, and except as provided for by ECO-P4 and ECO-P5A, protect *significant natural areas* and indigenous species and ecosystems that are taoka by:

- (1) first avoiding adverse *effects* that result in:
 - (aa) loss of ecosystem representation and extent,
 - (ab) disruption to sequences, mosaics, or *ecosystem function*,
 - (ac) fragmentation of *significant natural areas* or the loss of buffers or connections within an SNA,
 - (ad) a reduction in the function of the *significant natural area* as a buffer or connection to other important habitats or ecosystems, or
 - (ae) a reduction in the population size or occupancy of *Threatened or At Risk (declining) species* that use an *significant natural area* for any part of their life cycle,
 - (b) any loss of taoka values identified by *mana whenua* as requiring protection under ECO-P2(2), and
- (2) after (1), applying the *effects management hierarchy (in relation to indigenous biodiversity)* to areas and values other than those covered by ECO-P3(1), and
- (3) prior to *significant natural areas* and indigenous species and ecosystems that are taoka being identified and mapped in accordance with ECO-P2, adopt a precautionary approach towards activities in accordance with IM-P6(2).

ECO-P4 – Provision for new activities

Outside of the coastal environment, maintain Otago's indigenous *biodiversity* by following the sequential steps in the *effects management hierarchy (in relation to indigenous biodiversity)* when making decisions on plans, applications for resource consent or notices of requirement for the following activities in *significant natural areas*, or where they may adversely affect indigenous species and ecosystems that are taoka that have been identified by *mana whenua* as requiring protection:

- (1) the development, operation, maintenance or upgrade of *specified infrastructure* that provides significant national or regional public benefit that has a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect indigenous species or ecosystems that are taoka, and there are no practicable alternative locations,
- (1A) the development, operation and maintenance of *mineral* extraction activities that provide a significant national public benefit that could not otherwise be achieved within New Zealand and that have a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka, and there are no practicable alternative locations,

- (1B) the development, operation and maintenance of aggregate extraction activities that provide a significant national or regional benefit that could not otherwise be achieved within New Zealand and that have a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka,
- (1C) the operation or expansion of any coal mine that was lawfully established before August 2023 that has a *functional need* or *operational need* to locate within the relevant *significant natural area(s)* or where they may adversely affect *indigenous species* or ecosystems that are taoka, and there are no practicable alternative locations; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal,
- (2) the development of *papakāika*, marae and ancillary facilities associated with customary activities on Native reserves and *Māori land*,
- (2A) the sustainable use of *mahika kai* and kaimoana (seafood) by *mana whenua*,
- (3) the use of Native reserves and *Māori land* to enable *mana whenua* to maintain their connection to their whenua and enhance social, cultural or economic well-being,
- (4) activities that are for the purpose of protecting, maintaining, restoring or enhancing a *significant natural area* or *indigenous species* or ecosystems that are taoka,
- (5) activities that are for the purpose of addressing a severe or immediate risk to public health or safety,
- (6) activities that are for the purpose of a developing a single residential dwelling on an allotment that was created before 4 August 2023, and can demonstrate there is no practicable location within the allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed, or
- (7) activities that are for the purpose of harvesting indigenous tree species from an *significant natural area* carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

ECO-P5A – Managing adverse effects of established activities on *significant natural areas*

Outside of the coastal environment, enable the maintenance, operation, and upgrade of established activities (excluding activities managed under ECO-P3 and ECO-P4), where the *effects* of the activity, including cumulative *effects*, on a *significant natural area*:

- (1) are no greater in intensity, scale, or character over time than at 4 August 2023, and
- (2) do not result in the loss of extent or degradation of *ecological integrity* of a *significant natural area*.

ECO-P6 – Maintaining indigenous *biodiversity*

Outside the coastal environment and excluding areas protected under ECO-P3, manage Otago’s *indigenous biodiversity* by:

- (1) applying the *effects management hierarchy (in relation to indigenous biodiversity)* to manage significant adverse *effects* on *indigenous biodiversity*), and
- (2) requiring the *maintenance of indigenous biodiversity* for all other adverse *effects* of any activity, and
- (3) notwithstanding (1) and (2) above, for *regionally significant infrastructure* and *nationally significant infrastructure* that is either *renewable electricity generation* or the *National Grid* avoid, remedy or

mitigate adverse *effects* to the extent practicable.

ECO–P7 – Coastal indigenous *biodiversity*

Indigenous biodiversity in the coastal environment is managed by CE-P5 in addition to all objectives and policies of the ECO chapter except ECO-P3, ECO-P4, ECO-P5A and ECO-P6.

ECO–P8 – Restoration and enhancement

The extent, *occupancy* and condition of Otago’s indigenous *biodiversity* is increased by:

- (1) restoring and enhancing habitat for indigenous species, including taoka and mahika kai species,
- (2) improving the health and *resilience* of *indigenous biodiversity*, including ecosystems, species, ecosystem function, and *intrinsic values*,
- (3) buffering or linking ecosystems, habitats and ecological corridors, ki uta ki tai and
- (4) prioritising all the following for *restoration*:
 - (a) *significant natural areas* whose *ecological integrity* is degraded,
 - (b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems,
 - (c) areas that provide important connectivity or buffering functions,
 - (d) areas of *indigenous biodiversity* on native reserves and *Māori land* where *restoration* is advanced by the Māori landowners,
 - (e) any other priorities specified in regional biodiversity strategies or any national priorities for *indigenous biodiversity restoration*.

ECO–P10 – Integrated approach

Manage *indigenous biodiversity* and the *effects* on it from subdivision, use and development in an integrated way, which means:

- (1) ensuring any permitted or controlled activity in a *regional plan* or *district plan* rule does not compromise the achievement of ECO-O1,
- (2) recognising the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial *environment*, *fresh water*, and the *coastal marine area*, including:
 - (a) the migration of fish species between *fresh* and *coastal waters*, and
 - (b) the effects of land-use activities on coastal biodiversity and ecosystems,
- (2A) acknowledging that *climate change* will affect *indigenous biodiversity* and managing activities which may exacerbate the *effects of climate change*,
- (3) providing for the coordinated management and control of subdivision, use and development, as it affects *indigenous biodiversity* across administrative boundaries,
- (4) working towards aligning strategies and other planning tools required or provided for in legislation that are relevant to *indigenous biodiversity*,
- (5) recognising the critical role of people and communities in actively managing the remaining *indigenous biodiversity* occurring on private *land*, and

- (6) adopting regulatory and non-regulatory regional *pest* management programmes.

ECO-P11 – Resilience to *climate change*

Promote the resilience of *indigenous biodiversity* to *climate change*, including at least by:

- (1) allowing and supporting the natural adjustment of *habitats* and ecosystems to the changing climate, and
- (2) considering the *effects* of *climate change* when making decisions on:
 - (a) *restoration* proposals, and
 - (b) managing and reducing new and existing biosecurity risks, and
- (3) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential *habitats*, to enable migrations so that species can continue to find viable niches as the climate changes, and
- (4) recognising the role of *indigenous biodiversity* in mitigating the *effects* of *climate change*.

ECO-P12 – Plantation forestry activities

Manage:

- (1) the adverse *effects* of *plantation forestry* activities in any existing *plantation forest* on any *significant natural area* in a manner that:
 - (a) maintains *indigenous biodiversity* in the *significant natural area* as far as practicable, while
 - (b) provides for *plantation forestry* activities to continue, and
- (2) over the course of consecutive rotations of production, any part of a *significant natural area* that is within an area of an existing *plantation forest* that is planted, or is intended to be, replanted in trees for harvest in the manner necessary to maintain the long-term populations of any *Threatened or At Risk (declining) species* present in the area.

Methods

ECO-M1 – Statement of responsibilities

In accordance with section 62(1)(i)(iii) of the RMA 1991, the *local authorities* responsible for the control of *land* use to maintain *indigenous biological diversity* are:

- (1) the Regional Council and *territorial authorities* are responsible for specifying objectives, policies and methods in *regional* and *district plans* for managing the margins of *wetlands, rivers* and *lakes*,
- (2) the Regional Council is responsible for specifying objectives, policies and methods in *regional plans*:
 - (a) in the *coastal marine area*,
 - (b) in *wetlands, lakes* and *rivers*, and
 - (c) in, on or under the *beds* of *rivers* and *lakes*,
- (3) in addition to (1), *territorial authorities* are responsible for specifying objectives, policies and methods in *district plans* outside of the areas listed in (2) above if they are not managed by the

Regional Council under (4), and

- (4) the Regional Council may be responsible for specifying objectives, policies and methods in *regional plans* outside of the areas listed (1) above if:
 - (a) the Regional Council reaches agreement with the relevant *territorial authority* or *territorial authorities*, and
 - (b) if applicable, a transfer of powers in accordance with section 33 of the RMA 1991 occurs from the relevant *territorial authority* or *territorial authorities* to the Regional Council.

ECO–M2 – Identification of *significant natural areas*

Local authorities must:

- (1) in accordance with the statement of responsibilities in ECO–M1, identify the areas and *indigenous biodiversity* values of *significant natural areas* as required by ECO–P2, and
- (2) map and verify the areas and include the *indigenous biodiversity* values identified under (1) in the relevant *regional plans* and *district plans* no later than 31 December 2030,
- (3A) identify areas and values of *indigenous biodiversity* within their jurisdictions in accordance with CE-P5, map the areas and describe their values in the relevant *regional plans* and *district plans*, and
- (3) recognise that *indigenous biodiversity* spans jurisdictional boundaries by:
 - (a) working collaboratively to ensure the areas identified by different *local authorities* are not artificially fragmented when identifying *significant natural areas* that span jurisdictional boundaries, and
 - (b) ensuring that *indigenous biodiversity* is managed in accordance with this RPS,
- (4) until *significant natural areas* are identified and mapped in accordance with (1) and (2), require ecological assessments to be provided with applications for resource consent, plan changes and notices of requirement that identify whether affected areas are *significant natural areas* in accordance with APP2, and
- (5) in the following areas, prioritise identification under (1)
 - (a) intermontane basins that contain indigenous vegetation and habitats,
 - (b) areas of dryland shrubs,
 - (c) braided *rivers*, including the Makarore, Mātakitaki and Lower Waitaki Rivers,
 - (d) areas of montane tall tussock grasslands, and
 - (e) limestone habitats.
- (6) When identifying *significant natural areas*, ensuring that:
 - (a) if the values or extent of a proposed *significant natural area* are disputed by the landowner, the local authority:
 - (i) conducts a physical inspection of the area,
 - (ii) or, if a physical inspection is not practicable, uses the best information available to it at the time, and

- (b) if requested by a *territorial authority*, the *regional council* will assist the *territorial authority* in undertaking its district-wide assessment, and
 - (c) where a *territorial authority* has identified a *significant natural area* prior to 4 August 2023, and prior to 4 August 2027, a suitably qualified ecologist is engaged by the *territorial authority* to confirm that the methodology originally used to identify the area as a *significant natural area*, and its application, is consistent with the assessment approach in APP2, and
 - (d) if a *territorial authority* becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant *indigenous vegetation* or significant *habitat* of indigenous fauna that qualifies as a *significant natural area*, the *territorial authority*:
 - (i) conducts an assessment of the area in accordance with APP2 as soon as practicable, and
 - (ii) if a new *significant natural area* is identified as a result, includes it in the next appropriate plan or plan change notified by the *territorial authority*, and
 - (e) when a *territorial authority* does its 10-yearly plan review, it assesses its district in accordance with ECO-P2 and APP2 to determine whether changes are needed, and
- (7) allow an area of Crown-owned land to qualify as a *significant natural area* without the need for the assessment required by ECO-P2, using APP2, if:
- (a) the land is managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act, and
 - (b) the *territorial authority* is reasonably satisfied, after consultation with the Department of Conservation, that all or most of the area would qualify as a *significant natural area* under APP2, and
 - (c) the area is:
 - (i) a large and more-or-less contiguous area managed under a single protection classification (such as a national park), or
 - (ii) a large, compact, and more-or-less contiguous area under more than one classification (such as adjoining reserves and a conservation park), or
 - (iii) a well-defined landscape or geographical feature (such as an island or mountain range), or
 - (iv) a scientific, scenic or nature reserve under the Reserves Act 1977, a sanctuary area, ecological area, or wildlife management area under the Conservation Act 1987, or an isolated part of a national park.

ECO–M3 – Identification of taoka

Local authorities must:

- (1) work together with *mana whenua* to agree a process for:
 - (a) identifying indigenous species and ecosystems that are taoka, including those identified by *mana whenua* as requiring protection, and how they are values with reference to mātauraka Māori,

- (b) describing the taoka identified in (1)(a),
 - (c) mapping or describing the location of the taoka identified in (1)(a), and
 - (d) describing the values of each taoka identified in (1)(a), and
- (2) notwithstanding (1), recognise that *mana whenua* have the right to choose not to identify taoka and to choose the level of detail at which identified taoka, or their location or values, are described, and
 - (3) to the extent agreed by *mana whenua*, amend their *regional* and *district plans* to include matters (1)(b) to (1)(d) above, and
 - (4) recognise that the possible adverse *effects* on identified *taoka* include *effects* on:
 - (a) the mauri of the *taoka*,
 - (b) the values of the *taoka* as identified by *mana whenua*
 - (c) the historical, cultural, and spiritual relationship of the tangata whenua with the *taoka*, as identified by *mana whenua*, and
 - (5) notify the relevant landowner of the present of the *taoka* prior to identifying acknowledged *taoka* in a proposed *district plan*.

ECO–M4 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) if the requirements of ECO–P3 to ECO–P6 can be met, provide for the use of *lakes* and *rivers* and their *beds*, including:
 - (a) activities undertaken for the purposes of pest control or maintaining or enhancing the habitats of indigenous fauna, and
 - (b) the maintenance and use of existing *structures* that are lawfully established (including *infrastructure*), and
 - (c) *infrastructure* that has a *functional need* or *operational need* to be sited or operated in a particular location,
- (1A) manage the clearance or modification of *indigenous vegetation*, while allowing for *mahika kai* and kaimoana (seafood) activities (including through the development, in partnership with *mana whenua*, of provisions for *mahika kai* and kaimoana activities that may provide an alternative approach to effects management than the policies in this ECO chapter,
- (2) require:
 - (a) resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (*in relation to indigenous biodiversity*) have been followed, and
 - (b) that consents are not granted if the sequential steps in the effects management hierarchy (*in relation to indigenous biodiversity*) in ECO–P6 have not been followed, and
- (3) provide for activities undertaken for the purpose of restoring or enhancing the habitats of indigenous fauna.

ECO – M4A – Increasing indigenous vegetation cover

Otago Regional Council must:

- (1) assess the percentage of indigenous vegetation cover in
 - (a) each of its urban environments; and
 - (b) its non-urban environments
- (2) the assessment may be done by a desktop analysis, by ground truthing, or both, and must be done in collaboration with relevant territorial authorities, and *mana whenua* (to the extent they wish to be involved),
- (3) set a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation, and
 - (a) consider, in consultation with *mana whenua* and territorial authorities, setting higher targets for urban and non-urban environments that already have at least 10% coverage of indigenous vegetation, and
 - (b) include any indigenous vegetation cover targets in their regional policy statements.

Local authorities must:

- (4) promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans:
 - (a) having regard to any targets set under ECO-M4A(3); and
 - (b) giving priority to all the following:
 - i. areas referred to in ECO-P8(4):
 - ii. ensuring *indigenous species* richness appropriate to the ecosystem:
 - iii. *restoration* at a landscape scale across the region; and
 - iv. using species, and seed from species, that are local to the area.

ECO – M4B – Specified highly mobile fauna

Local authorities must:

- (1) include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.
- (2) provide information to their communities about:
 - (a) highly mobile fauna and their *habitats*; and
 - (b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their *habitats* in their regions and districts.

ECO – M4C – Maintenance of improved pasture for farming

Local authorities must:

- (1) allow the *maintenance of improved pasture* to continue if:

- (a) there is adequate evidence to demonstrate that the *maintenance of improved pasture* is part of a regular cycle of periodic maintenance of that pasture; and
- (b) any adverse effects of the *maintenance of improved pasture* on a *significant natural area* are no greater in intensity, scale, or character than the effects of activities previously undertaken as part of the regular cycle of periodic maintenance of that pasture; and
- (c) the *improved pasture* has not itself become an *significant natural area*; and
- (d) the land is not an uncultivated *Depositional landform*; and
- (e) the maintenance of *improved pasture* will not adversely affect a *Threatened or At Risk (declining) species*.

ECO – M4D – Native reserves and Māori land

Local authorities must:

- (1) work in partnership (which includes acting in good faith) with *mana whenua* and owners of native reserves and Māori land to develop, and include in *district plans* and *regional plans* objectives, policies, and methods that may include providing an alternative approach to effects management for indigenous biodiversity than the policies in this ECO chapter (excluding CE-P5). These objectives, policies and methods will seek, to the extent practicable to,:
 - (a) maintain and restore indigenous biodiversity on native reserves and Māori land, and
 - (b) protect *significant natural areas* and identified *taoka* on native reserves and Māori land, and
- (2) ensure that objectives, policies, and methods developed under (6):
 - (a) enable new occupation, use, and development of nature reserves and Māori land to support the social, cultural, and economic wellbeing of *mana whenua*, and
 - (b) enable the provision of new *papakāika*, marae and ancillary community facilities, dwellings, and associated infrastructure, and
 - (c) enable alternative approaches to, or locations for, new occupation, use and development that avoid, minimise, or remedy adverse *effects* on *significant natural areas* and identified *taoka* on native reserves and Māori land, and enable options for offsetting and compensation, and
 - (d) recognise and be responsible to the fact there may be no or limited alternative location for *mana whenua* to occupy, use, and develop their lands, and
 - (e) recognise that there are circumstances where development will prevail over *indigenous biodiversity*, and
 - (f) recognise and be responsive to any recognised historical barriers *mana whenua* have faced in occupying, using, and developing their ancestral lands.

ECO–M5 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) if the requirements of ECO–P3 to ECO–P6 are met, provide for the use of *land* and the surface of *water bodies* including:

- (a) activities undertaken for the purposes of pest control or maintaining or enhancing the habitats of indigenous fauna, and
 - (b) the maintenance and use of existing *structures* (including *infrastructure*), and
 - (c) *infrastructure* that has a *functional* or *operational need* to be sited or operated in a particular location,
- (2) manage the clearance or modification of indigenous vegetation, while allowing for *mahika kai* activities (including through the development, in partnership with *mana whenua*, of provisions for *mahika kai* activities that may provide an alternative approach to effects management than the policies in this ECO chapter),
- (3) promote the establishment of *esplanade reserves* and *esplanade strips*, particularly where they would support ecological corridors, buffering or connectivity between *significant natural areas*, or access to *mahika kai*,
- (4) require:
- (a) resource consent applications to include information that demonstrates that the sequential steps in the effects management hierarchy (*in relation to indigenous biodiversity*) have been followed, and
 - (b) that consents are not granted if the sequential steps in the effects management hierarchy (*in relation to indigenous biodiversity*) have not been followed, and
- (5) provide for activities undertaken for the purpose of restoring or enhancing the habitats of indigenous fauna, and
- (7) require buffer zones adjacent to *significant natural areas* where it is necessary to protect the *significant natural area*.

ECO–M6 – Engagement

Local authorities, when implementing the policies in this chapter, will:

- (1) work collaboratively with other *local authorities* to adopt an integrated approach to managing Otago’s *biodiversity* across administrative boundaries,
- (2) engage with individuals (including landowners and *land* occupiers), community groups, government agencies and other organisations with a role or an interest in *biodiversity* management, and
- (3) consult directly with landowners and *land* occupiers whose properties potentially contain or are part of *significant natural areas*.

ECO – M7A – Kāi Tahu kaitiakitaka

Local authorities must partner with Kāi Tahu in the management of *indigenous biodiversity* to the extent desired by *mana whenua*, including by:

- (1) ensuring that engagement with *mana whenua* is early, meaningful, and in accordance with tikanga Māori,
- (2) actively supporting the role of *mana whenua* as kaitiaki,

- (3) facilitating opportunities for *mana whenua* to be involved in resource management (including decision-making),
- (4) enabling the *mahika kai* practices of *mana whenua* in accordance with tikaka, including the customary use of identified taoka,
- (5) supporting *mana whenua* initiatives that contribute to restoring or enhancing te hauora o te kaiora (the health of *indigenous biodiversity*),
- (6) where appropriate, incorporating Kāi Tahu mātauraka and tikaka in *indigenous biodiversity* management and monitoring, and
- (7) providing relevant information to *mana whenua* for the purposes of *indigenous biodiversity* management and monitoring.

ECO – M7B – Information requirements

Local authorities must:

- (1) require that, in relation to an application for a resource consent for an activity that would have more than minor adverse effects on *indigenous biodiversity*, the application is not considered unless it includes a report that:
 - (a) is prepared by a suitably qualified ecologist and, as required, any other person with suitable expertise, such as someone with expertise in mātauraka Māori; and
 - (b) complies with subclause (2); and
 - (c) is commensurate with the scale and significance (to *indigenous biodiversity*) of the proposal.
- (2) the report required within ECO-M2(4A) above must:
 - (a) include a description of the existing ecological features and values of the site; and
 - (b) include a description of the adverse effects of the proposal on *indigenous biodiversity* and how those effects will be managed; and
 - (c) identify any effects on identified taoka; and
 - (d) identify the ecosystem services associated with *indigenous biodiversity* at the site; and
 - (e) include an assessment of the ecological integrity and connectivity within and beyond the site; and
 - (f) include mātauraka Māori and tikaka Māori assessment methodology, where relevant; and
 - (g) if *biodiversity offsetting* is proposed, set out:
 - (i) a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and
 - (ii) a description of how the relevant principles in APP4 have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving a net gain in biodiversity values; and

- (h) if *biodiversity compensation* is proposed, set out:
- (i) a detailed plan of what is proposed; and
 - (ii) a description of how the relevant principles in Appendix 4 of this National Policy Statement have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving its outcomes.

ECO–M7 – Monitoring

Local authorities will:

- (1) establish long-term monitoring programmes for areas identified under ECO-P2 that measure the net loss and gain of indigenous *biodiversity*,
- (2) record information (including data) over time about the state of species, vegetation types and ecosystems, including *mahika kai* species and ecosystems,
- (3) to the extent possible, use mātauraka Māori and tikaka Māori monitoring methods, as well as scientific monitoring methods, and
- (4) regularly report on matters in (1) and (2) and publish these reports.

ECO–M8 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving Policies ECO–P1 to ECO–P10, including:

- (1) providing information and guidance on the maintenance, restoration and enhancement of indigenous ecosystems, habitats, taoka and *mahika kai* species and ecosystems,
- (2) funding assistance for restoration projects (for example, through Otago Regional Council’s ECO Fund),
- (3) supporting the control of pest plants and animals, including through the provision of advice and education and implementing regulatory programmes such as the Regional Pest Management Plan,
- (4) financial incentives,
- (5) covenants to protect areas of indigenous *biodiversity*, including through the QEII National Trust,
- (6) advocating for a collaborative approach between central and local government to fund indigenous *biodiversity* maintenance and enhancement, and
- (7) gathering information on indigenous ecosystems, habitats, and taoka and *mahika kai* species and ecosystems, including outside *significant natural areas*.

ECO – M9 – Regional Biodiversity Strategy

The Regional Council must initiate preparation of a regional biodiversity strategy that complies with Appendix 5 of the National Policy Statement for Indigenous Biodiversity 2023.

Explanation

ECO–E1 – Explanation

The first policy in this chapter outlines how the kaitiaki role of Kāi Tahu will be recognised in Otago. The policies which follow then set out a management regime for identifying *significant natural areas* and indigenous species and ecosystems that are taoka and protecting them by avoiding particular adverse *effects* on them. The policies recognise that these restrictions may be unduly restrictive for some activities within *significant natural areas*, including existing activities already established. To maintain ecosystems and indigenous *biodiversity*, the policies set out mandatory and sequential steps in an effects management hierarchy to be implemented through decision making, including providing for *biodiversity* offsetting and compensation if certain criteria are met.

Although the objectives of this chapter apply within the coastal environment, the specific management approach for *biodiversity* is contained in the CE – Coastal environment chapter. Given the *biodiversity* loss that has occurred in Otago historically, restoration or enhancement will play a part in achieving the objectives of this chapter and these activities are promoted.

The policies recognise that managing ecosystems and indigenous *biodiversity* requires co-ordination across different areas and types of resources, as well as across organisations, communities and individual landowners. This articulates the stewardship role of all people and communities in Otago in respect of indigenous *biodiversity*.

Principal reasons

ECO–PR1 – Principal reasons

The health of New Zealand’s *indigenous biodiversity* has declined significantly since the arrival of humans and remains under significant pressure. *Mahika kai* and taoka species, including their abundance, have been damaged or lost through resource use, *land* use change and development in Otago. The provisions in this chapter seek to address this loss and pressure through providing direction on how *indigenous biodiversity* is to be managed.

The provisions in this chapter assist in maintaining, protecting and restoring *indigenous biodiversity* by:

- stating the outcomes sought for ecosystems and *indigenous biodiversity* in Otago,
- requiring identification and protection of *significant natural areas* and indigenous species and ecosystems that are taoka, and
- directing how *indigenous biodiversity* is to be maintained.

This chapter will assist with achieving the outcomes sought by *Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020*. Implementation of the provisions in this chapter will occur primarily through *regional plan* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Anticipated environmental results

ECO–AER1

There is no further decline in the condition, quantity or diversity of Otago’s indigenous *biodiversity*.

ECO–AER2

The condition, quantity and diversity of indigenous *biodiversity* within Otago improves over the life of this Regional Policy Statement.

ECO–AER3

Kāi Tahu are involved in the management of indigenous *biodiversity* and able to effectively exercise their *kaitiakitaka*.

EIT – Energy, infrastructure and transport

Note to reader: This Chapter of the PORPS has been re-ordered compared to the Notified version under clause 16(2), Schedule 1, RMA.

EIT-INF – Infrastructure

Objectives

EIT-INF-04 – Provision of *infrastructure*

Effective, efficient, safe and resilient *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* enables the people and communities to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth in the region.

EIT-INF-05 – Integration

Development of *infrastructure*, as well as *land* use change, occurs in a co-ordinated manner to minimise adverse *effects* on the *environment* and increase efficiency in the delivery, operation and use of the *infrastructure*.

Policies

EIT-INF-P10 – Recognising resource requirements

Decision making on the allocation or use of *natural and physical resources* must take into account the *functional needs* and *operational needs* of *nationally significant infrastructure* and *regionally significant infrastructure*.

EIT-INF-P12 – Upgrades and development

Provide for upgrades to existing, and development of new, *nationally significant infrastructure* or *regionally significant infrastructure* while ensuring that:

- (1) it is designed and located, as far as practicable, to maintain functionality during and after *natural hazard* events,
- (2) it is, as far as practicable, co-ordinated with long-term *land* use planning, and
- (3) its delivery, operation or use is efficient.

EIT-INF-P13 – Locating and managing *effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment*

When providing for new *infrastructure, nationally significant infrastructure and regionally significant infrastructure* outside the coastal environment:

- (1) avoid, as the first priority, locating *infrastructure* in all of the following:
 - (a) *significant natural areas*,

- (b) outstanding natural features and landscapes,
 - (c) *wetlands*,
 - (d) *outstanding water bodies*,
 - (f) areas or places of significant or outstanding *historic heritage*, and
 - (g) *wāhi tupuna*, and
- (2) if it is not reasonably practicable to avoid locating in the areas listed in (1) above because of the *functional needs* or *operational needs* of the *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* manage adverse *effects* as follows:
- (a) for *nationally* or *regionally significant infrastructure*:
 - (i) in *significant natural areas*, in accordance with ECO-P4, and ECO-P6,
 - (ii) in *wetlands*, in accordance with the relevant provisions in the NESF,
 - (iii) in *outstanding water bodies*, in accordance with LF-FW-P12,
 - (iiia) in relation to *wāhi tūpuna*, in accordance with HCV-WT-P2,
 - (iv) in other areas listed in EIT-INF-P13 (1) above, the adverse *effects* of the *infrastructure* on the values that contribute to the area's importance shall be:
 - (I) remedied or mitigated to the extent practicable,
 - (II) where they cannot be practicably remedied or mitigated, regard shall be had to offsetting and/or compensation of more than minor residual adverse effects.
 - (b) for all *infrastructure* that is not *nationally significant infrastructure* or *regionally significant infrastructure*, avoid adverse *effects* on the values that contribute to the area's outstanding nature or significance except in relation to historic heritage which is not significant or outstanding, then HCV-HH-P5(3) will apply.

EIT-INF-P13A – Managing the effects of *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* within the coastal environment

When managing the *effects* of *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* within the coastal environment the provisions of the CE – Coastal environment chapter apply.

EIT-INF-P14 – Decision making considerations

When considering proposals to develop or upgrade *infrastructure*:

- (1) require consideration of alternative sites, methods and designs if adverse *effects* are potentially significant or irreversible, and
- (2) utilise the opportunity of substantial upgrades of *infrastructure* to reduce adverse *effects* that result from the existing *infrastructure*, including on *sensitive activities*, where appropriate.

EIT-INF-P15 – Protecting *nationally significant infrastructure* and *regionally significant infrastructure*

Protect the efficient and effective operation of *nationally significant infrastructure* and *regionally significant infrastructure* by:

- (1) avoiding activities, to the extent reasonably practicable, that may give rise to an adverse effect on the *functional needs* or *operational needs* of *nationally significant infrastructure* or *regionally significant infrastructure*,
- (2) avoiding activities, to the extent reasonably practicable, that may result in *reverse sensitivity effects* on *nationally significant infrastructure* or *regionally significant infrastructure*, and
- (3) avoid or minimise the effects of activities and development so that the opportunity to adapt, upgrade or extend existing *nationally significant infrastructure* or *regionally significant infrastructure* to meet future demand is not compromised.

EIT-INF-P17 – Urban growth and *infrastructure*

Provide for *development infrastructure* and *additional infrastructure* required to service existing, planned and expected urban growth demands in the short, medium and long term, taking in account UFD-P1 to UFD-P10.

Methods

EIT-INF-M4 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) manage the adverse *effects* of *infrastructure* activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:
 - (a) are in the *beds* of *lakes* and *rivers*, or
 - (b) are in the *coastal marine area*, or
 - (c) involve the taking, use, damming or diversion of *water* or,
 - (d) involve the *discharge* of *water* or *contaminants*, and

EIT-INF-M5 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) require a strategic approach to the integration of *land use* and *infrastructure*, *nationally significant infrastructure* or *regionally significant infrastructure*,
- (4) manage the *subdivision*, use and development of *land* to ensure *infrastructure*, *nationally significant infrastructure* or *regionally significant infrastructure* can develop to meet increased demand,
- (5) manage the adverse *effects* of developing, operating, maintaining, or upgrading *infrastructure*, *nationally significant infrastructure* or *regionally significant infrastructure*, including, where appropriate, identifying activities that qualify as minor upgrades, that are on:

- (a) the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area*, and
 - (b) the *beds* of *lakes* and *rivers*,
- (6) ensure that development is adequately served with *infrastructure*,

EIT-INF-M6 – Advocacy

Local authorities should work proactively with *infrastructure* providers to co-ordinate the upgrading or development of *nationally significant infrastructure* or *regionally significant infrastructure* to support co-location or concurrent construction to reduce adverse *effects*.

Explanation

EIT-INF-E2 – Explanation

The policies in this section recognise the critical importance of *infrastructure* to communities and provide for the continued operation of existing *infrastructure* and the development of upgraded or new *infrastructure* where adverse *effects* are managed. As many assets rely on particular resource requirements or specific locations, decisions on allocating *natural and physical resources* shall make provision for the *functional needs* or *operational needs* of *nationally significant infrastructure* and *regionally significant infrastructure*. For *infrastructure* in the coastal environment, the provisions of the CE – Coastal environment chapter are also applicable to ensure the NZCPS is given effect.

Given the potential magnitude of adverse *effects* associated with this *infrastructure*, consideration is required of the ability to remedy or mitigate unavoidable adverse *effects*, alternative options and offsetting or compensation.

To ensure *infrastructure* is planned for, and used efficiently, the provisions require that the benefits of existing *nationally significant infrastructure* and *regionally significant infrastructure* are maximised, and *infrastructure* provision is undertaken in a co-ordinated manner. The policies also seek to manage the potential adverse *effects* of other activities on *nationally significant infrastructure* and *regionally significant infrastructure* to ensure the ability to operate these assets is not compromised.

Principal reasons

EIT-INF-PR2 – Principal reasons

Infrastructure is fundamental to the health and safety of communities, and their social and economic well-being and functioning. The nature of *infrastructure* means there are typically operational and functional constraints which dictate where and how these activities operate to properly serve local communities. These types of assets also tend to require significant investment, although some have at times been subject to under-investment.

The scale and type of activities involved in the development, operation, maintenance, and upgrading of *infrastructure* are such that adverse *effects* on the *environment* are likely and, at times, significant. Efforts are required to reduce impacts from *infrastructure*, by avoiding its location in areas that are important to Otago, where this is practicable, particularly where alternatives are available. If it is necessary to locate in those areas, then it is necessary that the values that make those areas important are protected. There are instances however, when residual *effects* cannot be avoided, in which case *effects* should be remedied or mitigated and offsetting or compensation may be necessary if it meets any criteria set. Given the potential

for adverse *effects*, it is important that *local authorities* monitor and enforce the standards set in plans and on *resource consents* and designations.

The policies in this chapter give effect to the NPSREG, NPSET, NPSFM and NPSUD and recognise *infrastructure* that has benefits for the wider Otago region and nationally. Implementation of the provisions will occur through the *regional* and *district plan* provisions.

Anticipated environmental results

EIT-INF-AER5	<i>Infrastructure</i> provides safe, effective and efficient services to the Otago community and beyond.
EIT-INF-AER6	The provision of <i>infrastructure</i> is co-ordinated and integrated to service growth efficiently.
EIT-INF-AER7	<i>Nationally</i> and <i>regionally significant infrastructure</i> is protected from adverse effects, including reverse sensitivity <i>effects</i> caused by incompatible activities.
EIT-INF-AER8	The adverse <i>effects</i> associated with <i>infrastructure</i> are avoided to the extent practicable or are minimised.

EIT-EN – Energy

Note to readers: As a result of recommendations made by the reporting officer through supplementary evidence, some provisions in this chapter have been re-ordered and others have been moved from other chapters. The notified numbering has been retained as an interim measure while the hearing on these provisions occurs so that it is easier for submission points to be read alongside the chapter. The numbering of this chapter will be made chronological following a final decision by Council.

Objectives

EIT-EN-O1 – Energy and social and economic well-being

The health and wellbeing of Otago’s communities and economy are supported by renewable energy generation within the region that is safe, secure, and *resilient*.

EIT-EN-O3 – Energy use

Development is located and designed to facilitate the efficient use of energy and to reduce demand if possible, minimising the contribution that Otago makes to total *greenhouse gas* emissions.

EIT-EN-O2A – Greenhouse gas emissions and renewable energy targets

Otago’s renewable energy generation supports the overall reduction in New Zealand greenhouse gas emissions and achieving the national target for emissions reduction.

EIT-EN-O2 – Renewable electricity generation

The generation capacity of *renewable electricity generation activities* in Otago:

- (1) is protected and maintained and, where appropriate, increased, and
- (2) contributes to meeting New Zealand’s national target for *renewable electricity generation*.

EIT-INF-O6 – Long-term planning for the National Grid and distribution infrastructure

Long-term investment in, and planning for, electricity transmission *infrastructure*, and its integration with *land* use, is sustained.

Policies

EIT-EN-P1 – Operation, maintenance and upgrade

The operation, maintenance, and upgrade of existing *renewable electricity generation activities* is provided for including the maintenance of generation output and protection of operational capacity.

EIT-EN-P2 – Recognising renewable electricity generation activities in decision making

Decisions on the allocation and use of *natural and physical resources*, including the use of *fresh water* and development of *land*:

- (1) recognise the national significance of *renewable electricity generation activities*, including the national, regional and local benefits of *renewable electricity generation activities*,

- (2) have particular regard to the maintenance of current *renewable electricity generation* capacity, and
- (3) recognise that the attainment of increases in *renewable electricity generation* capacity will require significant development of *renewable electricity generation activities*.

EIT-EN-P3 –The security of renewable electricity generation supply

The security and installed capacity of renewable electricity supply is maintained or improved in Otago through appropriate provision for the development or upgrading of *renewable electricity generation activities* and diversification of the type or location of *renewable electricity generation activities*.

EIT-EN-P4 – Identifying new sites or resources

Provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*.

EIT-EN-P5 – Non-renewable energy generation

In relation to non-renewable energy generation:

- (1) except as provided for in (2) below, restrict the development of non-renewable energy generation activities in Otago, where practicable, and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation, and
- (2) in relation to *new heat devices for industrial process heat*:
 - (a) avoid discharges from *new heat devices* that burn coal and deliver heat at or above 300 degrees Celsius, unless there is no technically feasible and financially viable lower emissions alternative,
 - (b) avoid discharges from *new heat devices* that burn coal and deliver heat below 300 degrees Celsius, and
 - (c) avoid discharges from *new heat devices* that burn any *fossil fuel* other than coal, unless there are no technically feasible and financially viable lower emissions alternative, and
- (3) in relation to *existing heat devices for industrial process heat*:
 - (a) restrict *discharges* from existing *heat devices* that burn coal and deliver heat at or above 300 degrees Celsius,
 - (b) restrict and phase out *discharges* from *existing heat devices* that burn coal and deliver heat below 300 degrees Celsius, and
 - (c) restrict *discharges* from *existing heat devices* that burn any *fossil fuel* other than coal.

EIT-EN-P6 – Managing effects

Manage the adverse *effects* of *renewable electricity generation activities* by:

- (1) applying EIT-INF-P13,
- (2) having particular regard to:
 - (a) the *functional need* to locate *renewable electricity generation activities* where resources are available,
 - (b) the *operational need* to locate where it is possible to connect to the *National Grid* or

electricity sub-transmission infrastructure, and

- (3) having regard to the extent and magnitude of adverse *effects* on the *environment* and the degree to which unavoidable adverse *effects* can be remedied or mitigated, or significant residual adverse *effects* are offset or compensated for; and
- (4) requiring consideration of alternative sites, methods and designs, and offsetting or compensation measures (in accordance with any specific requirements for their use in this RPS), where adverse *effects* are potentially significant or irreversible.

EIT-EN-P7 – Reverse sensitivity

Activities that may result in reverse sensitivity *effects* on consented or existing *renewable electricity generation activities* or compromise the operation or maintenance of *renewable electricity generation activities* are, as the first priority, prevented from establishing and only if that is not reasonably practicable, managed so that reverse sensitivity *effects* are minimised.

EIT-EN-P8 – Small and community scale distributed electricity generation

Provide for *small and community scale distributed electricity generation* activities that increase the local community's *resilience* and security of energy supply.

EIT-EN-P9 – Energy conservation and efficiency

Development supports energy conservation and efficiency by designing subdivisions to maximise solar access, and locating subdivision development to minimise, as far as practicable, transportation costs, car dependency and *greenhouse gas* emissions.

EIT-EN-P16 – Providing for the *National Grid*

Maintain a secure and sustainable electricity supply in Otago by:

- (1) providing for the effective operation, maintenance, upgrading and development of the *National Grid* development of, and upgrades to, the electricity transmission network and requiring, as far as reasonably practicable, its integration with *land* use,
- (2) considering the requirements of and constraints associated with the *functional* and *operational needs* of the *National Grid* in its management,
- (4) enabling the reasonable operation, maintenance and minor upgrade requirements of established *National Grid* assets, and
- (5) minimising the adverse *effects* of the *National Grid* on urban amenity, and avoiding adverse *effects* on town centres, areas of high amenity or recreational value and existing *sensitive activities*,
- (6) in rural areas, seek to avoid adverse effects in areas of high natural character and areas of high recreation value and amenity, and, where this is not practicable, apply EIT-INF-P13(2)(a)(iv), and
- (7) in addition to clause (6), apply EIT-INF-P13 where relevant.

EIT-EN-P9A – Providing for electricity distribution

Recognise and provide for electricity distribution infrastructure, by all of the following:

- (1) recognising the functional needs of electricity distribution activities;
- (2) restricting the establishment of activities that may result in reverse sensitivity effects;
- (3) avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure;
- (4) minimising adverse effects of new and upgraded electricity distribution infrastructure on existing land uses;
- (5) identifying significant electricity distribution infrastructure and managing effects of potentially incompatible activities through methods such as corridors.

Methods

EIT-EN-M1 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*,
- (3) manage the adverse *effects* of developing or upgrading *renewable electricity generation activities*, including identifying activities that qualify as minor upgrades, that:
 - (a) are within the *beds of lakes and rivers* and the *coastal marine area*, or
 - (b) involve the taking, use, damming or diversion of *water* and *discharge of water or contaminants*,
- (4) provide for the operation and maintenance of existing *renewable electricity generation activities*, including their *natural and physical resource* requirements, along with opportunities to increase the installed capacity of renewable electricity generation assets, and
- (5) restrict the establishment of activities that may adversely affect the efficient functioning of *renewable electricity generation activities* (including impacts on generation capacity).

EIT-EN-M2 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*,
- (3) manage the adverse *effects* of developing or upgrading *renewable electricity generation activities* and *National Grid infrastructure*, including identifying activities that qualify as minor upgrades that:
 - (a) are on the surface of *rivers and lakes* and on *land* outside the *coastal marine area*, or
 - (b) the *beds of lakes and rivers*,
- (4) provide for the continued operation and maintenance of *renewable electricity generation activities* on the surface of *rivers and lakes* and on *land* outside the *coastal marine area* and the *beds of lakes and rivers*,
- (5) restrict the establishment or occurrence of activities that may adversely affect the efficient functioning of *renewable electricity generation infrastructure*,
- (5A) enable planning for *National Grid*,

- (5B) map the *National Grid*, and identify a buffer corridor within which *sensitive activities* shall generally not be allowed,
- (5C) map *significant electricity distribution infrastructure* and, where necessary, provide controls on activities to ensure that the *functional needs* of the *significant electricity distribution infrastructure* are not compromised,
- (5D) where necessary, establishing controls for *buildings, structures* and other activities adjacent to *electricity infrastructure*, to ensure the *functional needs* of that *infrastructure* are not compromised based on NZECP34:2001 Electrical Code of Practice for Electrical Safe Distances and the Electricity (Hazards from Trees) Regulations 2003 (prepared under the Electricity Act 1992), and
- (6) require the design of *subdivision* development to optimise solar gain, including through roading, lot size, dimensions, layout and orientation.

EIT-EN-M3 – Education and information

- (1) *Local authorities* must provide education and information to improve energy efficiency and provide for the adoption of renewable energy sources, including:
 - (a) ways to increase energy efficiency and energy conservation, and
 - (b) opportunities for *small and community scale distributed electricity generation*.
- (2) *Territorial authorities* must provide information on design techniques to optimise solar gain, including through roading, lot size, dimensions, layout, and orientation.

Explanation

EIT-EN-E1 – Explanation

The policies in this section are designed to set a clear preference for *renewable electricity generation activities* contributing to meeting New Zealand’s national target for *renewable electricity generation*. *Renewable electricity generation* is a matter of national importance and a key component in responding to climate change and energy demands. Increasing energy security will assist with ensuring that communities have options for clean heat and electricity for health and wellbeing services.

Renewable electricity generation activities are promoted by providing for the investigation, operation and maintenance of these sites and ensuring that decisions on allocating natural resources and the use of *land*, for example, recognise the benefits of *renewable electricity generation activities* arising from maintaining or increasing generation capacity. It is noted that *renewable electricity generation activities* will come within the definition of *infrastructure*, and that provisions relating to *infrastructure* also apply.

The potential magnitude of adverse *effects* and *functional needs* and *operational needs* associated with *renewable electricity generation activities* is recognised by requiring consideration of those needs, and the extent to which unavoidable *effects* can be remedied or mitigated. Where significant residual adverse *effects* remain, consideration is given to proposals to offset these, or compensate for them. Increasing energy security will assist with ensuring that communities have options for clean heat.

To ensure the on-going functionality of *renewable electricity generation* assets and to maximise their benefits, reverse sensitivity *effects* or activities that may compromise the operation or maintenance of *renewable electricity generation activities* are to be avoided or their impacts minimised.

The policies seek that energy use is efficient and energy waste is reduced, which will have consequential *effects* on minimising Otago’s contribution to the nation’s *greenhouse gas* emissions.

In addition, the policies also contain relevant considerations for the transmission of electricity, both in terms of the *National Grid, significant electricity distribution infrastructure* and other electricity transmission and distribution activities.

Principal reasons

EIT-EN-PR1 – Principal reasons

Energy is a basic requirement of life in Otago. It enables communities to provide for their well-being, and health and safety, and is essential to the regional economy. Everyday life is significantly affected when energy supply is disrupted. Therefore, ensuring the security of energy supplies that meet demand is crucial. The ability of existing energy generation activities to continue operating is dependent on access to resources such as *water* in hydro *lakes* and the operator's ability to maintain existing *infrastructure*.

Otago is fortunate to have several existing *renewable electricity generation* sites and potential to increase *renewable electricity generation*. The benefits of *renewable electricity generation* include reducing *greenhouse gas* emissions, dependence on imported energy and greater supply security. These benefits are afforded to Otago communities and nationally as exported energy is significant for other regions. Because of this, providing for new *renewable electricity generation* opportunities to meet increasing energy demand is necessary. Additionally, addressing inefficiencies in energy use can ensure that existing *infrastructure* is better utilised to reduce the need for new generation sites.

Renewable electricity generation facilities can cause significant adverse *effects* on the environment because of their *functional need* to locate in particular areas. These areas are where resources are available, for example *water* for hydro-electricity generation, but they may also contain other significant values such as outstanding natural features or landscapes, significant *indigenous vegetation* or sites of significance to *mana whenua* values. In some situations, it may not be possible to avoid adverse *effects* on these significant values after considering alternative sites or design options. In these circumstances the *effects* should be remedied or mitigated, and consideration should be given to whether those *effects* that cannot be avoided are offset or compensated.

In relation to the *National Grid* and *significant electricity distribution infrastructure* (which are both a subset of infrastructure), specific provision is made which recognises some of the operational and functional constraints for conveying electricity, as well as addressing matters that are required to be given effect to by the NPSET.

The provisions in this chapter assist in giving effect to the NPSREG, NPSET and NPSFM and implementing section 7(j) of the RMA 1991. Implementation of the provisions will occur primarily through *regional plans* and *district plan* provisions but regional, city and district councils also have a role in providing education and information to the community.

Anticipated environmental results

EIT-EN-AER1 The proportion of electricity generated by *renewable energy generation activities* (including *small and community scale distributed electricity generation*) in Otago increases over time.

EIT-EN-AER2 Energy use in Otago becomes more efficient over time and security of supply is maintained.

EIT-EN-AER3 The adverse *effects* associated with *renewable energy generation activities* are avoided, remedied or mitigated, or where appropriate, offset or compensated

EIT-EN-AER4

for.

The proportion of *greenhouse gas* emissions per capita from energy generation reduces over time.

EIT-TRAN – Transport

Objectives

EIT-TRAN-07 – Effective, efficient, and safe transport

Otago has an integrated air, *land* and water-based transport network that:

- (1) is effective, efficient and safe,
- (2) connects communities and their activities within Otago, with other regions, and internationally, and
- (3) is *resilient* to *natural hazards* and the effects of climate change, and the changing needs of communities.

EIT-TRAN-08 – Transport system

The transport system within Otago supports the movement of people, goods and services, is integrated with *land* use, provides a choice of transport modes and is adaptable to changes in demand.

EIT-TRAN-09 – Effects of the transport system

The contribution of transport to Otago's *greenhouse gas* emissions is reduced and communities are less reliant on fossil fuels for transportation.

EIT-TRAN-010 – Commercial port activities

Commercial port activities operate safely and efficiently.

Policies

EIT-TRAN-P18 – Integration of the transport system

The transport system contributes to the social, cultural and economic well-being of the people and communities of Otago through:

- (1) integration with *land* use activities and across transport modes, and
- (2) provision of transport *infrastructure* that enables safe and efficient service delivery in response to demand.

EIT-TRAN-P19 – Transport system design

Resilience and adaptability of the transport system supports efficient networks for the transport of people and goods that are sustained, improved, and responsive to growth by:

- (1) promoting a consolidated urban form that integrates *land* use activities with the transport system,
- (2) placing a high priority on *active transport* and *public transport* and their integration into the design of development and transport networks, and
- (3) encouraging regional connectivity, including to key visitor destinations, and improved access to public spaces, including the *coastal marine area*, *lakes* and *rivers*.

EIT–TRAN–P20 – Public transport

Maintenance and development of the transport system enhances the uptake of *public transport* by:

- (1) promoting safe and reliable alternatives to low occupancy private vehicle use,
- (2) including measures to ensure pedestrian and cyclist safety and amenity, and
- (3) taking into consideration the accessibility needs of the community.

EIT–TRAN–P21 – Operation of the transport system

The efficient and effective operation of the transport system is maintained by:

- (1) avoiding or mitigating adverse *effects* of activities on the functioning of the transport system,
- (2) avoiding the impacts of incompatible activities, to the extent reasonably practicable, including those that may result in reverse sensitivity *effects*,
- (3) avoiding or minimising the effects of activities and development so that the opportunity to adapt, upgrade or develop the transport system to meet future transport demand, is not compromised,
- (4) promoting the development and use of transport hubs that enable an efficient transfer of goods for transport and distribution across different freight and people transport modes,
- (5) promoting methods that provide more efficient use of, or reduce reliance on, private motor vehicles, including ridesharing, park and ride facilities, bus hubs, bicycle facilities, demand management and alternative transport modes, and
- (6) encouraging a shift to using renewable energy sources.

EIT–TRAN–P22 – Sustainable transportation

Enable the development of sustainable transport networks that enhance the uptake of new technologies and reduce reliance on fossil fuels throughout Otago.

EIT–TRAN–P23 – Commercial port activities

Recognise the national and regional significance of *commercial port activities* by:

- (1) providing for the efficient and safe operation of the ports and efficient connections with other transport modes,
- (2) providing for the development of the ports' capacity for national and international shipping in and adjacent to existing port activities,
- (3) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes, and
- (4) if any of policies CE-P3 to CE-P12 cannot be achieved while providing for the safe and efficient operation or development of *commercial port activities*, then resource consent for such activities may be sought where:
 - (a) the proposed work is required for the safe and efficient operation of *commercial port activities*, and
 - (b) the adverse effects from the operation or development are established to be the minimum necessary to achieve the safe and efficient operation of the *commercial port activities*.

Methods

EIT–TRAN–M7 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) provide for the development, operation, maintenance, or upgrade of the transport system that:
 - (a) is within the *beds of lakes and rivers* or the *coastal marine area*, or
 - (b) involves the taking, use, damming or diversion of *water* and *discharge of water* and *contaminants*,
- (2) include policies and methods that provide for the *commercial port activities*, and
- (3) facilitate the safe and efficient operation and development of *commercial port activities* including previously approved *resource consents* for the following activities in the coastal development area mapped in MAP2:
 - (a) dredging of Otago lower harbour (to 17.5m for entrance channel, and 14.5m through to Port Chalmers),
 - (b) dredging of Otago upper harbour to 10.5m,
 - (c) management of upper and lower harbour navigation beacons,
 - (d) *discharge* of dredging spoil to the disposal grounds at Heyward Point, Aramoana, Shelley Beach, and A0, and
 - (e) placement and use of scientific buoys.

EIT–TRAN–M8 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) require a strategic approach to the integration of the transport system with *land* uses and between modes,
- (2) require high trip generating activities to be integrated with public transport services where sufficient public transport services exist or are planned and provide for safe pedestrian and cycling access, where this is practicable,
- (3) include *subdivision* and *infrastructure* design standards to facilitate the use of travel modes other than private vehicles, enable public transport networks to operate where this is practicable, provide access for emergency services, and recognise the accessibility needs of the community, including the mobility impaired, the elderly and children,
- (3A) require the design of transport *infrastructure* to provide for multi-modal transport options in urban areas, and in rural lifestyle locations where there is a practical opportunity to connect with an existing transport infrastructure network.
- (4) restrict or prevent the establishment or expansion of activities adjacent to transport *infrastructure* that may compromise the operation or safety of the transport system,
- (5) provide for the establishment of transport *infrastructure* that supports modes of transport that are not reliant on fossil fuels, and
- (6) include policies and methods that provide for *commercial port* activities and avoid encroachment

of activities which give rise to reverse sensitivity *effects*.

- (7) require the design of transport *infrastructure* to provide for multi-modal transport options in urban areas, and in rural lifestyle locations where there is a practical opportunity to connect with an existing transport infrastructure network.

EIT–TRAN–M9 – Regional Land Transport Plan

Otago Regional Council will take into account the objectives, provisions and methods of this chapter in preparing its Regional Land Transport Plan and Regional Public Transport Plan.

Explanation

EIT–TRAN–E3 – Explanation

The policies in this section seek to ensure that transport *infrastructure* is well designed and functions effectively, including providing for accessibility for different modes and purposes. This includes managing potential *effects* of other activities on the transport system and ensuring strategic decision making in the provision of transport *infrastructure* to best provide for connectivity. The policies also recognise the contribution of the transport system to emissions and provide for networks that seek to adopt technologies which reduce the adverse *effects* on the *environment* arising from fuel usage. In relation to *commercial port activities* taking place within the coastal environment, the provisions of the CE – Coastal Environment chapter also apply.

Principal reasons

EIT–TRAN–PR3 – Principal reasons

The transport system is critical for connecting people and communities and transporting goods, the effective functioning of Otago’s economy and the well-being of Otago’s community. The transport network can, however, have adverse *effects* on the *environment* and impact on community well-being. If there is sufficient demand, integration and the necessary *infrastructure*, modal choices can be provided and by giving preference to modes with lower environmental *effects*, the adverse impacts of the transport system can be reduced. However, as large parts of the Otago region are rural, reliance on private vehicles will remain the preferred, or the only practical, transport option for many people. This should not exclude the potential for improvements in modal choice or accessibility for a range of abilities and sectors of the community. Planning for transport *infrastructure* should be co-ordinated with urban and commercial growth and development to enable the transport system to effectively serve local communities and avoid reducing the efficiency of existing *infrastructure*.

Anticipated environmental results

EIT–TRAN–AER9	Structure planning and <i>district plans</i> make explicit provision for all modes of transport.
EIT–TRAN–AER10	The number of people participating in active transport increases.
EIT–TRAN–AER11	The number of dwellings per hectare in areas accessible to <i>public transport</i> increases over the life of this RPS.
EIT–TRAN–AER12	<i>Public transport</i> patronage increases over the life of this RPS.

EIT-TRAN-AER13

Greenhouse gas emissions arising from the transport system reduce over time from increased active transport, shared travel and *public transport* patronage, increased use of rail for freight, and reduced reliance on fossil fuels.

EIT-TRAN-AER14

The transport of people, goods and services within Otago is achieved in a timely manner and at costs comparable to other regions.

HAZ – Hazards and *risks*

HAZ–NH – *Natural hazards*

Objective

HAZ–NH–O1 – *Natural hazards*

Risks to people, communities and property from *natural hazards* within Otago are maintained where they are acceptable, and managed to ensure they do not exceed a tolerable level.

HAZ–NH–O2 – *Adaptation*

Otago’s people, communities, and property are prepared for and able to adapt to the *effects* of *natural hazards*, including *natural hazard risks* that are exacerbated by *climate change*.

Policies

HAZ-NH-P1A – *Identifying areas subject to coastal hazards*

Identify areas that are potentially affected by *coastal hazards* (including tsunamis), giving priority to the identification of areas at high *risk* of being affected.

HAZ–NH–P1 – *Identifying areas subject to natural hazards*

For *hazards* not identified in accordance with HAZ-NH-P1A, using the best available information, identify areas where *natural hazards* may adversely affect Otago’s people, communities and property, by assessing:

- (1) the hazard type and characteristics,
- (2) *multiple* and *cascading hazards*, where present,
- (3) any cumulative *effects*,
- (4) any *effects* of *climate change*,
- (5) the likelihood of different hazard scenarios occurring, and
- (6) any other exacerbating factors.

HAZ–NH–P2 – *Risk assessments*

Within areas identified under HAZ-NH-P1 as being to *natural hazards*, assess *natural hazard risk* as significant, tolerable, or acceptable by determining a range of *natural hazard* event scenarios and their potential consequences in accordance with the criteria set out within APP6.

HAZ–NH–P3 – *New activities*

Once the level of *natural hazard risk* associated with an activity has been determined in accordance with HAZ–NH–P2, manage new activities to achieve the following outcomes:

- (1) significant *natural hazard risks* are avoided,
- (2) when the *natural hazard risk* is tolerable, manage the level of *risk* so that it does not exceed

tolerable and

- (3) when the *natural hazard risk* is acceptable, maintain the level of *risk*.

HAZ–NH–P4 – Existing *natural hazard risk*

In areas identified under HAZ-NH-P1 as subject to *natural hazards*, reduce existing *natural hazard risk* to a tolerable or acceptable level by:

- (1) encouraging activities that reduce *risk*, or reduce community vulnerability,
- (3) managing existing activities within areas of significant *risk* to people, communities, and property,
- (4) encouraging design that facilitates:
 - (b) relocation to areas of acceptable *risk*, or
 - (c) reduction of *risk*,
- (5) relocating *lifeline utilities*, and facilities for essential and emergency services, away from areas of significant *risk*, where appropriate and practicable, and
- (6) enabling development, upgrade, maintenance and operation of *lifeline utilities* and facilities for essential and emergency services.

HAZ–NH–P5 – Precautionary approach to *natural hazard risk*

Where the *natural hazard risk*, either individually or cumulatively, is uncertain or unknown, but potentially significant or irreversible, apply a precautionary approach to identifying, assessing and managing that *risk* by adopting an avoidance or adaptive management response.

HAZ–NH–P6 – Protecting features and systems that provide hazard mitigation

Protect the ability of natural or modified features and systems to mitigate the *effects of natural hazards* and *climate change*.

HAZ–NH–P7 – Mitigating *natural hazards*

Prioritise *risk* management approaches that reduce the need for *hard protection structures* or similar engineering interventions, and provide for *hard protection structures* only when:

- (1A) the following apply:
 - (a) there are no reasonable alternatives that manage or reduce the *risk* exposure to a level the community is able to tolerate,
 - (b) *hard protection structures* would not result in a more than minor increase in *risk* to people, communities and property, including displacement of *risk* off-site,
 - (c) the adverse *effects* of the *hard protection structures* can be adequately managed, and
 - (d) the mitigation is viable in the reasonably foreseeable long term or provides time for future adaptation methods to be implemented, or
- (1B) the *hard protection structure* protects a *lifeline utility*, or a facility for essential or emergency services.

HAZ–NH–P8 – Lifeline utilities and facilities for essential or emergency services

Locate, and design *lifeline utilities* and facilities for essential or emergency services to:

- (1) maintain their ability to function to the fullest extent possible, during and after *natural hazard* events, and
- (2) take into account their operational co-dependence with other *lifeline utilities* and essential services to ensure their effective operation.

HAZ–NH–P9 – Protection of hazard mitigation measures, lifeline utilities, and essential or emergency services

Protect the *functional needs* and *operational* of hazard mitigation measures, *lifeline utilities*, and essential or emergency services, including by:

- (1) avoiding significant adverse *effects* on those measures, utilities or services,
- (2) avoiding, and only where avoidance is not practicable, remedying or mitigating other adverse *effects* on those measures, utilities or services,
- (3) maintaining access to those measures, utilities or services for maintenance and operational purposes, and
- (4) restricting the establishment of other activities that may result in reverse sensitivity *effects* on those measures, utilities or services.

HAZ–NH–P10 – Coastal hazards

On any *land* that is potentially affected by coastal hazards over at least the next 100 years:

- (1) avoid increasing the *risk* of social, environmental and economic harm from coastal hazards,
- (2) ensure no *land* use change or redevelopment occurs that would increase the *risk* to people and communities from that coastal hazard,
- (3) encourage *land* use change or redevelopment that reduces the *risk* from that coastal hazard,
- (4) ensure decision making about the nature, scale and location of activities considers the ability of Otago’s people and communities to adapt to, or mitigate the *effects* of, sea level rise and *climate change*, and
- (5) apply HAZ-NH-P5 to HAZ-NH-P9.

HAZ-NH-P11 – Kāi Tahu rakatirataka

Recognise and provide for the rakatirataka of Kāi Tahu by:

- (1) enabling *mana whenua* to lead approaches on the management of *natural hazard risks* affecting native reserves and Māori *land*, and
- (2) including Kāi Tahu in decision-making on the management of *natural hazard risks* affecting the values of *wāhi tūpuna*.

Methods

HAZ–NH–M1 – Statement of responsibilities

In accordance with section 62(1)(i)(i) of the RMA, the responsibilities for the control of *land* use to avoid

or mitigate *natural hazards* or any group of hazards are as follows:

- (1) the Regional Council and *territorial authorities* are both responsible for specifying objectives, policies and methods in *regional plans* and *district plans* for managing *land* subject to *natural hazard risk*,
- (2) the Regional Council is responsible for:
 - (a) specifying objectives, policies and methods in *regional plans*:
 - (i) in the *coastal marine area*,
 - (ii) in *wetlands, lakes and rivers*,
 - (iii) in, on or under the *beds of rivers and lakes*, and
 - (iv) on land in relation to *risk* reduction,
 - (b) identifying areas in the region subject to *natural hazards* and describing their characteristics as required by Policy HAZ–NH–P1, mapping the extent of those areas in the relevant *regional plan(s)* and including those maps on a *natural hazard* register or database,
 - (c) identifying *coastal hazards* as required by HAZ–NH–P1A in accordance with Policy 24 of the NZCPS, mapping the extent of those areas in the relevant *regional plan(s)* and including those maps on a *natural hazard* register or database, and
 - (d) continually monitoring *natural hazard risk* to understand how levels of *natural hazard risk* change overtime, and where required, update the *natural hazard* mapping areas identified in 2(b) and (c) above,
- (3) *territorial authorities* are responsible for:
 - (a) specifying objectives, policies and methods in *district plans* for *land* outside of the areas listed in (2)(a), and
 - (b) mapping or identifying via the *natural hazard* register or database, areas identified in 2(a), (b) and (c) above subject to natural hazards and describing the characteristics of those areas in the relevant *district plan(s)*.

HAZ–NH–M2 – Local authorities

Local authorities must work collaboratively to:

- (1) assess the level of *natural hazard risk* in their region or district in accordance with HAZ–NH–P2 and APP6, including by:
 - (a) consulting with communities, stakeholders and Kāi Tahu, including with *local authorities* in neighbouring regions partners regarding *risk* levels thresholds,
 - (b) developing a Risk Table in accordance with Step 3 of APP6 at a district or community scale, and
 - (c) identifying areas of significant *risk*,
- (2) continue to undertake research on the identification of *natural hazard risk* and amend *natural hazard* registers, databases, *regional plans* and/or *district plans* as required,
- (3) investigate options for reducing the level of *natural hazard risk* within areas of existing development to a tolerable or lower level, including by managing existing use rights under Sections 10 and 20A of the RMA,

- (4) prepare or amend and maintain their *regional plans* or *district plans* to take into account the *effects* of *climate change* by:
 - (a) using the best relevant *climate change* data and projections to 2115,
 - (b) taking a precautionary approach when assessing and managing the *effects* of *climate change* where there is scientific uncertainty and potentially significant or irreversible *effects*,
 - (c) providing for activities that assist to reduce or mitigate the *effects* of *climate change*, and
 - (d) encouraging system *resilience*.

HAZ–NH–M3 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) manage activities in the *coastal marine area*, *beds of lakes and rivers*, and *wetlands* to achieve policies HAZ–NH–P3 to HAZ–NH–P6, and the outcomes of the Risk Table established within HAZ–NH–M2(1),
- (2) include *natural hazard risk* reduction measures, such as removing or restricting existing *land* uses, where there is significant *risk* to people or property,
- (3) protect natural or modified features and systems that provide mitigation from the adverse *effects* of *natural hazards* in accordance with HAZ–NH–P6,
- (4) provide for *hard protection structures* in accordance with HAZ–NH–P7,
- (5) provide for the *functional needs* of hazard mitigation measures, *lifeline utilities*, and essential or emergency services in accordance with HAZ–NH–P8 and HAZ–NH–P9,
- (6) include provisions that require decision makers to apply the precautionary approach set out in HAZ–NH–P5 when considering applications for *resource consent* for activities that will change the use of *land* and thereby increase the *risk* from *natural hazards* within areas subject to *natural hazard risk* that is uncertain or unknown, but potentially significant or irreversible, and
- (7) require a *natural hazard risk* assessment commensurate with the level of *risk* from the proposed activity be undertaken where an activity requires a *resource consent* to change the use of *land* in areas subject to *natural hazards*, and where the *resource consent* is lodged prior to the *natural hazard risk* assessment required by HAZ–NH–M2(1) being completed, included in the *regional plan* and made operative, the *natural hazard risk* assessment must include:
 - (a) an assessment of the level of *natural hazard risk* associated with the proposal in accordance with APP6, and
 - (b) an assessment demonstrating how the proposal will achieve the outcomes set out in Policies HAZ–NH–P3 and HAZ–NH–P4, and
- (8) not require a *natural hazard risk* assessment in accordance with APP6 for *resource consent* applications, once the *natural hazard risk* assessment required by HAZ–NH–M2(1) has been completed, included in the relevant *regional plan* and made operative, unless otherwise expressly required by the relevant *regional plan*.

HAZ–NH–M4 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) achieve policies HAZ–NH–P3 to HAZ–NH–P6, and incorporate the outcomes of the Risk Table established within HAZ–NH–M2(1), on *land* outside the *coastal marine area, beds of lakes and rivers, and wetlands* by managing the location, scale and density of activities that are subject to *natural hazard risk*,
- (3) protect the role of natural or modified features and systems that provide mitigation from the adverse *effects of natural hazards* in accordance with HAZ–NH–P6,
- (4) provide for *hard protection structures* in accordance with HAZ–NH–P7,
- (5) provide for the *functional needs* of hazard mitigation measures, *lifeline utilities*, and essential or emergency services in accordance with HAZ–NH–P8 and HAZ–NH–P9,
- (6) include provisions that require decision makers to apply the precautionary approach set out in HAZ–NH–P5 when considering applications for *resource consent* for activities that will change the use of *land* and which may increase the *risk from natural hazards* within areas subject to *natural hazard risk* that is uncertain or unknown, but potentially significant or irreversible, and
- (7) require a *natural hazard risk* assessment commensurate with the level of *risk* from the proposed activity be undertaken where an activity requires a plan change or *resource consent* to change the use of *land* in areas subject to *natural hazards*, and where the application is lodged prior to the *natural hazard risk* assessment required by HAZ–NH–M2(1) being completed, included in the *district plan* and made operative, the *natural hazard risk* assessment must include:
 - (a) an assessment of the level of *natural hazard risk* associated with the proposal in accordance with APP6, and
 - (b) an assessment demonstrating how the proposal will achieve the outcomes set out in Policies HAZ–NH–P3 and HAZ–NH–P4, and
- (8) not require a *natural hazard risk* assessment in accordance with APP6 for *resource consent* applications, once the *natural hazard risk* assessment required by HAZ–NH–M2(1) has been completed, included in the relevant *regional plan* and made operative, unless otherwise expressly required by the relevant *regional plan*.

HAZ–NH–M5 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving Policies HAZ–NH–P1 to HAZ–NH–P11, including but not limited to:

- (1) preparing *natural hazard* strategies or other similar documents to assist in the management and reduction of *natural hazard risk* and adaptation to, and mitigation of, the *effects of climate change*,
- (2) developing community relevant responses to the impacts of *natural hazards* and *climate change*, in collaboration with key stakeholders and affected community,
- (3) undertaking research in collaboration with other *local authorities* and other stakeholders as appropriate, into *natural hazards* and *climate change* in Otago, and
- (4) providing information and guidance on:
 - (a) management approaches to the avoidance or mitigation of *natural hazards*,
 - (b) ways to adapt to and mitigate the *effects of climate change*, and
 - (c) the benefits of natural features and systems in mitigating *natural hazards*.

Explanation

HAZ–NH–E1 – Explanation

The policies in this chapter are designed to reduce the level of *natural hazard risk* within the region through sound preparation, investigation and planning. These provisions take a risk-based approach, taking into consideration the likelihood of the hazard and the vulnerability of people, communities, and the *environment*. The approach ensures consistent planning by applying the same framework irrespective of the type of *natural hazard* that may exist. It allows for the full range of *risk* mitigation measures (regulatory and non-regulatory) to be taken into account in determining the level of *risk* that exists at a particular locality.

Once the level of *risk* has been established, following consultation with communities, stakeholders and partners, the provisions direct that *district plans* and *regional plans* require activities to be undertaken in a manner that results in the *natural hazard risk* to people, the community and property being tolerable or lower. Where a *natural hazard risk* to people, the community and property cannot be reduced to a tolerable level, the activity must be avoided. The provisions require that the same risk-based approach is taken when considering the management of existing development, by ensuring that the *risk* associated with existing development is tolerable or lower.

The provisions also set direction on *natural hazard* management methods such as use of the precautionary approach, protecting natural features and systems that provide hazard mitigation, the use of *hard protection structures*, and the location and design of *lifeline utilities* and facilities for essential or emergency services. These provisions are designed to reduce the level of *natural hazard risk* within the region.

Principal reasons

HAZ–NH–PR1 – Principal reasons

The Otago region is exposed to a wide variety of *natural hazards* that impact on people, property, *infrastructure* and the wider *environment*. Given the wide variety of landscapes that make up the Otago region, the *natural hazards* threats range from coastal erosion and flooding in the lowland coastal areas of the region to alluvial fan deposition, landslip, fire, earthquakes, rock fall, and *river* breaches in the alpine areas of the region. The *effects* of *natural hazards* vary in terms of both their likelihood and consequence. Some *natural hazards*, such as flooding, may occur relatively frequently and may damage property and disrupt people's lives and economic, social and cultural activities, whereas *natural hazards* such as tsunami occur infrequently, but when they do occur, they pose serious *risk* to life.

The majority of the region is subject to some form of hazards *risk*, to a greater or lesser extent. While avoidance of *natural hazard risk* may be the preferred option in many cases, in other situations mitigating the *effects* of *natural hazards* to tolerable levels will be a feasible option to ensure the health, safety and well-being of the community. The changing nature of *natural hazards risk* due to *climate change* means that planning provisions need to be able to adapt to a future *natural hazards environment*.

Consultation with communities, stakeholders and partners is essential to an understanding of risk tolerance. Preparing natural hazard risk assessments requires consultation with these groups. Communities need consistent guidance on sea level rise, extreme weather events, and all other adverse *effects* of *climate change* if they are to appropriately manage those *effects*. *Climate change* is resulting in rising sea levels and is increasing the frequency and severity of climate related *natural hazards* including flooding, wind events, fires, landslips, erosion and drought. *Stormwater* systems may not be able to cope with heavier rainfall. Other *effects* of *climate change* include changing distributions of plants and animals,

and consequential *effects*, such as the *risk* of saltwater intrusion into *groundwater* as a result of sea level rise in combination with increased *groundwater* abstraction, and *groundwater* ponding. There may be other adverse *effects* from *climate change* that are not yet known. A precautionary approach is required where there is scientific uncertainty. The *effects* of *climate change* will result in social, environmental and economic costs. It is prudent that these changes are planned for now, so that the impacts can be reduced.

Anticipated environmental results

- HAZ–NH–AER1** The location and design of new developments and natural resource use reduces community exposure to the adverse *effects* of *natural hazards* events and processes.
- HAZ–NH–AER2** No developments proceed that have a significant level of *risk*.
- HAZ–NH–AER3** The level of *risk* associated with new development does not exceed a tolerable level.
- HAZ–NH–AER4** Where existing development is subject to *risks* from *natural hazards*, the level of *risk* is reduced to a tolerable level.
- HAZ–NH–AER5** The impact on people, communities and property, *lifeline utilities*, and essential services from *natural hazards* and *climate change* is managed to a tolerable or acceptable level.

HAZ–CL – *Contaminated land*

Objectives

HAZ–CL–O3 – Contaminated land

Contaminated land and *waste* materials are managed to protect human health and do not harm Kāi Tahu, values and the *environment* in Otago

Policies

HAZ–CL–P13 – Identifying *contaminated land*

Identify sites of known or potentially *contaminated land* in Otago.

HAZ–CL–P14 – Managing *contaminated land*

Manage contaminated or potentially *contaminated land* so that it does not pose an unacceptable *risk* to people and the *environment*, by:

- (1) assessing and, if required, monitoring *contaminant* levels and environmental *risks*,
- (2) protecting human health in accordance with regulatory requirements,
- (3) avoiding, as the first priority, and only where avoidance is not reasonably practicable, mitigating or remediating, adverse *effects* of the *contaminants* on the *environment*,
- (4) requiring closed *landfills* to be managed in accordance with a closure plan that sets out monitoring requirements and, where necessary, any remedial actions required to address ongoing *risks*, and
- (5) prioritising the identification and management of closed *landfills* and *contaminated land* at risk from the *effects* of *climate change*.

HAZ–CL–P15 – New *contaminated land*

Avoid the creation of new *contaminated land* or, where this is not practicable, minimise to the extent reasonably practicable adverse *effects* on the *environment* and Kāi Tahu values.

HAZ–CL–P16 – *Waste* minimisation responses

Apply the principles of the *waste* management hierarchy (reduce, reuse, recycle, recover, residual *waste* management) to the management of all *waste* streams.

HAZ–CL–P17 – Disposal of *waste* materials

Provide for the development and operation of facilities and services for the storage, recycling, recovery and treatment of *waste* materials but only for the disposal of *waste* materials if those materials cannot be recycled, recovered or treated for re-use.

HAZ–CL–P18 – *Waste* facilities and services

When providing for the development of facilities and services for the storage, recycling, recovery, treatment and disposal of *waste* materials:

- (1) avoid adverse *effects* on the health and safety of people,

- (2) to the extent reasonably practicable, minimise the potential for adverse *effects* on the *environment* to occur,
- (3) minimise *risk* associated with *natural hazard* events, and
- (4) restrict the establishment of activities that may result in reverse sensitivity *effects* near *waste* management facilities and services.

Methods

HAZ-CL-M6 – Regional plans

Otago Regional Council must:

- (1) in accordance with HAZ-CL-P13, maintain a register or database of sites of known or potentially *contaminated land* in Otago,
- (2) prepare or amend and maintain its *regional plans* to:
 - (a) in accordance with HAZ-CL-P14 and HAZ-CL-P15 manage the *effects* of the use of *contaminated land* on:
 - (i) the quality of air, *water* and *land*; and
 - (ii) the *coastal marine area*, and the *beds* of *rivers*, *lakes* and other *water bodies*,
 - (b) require *waste* disposal facilities to be designed, constructed and operated in accordance with best industry practice, and
 - (c) require *waste* disposal facilities to monitor, record and report on the quantity and composition of *waste* being deposited to *landfill*.

HAZ-CL-M7 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to provide for the development of facilities and services for the storage, recycling, recovery, treatment and disposal of *waste* while achieving the outcomes listed in HAZ-CL-P14 to HAZ-CL-P16.

HAZ-CL-M8 – Waste management and minimisation plans

Local authorities must develop *waste* management and minimisation plans in accordance with the Waste Minimisation Act 2008.

HAZ-CL-M8A – Prioritisation and action plans

Otago Regional Council and territorial authorities, in consultation with Kāi Tahu and the community, must together:

- (1) identify closed *landfills* and *contaminated land* risk from the effects of *climate change*,
- (2) assess the *risk* and the potential *effects* of release of *contaminants*,
- (3) develop and implement action plans to avoid release of *contaminants* from the identified closed *landfills* and *contaminated land*, prioritising sites at greatest *risk*, and
- (4) review sites and their level of *risk* every five years.

HAZ-CL-M9 – Other incentives and mechanisms

Local authorities may:

- (1) encourage the application of the *waste* management hierarchy by:
 - (a) giving preference to reducing waste generated,
 - (b) reusing *waste*,
 - (c) recycling *waste*,
 - (d) recovering resources from *waste*, and
 - (e) only disposing residual *waste* to a disposal facility,
- (2) provide information and guidance on *waste* minimisation and management, and
- (3) advocate for:
 - (a) the implementation of the *waste* hierarchy throughout the region, and
 - (b) the development of *infrastructure* and services to provide for recycling and disposal services across the region.

Explanation

HAZ-CL-E2 – Explanation

The policies in this chapter are designed to ensure that *contaminated land* and *waste* materials do not harm human health or the *environment*. To achieve this, areas of known or potentially *contaminated land* are to be identified. Once sites are identified, the protection of human health is managed by the NESCS. It is the role of *regional plans* to minimise the adverse *effects* of the *contaminants* on the *environment* by avoiding the creation of new *contaminated land* and minimising the adverse *effects* of *waste* material on the *environment*. The provisions within this chapter also encourage the application of the *waste* management hierarchy.

Principal reasons

HAZ-CL-PR2 – Principal reasons

Resources need to be carefully used to minimise the material disposed of as *waste*. Waste materials and hazardous substances need to be carefully managed to avoid creating environmental problems or adversely affecting human health.

In order to protect people and the *environment* from the adverse *effects* of *contaminated land*, the first task is to identify *land* that could be contaminated. The Ministry for the Environment's Hazardous Activities and Industries List (HAIL) is a list of activities and industries that may have involved the use of hazardous substances. Such use of hazardous substances may have resulted in *land* becoming contaminated. Once known or potentially *contaminated land* has been identified, assessments can be made to determine the nature or existence of contamination.

NESCS sets out a nationally consistent set of planning controls and soil *contaminant* values. It applies to assessing and managing the actual or potential adverse *effects* of *contaminants* in soil on human health when undertaking *subdivision*, *land* use change, *earthworks*, soil sampling or removing the underground portions of any fuel storage or dispensing systems. The NESCS does not apply to assessing and managing

the actual or potential adverse *effects* of *contaminants* on other receptors, including ecology, *water* quality or *amenity values*. Therefore, it is the role of the *regional plans* to manage these adverse *effects*.

The *waste* management hierarchy is an internationally recognised management model for the reduction of residual *waste*. The *waste* management hierarchy can be applied to all *waste* streams. When making decisions about a *land* use or activity, it is possible to include methods that will reduce *waste* over the lifetime of that *land* use or activity.

Anticipated environmental results

HAZ-CL-AER6 The environment, people and communities are not harmed by *waste* materials.

HAZ-CL-AER7 The waste hierarchy is implemented, resulting in less *waste* requiring disposal and a reduction of the environmental *effects* generated from *waste*.

HCV – Historical and cultural values

HCV–WT – *Wāhi tūpuna*

Objectives

HCV–WT–O1 – Kāi Tahu *wāhi tūpuna*

Wāhi tūpuna and their associated cultural values are identified and protected.

HCV–WT–O2 – Rakatirataka

The rakatirataka of *mana whenua* over *wāhi tūpuna* is recognised, and *mana whenua* are able to exercise their role as kaitiaki within these areas.

Policies

HCV–WT–P1 – Recognise and identify *wāhi tūpuna*

Sustain the enduring Kāi Tahu relationship with *wāhi tūpuna*, including by:

- (1) enabling Kāi Tahu to identify as *wāhi tūpuna* any sites and areas of significance to *mana whenua*, along with the cultural values that contribute to each *wāhi tūpuna* being significant,
- (2) recognising the rakatirataka of *mana whenua* over *wāhi tūpuna* and providing for their ability to exercise their role as kaitiaki within these areas,
- (3) recognising and providing for connections and associations between different *wāhi tūpuna*, and
- (4) recognising and using traditional place names.

HCV–WT–P2 – Management of effects on *wāhi tūpuna*

Wāhi tūpuna are protected by:

- (1) avoiding significant adverse *effects* on the cultural values of identified *wāhi tūpuna*,
- (1A) avoiding, as the first priority, other adverse effects on the cultural values of identified *wāhi tūpuna*,
- (2) where other adverse *effects* demonstrably cannot be completely avoided, then either remedying or mitigating adverse *effects* in a manner that maintains the values of the *wāhi tūpuna*,

HCV–WT–P2A – Management of *wāhi tūpuna*

Wāhi tūpuna are protected by:

- (3) managing identified *wāhi tūpuna* in accordance with tikaka Māori, and
- (5) encouraging the enhancement of access to *wāhi tūpuna* to the extent compatible with the particular *wāhi tūpuna*.

Methods

HCV–WT–M3 – Treaty Partnership with Kāi Tahu

Local authorities must:

- (1) include Kāi Tahu in all decision-making concerning identification and protection of *wāhi tūpuna* sites and areas and the values that contribute to their significance, and
- (3) collaborate with Kāi Tahu to share information relevant to Kāi Tahu interests.

HCV–WT–M1 – Identification

Local authorities must:

- (1) enable Kāi Tahu to identify, in accordance with tikaka, *wāhi tūpuna* sites, areas and values, using the guide set out in APP7,
- (3) recognise that *wāhi tūpuna* span jurisdictional boundaries and work together to ensure the identification process under (1) enables *wāhi tūpuna* sites, areas and values to be treated uniformly across district boundaries, and
- (4) identify record using methods determined by *mana whenua* (which may include mapping) and protect the sites, areas and values identified under (1) in the relevant *regional plans* and *district plans*.

HCV–WT–M2 – Regional plans and district plans

Local authorities must prepare or amend and maintain their *regional plans* and *district plans* to include methods that are in accordance with tikaka to:

- (1) control activities in, or adjacent to, *wāhi tūpuna* sites and areas,
- (2) require cultural impact assessments where activities have the potential to adversely affect values of *wāhi tūpuna* and Kāi Tahu have identified the need for an assessment to protect particular values,
- (3) require conditions on *resource consents* or designations to protect *wāhi tūpuna values* from incompatible activities,
- (4) require accidental discovery protocols as an advice note on *resource consents* or designations for activities that may unearth archaeological sites, in accordance with APP11, and
- (5) maintain existing access to identified *wāhi tūpuna* sites and areas and promote improved access where practicable.

Explanation

HCV–WT–E1 – Explanation

Providing for *wāhi tūpuna* plays a role in recognising the resource management principles in sections 6(e), 7(a) and 8 of the RMA. The policies in this chapter recognise the cultural and contemporary significance of *wāhi tūpuna* to Kāi Tahu and acknowledge that the identification of *wāhi tūpuna* and the associated values can only be undertaken by Kāi Tahu.

Wāhi tūpuna can be impacted by a range of activities, requiring a range of different management responses. The policies in this chapter are designed to achieve active protection of *wāhi tūpuna* to ensure that activities do not have any significant adverse *effects* on the values of the identified *wāhi tūpuna*. The policies also direct that the management of activities within or affecting *wāhi tūpuna* must occur in accordance with tikaka.

Principal reasons

HCV–WT–PR1 – Principal reasons

Wāhi tūpuna are landscapes that embody the customary and contemporary relationship of Kāi Tahu and their culture and traditions with Otago. The sites and resources used by Kāi Tahu are spread throughout Otago, reflecting the relationship of Kāi Tahu with the *land, coastal waters* and *wai* Māori. *Wāhi tūpuna* have significant cultural value to Kāi Tahu.

The provisions in this chapter play a role in recognising the resource management principles in sections 6(e), 7(a) and 8 of the RMA and the NZCPS, as well as providing for the principles of te Tiriti o Waitangi, by requiring:

- the identification of *wāhi tūpuna* by Kāi Tahu in accordance with tikaka Māori,
- the protection of *wāhi tūpuna* from inappropriate *subdivision*, use and development, and
- specified actions on the part of Otago's *local authorities* in managing activities that may impact *wāhi tūpuna*.

Implementation of the provisions in this chapter will occur primarily through *regional plans* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Anticipated environmental results

- HCV–WT–AER1** *Wāhi tūpuna areas* and sites are identified in the relevant *regional plans* and *district plans* using tikaka for identification of *wāhi tūpuna* and their values and the manner of recording those being determined by Kāi Tahu.
- HCV–WT–AER2** *Wāhi tūpuna* and their values are protected and improved where their values have been degraded by human activities.

HCV–HH – Historic heritage

Objective

HCV–HH–O3 – *Historic heritage resources*

Otago’s unique *historic heritage* contributes to the region’s character, sense of identity, and social, cultural and economic well-being, and people’s understanding and appreciation of it is enhanced, and that it is protected for future generations against inappropriate subdivision, use and development.

Policies

HCV–HH–P3 – Recognising *historic heritage*

Recognise that Otago’s *historic heritage* includes:

- (1) Māori cultural and *historic heritage* values and sites, and places and areas,
- (2) archaeological sites,
- (3) residential and commercial *buildings*,
- (4) pastoral sites,
- (5) surveying equipment, communications and transport, including *roads*, bridges railway infrastructure and routes,
- (6) industrial *historic heritage*, including mills, quarries, limekilns, grain stores, water supply infrastructure and brickworks,
- (7) gold, limestone and other mining systems and settlements,
- (8) dredge and ship wrecks, and coastal structures and buildings, including breakwaters, jetties and lighthouses,
- (9) ruins,
- (10) coastal *historic heritage*, particularly Kāi Tahu occupation sites and those associated with early European activities such as whaling,
- (11) memorials,
- (12) trees and,
- (13) military structures or remains, and
- (14) Historic places within the meaning under section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.

HCV–HH–P4 – Identifying *historic heritage*

Identify the places and areas of *historic heritage* in Otago in accordance with APP8

HCV–HH–P5 – Managing *historic heritage*

Except as provided for in EIT-INF-P13, protect *historic heritage* from inappropriate subdivision, use and development by:

- (1) requiring the use of accidental discovery protocols in accordance with APP11,

- (2) avoiding adverse *effects* on areas or places which have been identified as having special or outstanding *historic heritage* or qualities, except that in circumstances (a) to (f) below, they are remedied or mitigated to the extent practicable:
- (a) where HCV-HH-P6 applies, or
 - (b) a project has significant public benefit that outweighs the loss of historic heritage; or
 - (c) the activity has functional or locational constraints and has a significant public benefit
 - (d) the area or place is already impacted by an existing, lawfully established activity; or
 - (e) there is significant risk to safety or property; or
 - (f) any adverse effects are minor and relate to work necessary to adapt a historic heritage building to modern use.
- (3) avoiding, remedying or mitigating adverse *effects* on other areas or places with *historic heritage* values or qualities,

HCV-HH-P6A – Maintenance and enhancement of *historic heritage*

Encourage the ongoing use and adaptive re-use of *historic heritage* in a way that, as far as practicable, maintains and enhances the identified heritage values.

Methods

HCV-HH-M4 – *Regional plans*

Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) identify places and areas with *historic heritage* in accordance with HCV-HH-P4 that are located in the *beds of lakes and rivers, wetlands* and the *coastal marine area*,
- (2) control the following where they may adversely affect *historic heritage*:
 - (a) the character, location, scale and form of *structures* in the *beds of lakes and rivers, wetlands* and in the *coastal marine area*,
 - (b) indigenous vegetation removal in the *beds of lakes and rivers, wetlands* and the *coastal marine area*,
 - (c) *earthworks*, deposition and disturbance to and in the *beds of lakes and rivers* and in the *coastal marine area*,
 - (d) *discharges* to air,
 - (e) taking, use, damming and diversion of, and *discharges* to, *water*, and
 - (f) the disturbance, demolition or alteration of physical elements or *structures* of *historic heritage* in the *beds of lakes and rivers* and in the *coastal marine area*,
- (2A) enable Kāi Tahu to identify places and areas with historic heritage values for mana whenua in accordance with HCV-HH-P4 that are located on the beds of lakes and rivers, and in wetlands and the coastal marine areas,
- (3) include implementation methods to protect *historic heritage* that are in accordance with HCV-HH-P5 and may also include:

- (a) assessment criteria, development standards or thresholds to control the scale, intensity, form and location of activities (including for the purposes of controlling cumulative adverse effects), and
 - (b) conditions on *resource consents* to provide buffers or setbacks between *historic heritage* places or areas and other incompatible activity, and
- (4) require the use of accidental discovery protocols as conditions on *resource consents* for *earthworks* or other activities that may encounter archaeological features.

HCV–HH–M5 – District Plans

Territorial authorities must prepare or amend and maintain their *district plans* to the extent necessary to:

- (1) identify places and areas with *historic heritage* in accordance with HCV-HH-P4 that are located outside the *beds of lakes and rivers, wetlands* and the *coastal marine area*,
- (2) control the following where they may adversely affect *historic heritage*:
 - (a) the location, intensity and form of *subdivision*,
 - (b) the character, location, scale and form of activities (including *structures*) outside the *beds of lakes and rivers* and the *coastal marine area*,
 - (c) the location and scale of *earthworks* and indigenous vegetation removal outside the *beds of lakes and rivers* and the *coastal marine area*,
 - (d) the disturbance, demolition or alteration of physical elements or *structures* with special or outstanding *historic heritage* value or qualities outside the *coastal marine area, beds of lakes and rivers*,
- (2A) enable Kāi Tahu to identify places and areas with historic heritage values for mana whenua in accordance with HCV-HH-P4 that are located on the beds of lakes and rivers, and in wetlands and the coastal marine areas,
- (3) include implementation methods to protect *historic heritage* places and areas required by HCV–HH–P5, and may also include:
 - (a) assessment criteria, development standards or thresholds to control the scale, intensity, form and location of activities (including for the purposes of controlling cumulative adverse effects),
 - (b) conditions on *resource consents* and designations to provide buffers or setbacks between *historic heritage* places or areas and other incompatible activity,
 - (c) accidental discovery protocols as conditions on *resource consents* for *earthworks* or other activities that may unearth archaeological features,
 - (d) providing for activities seeking to retain *historic heritage* places, areas or landscapes, including adaptive reuse, maintenance and seismic strengthening,
 - (e) including heritage alert layers in plans to inform the public about areas where there is a high probability of the presence of heritage values, particularly archaeological values, and
- (4) require the use of accidental discovery protocols as conditions on *resource consents* and designations for *earthworks* or other activities that may unearth archaeological features.

HCV–HH–M6 – Incentives and education

Local authorities are encouraged to use other mechanisms or incentives to assist in achieving HCV–HH–P3

to HCV–HH–P7, including:

- (1) promoting public awareness of *historic heritage* values through providing information and education, and
- (2) rates differentials and *resource consent* fee waivers for activities that involve the retention of historic places or areas.
- (3) enabling Kāi Tahu to interpret places and areas with *historic heritage* values for *mana whenua*.

Explanation

HCV–HH–E2 – Explanation

The policies in this section are designed to ensure that Otago’s unique *historic heritage* continues to contribute to the region’s character, sense of identity, and social and economic well-being by requiring places and areas of significant *historic heritage* to be identified using regionally consistent methodology, then protecting or managing those sites or areas to ensure that activities do not detract from the region’s special character and sense of identity. This also includes encouraging the ongoing use and adaptive re-use of historic heritage in certain circumstances.

Principal reasons

HCV–HH–PR2 – Principal reasons

Otago is a region rich in *historic heritage*, with a diversity of significant cultural and *historic heritage* places and areas that contribute to its special character and identity. *Historic heritage* encompasses historic sites, *structures*, places, and areas; archaeological sites; sites of significance to Māori (including wāhi tapu and wāhi taoka sites) and the broader surroundings and landscape in which they are situated. The heritage resources in Otago are reflective of the history that helped to shape the region, and is representative of the different cultures, industries and institutions that contributed to its development. Historic landscapes in the coastal *environment* are specifically recognised in Policy 17 of the NZCPS.

The provisions in this chapter assist in implementing section 6(f) of the RMA and the NZCPS by requiring:

- the identification of places and areas with *historic heritage* values and qualities using clear criteria that is regionally consistent and providing for the assessing of special or outstanding values and qualities with a regionally consistent criteria and methodology where this is required.
- the protection of *historic heritage* from inappropriate *subdivision*, use and development,
- the *maintenance and enhancement of historic heritage* through *encouraging its ongoing use and adaptive re-use of historic heritage* values into new activities and enabling the adaptive reuse or upgrade of *historic heritage* places and areas in certain circumstances, and
- specified actions on the part of Otago’s *local authorities* in managing *historic heritage*.

Implementation of the provisions in this chapter will occur primarily through *regional plan* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Anticipated environmental results

- HCV-HH-AER3** Heritage resources that make a significant contribution towards Otago’s *historic heritage* are identified and protected.
- HCV-HH-AER4** The number, type, extent and distribution of *historic heritage* sites and places with special or outstanding values or qualities are maintained.
- HCV-HH-AER5** Otago’s existing built *historic heritage* is maintained and enhanced through efficient use, or adaptive reuse, where appropriate.

NFL – Natural features and landscapes

Advice note: Pursuant to CE-P1 the provisions within this chapter do not apply in the coastal environment.

Objectives

NFL–O1 – Outstanding *natural features and landscapes*

The areas and values of Otago’s outstanding *natural features and landscapes* are identified, and the use and development of Otago’s *natural and physical resources* results in the protection of them from inappropriate *subdivision*, use and development.

Policies

NFL–P1 – Identification

Identify the areas and values of outstanding *natural features and landscapes* in accordance with Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines', Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022.

NFL–P2 – Protection of outstanding *natural features and landscapes*

Protect outstanding natural features and landscapes from inappropriate *subdivision*, use and development by:

- (1A) avoiding exceeding the landscape capacity of the natural feature or landscape,
- (1) maintaining the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding,
- (2) avoiding, remedying or mitigating other adverse *effects*; and
- (3) managing the adverse effects of infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13.

Methods

NFL–M1 – Identification

Territorial authorities must:

- (1) include in their *district plans* a map or maps and a statement of the values of the areas of outstanding *natural features and landscapes* in accordance with NFL–P1,
- (2) in areas likely to face development or growth pressure, include in their *district plans* a statement of the capacity of outstanding *natural features and landscapes* to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding,
- (2A) collaborate with Kāi Tahu to identify the areas, values, and capacity of natural features and landscapes of significance for Kāi Tahu in accordance with tikaka, and record and apply appropriate management responses as determined by *mana whenua*,

- (3) recognise that natural features and landscapes may span jurisdictional boundaries and work together, including with the Regional Council and adjoining Regional Councils, to identify areas under (1) to ensure that the identification of outstanding natural features and landscapes are treated uniformly across district boundaries and, where appropriate, regional boundaries, and
- (4) prioritise identification under (1) in areas that are likely to contain outstanding natural features or landscapes and are likely to face development or growth pressure over the life of this RPS.

NFL–M2 – Regional plans

Otago Regional Council must prepare or amend and maintain its *regional plans* to control the use and development of *water bodies*, the *beds of rivers and lakes*, and *wetlands* in order to protect outstanding natural features and landscapes in accordance with NFL–P2.

NFL–M3 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) control the *subdivision*, use and development of *land* and the use of the surface of *water bodies* in order to protect outstanding natural features or landscapes in accordance with NFL–P2,
- (2) manage *wilding conifer* spread in accordance with LF-LS-P16A.

NFL–M4 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving the outcomes sought by the policies in this chapter, including:

- (1) funding assistance for restoration projects (for example, through the Regional Council’s ECO Fund),
- (2) purchase of *land* that forms part of a natural feature or landscape,
- (3) development or design guidelines (for example, colour palettes for *structures* in or on natural features or landscapes),
- (4) rates relief for *land* that is protected due to its status as an outstanding natural feature or landscape,
- (5) education and advice,
- (6) waiver or reduction of processing fees for activities where the primary purpose is to enhance the values of *natural features or landscapes*, and
- (7) advocating for a collaborative approach between central and local government to fund and carry out *wilding conifer* control.

Explanation

NFL–E1 – Explanation

The policies in this chapter are designed to require outstanding *natural features and landscapes* to be identified using regionally consistent attributes, then managing activities to either protect outstanding natural features and landscapes in accordance with section 6(b) of the RMA. The policies seek to control the impact of *wilding conifers* which are a particular threat to Otago’s natural features and landscapes, in

a way that recognises the regulations in the NESPF.

Principal reasons

NFL–PR1 – Principal reasons

Natural features include resources that are the result of natural processes, particularly those reflecting a particular geology, topography, geomorphology, hydrology, ecology, or other physical attribute that creates a natural feature or combination of natural features. Landscapes include the natural and physical attributes of *land* together with air and *water*, which change over time and which is made known by people’s evolving perceptions and associations. Natural features and landscapes also have significant cultural value to Kāi Tahu. There are many sites of significance across Otago, reflecting the relationship of Kāi Tahu with the *land*, *water* and sea.

The provisions in this chapter assist in protecting Otago’s outstanding *natural features and landscapes* by requiring:

- the identification of outstanding *natural features and landscapes* using regionally consistent criteria,
- the protection of outstanding *natural features and landscapes*,
- specified actions on the part of Otago’s *local authorities* in managing natural features and landscapes.

Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

Anticipated environmental results

- | | |
|-----------------|--|
| NFL–AER1 | The number, type, extent and distribution of identified outstanding <i>natural features and landscapes</i> are maintained over the life of this RPS. |
| NFL–AER2 | The values of outstanding and <i>highly valued natural features and landscapes</i> are not reduced or lost. |

UFD – Urban form and development

Note to readers: As a result of reporting officer recommendations, the following provisions have been moved to the LF-LS chapter:

- UFD-O4 – Development in rural areas
- UFD-P7 – Rural areas
- UFD-P8 – Rural lifestyle and rural residential zones
- UFD-M2(8) and (9)
- UFD-E1 – Explanation (third paragraph)
- UFD-PR1 – Principal reasons (sixth paragraph)

The notified numbering of UFD-O4 and UFD-P7 has been retained in the LF-LS chapter as an interim measure so that it is easier to link submission points to provisions. The numbering of both chapters will be updated and made chronological following a final decision by Council.

Objectives

UFD–O1 –Development of *urban areas*

The development and change of Otago’s *urban areas* occurs in a strategic and coordinated way, which:

- (1) accommodates the diverse and changing needs and preferences of Otago’s people and communities, now and in the future,
- (2) integrates effectively with surrounding *urban areas* and *rural areas*,
- (2A) results in a consolidated, well-connected and well-designed urban form which is integrated with *infrastructure*, and
- (2B) supports *climate change adaptation* and *climate change mitigation*.

Policies

UFD–P1 – Strategic planning

Strategic planning processes, undertaken at an appropriate scale and detail, precede urban growth and development and:

- (1) identify how housing choice, quality, and affordability will be improved,
- (1A) ensure integration of *land use* and *infrastructure*, including how, where and when necessary *development infrastructure* and *additional infrastructure* will be provided, and by whom,
- (2) demonstrate at least sufficient *development capacity* supported by integrated *infrastructure* provision for Otago’s housing and business needs in the short, medium and long term,
- (3) maximise current and future opportunities for increasing *resilience* and reducing contributions of communities to *climate change*, and facilitate adaptation to changing demand, needs, preferences and *climate change*,
- (5) indicate how connectivity will be improved and connections will be provided within *urban areas*,
- (6) provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, to ensure provision is made for their needs and aspirations, and cultural practices

and values,

- (7) facilitate involvement of the current community and respond to the reasonably foreseeable needs of future communities, and
- (8A) identify areas of potential conflict between incompatible activities and sets out the methods by which these are to be resolved.

UFD–P2 – Sufficiency of *development capacity*

Ensure that at least sufficient housing and business *development capacity* is provided in *urban areas* in the short, medium and long term, including by:

- (5) responding to any demonstrated insufficiency in housing or business *development capacity* by increasing *development capacity* or providing more *development infrastructure* as required, as soon as practicable,
- (5A) being responsive to plan changes that demonstrate compliance with UFD-P10, and
- (6) requiring Tier 2 *urban environments* to meet, at least, the relevant housing bottom lines in APP10.

UFD–P3 – Urban intensification

Manage intensification in urban areas, so that as a minimum,

- (1) contributes to establishing or maintaining the qualities of a *well-functioning urban environment*,
- (2) is well-served by existing or planned *development infrastructure* and *additional infrastructure*,
- (3) enables heights and densities that meets the greater of demonstrated demand for housing and/or business use or the level of accessibility provided for by existing or planned *active transport* or *public transport*,
- (5) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,

UFD–P4 – Urban expansion

Expansion of existing *urban areas* may occur where at a minimum the expansion:

- (1) contributes to establishing or maintaining the qualities of a *well-functioning urban environment*,
- (1A) is identified by and undertaken consistent with strategic plans prepared in accordance with UFD-P1, or is required to address a shortfall identified in accordance with UFD-P2,
- (1B) achieves consolidated, well designed and sustainable development in and around existing *urban areas*,
- (2) is logically and appropriately staged, and will not result in inefficient or sporadic patterns of settlement and residential growth,
- (3) is integrated efficiently and effectively with *development infrastructure* and *additional infrastructure* in a strategic, timely and co-ordinated way,
- (4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,
- (5) manages adverse *effects* on other values or resources identified by this RPS that require specific

management or protection,

- (6) avoids, highly productive land except as provided for in the NPS-HPL, and considers adverse *effects*, particularly *reverse sensitivity* effects, on existing and anticipated *primary production* or *rural industry* activities when determining the location of the new urban/rural boundary.

UFD–P5 – Commercial activities

Provide for *commercial activities* in *urban areas* by:

- (1) enabling a wide variety and scale of *commercial activities*, social, recreational and cultural activities to concentrate in city, metropolitan, town centres and commercial zoned areas, where appropriate, especially if they are highly accessible by *public transport* or *active transport*,
- (2) enabling smaller local and neighbourhood centres, mixed use zones and rural settlements to accommodate a variety of *commercial activities*, social, recreational and cultural activities of a scale appropriate to service local community needs, and
- (4) outside the areas described in (1) and (2), provide for small scale retail and service activities, home occupations and *community services* to establish within or close to the communities they serve.

UFD–P6 – Industrial activities

Provide for *industrial activities* in *urban areas* by:

- (1) identifying specific locations and applying zoning suitable for accommodating *industrial activities* and their reasonable needs and *effects* including supporting or *ancillary activities*,
- (2) identifying a range of *land* sizes and locations suitable for different *industrial activities*, and their *operational needs* including land-extensive activities, managing the establishment of non-industrial activities, in industrial zones, to avoid the likelihood of reverse sensitivity *effects* on existing or potential *industrial activities* arising, unless the potential for reverse sensitivity is insignificant.

UFD–P10 – Criteria for significant development capacity

Significant development capacity is provided for where a proposed plan change affecting an *urban environment* meets all of the following criteria:

- (3) required *development infrastructure* can be provided effectively and efficiently for the proposal, and without material impact on planned *development infrastructure* provision to, or reduction in *development infrastructure* capacity available for, other feasible, likely to be realised developments, in the short-medium term,
- (4) the proposal makes a significant contribution to meeting a need identified in a *Housing and Business Development Capacity Assessment*, or a shortage identified in monitoring for:
 - (a) housing of a particular price range or typology, particularly more affordable housing,
 - (b) business space or *land* of a particular size or locational type, or
 - (c) community or educational facilities, and
- (5) when considering the significance of the proposal's contribution to a matter in (4), this means that the proposal's contribution:
 - (a) is of high yield relative to either the forecast demand or the identified shortfall,
 - (b) will be realised in a timely (i.e. rapid) manner,

(c) is likely to be taken up, and

(d) will facilitate a net increase in district-wide up-take in the short to medium term.

Methods

UFD–M1 – Strategic planning

Otago Regional Council and *territorial authorities*:

- (1) must, where they are Tier 2 local authorities, jointly determine housing *development capacity* that is feasible and likely to be taken up in the medium and long terms through *Housing and Business Development Capacity Assessments*,
- (2) should, for other districts, jointly determine demand and potential supply responses through similar, but appropriately scaled strategic planning approaches,
- (3) must, where they are Tier 2 and Tier 3 local authorities, monitor and regularly assess and report on the supply of, and demand for, residential, commercial and industrial zoned *land development capacity* available at the regional, district and *urban environment* scales, and other local authorities are encouraged to do so,
- (4) must coordinate the redevelopment and intensification of *urban areas* and the development of expansions to *urban areas* with *infrastructure* planning and development programmes, to:
 - (a) provide the required *development infrastructure* and *additional infrastructure* in an integrated, timely, efficient and effective way, and
 - (b) identify major existing and future activities, constraints and opportunities

and for Tier 2 local authorities to achieve this through jointly developed *Future Development Strategies* and/or strategic planning, and for all other *local authorities* through strategic planning in accordance with UFD-P1,

- (5) must, where they are Tier 2 local authorities, develop housing bottom lines for *urban environments* and include those bottom lines in APP10 and in the relevant *district plans*,
- (6) must individually or jointly develop further regulatory or non-regulatory methods and actions to implement strategic and spatial plans, including to guide the detail of how, when and where development occurs, including matters of urban design, requirements around the timing, provision, and responsibilities for open space, connections and infrastructure, including by third parties, and the ongoing management of effects of urban development on matters of local importance, and must involve *mana whenua*, and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making.

UFD–M2 – District plans

Territorial authorities must prepare or amend their *district plans* as soon as practicable, and maintain thereafter, to:

- (1) identify and provide for urban expansion and intensification to occur in accordance with:
 - (a) any adopted *future development strategy* for the relevant district or region, which must be completed in time to inform the 2024 Long Term Plan, or
 - (b) where there is no *future development strategy*, a *local authority* adopted strategic plan developed in accordance with UFD-P1, for the relevant area, district or region,

- (2) in accordance with any required *Housing and Business Development Capacity Assessments* or monitoring, including any *competitiveness margin*, ensure there is always sufficient *development capacity* that is feasible and likely to be taken up and, for Tier 2 urban environments, at a minimum meets the bottom lines for housing in APP-10, and meets the identified *land* size and locational needs of the commercial and industrial sectors,
- (3) ensure that urban development is designed to:
 - (a) achieve a built form that relates well to its surrounding *environment*,
 - (b) provide for a diverse range of housing, *commercial activities*, industrial and service activities, social and cultural opportunities,
 - (c) achieve an efficient use of *land*, energy, *water* and *infrastructure*,
 - (d) minimise the potential for reverse sensitivity *effects* to arise, by managing the location of incompatible activities, within the *urban area*, and at the rural-urban interface, and
 - (e) reduce the adverse *effects* of Otago’s cooler winter climate through designing new subdivision and development to maximise passive winter solar gain and winter heat retention, including through roading, lot size, dimensions, layout and orientation,
- (4) identify and provide for locations that are suitable for urban intensification in accordance with UFD-P3,
- (5) identify and provide for locations that are suitable for urban expansion, if any, in accordance with UFD-P4,
- (6) identify and provide for *commercial activities* in accordance with UFD-P5,
- (7) identify and provide for *industrial activities* in accordance with UFD-P6, and
- (8) involve *mana whenua* and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making

UFD-M3 – Design of public spaces and surrounds

Territorial authorities must design and maintain public places and spaces, including streets, open spaces, public *buildings* and publicly accessible spaces so that they are safe, attractive, accessible and usable by everyone in the community.

Explanation

UFD-E1 – Explanation

The policies in this chapter are designed to facilitate the provision of sufficient housing and business capacity and ensure all of the region’s *urban areas* demonstrate the features of *well-functioning urban environments* and meet the needs of current and future communities. Urban intensification and urban expansion decisions should be preceded and guided by strategic planning processes that consider how best this can be achieved and in consideration of local context, values and pressures. The strategic planning process will also consider and demonstrate where, when, how and by whom the necessary *development infrastructure* and *additional infrastructure* will be provided in order to both facilitate development and change and minimise environmental impacts from it

Otago’s *urban areas* also contain significant natural, cultural and historic values and features as identified by other parts of this RPS. In all cases while facilitating urban development these values must also be

identified, maintained and, wherever possible, enhanced. This approach includes direction on different types of development within *rural areas*, managing the expansion and location of *urban areas*, and rural lifestyle and rural residential development, and directing that growth be enabled in *urban areas* to minimise the need for development to occur within *rural areas*, other than what is needed to facilitate rural community and rural productive activities. The provisions in this chapter also include direction on managing the expansion and location of *urban areas* in terms of the *effects* on and interface with *rural areas*. These provisions work closely with those in the LF-LS chapter which apply to *rural areas*.

The policies in this chapter are primarily focused on directing where urban development is and is not appropriate and under what circumstances, but provides discretion for *local authorities* to determine the detail of how that development is managed, its ultimate density, height, bulk and location, timing and sequencing, the detail of any required *development infrastructure* and *additional infrastructure* that may be needed, and allows for the consideration of particular locally significant features values and needs that contribute to the attractiveness or uniqueness of the diverse communities, landscapes, and *environments* of the region.

This more detailed determination must, however, be informed by evidence and information collated through appropriately scaled *strategic planning* processes which will identify how constraints to urban development, such as hazards, landscapes, *highly productive land*, and limits are responded to, and opportunities for meeting demand, integration with lifeline utilities, *infrastructure* and other requirements may be provided for. They will be implemented by a range of regulatory and non-regulatory methods, including joint development of *Housing and Business Assessments* and *Future Development Strategies* for Tier 2 local authorities, and similar but appropriately scaled processes undertaken in and for other areas, including regular regional, district and *urban environment* scale monitoring, analysis and evaluation. In delivering on the objectives and policies in this chapter, which relate largely to human activities and settlements, the natural, physical, and built values and features of importance to the region must be recognised and provided for. These values and features are largely identified within other chapters and provision of the RPS. They also provide detail on how they should be identified and managed. Achieving the objectives of this chapter requires consideration of those other relevant parts of this RPS.

Principal reasons

UFD–PR1 – Principal reasons

The provisions in this chapter assist in fulfilling the functions of the regional council under section 30(ba) and *territorial authorities* under section 31(aa) of the RMA to ensure sufficient *development capacity* in relation to housing and *business land* to meet the expected demands of the region and districts respectively. They also assist in giving effect to the similar but more detailed requirements of the *NPSUD*.

Urban areas are important for community well-being and are a reflection the inherently social nature of humans. Well-functioning urban areas enable social interactions and provide a wide variety (across type, location and price) of housing, employment and recreational opportunities to meet the varied and variable needs and preferences of communities, in a way that maximises the well-being of its present and future inhabitants, and respects its history, its setting and the *environment*. The combination of population growth and demographic change will result in changes in the quantity and qualities demanded of housing, employment, business, *infrastructure*, social facilities emergency services and *lifeline utilities* and other and services across the region. Upgrade and replacement of the existing development and infrastructure will also continue to be required even where growth is limited, resulting in changes in the built environment. Some of these changes will also be driven by changes in the *natural environment*, including the impacts of climate change. Urban areas are highly dynamic by nature, so the provisions in this chapter seek to manage, rather than limit, the form, function, growth and development of urban

areas in a way that best provides for the community's well-being both now and into the future.

The pace and scale of growth and change, and the scale and nature of urban environments and areas in the region is variable, meaning no single response at a regional level is appropriate in all cases. Accordingly, the process identified in this RPS remains flexible and responsive (outside of Tier 2 urban environments, which have specific requirements under the NPSUD). Key requirements of strategic planning include considering and providing for reasonably expected changes in overall quantum of demand and supply as well as changes in needs and preferences that may drive or add to these changes in demand, designing to maximise the efficient use of energy, land and infrastructure (including transport infrastructure). This can best be achieved by prioritising development in and around the region's existing urban areas as the primary focus of the region's growth and change, by enabling development within and adjacent to those urban areas, where it generally is most suitable and most efficient to do so.

These strategic planning processes provide the mechanism by which longer term issues can be considered, integration between land use and infrastructure can be achieved, and various constraints, opportunities and key trade-offs can be identified and appropriately resolved, while identifying and managing the values and resources identified in this RPS. These processes, and others should always involve *mana whenua*, at all levels of the process to ensure their views and values can be incorporated and celebrated, and their needs and aspirations appropriately provided for.

All development should seek to maximise efficient use of *water* consumption (through *water* efficient design) and disposal. Reduced consumption reduces sewerage loads, and *water* sensitive design reduces impacts on both supplying and receiving natural systems and can reduce flooding from *stormwater*, and maximise the winter capture and retention of the sun's energy, which will also assist with reducing the energy needed to heat homes in winter and can also help reduce air pollution from *solid fuel* burning for home heating. Development in more central parts of the region also need to be designed to be cognisant of minimising excess sun capture in the summer months.

Implementation of the provisions in this chapter will occur partially through *regional plans* but primarily *district plan* provisions, as well as through preparation of *future development strategies* and *structure plans* and the financial and *infrastructure* planning processes they inform. While the functions and duties of regional and territorial authorities are different, each brings different focus and responsibilities to the task of achieving *well-functioning urban environments*. Working together, and with others, in accordance with specified joint responsibilities under the NPSUD, will assist with achieving the purpose of the RMA and the outcomes sought by this RPS.

To appropriately and efficiently achieve the objectives and policies, other non-regulatory spatial planning exercises and associated action plans, agreements and *infrastructure* delivery programs will be needed to complement regulatory approaches, including setting aside the necessary funding for delivery, and partnering with *mana whenua*, central government, communities and developers to deliver the quality and quantity of urban development needed to meet demand and provide for change, improve *land* and development market competitiveness, and achieve *resilient*, efficient and attractive urban places.

Anticipated environmental results

UFD-AER1 Appropriately scaled strategic planning occurs in advance of regulatory planning, and regulatory plans are changed in a timely manner to facilitate the outcomes identified in these processes.

UFD-AER2 Urban expansion only occurs when suitable and sufficient *development infrastructure* is in place or will be provided at the time of expansion and provision is made for the needs of *additional infrastructure*.

UFD–AER3	<i>Development infrastructure</i> is in place in time to facilitate reasonably expected urban intensification or planned expansion.
UFD–AER4	New developments including redevelopments are designed to maximise energy and transport efficiency and minimise impacts on <i>water</i> quality and quantity.
UFD–AER5	The majority of new urban development is located close to services, jobs, and other urban amenities and can access those amenities by a range of transport modes including <i>active transport</i> and, where available, <i>public transport</i> .
UFD–AER6	The mode share and use of <i>active transport</i> and where available, <i>public transport</i> increases.
UFD–AER9	There is an increased range of housing types and locations and an increased number of <i>dwellings</i> , particularly more affordable housing in existing and planned <i>urban areas</i> .
UFD–AER10	The current and future needs of business are met by the availability of a range of opportunities for <i>land</i> and space that meets their requirements.
UFD–AER11	New rural lifestyle development occurs within areas appropriate for this use.
UFD-AER12	Urban expansion and urban activities are appropriately planned so that they do not adversely affect the long-term viability of the rural sector and rural communities.
UFD-AER13	<i>Mana whenua</i> are involved in strategic planning and other planning processes.

PART 4 – EVALUATION AND MONITORING

Monitoring the efficiency and effectiveness of the policy statement

ORC must monitor the efficiency and effectiveness of its RPS provisions and publish the results every five years. The RPS needs to include the procedures for monitoring its methods and policies.

Existing monitoring procedure

ORC has policies and procedures in place to gather information and to monitor and report on how well Otago's *natural and physical resources* are managed. These include State of the Environment reporting, *resource consent* monitoring, and annual reporting against objectives in the Council's Long-Term Plan. These policies and procedures will be reviewed and updated to reflect ORPS environmental goals (objectives) and ensure the right information is being gathered to monitor the environmental results anticipated.

The ORPS is relevant to all decision making under the RMA and must be given effect through *regional plans* and *district plans*. As the ORPS is given effect through *regional plans* and *district plans*, much of the data needed for monitoring will be gathered for the purpose of, or will be relevant to, the monitoring of *regional plans* and *district plans*. ORC will undertake a work programme to identify data the *territorial authorities* collect in the course of their normal monitoring regimes and make arrangements for collection and sharing of data, including information that the regional council collects that may be of benefit to *territorial authorities*.

Specific environmental indicators will be developed to monitor the impact that ORPS policies and methods are having on Otago's social, economic, cultural and environmental well-being, and whether they remain the most appropriate for achieving the RMA's purpose. These environmental indicators will be developed outside of the ORPS. This approach enables the frequency or type of indicators to be amended, in order to respond to emerging issues, improved technology and best practice, changes in the local *environment*, or societal expectations. It forms part of a continuous review and reporting cycle, resulting in policy changes and adjustments as necessary.

The ORPS needs to reflect the needs and aspirations of *mana whenua* and the wider community, so *mana whenua* and stakeholders will be encouraged to be involved with monitoring the provisions of the ORPS.

Regional Monitoring Strategy

To address the undertakings described above, ORC must develop a comprehensive integrated Regional Monitoring Strategy (RMS). This strategy will link ORC's various monitoring procedures together to reduce double handling, identify connections, and improve interrelationships, both between ORC functions and with other agencies. The strategy will help monitor the effectiveness and efficiency of the ORPS, using both quantitative and qualitative assessments, and sit alongside it as a non-statutory document.

The RMS will assist ORC with expanding its monitoring activities to respond to ORPS provisions and ensure the things measured accurately reflect policy success, including environmental, social, economic, cultural and *historic heritage* values. It will increase transparency by stating what is monitored and why.

This goes hand in hand with increasing the ORC's leadership and facilitation role in several areas, including

climate change.

PART 5 – APPENDICES AND MAPS

Appendices

APP1 – Criteria for identifying *outstanding water bodies*

Outstanding water bodies include any *water body* with one or more of the following outstanding values, noting that sub-values are not all-inclusive:

Table 4: Values of outstanding water bodies

Values	Description	Example sub-values
Ecology	A <i>water body</i> which has outstanding ecological value as a habitat for: <ul style="list-style-type: none"> • Native birds • Native fish • Other aquatic species 	Native birds, native fish, native plants, aquatic macroinvertebrates
Landscape	A <i>water body</i> that: <ol style="list-style-type: none"> (1) is an essential component of a landscape or natural feature that is “conspicuous, eminent, remarkable or iconic” within the region, and (2) has landscape, wild and/or scenic values that contain distinctive qualities which are outstanding in the context of the region. 	Scenic, association, natural characteristics (includes hydrological, ecological and geological features)
Natural character	A <i>water body</i> with naturalness that: <ol style="list-style-type: none"> (1) exhibits combination of natural processes, natural patterns and natural elements that is exceptional in the context of the region, and (2) has little to no human modification to its form, ecosystems, and the surrounding landscape. 	Natural characteristics (includes hydrological, ecological and geological features)
Recreation	A <i>water body</i> which is recognised as providing an outstanding recreational experience for an activity which is directly related to the <i>water</i> .	Angling, fishing, kayaking, rafting, jetboating
Physical	A <i>water body</i> which has an outstanding geomorphological, geological or hydrological feature which is dependent on the <i>water body’s</i> condition and functioning.	Science

APP2 – Criteria for identifying areas that qualify as *indigenous natural areas* (SNAs)

This appendix sets out the criteria for identifying significant indigenous vegetation or significant *habitats* of indigenous fauna in a specific area, so that the area qualifies as an *SNA*.

The assessment must be done using the assessment criteria in Appendix 1 and in accordance with the following principles:

- (a) **partnership:** territorial authorities engage early with mana whenua and land owners and share information about *indigenous biodiversity*, potential management options, and any support and incentives that may be available:
- (b) **transparency:** territorial authorities clearly inform mana whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to mana whenua and relevant landowners for review:
- (c) **quality:** wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner does not give access) the local authority uses the best information available to it at the time:
- (d) **access:** if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort:
- (e) **consistency:** the criteria in Appendix 1 are applied consistently, regardless of who owns the land:
- (f) **boundaries:** the boundaries of areas of significant indigenous vegetation or significant *habitat* if indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

1 What qualifies as an *SNA*

- (1) An area qualifies as an *SNA* if it meets any one of the attributes of the following four criteria:
 - (a) representativeness:
 - (b) diversity and pattern:
 - (c) rarity and distinctiveness:
 - (d) ecological context.
- (2) If an area would qualify as an *SNA* solely on the grounds that it provides *habitat* for a single indigenous fauna species that is At Risk (declining), and that the species is widespread in at least three other regions, the area does not qualify as an *SNA* unless:
 - (a) the species is rare within the region or *ecological district* where the area is located; or
 - (b) the protection of the species at that location is important for the persistence of the species as a whole.
- (3) If an area would qualify as an *SNA* solely on the grounds that it contains one or more indigenous flora species that are Threatened or At Risk (declining), and those species are widespread in at least three other regions, the area does not qualify as an *SNA* unless:
 - (a) the species is rare within the region or *ecological district* where the area is located; or
 - (b) the protection of the species at that location is important for the persistence of the species as a whole.

2 Context for assessment

- (1) The context for an assessment of an area is: (a) its *ecological district*; and (b) for the rariy

assessment only, its *ecological district*, its region and the national context.

3 Manner and form of assessment

- (1) Every assessment must include at least:
 - (a) a map of the area; and
 - (b) a general description of its significant attributes, with reference to relevant criteria (as specified below); and
 - (c) a general description of the indigenous vegetation, indigenous fauna, *habitat*, and ecosystems present; and
 - (d) additional information, such as the key threats, pressures, and management requirements; and
 - (e) for *SNAs* in areas of Crown-owned land referred to in clause 3.8(8), the conservation management strategy or plan or national park management plan that applies to the area.
- (2) An assessment under this appendix must be conducted by a suitably qualified ecologist (which, in the case of an assessment of a geothermal ecosystem, requires an ecologist with geothermal expertise).

A Representativeness criterion

- (1) Representativeness is the extent to which the indigenous vegetation or *habitat* of indigenous fauna in an area is typical or characteristic of the *indigenous biodiversity* of the relevant *ecological district*.
- (2) Significant indigenous vegetation has ecological integrity typical of the indigenous vegetation of the *ecological district* in the present-day environment. It includes seral (regenerating) indigenous vegetation that is recovering following natural or induced disturbance, provided species composition is typical of that type of indigenous vegetation.
- (3) Significant indigenous fauna *habitat* is that which supports the typical suite of indigenous animals that would occur in the present-day environment. *Habitat* of indigenous fauna may be indigenous or exotic.
- (4) Representativeness may include commonplace indigenous vegetation and the *habitats* of indigenous fauna, which is where most *indigenous biodiversity* is present. It may also include degraded indigenous vegetation, ecosystems and *habitats* that are typical of what remains in depleted *ecological districts*. It is not restricted to the best or most representative examples, and it is not a measure of how well that indigenous vegetation or *habitat* is protected elsewhere in the *ecological district*.
- (5) When considering the typical character of an *ecological district*, any highly developed land or built-up areas should be excluded.
- (6) The application of this criterion should result in identification of indigenous vegetation and *habitats* that are representative of the full range and extent of ecological diversity across all environmental gradients in an *ecological district*, such as climate, altitude, landform, and soil sequences. The ecological character and pattern of the indigenous vegetation in the *ecological district* should be described by reference to the types of indigenous vegetation and the landforms on which it occurs,

Attributes of representativeness

- (7) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:
 - (a) Indigenous vegetation that has ecological integrity that is typical of the character of the *ecological district*:
 - (b) *habitat* that supports a typical suite of indigenous fauna that is characteristic of the *habitat* type in the *ecological district* and retains at least a moderate range of species expected for

that *habitat* type in the *ecological district*.

B Diversity and pattern criterion

- (1) Diversity and pattern is the extent to which the expected range of diversity and pattern of biological and physical components within the relevant *ecological district* is present in an area.

Key assessment principles

- (2) **Diversity of biological components** is expressed in the variation of species, communities, and ecosystems. Biological diversity is associated with variation in physical components, such as geology, soils/substrate, aspect/exposure, altitude/depth, temperature, and salinity.
- (3) **Pattern** includes changes along environmental and landform gradients, such as ecotones and sequences.
- (4) **Natural areas** that have a wider range of species, *habitats* or communities or wider environmental variation due to ecotones, gradients, and sequences in the context of the *ecological district*, rate more highly under this criterion.

Attributes of diversity and pattern

- (5) An area that qualifies as a significant natural area under this criterion has at least one of the following attributes:
- (a) at least a moderate diversity of indigenous species, vegetation, *habitats* of indigenous fauna or communities in the context of the *ecological district*:
 - (b) presence of indigenous ecotones, complete or partial gradients or sequences.

C Rarity and distinctiveness criterion

- (1) Rarity and distinctiveness is the presence of rare or distinctive indigenous taxa, *habitats* of indigenous fauna, indigenous vegetation or ecosystems

Key assessment principles

- (2) **Rarity** is the scarcity (natural or induced) of indigenous elements: species, *habits*, vegetation, or ecosystems. Rarity includes elements that are uncommon or threatened.
- (3) **The list of Threatened and At Risk species** is regularly updated by the Department of Conservation. Rarity at a regional or *ecological district* scale is defined by regional or district lists or determined by expert ecological advice. The significance of nationally listed Threatened and At Risk species should not be downgraded just because they are common within a region or *ecological district*.
- (4) **Depletion of indigenous vegetation or ecosystems** is assessed using *ecological districts* and land environments.
- (5) **Distinctiveness** includes distribution limits, type localities, local endemism, relict distributions and species ecological or scientific features.

Attributes of rarity and distinctiveness

- (6) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:
- (a) provides *habitat* for an indigenous species that is listed as Threatened or At Risk (declining) in the New Zealand Threat Classification System lists:
 - (b) an indigenous vegetation type or an indigenous species that is uncommon within the region or *ecological district*:
 - (c) an indigenous species or plant community at or near its natural distributional limit:
 - (d) indigenous vegetation that has been reduced to less than 20 per cent of its prehuman extent in the *ecological district*, region, or land environment:

- (e) indigenous vegetation or *habitat* of indigenous fauna occurring on naturally uncommon ecosystems:
- (f) the type locality of an indigenous species:
- (g) the presence of a distinctive assemblage or community of indigenous species:
- (h) the presence of a special ecological or scientific feature.

D Ecological context criterion

- (1) Ecological context is the extent to which the size, shape, and configuration of an area within the wider surrounding landscape contributes to its ability to maintain *indigenous biodiversity* or affects the ability of the surrounding landscape to maintain its *indigenous biodiversity*.

Key assessment principles

- (2) Ecological context has two main assessment principles:
- (a) the characteristics that help maintain *indigenous biodiversity* (such as size, shape, and configuration) in the area; and
 - (b) the contribution the area makes to protecting *indigenous biodiversity* in the wider landscape (such as by linking, connecting to or buffering other natural areas, providing 'stepping stones' of *habitat* or maintaining ecological integrity).

Attributes of ecological context

- (3) An area that qualifies as an *SNA* under this criterion has at least one of the following attributes:
- (a) at least moderate size and compact shape, in the context of the relevant *ecological district*:
 - (b) well-buffered relative to remaining *habitats* in the relevant *ecological district*:
 - (c) provides an important full or partial buffer to, or link between, one or more important *habitats* of indigenous fauna or *significant natural areas*:
 - (d) important for the natural functioning of an ecosystem relative to remaining *habitats* in the *ecological district*; and
 - (e) an area that is important for a population of indigenous fauna during a critical part of their lifecycle, either seasonally or permanently, e.g. for feeding, resting, nesting, breeding, spawning or refuges from predation.

APP3 – Principles for biodiversity offsetting

These principles apply to the use of biodiversity offsets for adverse effects on *indigenous biodiversity*. An applicant is to comply with principles 1 to 6 and have regard to the remaining principles as appropriate.

- (1) **Adherence to effects management hierarchy:** A biodiversity offset is a commitment to redress more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.
- (2) **When *biodiversity offsetting* is not appropriate:** Biodiversity offsets are not appropriate in situations where *indigenous biodiversity* values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:
 - (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the *indigenous biodiversity* affected:
 - (b) effects on *indigenous biodiversity* are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible:
 - (c) there are no technically feasible options by which to secure gains within an acceptable timeframe.
 - (d) the loss from an *ecological district* of any individuals of Threatened *taxa*, other than kanuka (*Kunzea robusta* and *Kunzea serotina*), under the New Zealand Threat Classification System (Townsend et al, 2008); or
 - (e) the likely worsening of the conservation status of any *indigenous biodiversity* as listed under the New Zealand Threat Classification System (Townsend et al, 2008); or
 - (f) the removal or loss of health and *resilience* of a naturally uncommon ecosystem type that is associated with *indigenous vegetation* or *habitat* of indigenous fauna.
- (3) **Net gain:** This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in *indigenous biodiversity* values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the *indigenous biodiversity* values at the offset site are equivalent to or exceed those being lost at the impact site:
 - (a) types of *indigenous biodiversity*, including when indigenous species depend on introduced species for their persistence; and
 - (b) amount; and
 - (c) condition (structure and quality).
- (4) **Additionality:** A biodiversity offset achieves gains in *indigenous biodiversity* above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.
- (5) **Leakage:** Biodiversity offset design and implementation avoids displacing hard to other *indigenous biodiversity* in the same or any other location.
- (6) **Long-term outcomes:** A biodiversity offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.
- (7) **Landscape context:** *Biodiversity offsetting* is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same *ecological district*. The action considers the landscape context of both the impact site and the offset site, taking into

account interactions between species, *habitats* and ecosystems, special connections, and *ecosystem function*.

- (8) **Time lags:** The delay between loss of, or effects on, *indigenous biodiversity* values at the impact site and the gain or maturity of *indigenous biodiversity* at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).
- (9) **Science and mātauraka Māori:** The design and implementation of a biodiversity offset is a documented process informed by science and mātauraka Māori.
- (10) **Mana whenua and stakeholder participation:** Opportunity for the effective and early participation of mana whenua and stakeholders is demonstrated when planning biodiversity offsets, including their evaluation, selection, design, implementation, and monitoring.
- (11) **Transparency:** The design and implementation of a biodiversity offset, and communication of its results to the public, is undertaken in a transparent and timely manner.

APP4 – Principles for biodiversity compensation

These principles apply to the use of *biodiversity compensation* for adverse effects on *indigenous biodiversity*. An applicant is to comply with principles 1 to 6 and have regard to the remaining principles as appropriate.

- (1) Adherence to effects management hierarchy: *Biodiversity compensation* is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.
- (2) When *biodiversity compensation* is not appropriate: *Biodiversity compensation* is not appropriate where *indigenous biodiversity* values are not able to be compensated for. Examples of *biodiversity compensation* not being appropriate include where:
 - (a) the *indigenous biodiversity* affected is irreplaceable or vulnerable;
 - (b) effects on *indigenous biodiversity* are uncertain, unknown, or a little understood, but potential effects are significantly adverse or irreversible;
 - (c) there are no technically feasible options by which to secure a proposed net gain within acceptable timeframes.
 - (d) the loss from an ecological district of Threatened taxa, other than kanuka (*Kunzea robusta* and *Kunzea serotina*), under the New Zealand Threat Classification System (Townsend et al, 2008); or,
 - (e) removal or loss of viability of the *habitat* of a Threatened *indigenous species* of fauna or flora under the New Zealand Threat Classification System (Townsend et al, 2008),
 - (f) removal or loss of health and *resilience* of a naturally uncommon ecosystem type that is associated with *indigenous vegetation* or *habitat* of indigenous fauna,
 - (g) the likely worsening of the conservation status of any Threatened or At Risk *indigenous biodiversity* listed under the New Zealand Threat Classification System (Townsend et al, 2008).
- (3) scale of biodiversity compensation: The *indigenous biodiversity* values lost through the activity to which the *biodiversity compensation* applies are addressed by positive effects to *indigenous biodiversity* (including when indigenous species depend on introduced species for their persistence), that outweigh the adverse effects.
- (4) Additionality: *Biodiversity compensation* achieves gains in *indigenous biodiversity* above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse effects of the activity.
- (5) Leakage: *Biodiversity compensation* design and implementation avoids displacing harm to other *indigenous biodiversity* in the same or any other location.
- (6) Long-term outcomes: *Biodiversity compensation* is managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.
- (7) Landscape context: *Biodiversity compensation* is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same *ecological district*. The action considers the landscape context of both the impact site and the compensation site taking into account interactions between species, *habitats*, and ecosystems, spatial connections, and

ecosystem function.

- (8) Time lags: The delay between loss of, or effects on, *indigenous biodiversity* values at the impact site and the gain or maturity of *indigenous biodiversity* at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years)
- (9) Trading up: When trading up forms part of biodiversity compensation, the proposal demonstrates that the *indigenous biodiversity* gains are demonstrably greater or higher than those lost. The proposal also shows the values are not to *Threatened or At Risk (declining) species* or to species considered vulnerable or irreplaceable.
- (10) Financial contributions: A financial contribution is only considered if:
 - (a) there is no effective option available for delivering biodiversity gains on the ground; and
 - (b) it directly funds an intended biodiversity gain or benefit that complies with the rest of these principles.
- (11) Science and mātauraka Māori: The design and implementation of *biodiversity compensation* is a documented process informed by science, and mātauraka Māori.
- (12) Mana whenua and stakeholder participation: Opportunity for the effective and early participation of mana whenua and stakeholders is demonstrated when planning for biodiversity compensation, including its evaluation, selection, design, implementation, and monitoring.
- (13) Transparency: The design and implementation of biodiversity compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.
- (14) Achievability: The *biodiversity compensation* outcome is demonstrably achievable.

APP4A – Principles for aquatic offsetting

These principles apply to the use of aquatic offsets for the loss of extent or values of natural inland wetlands and rivers (“extent or values” below).

1. Adherence to effects management hierarchy: An aquatic offset is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.

2. When aquatic offsetting is not appropriate: Aquatic offsets are not appropriate in situations where, in terms of conservation outcomes, the extent or values cannot be offset to achieve no net loss, and preferably a net gain, in the extent and values. Examples of an offset not being appropriate would include where:

(a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the extent or values affected:

(b) effects on the extent or values are uncertain, unknown, or little understood, but potential effects are significantly adverse:

(c) there are no technically feasible options by which to secure proposed no net loss and preferably a net gain outcome within an acceptable timeframe.

3. No net loss and preferably a net gain: This is demonstrated by a like-for-like quantitative loss/gain calculation, and is achieved when the extent or values gained at the offset site (measured by type, amount and condition) are equivalent to or exceed those being lost at the impact site.

4. Additionality: An aquatic offset achieves gains in extent or values above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.

5. Leakage: Aquatic offset design and implementation avoids displacing harm to other locations (including harm to existing biodiversity at the offset site).

6. Long-term outcomes: An aquatic offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.

7. Landscape context: An aquatic offset action is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial and hydrological connections, and ecosystem function.

8. Time lags: The delay between loss of extent or values at the impact site and the gain or maturity of extent or values at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).

9. Science and mātauranga Māori: The design and implementation of an aquatic offset is a documented process informed by science where available, and mātauranga Māori at place.

10. Tangata whenua or stakeholder participation: Opportunity for the effective and early participation of tangata whenua or stakeholders is demonstrated when planning aquatic offsets, including their evaluation, selection, design, implementation, and monitoring.

11. Transparency: The design and implementation of an aquatic offset, and communication of its results

to the public, is undertaken in a transparent and timely manner.

APP4B – Principles for aquatic compensation

These principles apply to the use of aquatic compensation for the loss of extent or values of natural inland wetlands and rivers (“extent or values” below).

1. Adherence to effects management hierarchy: Aquatic compensation is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.

2. When aquatic compensation is not appropriate: Aquatic compensation is not appropriate where, in terms of conservation outcomes, the extent or values are not able to be compensated for. Examples of aquatic compensation not being appropriate would include where:

(a) the affected part of the natural inland wetland or river bed, or its values, including species, are irreplaceable or vulnerable:

(b) effects on the extent or values are uncertain, unknown, or little understood, but potential effects are significantly adverse:

(c) there are no technically feasible options by which to secure gains within an acceptable timeframe.

3. Scale of aquatic compensation: The extent or values to be lost through the activity to which the aquatic compensation applies are addressed by positive effects that outweigh the adverse effects.

4. Additionality: Aquatic compensation achieves gains in extent or values above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse effects of the activity.

5. Leakage: Aquatic compensation design and implementation avoids displacing harm to other locations (including harm to existing biodiversity at the compensation site).

6. Long-term outcomes: Aquatic compensation is managed to secure outcomes of the activity that last as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.

7. Landscape context: An aquatic compensation action is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial and hydrological connections, and ecosystem function.

8. Time lags: The delay between loss of extent or values at the impact site and the gain or maturity of extent or values at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).

9. Trading up: When trading up forms part of aquatic compensation, the proposal demonstrates that the aquatic extent or values gained are demonstrably of greater or higher value than those lost. The proposal also shows the values lost are not to Threatened or At Risk/Declining species or to species considered vulnerable or irreplaceable.

10. Financial contribution: A financial contribution is only considered if it directly funds an intended aquatic gain or benefit that complies with the rest of these principles.

11. Science and mātauranga Māori: The design and implementation of aquatic compensation is a documented process informed by science where available, and mātauranga Māori at place.

12. Tangata whenua or stakeholder participation: Opportunity for the effective and early participation of tangata whenua or stakeholders is demonstrated when planning aquatic compensation, including its evaluation, selection, design, implementation, and monitoring.

13. Transparency: The design and implementation of aquatic compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.

APP5 – Species prone to *wilding conifer* spread

Table 5: Species prone to *wilding conifer* spread

Common name	Botanical name
Big cone pine	<i>Pinus coulteri</i>
Bishops pine	<i>Pinus muricata</i>
Contorta (lodgepole) pine	<i>Pinus contorta</i>
Corsican pine, Black pine	<i>Pinus nigra</i>
Douglas fir	<i>Pseudotsuga menziesii</i>
Dwarf mountain pine	<i>Pinus uncinata</i>
Japanese cedar	<i>Cryptomeria japonica</i>
Japanese larch	<i>Larix kaempferi</i>
Larch	<i>Larix decidua</i>
Lawson's cypress	<i>Chamaecyparis lawsoniana</i>
Macrocarpa	<i>Cupressus macrocarpa</i>
Maritime pine	<i>Pinus pinaster</i>
Mountain pine	<i>Pinus mugo</i>
Norfolk Island pine	<i>Araucaria heterophylla</i>
Norway spruce	<i>Picea abies</i>
Patula pine	<i>Pinus patula</i>
Pine	<i>Pinus sp./Pine</i>
Ponderosa pine	<i>Pinus ponderosa</i>
Radiata pine	<i>Pinus radiata</i>
Scots pine	<i>Pinus sylvestris</i>
Sitka spruce	<i>Picea sylvestris</i>
Slash pine	<i>Pinus elliottii</i>
Spruce	<i>Picea sp.</i>
Strobus pine	<i>Pinus strobus</i>
Western red cedar	<i>Thuja plicata</i>
Western white pine	<i>Pinus monticola</i>

APP6 – Methodology for *natural hazard risk assessment*

Undertake the following four step process to determine the *natural hazard risk*.

Step 1 – Determine the likelihood

- (1) Assess the likelihood of three *natural hazard* scenarios occurring, representing a high likelihood, median likelihood, and the maximum credible event, using the best available information,
- (2) Use table 6 to assign a likelihood descriptor to the three natural hazard scenarios.
- (3) The likelihood assessment shall include consideration of the *effect of climate change* and should use the Shared Socio-Economic Pathway (SSP) scenarios or Representative Concentration Pathways (RCP) scenarios provided in the National Adaptation Plan.

Table 6: Likelihood scale

Likelihood	Indicative frequency
Almost certain	Up to once every 50 years (2% AEP)
Likely	Once every 51 – 100 years (2 – 1% AEP)
Possible	Once every 101 – 1,000 years (1 – 0.11% AEP)
Unlikely	Once every 1,001 – 2,500 years (0.1 – 0.04% AEP)
Rare	2,501 years plus (<0.04% AEP)

Step 2 – *Natural hazard consequence*

Advice note 1: Table 7 shall be utilised by *local authorities* determining the level of *risk* presented by a hazard(s) when undertaking plan change or plan review processes.

Advice note 2: The matters listed in (1) to (11) provide useful considerations for *local authorities* and are the primary considerations for resource consent applications triggering a *risk assessment* requirement in accordance with HAZ-NH-M3(7)(a) or HAZ-NH-M4(7)(a).

Using Table 7 and the matters listed in (1) to (10) below, assess the consequence (catastrophic, major, moderate, minor, or insignificant) of the *natural hazard* scenarios identified in step 1 considering:

- (1) the nature and scale of activities in the area,
- (2) individual and community vulnerability and *resilience*,
- (3) impacts on individual and community health and safety,
- (4) impacts on social, cultural and economic well-being,
- (5) impacts on *infrastructure* and property, including access and services,
- (6) available and viable *risk* reduction and hazard mitigation measures,
- (7) *lifeline utilities*, essential and emergency services, and their co-dependence,
- (8) implications for civil defence agencies and emergency services,
- (9) the changing *natural hazard* environment,
- (10) cumulative *effects* including *multiple* and *cascading hazards*, where present, and
- (11) factors that may exacerbate a *natural hazard* event including the *effects* of *climate change*.

Table 7: Consequence table

Severity of Impact	Built				Health & Safety
	Social/Cultural	Buildings	Critical Buildings	Lifelines	
Catastrophic (V)	≥25% of <i>buildings</i> of social/cultural significance within hazard impact area have functionality compromised	≥50% of <i>buildings</i> within hazard impact area have functionality compromised	≥25% of critical facilities within hazard impact area have functionality compromised	Out of service for > 1 month (affecting ≥20% of the town/city population) OR suburbs out of service for > 6 months (affecting < 20% of the town/city population)	> 10 dead and/or > 1001 injured
Major (IV)	11-24% of <i>buildings</i> of social/cultural significance within hazard impact area have functionality compromised	21-49% of <i>buildings</i> within hazard impact area have functionality compromised	11-24% of <i>buildings</i> within hazard impact area have functionality compromised	Out of service for 1 week – 1 month (affecting ≥20% of the town/city population) OR suburbs out of service for 6 weeks to 6 months (affecting < 20% of the town/city population)	1 – 10 dead and/or 101 – 1000 injured
Moderate (III)	6-10% of <i>buildings</i> of social/cultural significance within hazard impact area have functionality compromised	11-20% of <i>buildings</i> within hazard impact area have functionality compromised	6-10% of <i>buildings</i> within hazard impact area have functionality compromised	Out of service for 1 day to 1 week (affecting ≥20% of the town/city population) OR suburbs out of service for 1 week to 6 weeks (affecting < 20% of the town/city population)	11 – 100 injured
Minor (II)	1-5% of <i>buildings</i> of social/cultural significance within hazard impact area have functionality compromised	2-10% of <i>buildings</i> within hazard impact area have functionality compromised	1-5% of <i>buildings</i> within hazard impact area have functionality compromised	Out of service for 2 hours to 1 day (affecting ≥20% of the town/city population) OR suburbs out of service for 1 day to 1 week (affecting < 20% of the town/city population)	10 injured
Insignificant (I)	No <i>buildings</i> of social/cultural significance within hazard impact area have functionality compromised	< 1% of <i>buildings</i> within hazard impact area have functionality compromised	No damage within hazard impact area, fully functional	Out of service for up to 2 hours (affecting ≥20% of the town/city population) OR suburbs out of service for up to 1 day (affecting < 20% of the town/city population)	No dead No injured

When assessing consequences within this matrix, the final level of impact is assessed on the ‘first past the post’ principle, in that the consequence with the highest severity of impact applies. For example, if a *natural hazard* event resulted in moderate severity of impact across all of the categories, with the exception of critical *buildings* which had a ‘major’ severity of impact, the major impact is what the proposal would be assessed on. If a *natural hazard* event resulted in all of the consequences being at the same level (for example, all of the consequences are rated moderate), then the level of consequence is considered to be moderate.

Step 3 – Assessing *natural hazard risk*

Using the information within steps 1 and 2 above, complete Table 8 for each of the hazard scenarios considered, and identify if the *risk* from each of the scenarios is acceptable, tolerable, or significant

Table 8: Risk table

Likelihood	Consequences				
	Insignificant	Minor	Moderate	Major	Catastrophic
Almost certain	Green	Yellow	Yellow	Red	Red
Likely	Green	Green	Yellow	Yellow	Red
Possible	Green	Green	Yellow	Yellow	Red
Unlikely	Green	Green	Green	Green	Yellow
Rare	Green	Green	Green	Green	Yellow
Green, Acceptable Risk: Yellow, Tolerable Risk: Red, Significant Risk, Hatching: Quantitative assessment required					

Notes:

Table 8 above has been included as a region-wide baseline. As set out in HAZ–NH–M2(1) local authorities are required to undertake a consultation process with communities, stakeholders and partners regarding risk levels thresholds and develop a risk table at a district or community scale. This region-wide baseline is to be used in the absence of a district or community scale risk table being developed.

Step 4 – Undertake a quantitative risk assessment

While Steps 1-3 will qualitatively categorise natural hazard risk based on a community’s understanding and acceptance level of risk, it will not provide quantitative understanding of the risk a natural hazard presents to the built environment, or health and safety.

If the assessment undertaken in Steps 1-3 determines that one of the three natural hazard scenarios generate risk that is significant, or a tolerable risk with a catastrophic consequence, undertake a quantitative risk assessment utilising the following methodology:⁵¹

- (1) Based on the likelihood of a natural hazard event within the hazard zone (see Step 1), and including the potential impacts of climate change and sea level rise, select a representative range

⁵¹ This methodology has been developed in general accordance with the Australian Geomechanics Society, 2007 methodology, which may usefully provide additional guidance. (New footnote attributed to 00138.147 QLDC)

of at least three hazard scenarios with varying likelihoods to model,⁵² including the maximum credible event.

- (2) Model the Annual Individual Fatality Risk (AIFR)⁵³ and Annual Property Risk (APR)⁵⁴ for the range of hazard scenarios across the hazard zone, and create loss exceedance distributions.
- (3) Analyse loss exceedance distributions and determine losses.
- (4) Assign the risk level:
 - (a) for areas of new development where the greatest AIFR or APR is:
 - (i) less than 1×10^{-6} per year, the *risk* is re-categorised as acceptable,
 - (ii) between 1×10^{-6} and 1×10^{-5} per year, the *risk* is re-categorised as tolerable, or
 - (iii) greater than 1×10^{-5} per year, the *risk* is re-categorised as significant.
 - (b) for areas with existing development, where the greatest AIFR or APR is:
 - (i) less than 1×10^{-5} per year, the *risk* is re-categorised as acceptable;
 - (ii) between 1×10^{-5} and 1×10^{-4} per year, the *risk* is re-categorised as tolerable; or
 - (iii) greater than 1×10^{-4} per year, the *risk* is re-categorised as significant.

AIFR and APR are the selected *risk* metrics as they represent the likely consequences of a wide range of *natural hazards*. For example, some *natural hazards*, generally, do not have the capacity to cause fatalities, but may result in widespread damage to property, while other *natural hazards* have a high capacity to cause fatalities. A first-past-the-post principle to the re-categorisation of *risk* is applied to ensure that decisions are based on the greatest *risk* present between the two metrics.

If the level of knowledge or uncertainty regarding the likelihood or consequences of a *natural hazard* event precludes the use of Step 4, then a precautionary approach to assessing and managing the *risk* should be applied, as set out in HAZ–NH–P5.

⁵² The model should include an analysis of uncertainty.

⁵³ Annual probability that an individual most at risk is killed in any one year as a result of the hazards occurring.

⁵⁴ Annual probability of total property loss (relating to permanent structures) as a result of the hazards occurring.

APP7 – Identifying *wāhi tūpuna*

This appendix is a guide to assist in identifying *wāhi tūpuna*. It is not a complete list of all *wāhi tūpuna* in Otago.

Kāi Tahu use the term '*wāhi tūpuna*' to describe landscapes and places that embody the relationship of mana whenua and their culture and traditions with their ancestral lands, *water*, sites, *wāhi tapu* and other *taoka*. It is important to understand this concept in the context of the distinctive seasonal lifestyle that Kāi Tahu evolved in the south. The sites and resources used by Kāi Tahu are spread throughout Otago. These places did not function in isolation from one another but were part of a wider cultural setting and pattern of seasonal resource use. The different elements of these areas of significance include:

Table 9: Areas of significance to Kāi Tahu

Area of significance	Explanation
Ara Tawhito	Ancient trails. A network of trails crossed the region linking the permanent villages with seasonal inland campsites and along the coast, providing access to a range of <i>mahika kai</i> resources and inland stone resources, including pounamu and silcrete.
Kāika	Permanent settlements or occupation sites. These occurred throughout Otago, particularly in coastal areas.
Nohoaka	These were a network of seasonal settlements. Kāi Tahu were based largely on the coast in permanent settlements and ranged inland on a seasonal basis. Iwi history shows, through place names and whakapapa, continuous occupation of a network of seasonal settlements, which were distributed along the main river systems from the source lakes to the sea.
Wāhi <i>mahika kai</i>	The places where the customary gathering of food or natural materials occurs. <i>Mahika kai</i> is one of the cornerstones of Kāi Tahu culture.
Mauka	Important mountains. Mountains are of great cultural importance to Kāi Tahu. Many are places of spiritual presence, and prominent peaks in the district are linked to Kāi Tahu creation stories, identity and mana.
Marae	The marae atea and the buildings around it, including the wharenuī, wharekai, church and urupā. The sheltering havens of Kāi Tahu cultural expression, a place to gather, kōrero and to welcome visitors. Marae are expressions of Kāi Tahu past and present.
Repo raupō	Wetlands or swamps. These provide valued habitat for <i>taoka</i> species and <i>mahika kai</i> resources.
Taumanu	Fishing sites. These are traditional fishing easements which have been gazetted by the South Island Māori Land Court.
Tauraka waka	Canoe mooring sites. These were important for transport and gathering <i>kai</i> .
Tūāhu	Places of importance to Māori identity. These are generally sacred ground and marked by an object, or a place used for purposes of divination.
Tuhituhi neherā	Rock art sites.
Umu, Umu-tī	Earth ovens. Used for cooking <i>tī-kōuka</i> (cabbage tree), are found in a diversity of areas, including old stream banks and ancient river terraces, on low spurs or ridges, and in association with other features, such as <i>kāika</i> <i>nohoaka</i> .
Urupā	Human burial sites. These include historic burial sites associated with <i>kāika</i> , and contemporary sites, such as the urupā at Ōtākou and Puketeraki marae.

Wāhi kōhatu	Rock outcrops. Rocky outcrops provided excellent shelters and were intensively occupied by Māori from the moa-hunter period into early European settlement during seasonal hikoī. Tuhituhi neherā (rock art) may be present due to the occupation of such places by the tūpuna.
Wāhi pakaka	Battle sites. Historic battle sites occur throughout Otago, such as that at Ohinepouwera (Waikōuaiti sandspit) where Taoka's warriors camped for six months while they laid siege on Te Wera on the Huriawa Peninsula.
Wāhi paripari	Cliff areas.
Wāhi taoka	Resources, places and sites treasured by <i>mana whenua</i> . These valued places reflect the long history and association of Kāi Tahu with Otago.
Wāhi tapu	Places sacred to Kāi Tahu. These occur throughout Otago and include urupā (human burial sites).
Wāhi tohu	Features used as location markers within the landscape. Prominent landforms formed part of the network of trails along the coast and inland.
Wai Māori	Freshwater areas important to Māori, including wai puna (springs), roto (lakes) and awa (rivers).

APP8 – Identification criteria for places and areas of *historic heritage*

1. Identifying Areas and Places with Historic Heritage

A place or area is considered to have *historic heritage* if it meets any one or more of criteria below: ⁵⁵

Archaeological	The place provides, or is demonstrably likely to provide, physical evidence of human activity that could be investigated using archaeological methods. Evidence obtained from an archaeological investigation could be expected to be of significance in answering research questions, or as a new or important source of information about an aspect of New Zealand history.
Architectural	The place reflects identifiable methods of construction or architectural styles or movements. When compared with other similar examples, or in the view of experts or relevant practitioners, it has characteristics reflecting a significant development in this country's architecture. Alternatively, or in conjunction with this, the place is an important or representative example of architecture associated with a particular region or the wider New Zealand landscape.
Cultural	The place reflects significant aspects of an identifiable culture and it can be demonstrated that the place is valued by the associated cultural group as an important or representative expression of that culture.
Historic	The place contributes to the understanding of a significant aspect of New Zealand history and has characteristics making it particularly useful for enhancing understanding of this aspect of history, especially when compared to other similar places.
Scientific	The place includes, or is demonstrably likely to include, fabric expected to be of significance in answering research questions or a new or important source of information about an aspect of New Zealand's cultural or historical past through the use of specified scientific methods of enquiry.
Social	The place has a clearly associated community that developed because of the place, and its special characteristics. The community has demonstrated that it values the place to a significant degree because it brings its members together, and they might be expected to feel a collective sense of loss if they were no longer able to use, see, experience or interact with the place.

⁵⁵ The identification criteria in APP8 follows O'Brian, R and Barnes-Wylie J, *Guidelines for Assessing Historic Places and Historic Areas for the New Zealand Heritage List/Rārangī Kōrero (2019) which has been adopted by Heritage New Zealand Pouhere Taonga as its Significance Assessment Guidelines, with the exception that the 'Aesthetic' criterion has been removed.* (00123.003 Heritage New Zealand Pouhere Taonga, 00139.239 DCC)

- Spiritual** The place is associated with a community or group who value the place for its religious, mystical or sacred meaning, association or symbolism. The community or group regard the place with reverence, veneration and respect, and they might be expected to feel a collective sense of loss if they were no longer able to use, see, experience or interact with the place.
- Technological** The place includes physical evidence of a technological advance or method that was widely adopted, particularly innovative, or which made a significant contribution to New Zealand history
OR
The place reflects significant technical accomplishment in comparison with other similar examples or, in the view of experts or practitioners in the field, has characteristics making the place particularly able to contribute towards our understanding of this technology.
- Traditional** The place reflects a tradition that has been passed down by a community or culture for a long period, usually generations and especially since before living memory, and has characteristics reflecting important or representative aspects of this tradition to a significant extent.

Identification of Special or Outstanding Heritage Values or Qualities

Where, for example, in a resource consent or notice of requirement process, a place or an area that has been identified as having historic heritage values or qualities, and is required to be assessed to determine whether those values or qualities are special or outstanding, that assessment must:

- (1) utilise the following criteria:
 - (a) the extent to which the place reflects important or representative aspects of Otago or New Zealand history,
 - (b) the association of the place with events, persons, or ideas of importance in Otago or New Zealand history,
 - (c) the potential of the place to provide knowledge of Otago or New Zealand history,
 - (d) the importance of the place to *mana whenuas*,
 - (e) the community association with, or public esteem for, the place,
 - (f) the potential of the place for public education,
 - (g) the technical accomplishment, value, or design of the place,
 - (h) the symbolic or commemorative value of the place,
 - (i) the importance of identifying historic places known to date from an early period of Otago's or New Zealand's settlement,
 - (j) the importance of identifying rare types of historic places, and
 - (k) the extent to which the place forms part of a wider historical and cultural area, and
- (2) apply the method set out in "Part Two: Applying the section 66(3) criteria" of Assessing Historic Places and Historic Areas for the New Zealand Heritage List/Rārangi Kōrero (2019).

APP10 – Housing bottom lines

Table 10: Bottom lines for development capacity

Tier 2 Urban Environment	Short- Medium Term (0-10 years)	Long Term (11-30 years)
Queenstown		
Dunedin		

Note: This schedule will be amended or reamended in accordance with the National Policy Statement for Urban Development 2020, without using RMA Schedule 1, as soon as practicable following the publication of any relevant *Housing and Business Development Capacity Assessment*, the first of which is due to be completed by 31 July 2021.

APP11 – Accidental Discovery Protocol

If an unidentified *archaeological site* is located during works, the following applies:

1. Work must cease immediately at that place and within 20m around the site.
2. The contractor must shut down all machinery, secure the area, and advise the Site Manager.
3. The Site Manager must secure the site and notify the Heritage New Zealand Regional Archaeologist. Further assessment by an archaeologist may be required.
4. If the site is of Māori origin, the Site Manager must notify the Heritage New Zealand Regional Archaeologist and the appropriate papatipu rūnaka of the discovery and ensure site access to enable appropriate cultural procedures and tikaka to be undertaken, as long as all statutory requirements under legislation are met (Heritage New Zealand Pouhere Taonga Act, Protected Objects Act).
5. If human remains (kōiwi) are uncovered the Site Manager must advise the Heritage New Zealand Regional Archaeologist, NZ Police and the appropriate papatipu rūnaka and the above process under 4 must apply. Papatipu rūnaka will lead the management of any kōiwi tangata (human remains of a Māori person) that have been uncovered, in line with the Te Rūnanga o Ngāi Tahu Kōiwi Tangata policy 2019. Remains are not to be moved until such time as papatipu rūnaka and Heritage New Zealand have responded.
6. Works affecting the *archaeological site* and any human remains (kōiwi) must not resume until Heritage New Zealand Pouhere Taonga gives written approval for work to continue. Works affecting a site of Māori origin or containing kōiwi tangata must not resume until papatipu rūnaka give written approval for work to continue. Further assessment by an archaeologist may be required.
7. Where iwi so request, any information recorded as the result of the find such as a description of location and content, is to be provided for their records.
8. Heritage New Zealand Pouhere Taonga will advise if an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 is required for works to continue.

It is an offence under Section 87 of the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an *archaeological site* without an authority from Heritage New Zealand irrespective of whether the works are permitted or consent has been issued under the Resource Management Act.

APP12 – Specified highly mobile fauna

Scientific Name	Common name	Ecosystem	Threat category	Found in Otago?	Listed in ORC's Schedule?
<i>Anarhynchus frontalis</i>	ngutu parore/wrybill	Coastal/riverine	Threatened (Nationally Increasing)	Yes	Yes
<i>Anas chlorotis</i>	pāteke/brown teal	wetland/riverine	Threatened (Nationally increasing)		Yes
<i>Anas superciliosa superciliosa</i>	pārera/grey duck	wetland/riverine	Threatened (Nationally Vulnerable)		Yes
<i>Anthus novaeseelandiae novaeseelandiae</i>	pīhoihoi/NZ pipit	forest/open	At Risk (Declining)	Yes	
<i>Apteryx australis 'northern Fiordland'</i>	northern Fiordland tokoeka	forest/open	Threatened (Nationally Vulnerable)		
<i>Apteryx australis australis</i>	southern Fiordland tokoeka	forest/open	Threatened (Nationally Endangered)		
<i>Apteryx haastii</i>	roa/great spotted kiwi	forest/open	Threatened (Nationally Vulnerable)		
<i>Ardea modesta</i>	kotuku/white heron	wetland/riverine	Threatened (Nationally Critical)		Yes
<i>Botaurus poiciloptilus</i>	matuku/bittern	wetland/riverine	Threatened (Nationally Critical)	Yes	Yes
<i>Bowdleria punctata stewartiana</i>	mātātā/Stewart Island fernbird	wetland/riverine	Threatened (Nationally Vulnerable)		
<i>Bowdleria punctata punctata</i>	koroātito/South Island fernbird	wetland/riverine	At Risk (Declining)	Yes	
<i>Bowdleria punctata vealeae</i>	mātātā/North Island fernbird	wetland/riverine	At Risk (Declining)		
<i>Calidris canutus rogersi</i>	huahou/lesser knot	coastal/riverine	At Risk (Declining)	Maybe?	
<i>Chalinolobus tuberculatus</i>	pekapeka/long-tailed bat	forest/open	Threatened (Nationally Critical)	Yes	yes

<i>Charadrius bicinctus bicinctus</i>	pohowera/banded dotterel	coastal/riverine	At Risk (Declining)	Yes	
<i>Charadrius obscurus aquilonius</i>	tūtiriwhatu/northern NZ dotterel	coastal/riverine	Threatened (Nationally Increasing)		
<i>Charadrius obscurus obscurus</i>	tūtiriwhatu/southern NZ dotterel	coastal/riverine	Threatened (Nationally Critical)		
<i>Chlidonias albostratus</i>	tara pirohe/blackfronted tern	coastal/riverine	Threatened (Nationally Endangered)	Yes	Yes
<i>Egretta sacra sacra</i>	matuku moana/reef heron	coastal/riverine	Threatened (Nationally Endangered)	Yes	Yes
<i>Falco novaeseelandiae ferox</i>	kārearea/bush falcon	forest/open	Threatened (Nationally Increasing)		
<i>Falco novaeseelandiae novaeseelandiae</i>	kārearea/eastern falcon	forest/open	Threatened (Nationally Vulnerable)		
<i>Falco novaeseelandiae 'southern'</i>	kārearea/southern falcon	forest/open	Threatened (Nationally Endangered)		
<i>Gallirallus australis greyi</i>	North Island weka	forest/open	At Risk (Relict)		
<i>Gallirallus philippensis assimilis</i>	moho pererū/banded rail	wetland/riverine	At Risk (Declining)		
<i>Haematopus finschi</i>	tōrea/South Island pied oystercatcher	coastal/riverine	At Risk (Declining)	Yes	
<i>Haematopus unicolor</i>	tōrea tai/variable oystercatcher	coastal/riverine	At Risk (Recovering)	Yes	
<i>Himantopus novaeseelandiae</i>	kakī/black stilt	wetland/riverine	Threatened (Nationally Critical)	Yes	Yes
<i>Hydroprogne caspia</i>	taranui/Caspian tern	coastal/riverine	Threatened (Nationally Vulnerable)	Yes	Yes
<i>Hymenolaimus malacorhynchos</i>	whio/blue duck	riverine	Threatened (Nationally Vulnerable)	Yes	Yes
<i>Larus bulleri</i>	tarāpukā/black-billed gull	coastal/riverine	At Risk (Declining)	Yes	

<i>Larus novaehollandiae scopulinus</i>	tarāpunga/red-billed gull	coastal/riverine	At Risk (Declining)	Yes	
<i>Limosa lapponica baueri</i>	kuaka/eastern bartailed godwit	coastal/riverine	At Risk (Declining)	Yes	
<i>Mystacina tuberculata aupourica</i>	pekapeka/northern short-tailed bat	forest/open	Threatened (Nationally Endangered)		
<i>Mystacina tuberculata rhyacobia</i>	pekapeka/central shorttailed bat	forest/open	At Risk (Declining)		
<i>Mystacina tuberculata tuberculata</i>	pekapeka/southern short-tailed bat	forest/open	At Risk (Recovering)	Yes / maybe?	
<i>Nestor meridionalis meridionalis</i>	kākā/South Island kākā	forest/open	Threatened (Nationally Vulnerable)	Yes	
<i>Nestor meridionalis septentrionalis</i>	kākā/North Island kākā	forest/open	At Risk (Recovering)		
<i>Nestor notabilis</i>	kea	forest/open	Threatened (Nationally Endangered)	Yes	
<i>Petroica australis australis</i>	kakariwai/South Island robin	forest/open	At Risk (Declining)	Yes	
<i>Phalacrocorax varius varius</i>	kāruhiruhi/pied shag	coastal/riverine	At Risk (Recovering)	Yes	
<i>Podiceps cristatus australis</i>	kāmana/southern crested grebe	wetland/riverine	Threatened (Nationally Vulnerable)	Yes	Yes
<i>Poliocephalus rufopectus</i>	weweia/NZ dabchick	wetland/riverine	Threatened (Nationally Increasing)		
<i>Porzana pusilla affinis</i>	koitareke/marsh crake	wetland/riverine	At Risk (Declining)	Yes	
<i>Porzana tabuensis</i>	pūweto/spotless crake	wetland/riverine	At Risk (Declining)		
<i>Sterna striata striata</i>	tara/white-fronted tern	coastal/riverine	At Risk (Declining)	Yes	
<i>Sternula nereis davisae</i>	tara iti/NZ fairy tern	coastal/riverine	Threatened (Nationally Critical)		

<i>Thinornis novaeseelandiae</i>	tuturuatu/NZ shore plover	coastal/riverine	Threatened (Nationally Critical)		
<i>Xenicus gilviventris</i> 'northern'	pīwauwau/northern rock wren	forest/open	Threatened (Nationally Critical)		
<i>Xenicus gilviventris</i> 'southern'	pīwauwau/southern rock wren	forest/open	Threatened (Nationally Endangered)	Yes	

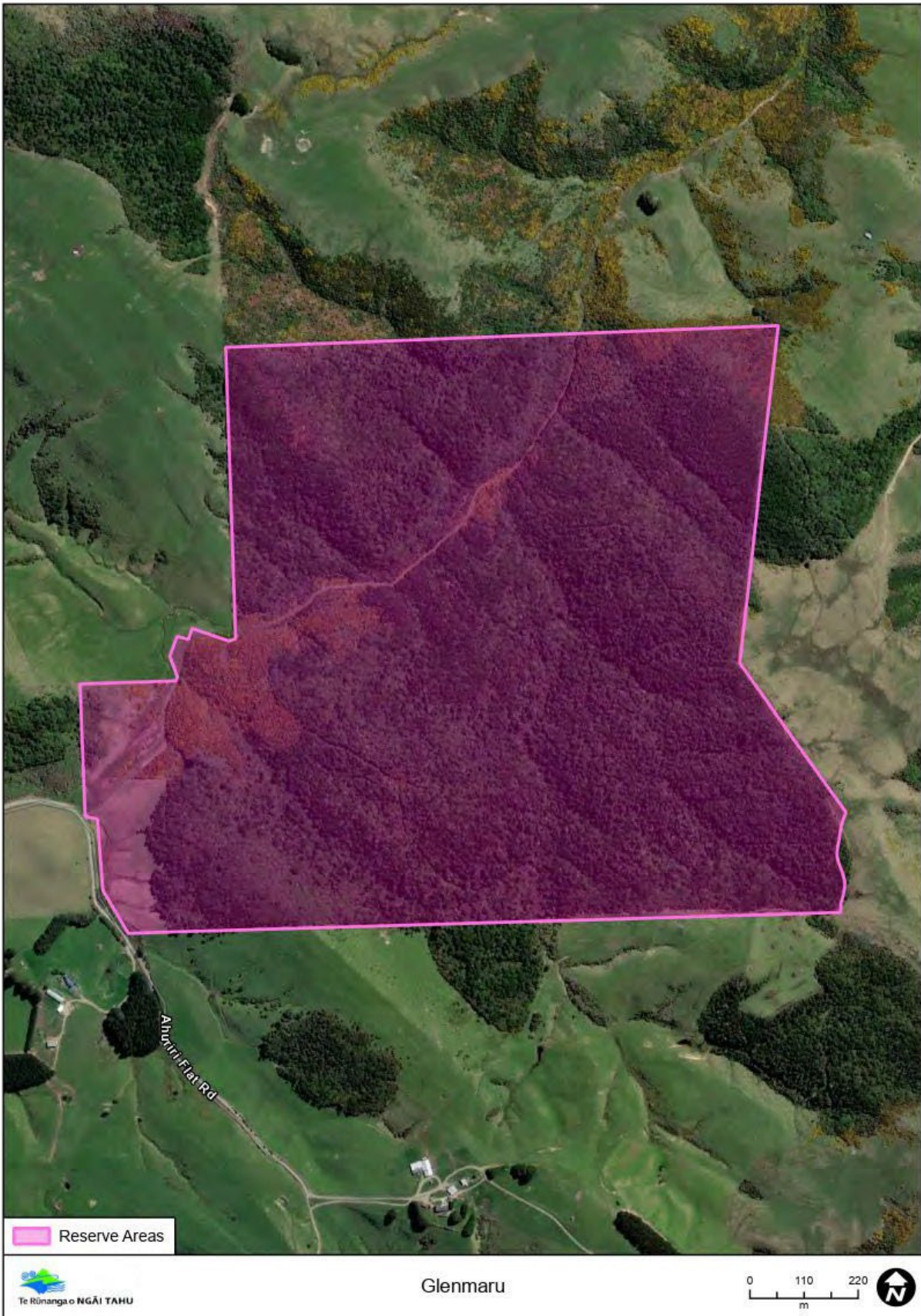
Maps

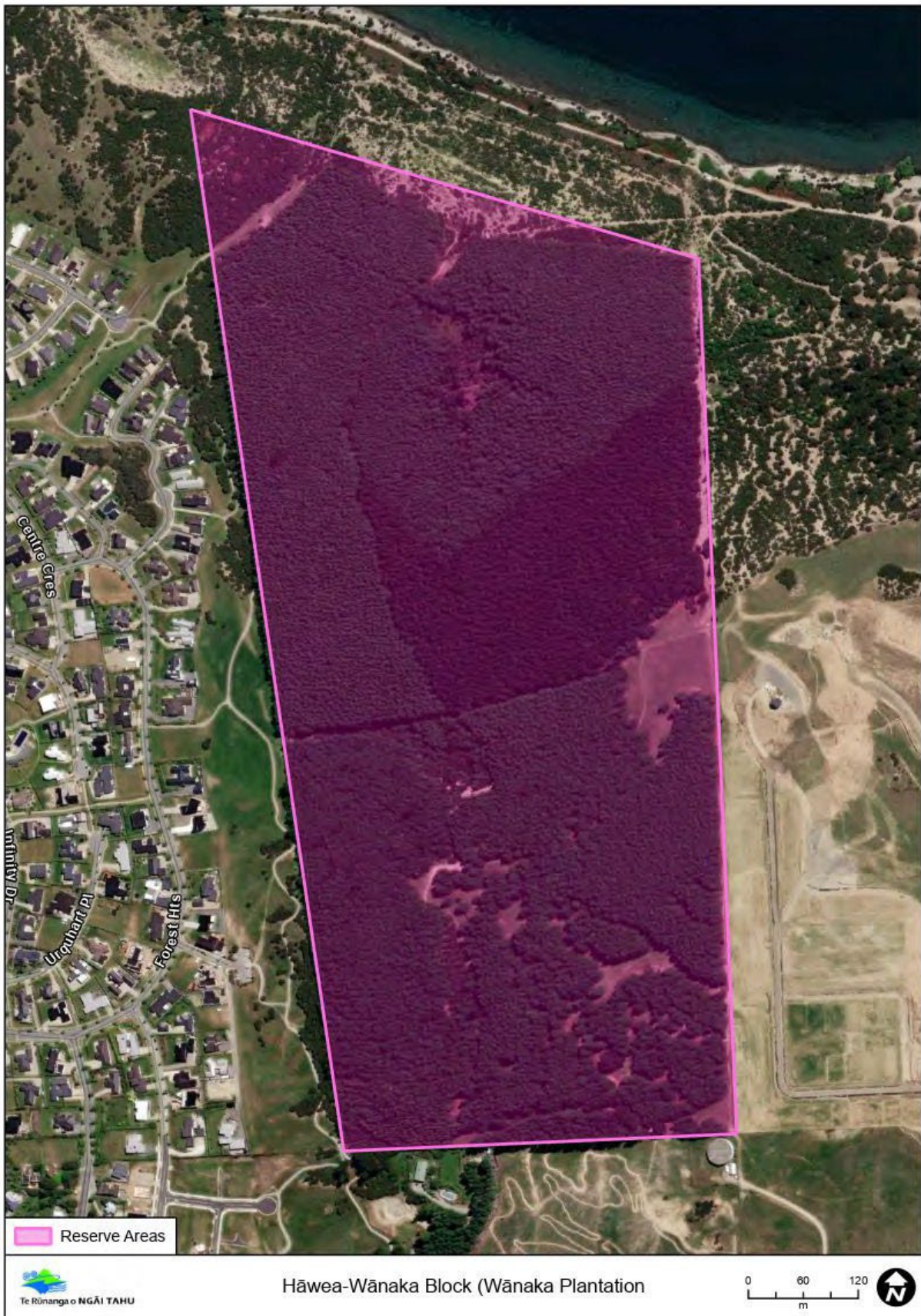
MAP0 – Native Reserves

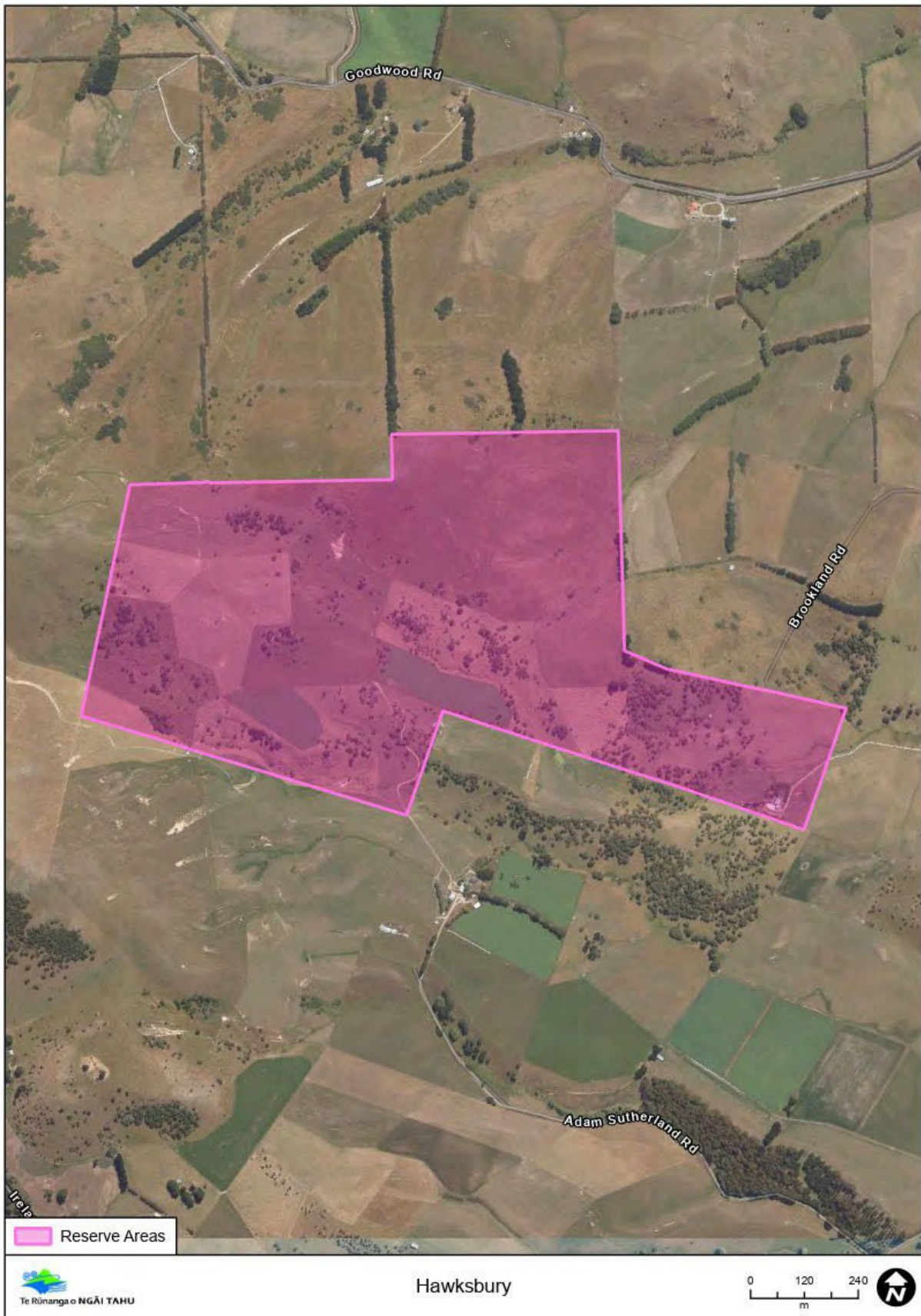


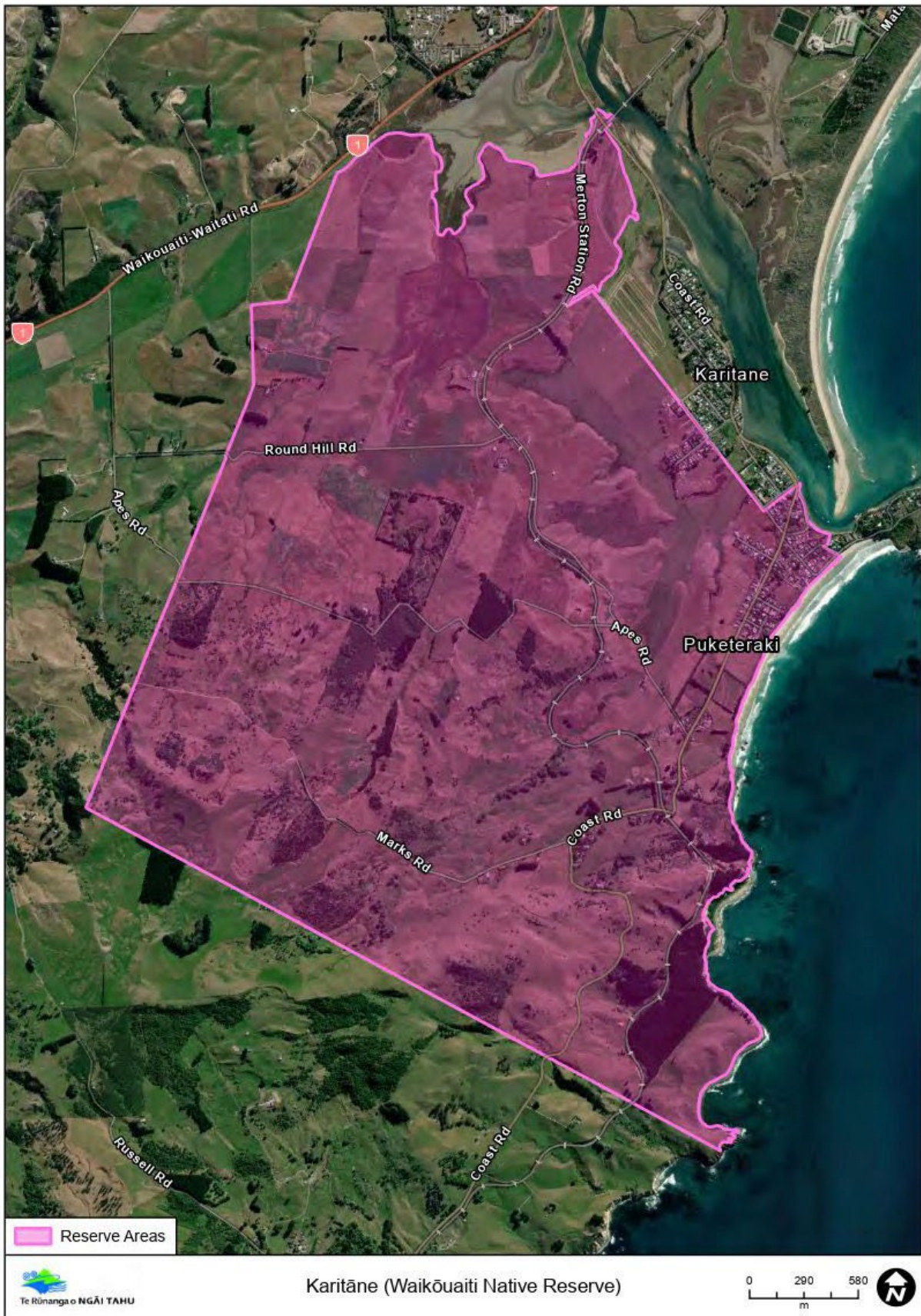






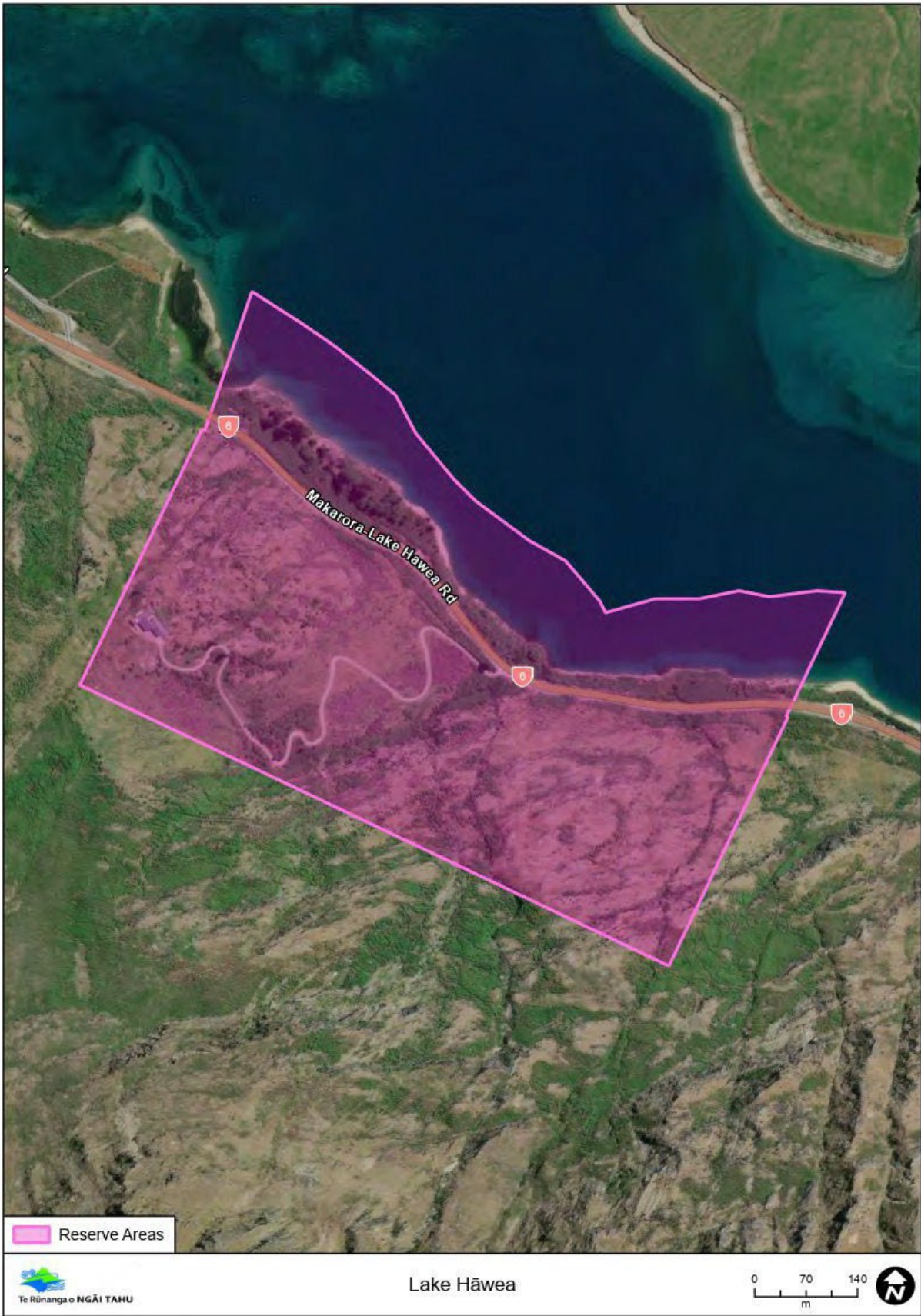








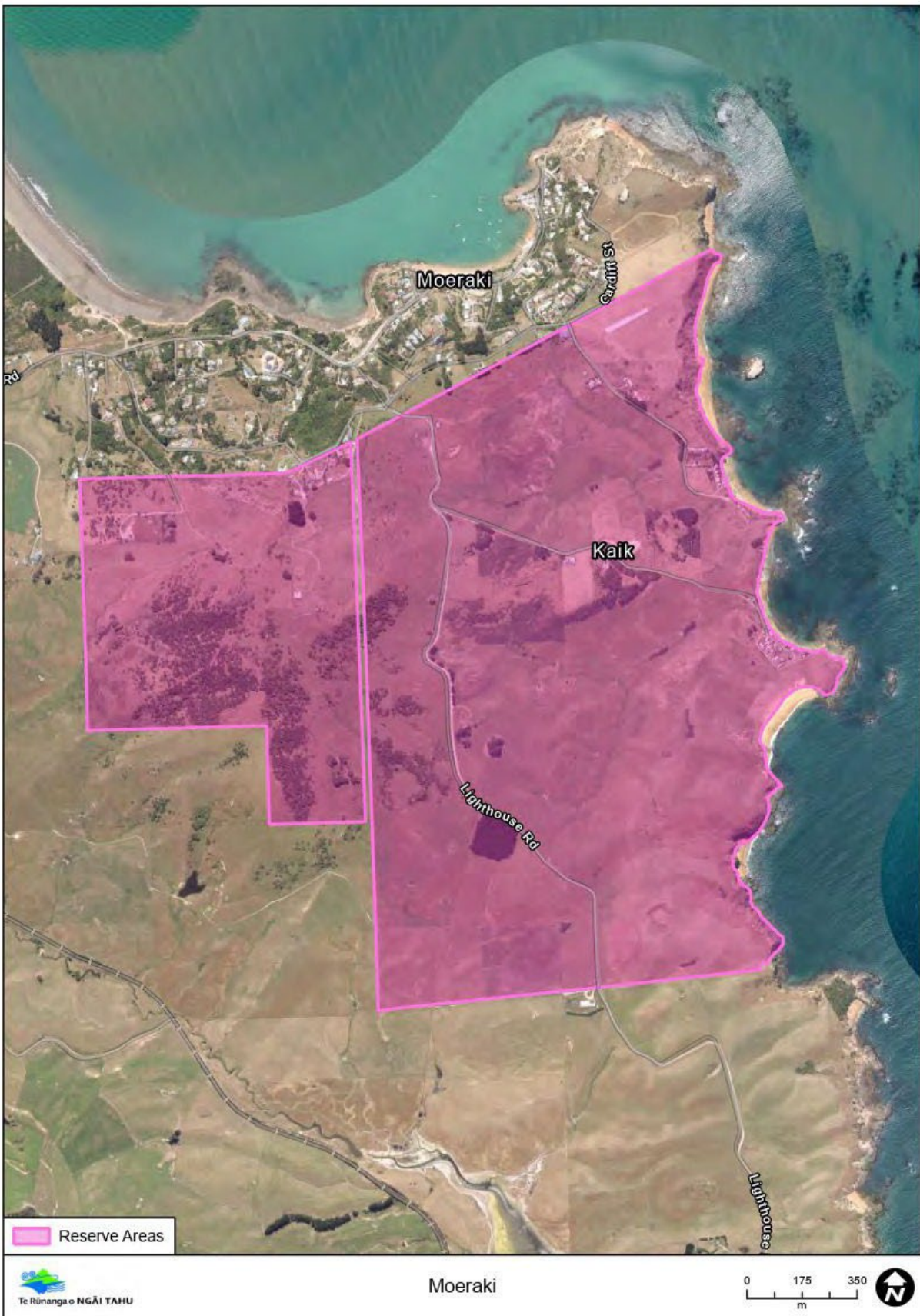


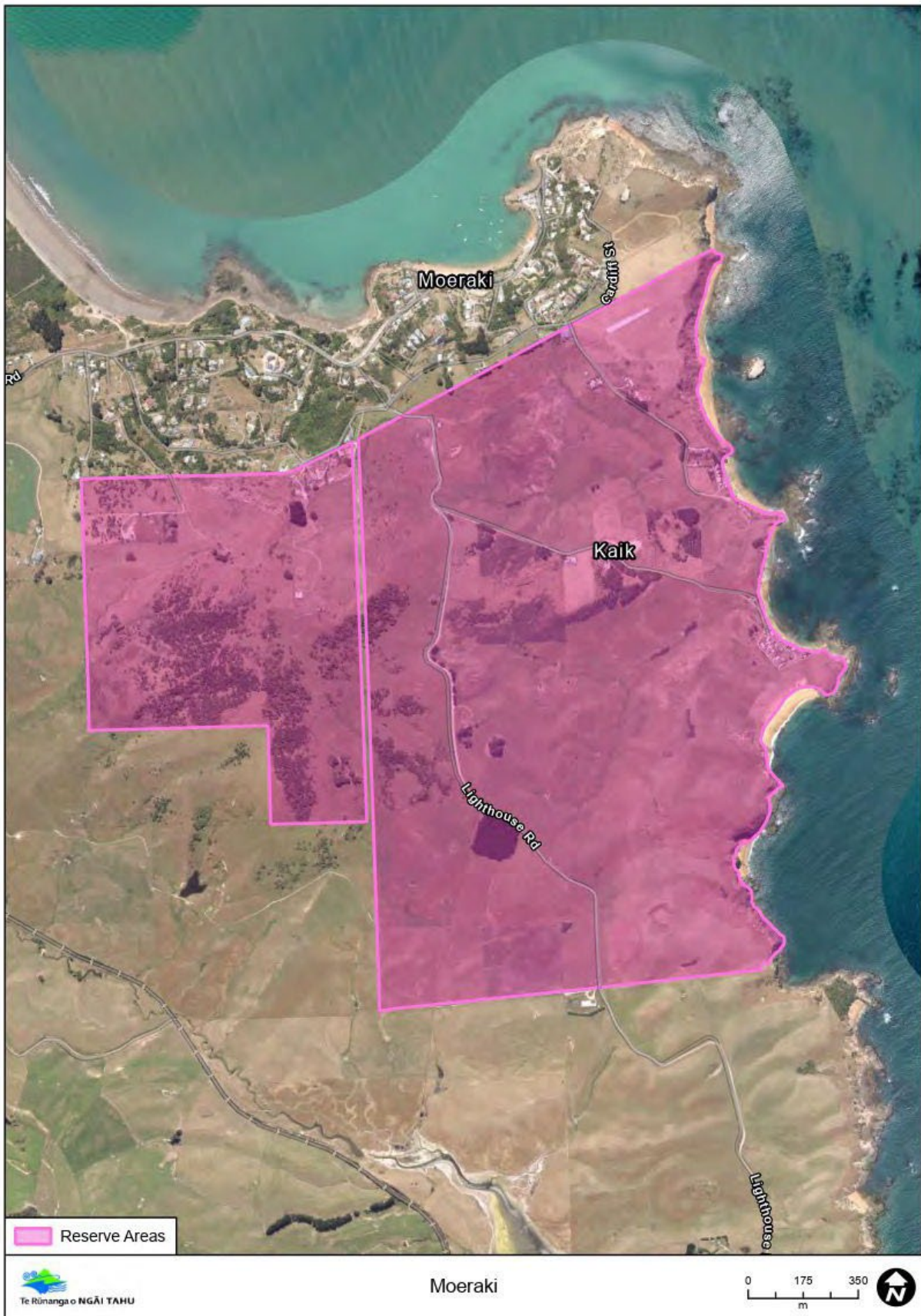


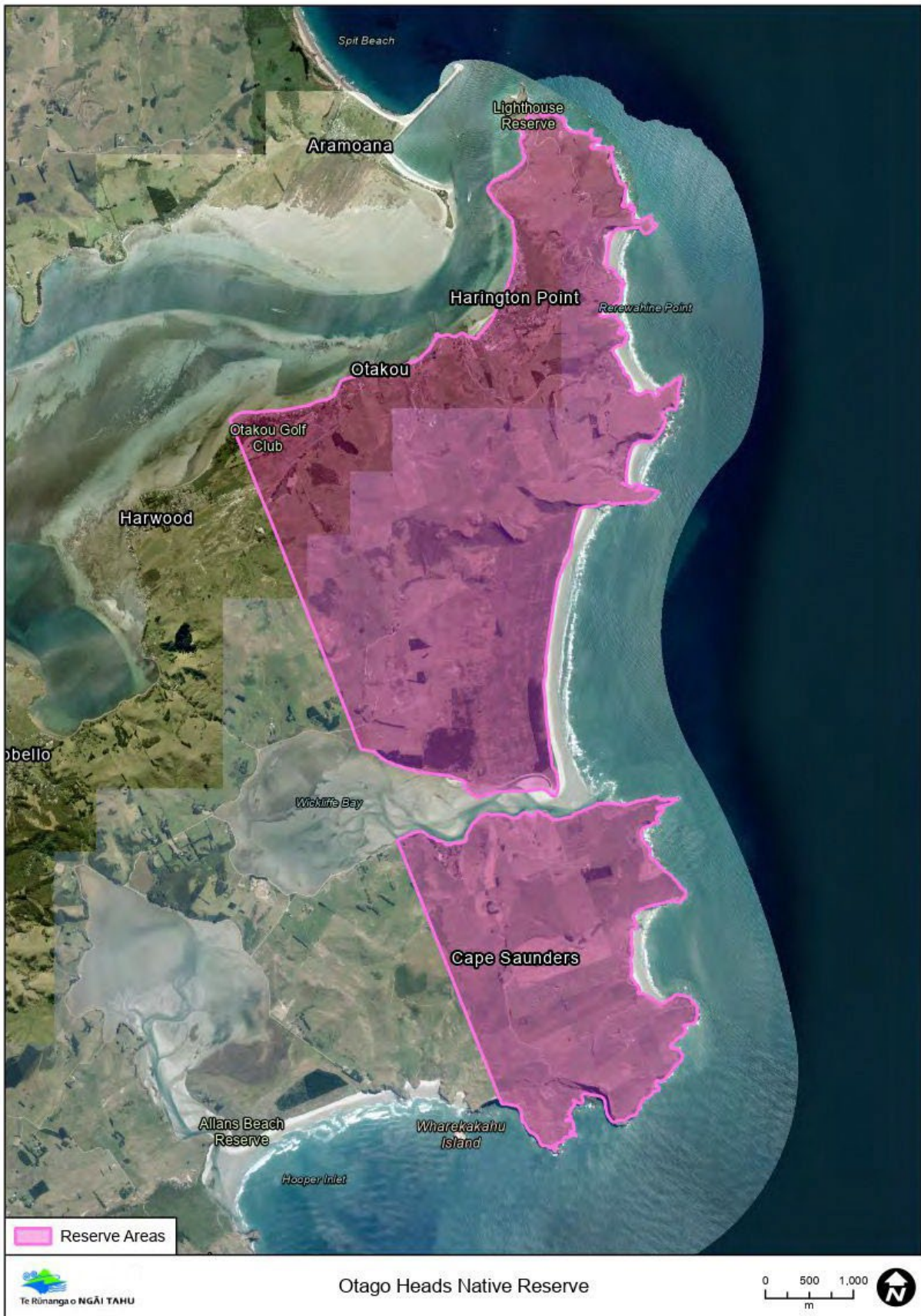




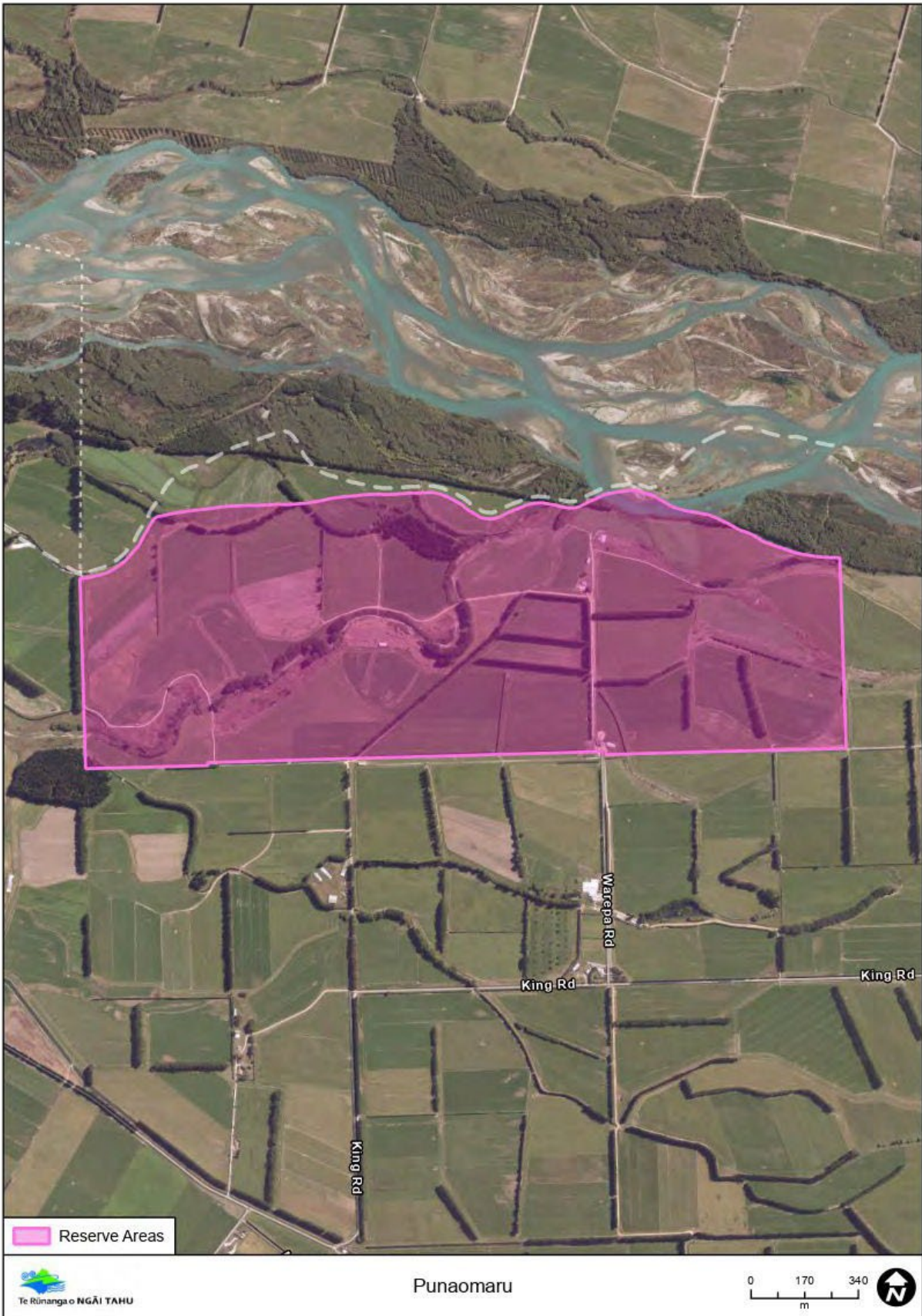


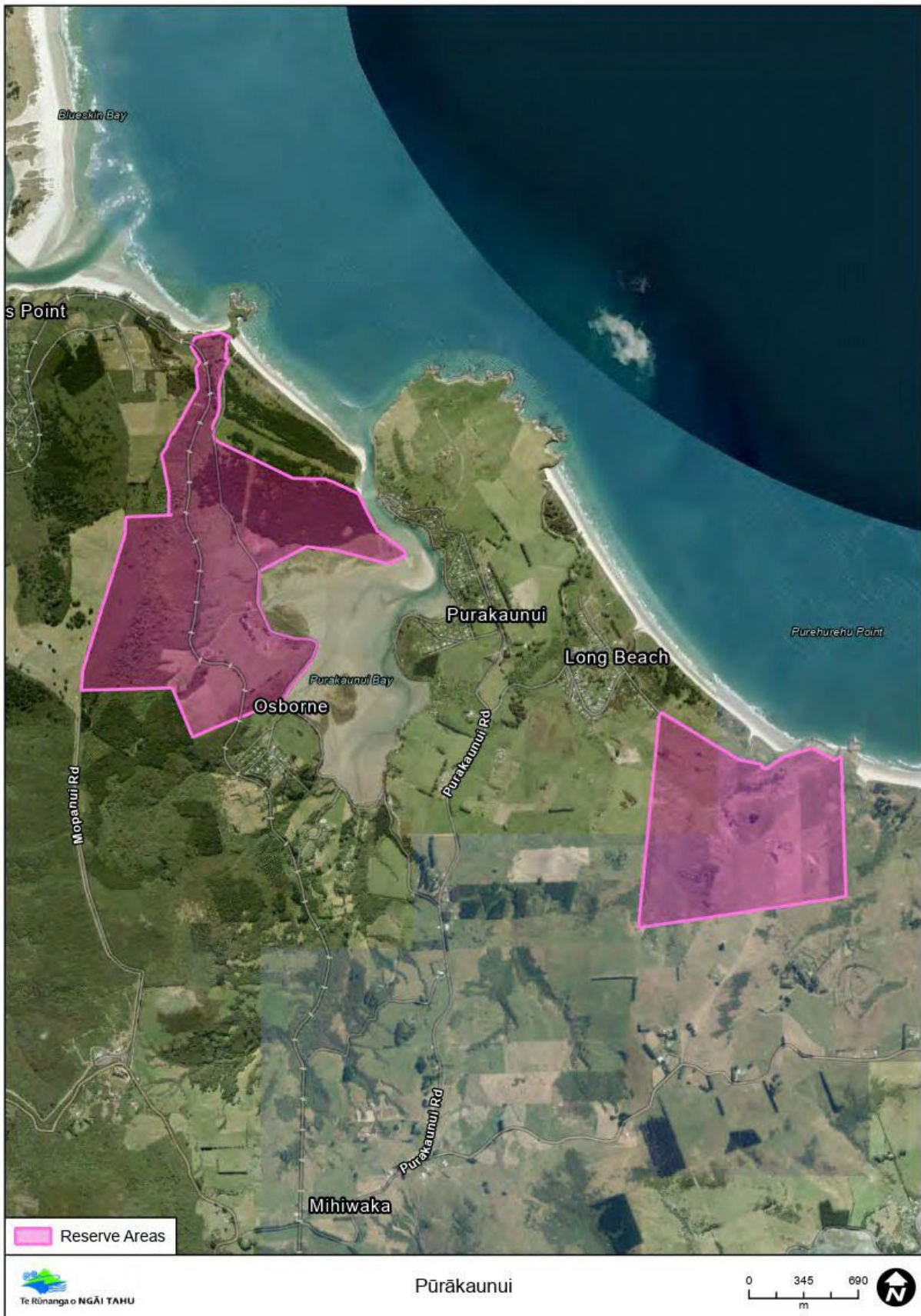


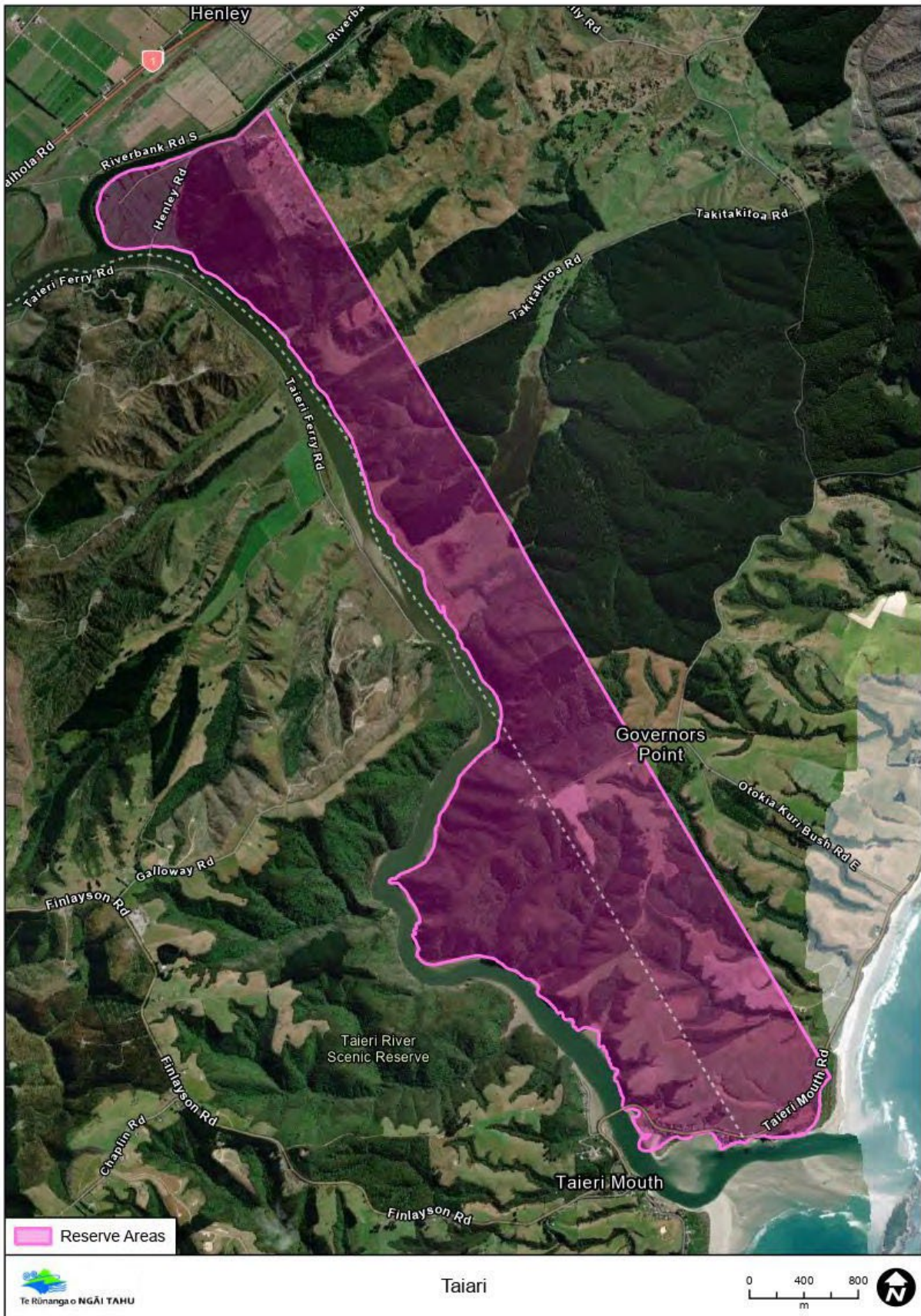


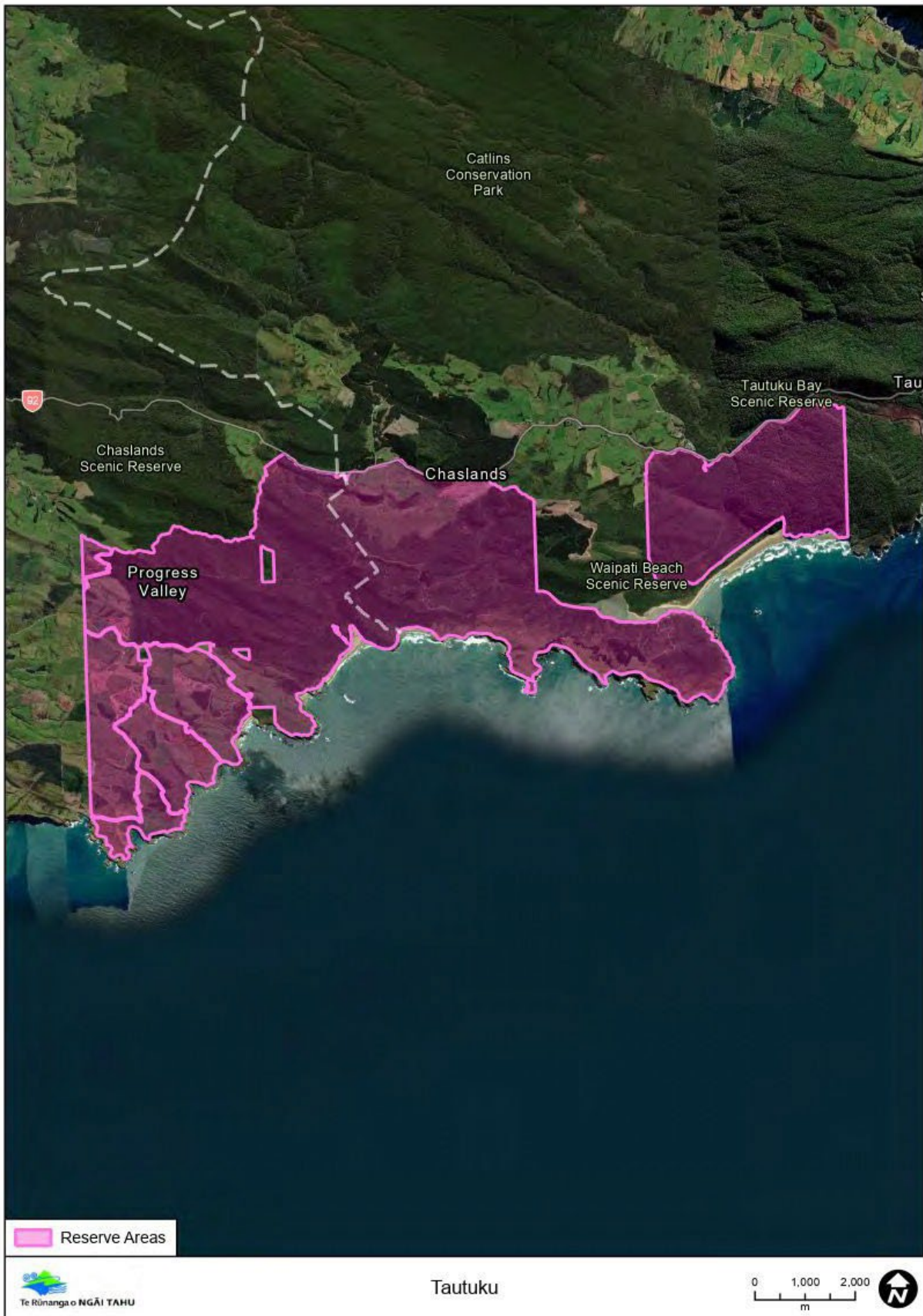


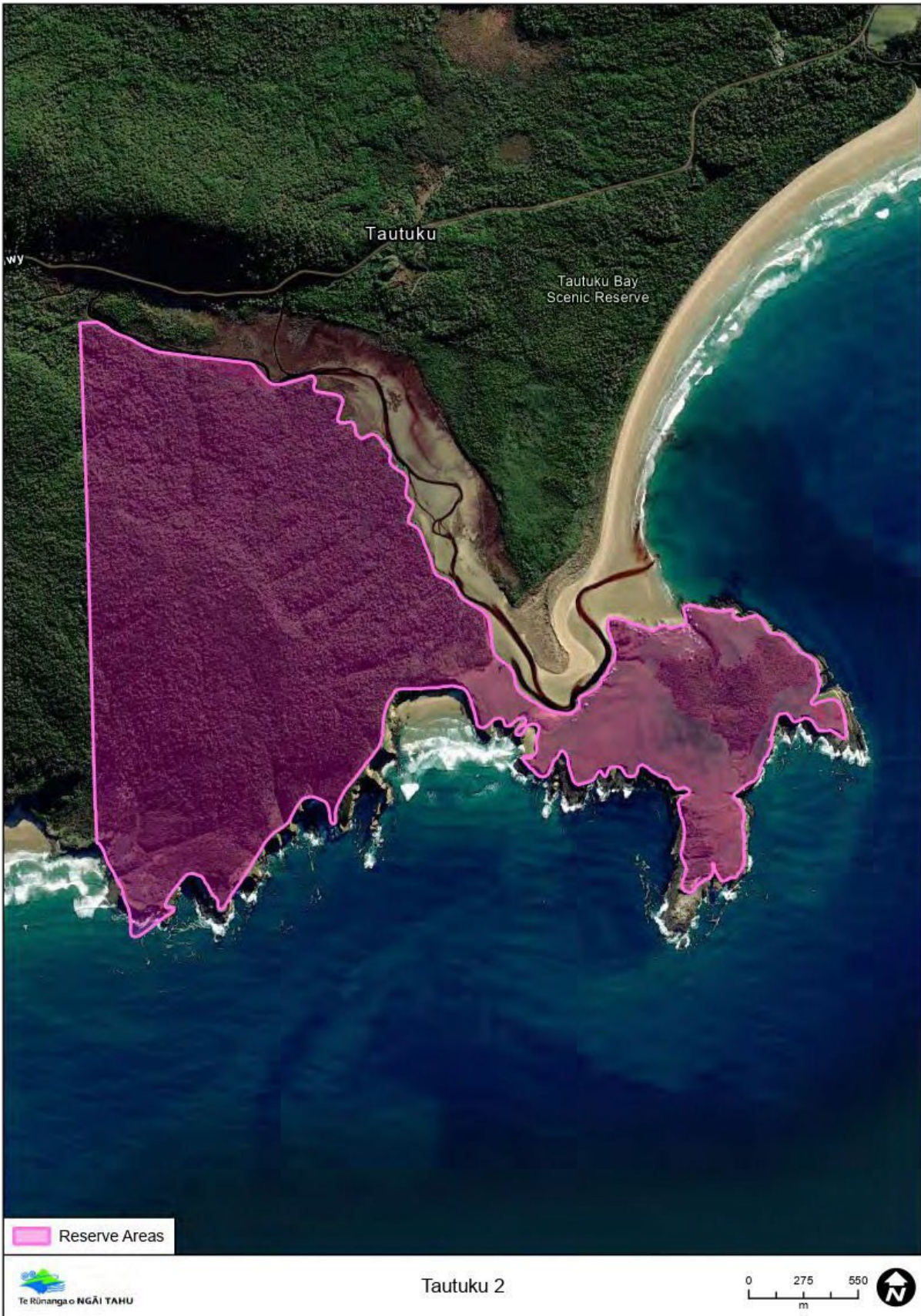




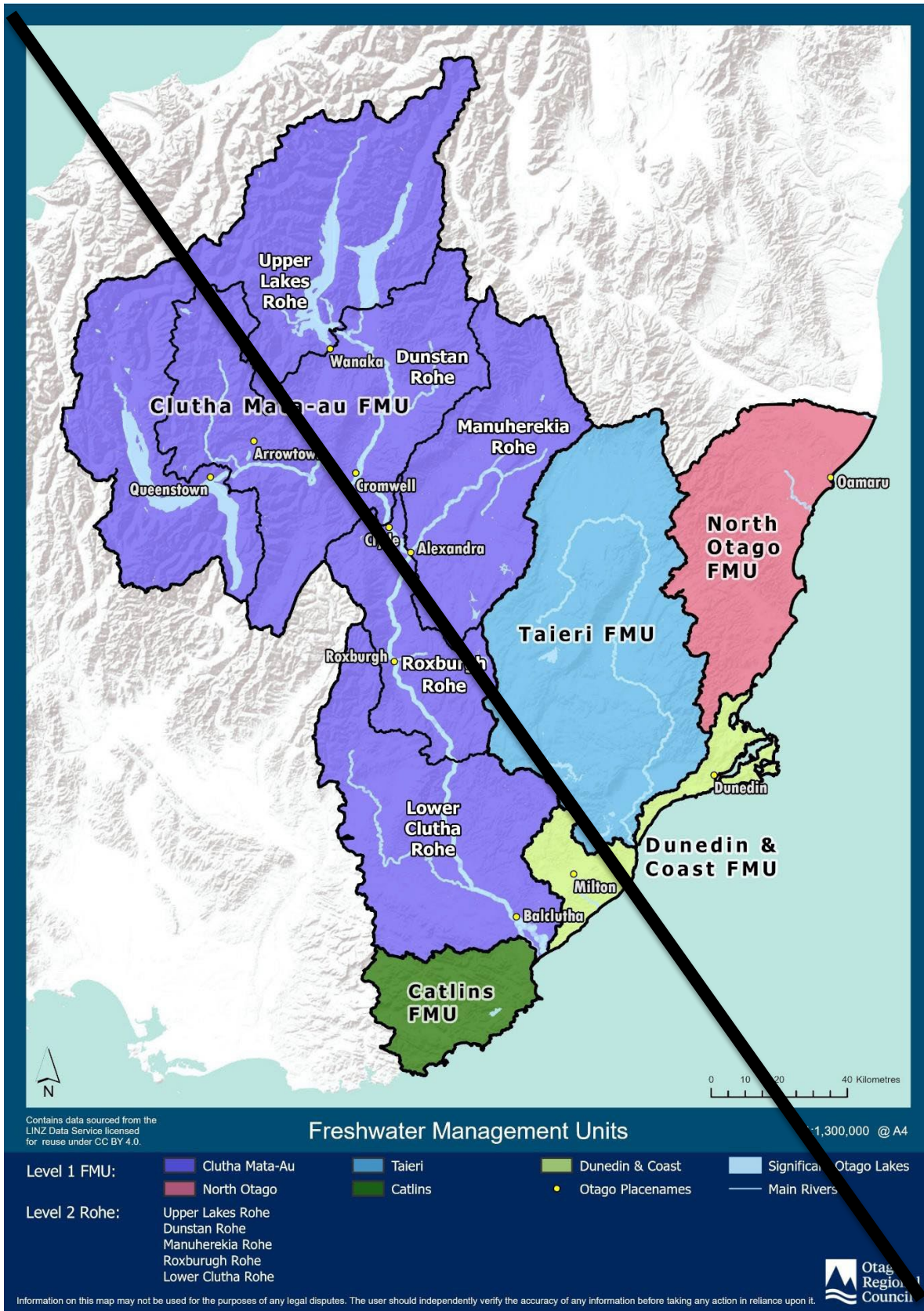






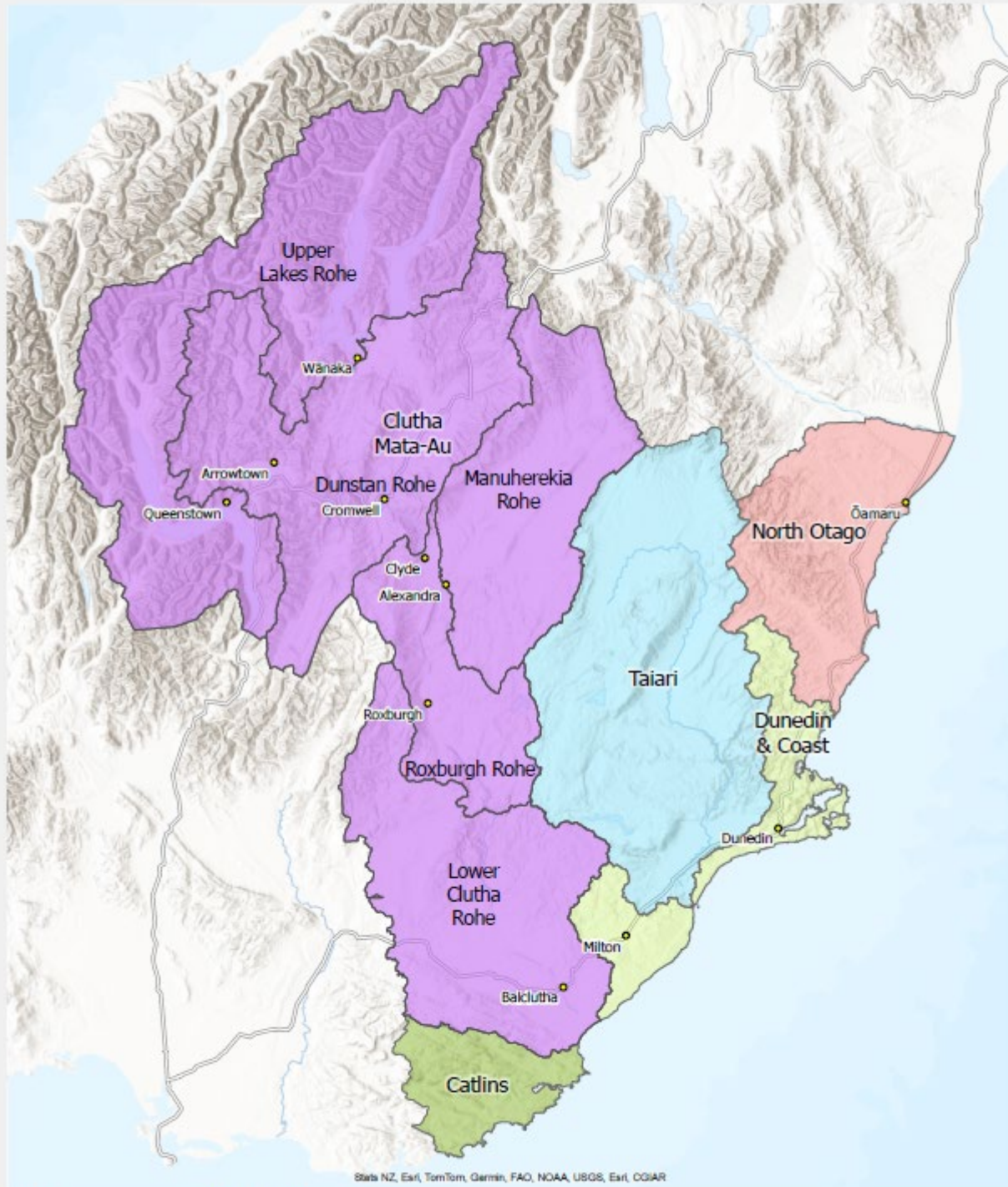


MAP1 – Freshwater Management Units

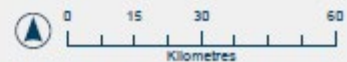


Otago FMU and Rohe

Otago Freshwater Management Units and Rohe

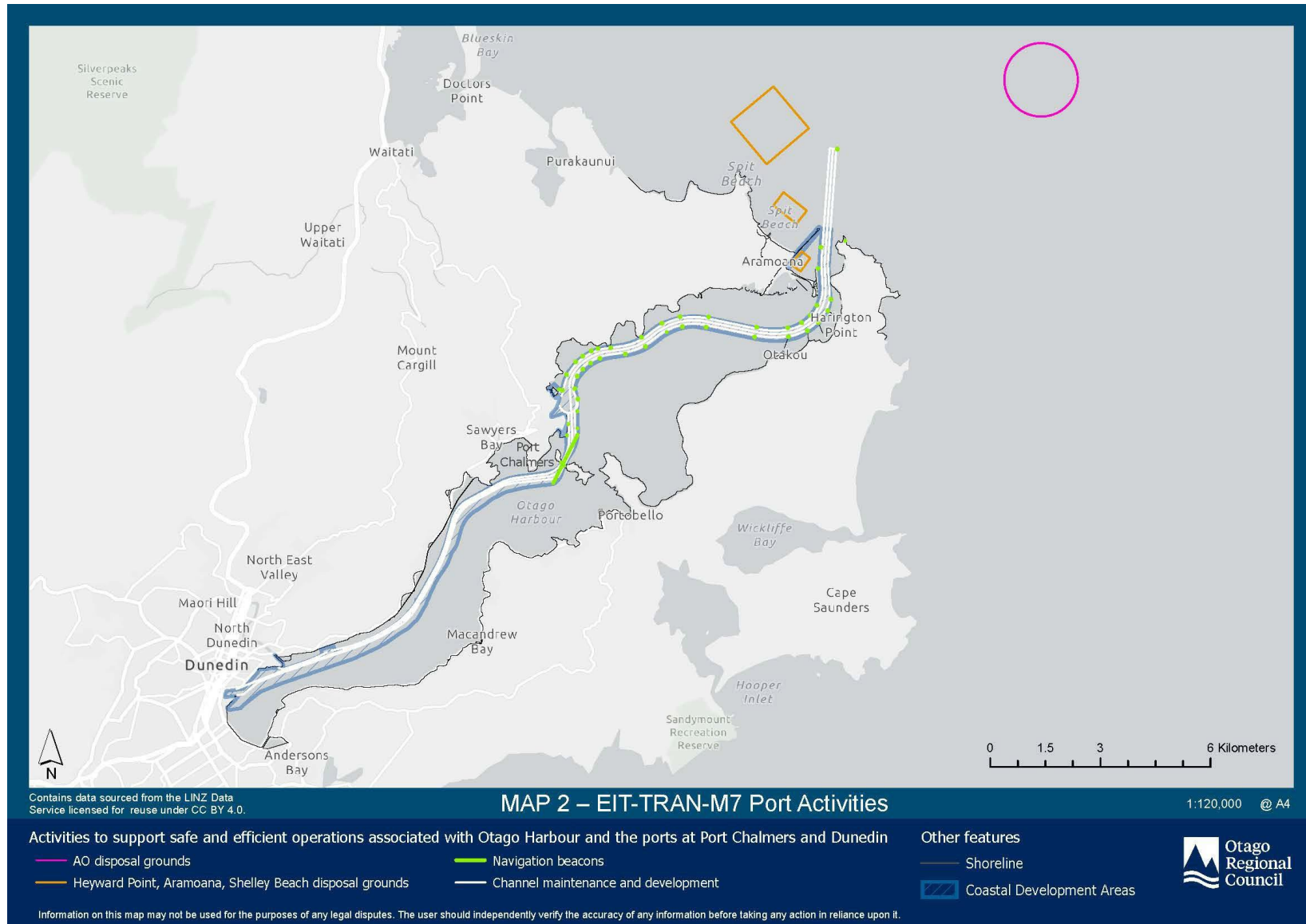


- | | | |
|----------------|-----------------|------------------|
| FMUs | Dunedin & Coast | Rohe |
| Catlins | North Otago | Otago Placenames |
| Clutha Mata-Au | Taiari | |



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MAP2 – EIT-TRAN-M7 Port Activities



GENERAL SUBMISSIONS (Whole RPS)

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Trojan Holdings Limited (Trojan)	00206.003	GEN – General Submission	AERs	Oppose	Delete all AER provisions. If the AER provisions are to be retained then it is sought that they be amended (where relevant) to align with the relief sought in this submission.	Otago Water Resource Users FS00235.001 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report in that no other appropriate wording was offered.
Wayfare Group Ltd	00411.007	GEN – General Submission	AERs	Oppose	Delete all AER provisions. If the AER provisions are to be retained then it is sought that they be amended (where relevant) to align with the relief sought in this submission	Otago Water Resource Users FS00235.002 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report in that no other appropriate wording was offered.
LAC Properties Trustees Limited	00211.002	GEN – General Submission	All methods, monitoring and reasons and anticipated environmental results	Amend	Clarify legal status and intention of methods, monitoring, anticipated environmental results, and reasons in RPS. To the extent that such provisions have not been specifically submitted on below, the submitter reserves its position in respect of those matters, if the ORC confirms a position which gives those provisions any legal weighting relevant to district level planning decisions	Otago Water Resource Users FS00235.003 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report
Lane Hocking	00210.002	GEN – General Submission	All methods, monitoring and reasons and anticipated environmental results	Amend	Clarify legal status and intention of methods, monitoring, anticipated environmental results, and reasons in RPS. To the extent that such provisions have not been specifically submitted on below, the submitter reserves its position in respect of those matters, if the ORC confirms a position which gives those provisions	Otago Water Resource Users FS00235.004 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					any legal weighting relevant to district level planning decisions			
Maryhill Limited	00118.003	GEN – General Submission	All methods, monitoring and reasons and anticipated environmental results	Amend	Clarify legal status and intention of methods, monitoring, anticipated environmental results, and reasons in RPS. It should be clarified that such provisions are interpretive tools only, and are not relevant statutory matters required to be given effect to through district level planning decisions (consents and plan changes).	Otago Water Resource Users FS00235.005 (neutral) Otago Water Resource Users FS00235.005 (neutral) O Otago Fish and Game Council FS00609.116	Reject	We adopt the recommendations and reasons set out in the s42A Report
Mt Cardrona Station	00114.003	GEN – General Submission	All methods, monitoring and reasons and anticipated environmental results	Amend	Clarify legal status and intention of methods, monitoring, anticipated environmental results, and reasons in RPS. It should be clarified that such provisions are interpretive tools only, and are not relevant statutory matters required to be given effect to through district level planning decisions (consents and plan changes).	Otago Water Resource Users FS00235.006 (neutral) Otago Water Resource Users FS00235.006 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report
Universal Developments Hawea Limited	00209.002	GEN – General Submission	All methods, monitoring and reasons and anticipated environmental results	Amend	Clarify legal status and intention of methods, monitoring, anticipated environmental results, and reasons in RPS. To the extent that such provisions have not been specifically submitted on below, the submitter reserves its position in respect of those matters, if the ORC confirms a position which gives those provisions any legal weighting relevant to district level planning decisions	Otago Water Resource Users FS00235.007 (neutral) Otago Water Resource Users FS00235.007 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Port Blakely NZ Ltd	00033.005	GEN – General	Benefits of forestry	Amend	Amend the RPS21 to recognise that forestry provides a long – term net – positive eco – system service, including the sequestration of carbon and that afforestation will bring multiple eco – system services and benefits, if managed correctly.	<p>S Ernslaw One Ltd FS00412.001</p> <p>S New Zealand Carbon Farming FS00602.001</p> <p>S Ngai Tahu Forestry FS00600.001</p> <p>S Te Rūnanga o Ngāi Tahu FS00234.012</p> <p>O Otago Fish and Game Council FS00609.158</p>	Reject	We adopt the recommendations and reasons set out particularly in paragraph 182 of the s42A Report and its preceding broader discussion.
Hopkins, Jim	00420.023	GEN – General Submission	Carbon forestry	Amend	Amend RPS to be more directive in managing and constraining the loss of productive soils, particularly in dry catchment zones, when they are used for carbon forestry planting.	<p>Otago Water Resource Users FS00235.009 (neutral)</p> <p>New Zealand Carbon Farming FS00602.021 (neutral)</p> <p>Otago Water Resource Users FS00235.009 (neutral)</p> <p>New Zealand Carbon Farming FS00602.021 (neutral)</p> <p>S Otago Fish and Game Council FS00609.101</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 184
Kāi Tahu ki Otago / Aukaha	00226.006	GEN – General Submission	Climate change	Amend	Amend to integrate climate change provisions across the entire PORPS in order to provide clearer and stronger direction.	<p>S Central Otago Environmental Society FS00202.109</p> <p>S Te Rūnanga o Ngāi Tahu FS00234.001</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and amendments have been made in response to other submissions which address climate change concerns.
Wise Response Society Inc	00509.002	GEN – General Submission	Climate change	Amend	Amend to use of the national net zero – carbon target as the consistent “touchstone” for gauging what policies are necessary, realistic, a priority and	<p>S Central Otago Environmental Society FS00202.002</p> <p>Otago Water Resource Users</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and amendments have been made in response to other submissions which address climate change concerns.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					sustainable in the medium and longer term.	FS00235.010 (neutral) Otago Water Resource Users FS00235.010 (neutral)		
Wise Response Society Inc	00509.017	GEN – General Submission	Climate change	Amend	Confirm whether this RPS anticipates changes to the RMA which will allow consideration of the effects of an activity <u>on</u> climate or only the effects of it.	Otago Water Resource Users FS00235.011 (neutral) Otago Water Resource Users FS00235.011 (neutral)	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and amendments have been made in response to other submissions which address climate change concerns.
Angus, Alistair; Singleton, Robert; Bryant, Neville; Rivett, Ruth; Mckenzie, David and Fiona; Britton, Tania; Burrell, Marie; Young, Keri; Tayler, Kate; Afleck, Vern	00103.004	GEN – General Submission	Consequential amendments	Amend	Any alternative or consequential relief to address the above.		Reject	This is a general request which does not give precise details of amendment requested
Aurora Energy Limited	00315.051	GEN – General Submission	Consequential amendments	Amend	Amend as follows (throughout the RPS) Given effect to any further or consequential relief required in the event of conflict between submissions on EIT – INF – P13 (Submission Point 00315.049) and any other policy in the regional policy statement so that EIT – INF – P13 applies.	S Mercury FS00605.111	Reject	This is a general request which does not give precise details of amendment requested
Beef & Lamb NZ and Deer Industry NZ	00237.002	GEN – General Submission	Consequential amendments	Amend	Amend as requested in specific submission points and or such other or further		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					relief as addresses the issues raised by this submission.			
Beef & Lamb NZ and Deer Industry NZ	00237.073	GEN – General Submission	Consequential amendments	Amend	Amend RPS as set out separately. Outcomes sought and wording used is as a suggestion only, where a suggestion is proposed it is with the intention of ‘or words to that effect.’ The outcomes sought may require consequential changes to the plan or restructuring of the Plan, or parts thereof, to give effect to the relief sought.		Reject	This is a general request which does not give precise details of amendment requested
Blackthorn Lodge Glenorchy Limited	00119.001	GEN – General Submission	Consequential amendments	Amend	Any similar, alternative, consequential and/or other relief as necessary to address the issues raised in this submission [Blackthorn Lodge Glenorchy Limited, Submitter 00119].		Reject	This is a general request which does not give precise details of amendment requested
Director-General of Conservation	00137.002	GEN – General Submission	Consequential amendments	Amend	That the amendments, additions and deletions to the Proposed Otago Regional Policy Statement sought in other submission points are made.		Reject	This is a general request which does not give precise details of amendment requested
Director-General of Conservation	00137.003	GEN – General Submission	Consequential amendments	Amend	Further, alternative or consequential relief to like effect to that sought in other submission points.		Reject	This is a general request which does not give precise details of amendment requested
Dunedin City Council	00139.001	GEN – General Submission	Consequential amendments	Amend	In addition to the specific requests, any such necessary, consequential or further relief required to address the concerns identified, and to: <ul style="list-style-type: none"> - enable the effective and efficient establishment, operation, use and maintenance of wastewater, stormwater and water supply systems and infrastructure; 	S Waka Kotahi NZ Transport Agency FS00305.001	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<ul style="list-style-type: none"> - enable the use and development of land in accordance with the NPS – UD; - enable a coordinated and collaborative approach between the ORC and territorial authorities on climate change adaption; - ensure that the general comments above are implemented throughout the RPS; and - better achieve the purpose of the Resource Management Act 1991 (RMA). 			
Dunedin City Council	00139.041	GEN – General submission	Consequential amendments	Amend	any consequential amendments to give effect to all amendments requested		Reject	This is a general request which does not give precise details of amendment requested
Fonterra Co-operative Group Limited	00233.002	GEN – General Submission	Consequential amendments	Amend	Retention, deletion or amendment of various provisions of the PORPS as set out elsewhere in submission and further or other consequential or alternative relief as may be necessary to fully give effect to the relief sought in this submission.	S Waka Kotahi NZ Transport Agency FS00305.017	Reject	This is a general request which does not give precise details of amendment requested
Greenpeace Aotearoa	00407.013	GEN – General Submission	Consequential amendments	Amend	Consequential Amendments to rest of document to deliver on IM – P4 IM – P4 must be followed by instruments that include triggers for action against current ecological benchmarks, and pathways so that necessary responses are timely and foreshadowed to affected communities whose interests may conflict with the overriding objectives to put the integrity of		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					freshwater and ecosystems first.			
Maryhill Limited	00118.001	GEN – General Submission	Consequential amendments	Amend	Alternative, consequential, or other necessary relief to achieve the intention and reasons as set out in Appendix 1.		Reject	This is a general request which does not give precise details of amendment requested
Maryhill Limited	00118.002	GEN – General Submission	Consequential amendments	Amend	Subject to the specific relief identified in the submission, delete or amend remaining provisions to accord to the reasons for relief set out in the Submission, and where any inconsistencies remain between the Operative RPS and the Proposed RPS, that the Operative RPS is to be reinstated.		Reject	This is a general request which does not give precise details of amendment requested
Meridian Energy Limited	00306.097	GEN – General Submission	Consequential amendments	Amend	Amend as follows: Give full effect to necessary consequential amendments arising from submissions.		Reject	This is a general request which does not give precise details of amendment requested
Mt Cardrona Station	00114.001	GEN – General Submission	Consequential amendments	Amend	Alternative, consequential, or other necessary relief to achieve the intention and reasons as set out in the submission.		Reject	This is a general request which does not give precise details of amendment requested
New Zealand Cherry Corp Ltd	00413.001	GEN – General Submission	Consequential amendments	Amend	Any further, other or consequential relief necessary to give address the matters raised in this submission		Reject	This is a general request which does not give precise details of amendment requested
OWRUG	00235.001	GEN – General Submission	Consequential amendments	Amend	Specific decisions sought elsewhere be accepted; and any further consequential amendments required reflect the relief sought; or alternative amendments to the provisions of pRPS 2021 to address the substance of the concerns raised in this submission.		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Port of Otago Ltd.	00301.059	GEN – General Submission	Consequential amendments	Amend	Any consequential change required to give effect to the key points outlined in this submission.		Reject	This is a general request which does not give precise details of amendment requested
PowerNet Ltd	00511.034	GEN – General Submission	Consequential amendments	Amend	Amend as follows: Provide such further or other relief as is appropriate or desirable in order to take account of the concerns expressed and relief sought in the submission of PowerNet Ltd (Submitter 00511)		Reject	This is a general request which does not give precise details of amendment requested
Rural Contractors NZ	00410.001	GEN – General Submission	Consequential amendments	Amend	Where specific wording has been proposed, words or provisions to similar effect; All necessary and consequential amendments, including any amendments to the provisions themselves or to other provisions linked to those provisions submitted on, and including any cross references in other chapters; and All further relief that are considered necessary to give effect to the concerns described in the submission		Reject	This is a general request which does not give precise details of amendment requested
Sipka Holdings Ltd	00402.018	GEN – General Submission	Consequential amendments	Amend	Make further amendments necessary to improve the clarity and workability of the provisions to achieve the purpose of the submission.		Reject	This is a general request which does not give precise details of amendment requested
Transpower New Zealand Limited	00314.0057	GEN – General Submission	Consequential amendments	Amend	Amend as follows: Make all required alternative or consequential relief as may be necessary to fully give effect to this submission arising from specific amendments on the submission AND		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					For the avoidance of doubt, such consequential relief may include the need to amend or alter Explanation text and/or Principal Reasons text to reflect the purpose or intent of relief sought in respect of Objectives, Policies or Methods.			
Waka Kotahi NZ Transport Agency	00305.117	GEN – General Submission	Consequential amendments	Amend	Amend as follows: Make such further, alternative or consequential amendments as may be necessary to fully achieve the relief sought in the Waka Kotahi NZ Transport Agency submission.		Reject	This is a general request which does not give precise details of amendment requested
Wayfare Group Ltd	00411.001	GEN – General Submission	Consequential amendments	Amend	a. Amendments to all the provisions of the RPS in accordance with and in no way limited to the changes set out in the submission; b. Or alternatively other amendments, including any such combination of provisions as may be appropriate, to address the matters raised in this submission, and to achieve the intent of this submission. c. Any similar, alternative, consequential and/or other relief as necessary to address the issues raised in this submission.		Reject	This is a general request which does not give precise details of amendment requested
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.001	GEN – General Submission	Consequential amendments	Amend	Make any alternative or consequential relief as required to give effect to this submission [Being Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited, submitter 00510 - admin], including any		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					consequential relief required in any other sections of the ORPS that are not specifically subject of this submission but where consequential changes are required to ensure a consistent approach is taken throughout the document; and any other relief required to give effect to the issues raised in this submission.			
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.003	GEN – General Submission	Effects management hierarchy	Amend	In relation to the use of effects management hierarchies, seek consistent amendments throughout the RPS to place the emphasis on avoiding the effects in the first place.	<ul style="list-style-type: none"> ● Otago Water Resource Users FS00235.012 ● Contact Energy Limited FS00318.001 ● Network Waitaki Limited FS00320.002 ● Transpower New Zealand Limited FS00314.009 ● Oceana Gold FS00115.001 	Reject	This is a general request which does not give precise details of amendment requested
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.045	GEN – General Submission	Effects management hierarchy	Amend	Amend other chapters of the RPS as necessary to ensure that the effects management hierarchies are not applied within the coastal environment.	<ul style="list-style-type: none"> ● Sanford Limited FS00122.001 	Accept in part	For the reasons outlined in the s.2A reply reports and in the main Recommendations report as to the EC, ECO and EIT chapters a range of amendments address the management of effects within the coastal environment.
Ernslaw One	00412.010	GEN – General Submission	Forestry	Oppose	Any restriction on harvesting activities over and above the NESPF would have to be justified by evidence and pass a rigorous cost-benefit analysis before being worked through with the industry and MPI / Te Uru Rākau, given the significant impact such changes would have on the wider market and economic base, communities and the work force, forestry assets and the NZ's climate change	<ul style="list-style-type: none"> ● Otago Fish and Game Council FS00609.074 ● Te Rūnanga o Ngāi Tahu FS00234.009` 	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					policy, to avoid the creation of stranded assets			
Ernslaw One	00412.012	GEN – General Submission	Forestry	Amend	It should be acknowledged that, with effective risk-based compliance monitoring and enforcement of NESPF in place, as per the MPI / Te Uru Rākau guidance to Councils [<i>footnote reference provided</i>], significant adverse environmental effects from the regulated plantation forestry activities can and will be avoided. Very few locations in Otago are so steep and erodible, that clear fell harvesting would give rise to significant adverse environmental effects.		Reject	This is a general request which does not give precise details of amendment requested
Ernslaw One	00412.013	GEN – General Submission	Forestry	Amend	Recognise the long-term provision of positive ecosystems services that plantation forestry can provide, including the sequestration of carbon. ORPS 2021 currently fails to recognise that afforestation and the spatial extension of new plantation land area, as well as the consequent displacement of pastoral agriculture, will bring multiple eco-system services and benefits.	<p>§ New Zealand Carbon Farming FS00602.019</p> <p>§ Otago Fish and Game Council FS00609.075</p>	Reject	This is a general request which does not give precise details of amendment requested
Port Blakely NZ Ltd	00033.001	GEN – General Submission	Forestry	Amend	There needs to be more clarity regarding certain NES – PF 2017 forestry references made in the RPS21, such as sedimentation, afforestation, wilding conifer management and setbacks from SNA. It is not clear if the NES – PF 2017 takes precedent over the NES – F when referring to forestry	§ Ernslaw One Ltd FS00412.002	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					activities, such as sedimentation from harvesting. Robust analysis of adopting a more stringent rule than the NES – PF under regulation 6 needs to be undertaken in order to provide evidence that the current NES – PF rules are not delivering on the NPS – FM objectives.			
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.097	GEN – General Submission	Format	Amend	Format the provision codes so they can be navigated to via search functions on common internet browsers and pdf viewers.		Accept	We adopt the recommendations and reasons set out in the s42A Report.
Port of Otago Ltd.	00301.058	GEN – General Submission	Format	Amend	Include “coastal icons” or similar that make it clear throughout the RPS, which provisions apply within the coastal environment, and by omission, which do not apply, along with explanatory text to confirm this.	S Sanford Limited FS00122.002 S The Fuel Companies FS00510.002	Reject	We adopt the recommendations and reasons set out in the s42A Report.
Waitaki District Council	00140.004	GEN – General Submission	Format	Amend	Each chapter objective, policy, rule and method to begin with 1.		Reject	We adopt the recommendations and reasons set out in the s42A Report.
Wise Response Society Inc	00509.010	GEN – General Submission	Format	Amend	As far as possible avoid artificially fragmenting the environmental domains and topics as the life – supporting ecological complexes and connections so crucial for resilience become obscured.		Reject	This is a general request which does not give precise details of amendment requested
Ballance Agri-Nutrients	00409.001	GEN – General Submission	General	Support	Retain as notified except where specific amendments requested		Reject	This is a general request which does not give precise details of amendment requested
Barratt, Andy	00309.008	GEN – General Submission	General	Support	I urge the Otago Regional Council to build on the positive intention of its Proposed Regional Policy		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					Statement and work with those in our rural communities who are already dedicated to making the more radical changes required by our current converging crises.			
Central Otago Environmental Society	00202.001	GEN – General Submission	General	Support	We support the general tenor and direction of the ORPS	<input checked="" type="radio"/> Greenpeace FS00407.015 <input type="radio"/> Network Waitaki Limited FS00320.003 <input type="radio"/> Oceana Gold FS00115.002	Reject	This is a general request which does not give precise details of amendment requested
Director-General of Conservation	00137.001	GEN – General Submission	General	Support	Retain the particular provisions of the Proposed Otago Regional Policy Statement that I support (as set out elsewhere).		Reject	This is a general request which does not give precise details of amendment requested
Ernslaw One	00412.011	GEN – General Submission	General	Support	Supports the provisions in ORPS 2021 which enable collaborative engagement between different local authorities, landowners, and communities for the management of eco-systems, freshwater or otherwise, and indigenous biodiversity.		Reject	This is a general request which does not give precise details of amendment requested
Fire and Emergency New Zealand - Te Kei Region Otago Southland	00219.001	GEN – General Submission	General	Support	endorse all references to working with stakeholders in order to provide input on the following areas as they relate to fire safe practices, urban development and design, water use and air quality.		Reject	This is a general request which does not give precise details of amendment requested
Fire and Emergency New Zealand - Te Kei Region Otago Southland	00219.007	GEN – General Submission	General	Support	endorse regular review and publication of significant built and natural places within planning documents		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Fire and Emergency New Zealand - Te Kei Region Otago Southland	00219.013	GEN – General Submission	General	Support	Planning considerations need to take account of water supplies for firefighting, accessibility for emergency services.		Reject	This is a general request which does not give precise details of amendment requested
Heritage New Zealand Pouhere Taonga	00123.001	GEN – General Submission	General	Support	Retain as notified except where specific amendments are sought		Reject	This is a general request which does not give precise details of amendment requested
Kāi Tahu ki Otago / Aukaha	00226.023	GEN – General Submission	General	Support	Generally support the approach taken in the PORPS and retain any provisions not specified in Appendix 1 of submission.		Reject	This is a general request which does not give precise details of amendment requested
Minister for the Environment	00136.001	GEN – General Submission	General	Support	I support the pRPS but recommend minor amendments	S Central Otago Environmental Society FS00202.126	Reject	This is a general request which does not give precise details of amendment requested
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.001	GEN – General Submission	General	Support	support the references in the RPS to the effects of land-based activities on the coastal environment	S Otago Fish and Game Council FS00609.148	Reject	This is a general request which does not give precise details of amendment requested
Sole Matthew	00508.001	GEN – General Submission	General	Support	I support the general tenor and direction of the PORPS 2021		Reject	This is a general request which does not give precise details of amendment requested
Toitū Te Whenua, Land Information New Zealand	00101.001	GEN – General Submission	General	Support	Supports the intent of the ORPS		Reject	This is a general request which does not give precise details of amendment requested
Trojan Holdings Limited (Trojan)	00206.002	GEN – General Submission	General	Support	Unless otherwise discussed or affected by the reasons below the pRPS is supported.		Reject	This is a general request which does not give precise details of amendment requested
Wayfare Group Ltd	00411.003	GEN – General Submission	General	Support	Retain as notified except where amendments are sought		Reject	This is a general request which does not give precise details of amendment requested
Angus, Alistair; Singleton,	00103.001	GEN – General Submission	General	Oppose	Suspend this process until there has been meetings in all affected area's with		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Robert; Bryant, Neville; Rivett, Ruth; Mckenzie, David and Fiona; Britton, Tania; Burrel, Marie; Young, Keri; Tayler, Kate; Afleck, Vern					Honest Q&A sessions and binding motions.			
Ernslaw One	00412.001	GEN – General Submission	General	Oppose	Delete RPS in its entirety and replace with a freshwater focused RPS to prioritise the changes necessary to give effect to NPSFM 2020 and NESF 2020. Any provisions that do not address freshwater specifically, should be redrafted into a future RPS document given likely change in national direction and RMA Reform.	○ Te Rūnanga o Ngāi Tahu FS00234.010	Reject	This is a general request which does not give precise details of amendment requested
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.099	GEN – General Submission	General	Oppose	Delete and redraft explanations, principal reasons and anticipated Environmental results sections	Otago Water Resource Users FS00235.008 (neutral) Otago Water Resource Users FS00235.008 (neutral)	Reject	This is a general request which does not give precise details of amendment requested
Rayonier Matariki Forests	00020.001	GEN – General Submission	General	Oppose	Delay the development of the RPS21 until after the RMA reform process and the introduction of the NPSIB, or an alternative is to only advance those sections of the RPS21 that give effect to the NPSFW.	§ Ernslaw One Ltd FS00412.003 ○ Otago Fish and Game Council FS00609.171	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.194	GEN – General Submission	General	Not stated/unclear	Note that the application of the Te Mana o Te Wai hierarchical approach across all chapters of the RPS is going beyond the intent of the NPSFM 2020.	§ Transpower New Zealand Limited FS00314.015 § Otago Water Resource Users FS00235.013	Accept in part	We accept this submission point, for the reasons outlined in the Legal Section of the main Recommendations report Appendix One.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
						<p>○ Otago Fish and Game Council FS00609.077</p> <p>○ Te Rūnanga o Ngāi Tahu FS00234.011</p>		
Glaister, Peter	00109.001	GEN – General Submission	General	Not stated/unclear	That the council use common sense in its policy decisions and strikes an appropriate balance between the needs of the environment and the needs of the people for sustainably produced food		Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal Section of the main Recommendations report Appendix One.
Horticulture New Zealand	00236.001	GEN – General Submission	General	Not stated/unclear	<p>[Specific changes not identified]</p> <ul style="list-style-type: none"> - It is essential that all four well-beings and the health and safety of people are provided for within the proposed Otago Regional Policy Statement. - The lack of recognition of the positive contribution of the sector is impacting on the mental health of growers. 	○ Otago Fish and Game Council FS00609.103	Reject	This is a general request which does not give precise details of amendment requested
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.002	GEN – General Submission	General	Not stated/unclear	Achieve the purpose and principles of the Resource Management Act 1991 (RMA) and consistency with the relevant provisions in Sections 6 - 8 RMA;		Reject	This is a general request which does not give precise details of amendment requested
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.003	GEN – General Submission	General	Not stated/unclear	Give effect to National Policy Statements, Environmental Standards and Regulations, including the New Zealand Coastal Policy Statement (NZCPS).	<p>○ Contact Energy Limited FS00318.002</p> <p>○ Oceana Gold FS00115.003</p> <p>○ Network Waitaki Limited FS00320.004</p>	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.004	GEN – General Submission	General	Not stated/unclear	Assist the Council to carry out its functions under Section 30 RMA.		Reject	This is a general request which does not give precise details of amendment requested
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.005	GEN – General Submission	General	Not stated/unclear	Meet the requirements of the statutory tests in section 32 of the RMA		Reject	This is a general request which does not give precise details of amendment requested
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.006	GEN – General Submission	General	Not stated/unclear	Avoid, remedy or mitigate any relevant and identified environmental effects		Reject	This is a general request which does not give precise details of amendment requested
Beef & Lamb NZ and Deer Industry NZ	00237.074	GEN – General Submission	General	Amend	<p>General amendments sought:</p> <ul style="list-style-type: none"> i. Overhaul pORPS to make resilience foundation of all objectives, policies, methods on for all aspects. ii. Overhaul pORPS to place biodiversity as the focus of policy and build other policies around that. iii. Give better recognition of rural land and primary sector in its value to the region for social, economic, and environmental purposes. iv. The RPS should include policies setting out the identification of values, and their location in the regional plan, and this should occur before environmental outcomes are decided. 	<p>S Otago Water Resource Users FS00235.014</p> <p>O Otago Fish and Game Council FS00609.033</p>	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>v. The pORPS should contain more directive policies which enable plans to be developed that focus on prioritising land use for the protection of productive land for food and fibre production</p> <p>vi. The pORPS should contain directive policies providing for an adaptive management planning framework for a catchment or sub – catchment, which allows for sustainable food production</p> <p>vii. The pORPS should contain policies which emphasise the importance of providing for mana whenua and communities to develop a vision for land uses in a catchment or sub – catchment</p> <p>The pORPS should include provisions and policies which provide for any climate accounting methods to include the benefits of carbon being sequestered in soil.</p>			
Business South Inc	00408.001	GEN – General Submission	General	Amend	Complexity of planning framework...reinforces the importance of having effective and innovative resource management communication for the business community to be kept informed to promote positive ongoing engagement. We suggest that providing high level summary documents a more effective way to		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					communicate intent to the community and to engage in a genuine consultation process			
Cain whānau	00010.001	GEN – General Submission	General	Amend	<ul style="list-style-type: none"> a. Amendments to all the provisions of the RPS in accordance with but not limited to the changes set out in the submission [Cain Whānau, submitter 00010 – Admin]; b. Any alternative or other amendments to address the matters raised in this submission, and to achieve the intent of this submission; and c. Any similar, alternative, consequential and/or other relief as necessary to address the issues raised in this submission. 		Reject	This is a general request which does not give precise details of amendment requested
Christchurch International Airport Limited (CIAL)	00307.042	GEN – General Submission	General	Amend	(Submission Cover Para 7) The Proposed Statement must be forward – looking. It is important to future – proof theregion as well as providing for existing infrastructure and community assets. As a planning document with a decade – long vision, the Proposed Statement should anticipate community needs in the future and establish a framework to guide future development to meet those needs		Reject	This is a general request which does not give precise details of amendment requested
Christchurch International Airport Limited (CIAL)	00307.043	GEN – General Submission	General	Amend	(Submission Cover Para 8) The objectives and policies of the Proposed Otago Regional Policy Statement	○ Otago Fish and Game Council FS00609.047	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal Section and EIT chapter of the main Recommendations report Appendix One.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>should:</p> <ul style="list-style-type: none"> • Encourage and support the upgrading, maintenance and protection of regionally significant infrastructure. • Encourage and support the development of new infrastructure projects in appropriate locations to provide for the region's infrastructure needs in the future • Ensure that infrastructure provisions runs alongside community growth; and • Provides for the investments that will be necessary to support the people of Central Otago and beyond as they adjust to the demands imposed by climate change. In particular, to facilitate the adaptations that will be required to relocate, substitute and reinforce key infrastructure assets that will likely become susceptible to the impacts of climate change. 			
Dunedin City Council	00139.002	GEN – General Submission	General	Amend	<ul style="list-style-type: none"> - Amend RPS as required to ensure district plan change requirement dates are realistic and achievable and based on current work programme priorities. - Add content to allow these dates to be changed by mutual agreement in 	Beef + Lamb New Zealand Ltd FS00237.017 (neutral) Beef + Lamb New Zealand Ltd FS00237.017 (neutral) S Waitaki District Council FS00140.005 O	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					consideration of other priorities. - Where possible align dates with the date required to produce a new plan under any replacement legislation being brought forward through the RM System reform.	Otago Fish and Game Council FS00609.052		
Ernslaw One	00412.017	GEN – General Submission	General	Amend	Ernslaw generally supports the intent of ORPS 2021, however given impending changes in national direction, Ernslaw submits that ORPS 2021 be deleted and that a new RPS be drafted to prioritise regional policy needed to give effect to the NPSFM 2020 and the NESF 2020. See also point 00412.001	○ Te Rūnanga o Ngāi Tahu FS00234.008	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.195	GEN – General Submission	General	Amend	Significantly review and amend the overly restrictive and prohibitive approach taken within the RPS.	₪ Network Waitaki Limited FS00320.001 ₪ Oceana Gold FS00115.004 ₪ Otago Water Resource Users FS00235.015	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal Section of the main Recommendations report Appendix One.
Federated Farmers of New Zealand	00239.196	GEN – General Submission	General	Amend	Amend to include a broader acknowledgement towards (and recognition of) the roles resource users fulfil in meeting the positive outcomes sought under the RPS.	₪ Ernslaw One Ltd FS00412.004 ₪ Otago Water Resource Users FS00235.015 ○ Otago Fish and Game Council FS00609.078	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal Section of the main Recommendations report Appendix One.
Federated Farmers of New Zealand	00239.198	GEN – General Submission	General	Amend	Amend to include a broader acknowledgement towards (and recognition of) the roles resource users fulfil in meeting the positive outcomes sought under the RPS.	₪ Otago Water Resource Users FS00235.016	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal Section of the main Recommendations report Appendix One.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Federated Farmers of New Zealand	00239.199	GEN – General Submission	General	Amend	Amend to recognise that there are deep inconsistencies between the natural character, outstanding natural landscape, and outstanding water body provisions.	S Network Waitaki Limited FS00320.005 S Oceana Gold FS00115.005 S Otago Water Resource Users FS00235.016	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.202	GEN – General Submission	General	Amend	That our relief sought for specific provisions as included within the following sections of this submission are noted and adopted.	S Otago Water Resource Users FS00235.017	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.201	GEN – General Submission	General	Amend	Amend to include a new transitioning chapter given the objectives and policies within this RPS represent a major change for Otago.	S Otago Water Resource Users FS00235.017 O Otago Fish and Game Council FS00609.079	Reject	This is a general request which does not give precise details of amendment requested
Fire and Emergency New Zealand - Te Kei Region Otago Southland	00219.003	GEN – General Submission	General	Amend	Include/acknowledge 'emergency services' as a stakeholder in the RPS		Reject	This is a general request which does not give precise details of amendment requested
Fire and Emergency New Zealand - Te Kei Region Otago Southland	00219.006	GEN – General Submission	General	Amend	Enable the sharing of registers and mapping layers of significant places/sites/areas to enable joint planning activities and foster shared situational awareness.	S Queenstown Lakes District Council FS00138.057	Accept in part	While this is a general request which does not give precise details of amendment requested, elsewhere in this report we recommend amendments that encourage co-operation between authorities
Fonterra Co-operative Group Limited	00233.001	GEN – General Submission	General	Amend	Generally support the direction of the PORPS, subject to the amendments that are outlined in submission.		Reject	This is a general request which does not give precise details of amendment requested
Fulton Hogan Limited	00322.049	GEN – General Submission	General	Amend	Ensure as well as the pRPS focus on environmental resilience, social and economic resilience and the ability to recover in the face of natural hazard and		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					climate change risks is recognised as important as outlined in the general submission.			
Glenpanel Limited Partnership	00405.018	GEN – General Submission	General	Amend	Make further amendments necessary to improve the clarity and workability of the provisions to achieve the purpose of the submission.		Reject	This is a general request which does not give precise details of amendment requested
Highton, John	00014.011	GEN – General Submission	General	Amend	Address the tourism issues that come from unregulated camping (freedom camping) and recreational boating which put pressure on the region's lakes.	S Otago Fish and Game Council FS00609.098	Reject	This is a general request which does not give precise details of amendment requested
Highton, John	00014.043	GEN – General Submission	General	Amend	Amend RPS21 to include a section that recognises the cultural significance of valued introduced species and provide for protecting the environment of these species.	S Otago Fish and Game Council FS00609.099	Reject	This is a general request which does not give precise details of amendment requested
Hopkins, Jim	00420.003	GEN – General Submission	General	Amend	Amend RPS to use quantifiable, measurable terms like 'purity', 'quality', 'life-supporting ability' instead of spiritual concepts not necessarily universally shared		Reject	This is a general request which does not give precise details of amendment requested
LAC Properties Trustees Limited	00211.001	GEN – General Submission	General	Amend	Subject to the specific relief identified elsewhere, the Submitter requests that remaining provisions be either deleted or amended to accord to the reasons for relief set out in this Submission, and where any inconsistencies remain between the Operative RPS and the Proposed RPS, that the Operative RPS is to be reinstated.		Reject	This is a general request which does not give precise details of amendment requested
Lane Hocking	00210.001	GEN – General Submission	General	Amend	Subject to the specific relief identified elsewhere, the Submitter requests that		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					remaining provisions be either deleted or amended to accord to the reasons for relief set out in this Submission, and where any inconsistencies remain between the Operative RPS and the Proposed RPS, that the Operative RPS is to be reinstated.			
Meridian Energy Limited	00306.086	GEN – General Submission	General	Amend	Amend as follows: Redress the Proposed Otago Regional Policy Statement June 2021 (pORPS21) not adequately giving effect to the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG) and Policy 4 of the National Policy Statement for Freshwater Management 2020 (NPSFM); and does not respond sufficiently to the need for action to address climate change.	S Mercury FS00605.052	Reject	This is a general request which does not give precise details of amendment requested
Mt Cardrona Station	00114.002	GEN – General Submission	General	Amend	Subject to the specific relief identified below, the Submitter requests that remaining provisions be either deleted or amended to accord to the reasons for relief set out in this Submission, and where any inconsistencies remain between the Operative RPS and the Proposed RPS, that the Operative RPS is to be reinstated.		Reject	This is a general request which does not give precise details of amendment requested
New Zealand Cherry Corp Ltd	00413.002	GEN – General Submission	General	Amend	Any further relief necessary to give effect to the NPS-HPL when this is gazetted		Reject	This is a general request which does not give precise details of amendment requested
New Zealand Infrastructure Commission	00321.009	GEN – General Submission	General	Amend	Holism or hierarchy conflict needs to be resolved. The holistic, integrated approach is preferred	S Otago Fish and Game Council FS00609.128 O Minister for the Environment FS00136.009	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal Section of the main Recommendations report Appendix One.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
New Zealand Infrastructure Commission	00321.099	GEN – General Submission	General	Amend	Defer the development of the pORPS until the future Natural and Built Environments Act (NBA) reform process has been completed and is in place	○ Minister for the Environment FS00136.008	Reject	This is a general request which does not give precise details of amendment requested
Oceana Gold (New Zealand) Ltd	00115.035	GEN – General Submission	General	Amend	Amend the PORPS so it is the most appropriate way to achieve the purpose of the RMA, particularly when regard is had to the efficiency and effectiveness of the provisions relative to other means;	○ Otago Fish and Game Council FS00609.144	Reject	This is a general request which does not give precise details of amendment requested
Oceana Gold (New Zealand) Ltd	00115.037	GEN – General Submission	General	Amend	Amend the PORPS so it represents sound resource management practice particularly with respect to planning for significant economic activities and contributors in the Otago Region – no particular details provided.		Reject	This is a general request which does not give precise details of amendment requested
Oceana Gold (New Zealand) Ltd	00115.034	GEN – General Submission	General	Amend	Amend the PORPS to promote the sustainable management or efficient use and development of natural and physical resources;		Reject	This is a general request which does not give precise details of amendment requested
Off Road Adventures Limited	00205.001	GEN – General Submission	General	Amend	Ensure existing and new commercial recreation activities (including ancillary/supporting facilities and services) are provided for/can occur within areas classified as Outstanding Natural Landscapes, Highly Valued Natural Landscapes, Significant Natural Areas, or within areas known to be subject to natural hazard risk.		Reject	This is a general request which does not give precise details of amendment requested
Otago Fish & Game Council and the Central South	00231.096	GEN – General Submission	General	Amend	Make text within Parts 1 and 2 succinct to aid in readability. Suggested changes have not been	○ Otago Water Resource Users FS00235.018	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Island Fish & Game Council					made by Fish & Game, as they will likely be substantial and best proffered by the ORC.			
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.002	GEN – General Submission	General	Amend	Amend so the RPS protects water bodies and freshwater ecosystems, including the habitat of trout and salmon, from the impacts of land use and restores them where they are degraded [specific relief not stated]	○ Otago Water Resource Users FS00235.018	Reject	This is a general request which does not give precise details of amendment requested
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.003	GEN – General Submission	General	Amend	Amend so the RPS develops a framework for considering when protecting the habitat of trout and salmon is consistent with protecting the habitat of indigenous species and assists in managing species interactions where they are of concern [specific relief not stated]	§ Ernslaw One Ltd FS00412.005 ○ Otago Water Resource Users FS00235.019	Reject	This is a general request which does not give precise details of amendment requested
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.004	GEN – General Submission	General	Amend	Amend provisions to require the RPS to take a hierarchical approach, with a priority on the natural environment [specific relief not stated]	○ Mercury FS00605.021 ○ Otago Water Resource Users FS00235.019	Reject	We do not accept this submission point, for the reasons outlined in the Legal section of the main Recommendations report.
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.006	GEN – General Submission	General	Amend	Amend so the RPS recognises and provides for the way in which people connect with the environment, including recreation in and around water and harvesting food from water bodies [specific relief not stated]	○ Otago Water Resource Users FS00235.020	Reject	This is a general request which does not give precise details of amendment requested
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.008	GEN – General Submission	General	Amend	Amend so the RPS provides protection for the wide range of Otago ecosystems and habitats by removing the words ‘indigenous’ and ‘native’ where it is not	○ Otago Water Resource Users FS00235.020	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					logical [specific relief not stated]			
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.012	GEN – General Submission	General	Amend	significant reduction in length of Parts 1 and 2 [specific relief not stated]	O Otago Water Resource Users FS00235.021	Reject	This is a general request which does not give precise details of amendment requested
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.002	GEN – General Submission	General	Amend	Support the concept of 'integrated management' as an approach to managing the adverse effects of the environment but note that the concept should be broadened than is currently set out in the draft RPS	S Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated FS00125.003 S Otago Fish and Game Council FS00609.149	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Parcell, Edgar	00032.004	GEN – General Submission	General	Amend	The uniqueness of Bannockburn needs to be recognised in the RPS21.		Reject	This is a general request which does not give precise details of amendment requested
Parcell, Edgar	00032.003	GEN – General Submission	General	Amend	The identification criteria of resources are not complete. There are only identification criteria for identified outstanding water bodies, landscapes, and soils etc, whereas the actual features should be identified in the RPS to allow for lower order documents to take a more integrated approach. There is also no detail on native species and/or taoka species.		Reject	This is a general request which does not give precise details of amendment requested
Queenstown Lakes District Council	00138.001	GEN – General Submission	General	Amend	Retain as notified except where specific amendments are sought by the submitter.		Reject	This is a general request which does not give precise details of amendment requested
Ravensdown Limited	00121.001	GEN – General Submission	General	Amend	Generally supports the PORPS 2021, subject to the amendments requested to address the concerns raised within its submission.		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Ravensdown Limited	00121.002	GEN – General Submission	General	Amend	Amendments that enable Ravensdown’s Dunedin Works and Otago stores, its shareholders and the users of its products to continue to use and develop resources in the region in a manner that continues to provide for the sustainable management of natural and physical resources, while also ensuring that adverse effects on the environment are avoided, remedied or mitigated.		Reject	This is a general request which does not give precise details of amendment requested
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.009	GEN – General Submission	General	Amend	Add a method for district councils to provide for and protect key civic public spaces	○ Queenstown Lakes District Council FS00138.105	Reject	This is a general request which does not give precise details of amendment requested
Aggregate and Quarry Association	00015.002	GEN – General Submission	General	Amend	Amend the RPS21 to address the issue of reserve sensitivity, through providing planning direction for key resource areas to protect existing and future quarries from the encroachment of non – compatible land uses, such as urban expansion and rural lifestyle developments, reducing the potential for reserve sensitivity effects to occur.	§ Graymont (NZ) Limited FS00022.005	Accept in part	We accept parts of this submission point, for the reasons outlined in the main Recommendations report on reverse sensitivity issues
Sole Matthew	00508.002	GEN – General Submission	General	Amend	Identify, understand and set benchmarks across our region’s biosphere limits	§ Otago Fish and Game Council FS00609.179	Reject	This is a general request which does not give precise details of amendment requested
Sole Matthew	00508.003	GEN – General Submission	General	Amend	I submit that the PORPS 2021 will be improved if it adopts concepts of Te Mana o te Wai (TMOTW) for the whole environment.	§ Otago Fish and Game Council FS00609.180	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Strath Clyde Water Ltd, McArthur Ridge Investment Group Ltd & Mount Dunstan Estates Ltd	00404.004	GEN – General Submission	General	Amend	Amend to provide increased policy direction in relation to matters raised, and while some specific amendments are included, additional objectives and policies will also be required to fully address raised issues.		Reject	This is a general request which does not give precise details of amendment requested
Te Rūnanga o Ngāi Tahu	00234.001	GEN – General Submission	General	Amend	Te Rūnanga supports the detailed relief sought by Waihōpai Rūnanga; Te Rūnanga o Awarua; Te Rūnanga o Ōraka Aparima and Te Rūnanga o Hokonui and Te Rūnanga o Ōtākou, Kati Huirapa ki Puketeraki Rūnanga and Te Rūnanga o Moeraki sent in as submissions from Aukaha and Ngāi Tahu ki Murihiku Inc.		Reject	This is a general request which does not give precise details of amendment requested
Te Rūnanga o Ngāi Tahu	00234.002	GEN – General Submission	General	Amend	Support the plan provisions except where we ask for specific amendments or additions as set out elsewhere.		Reject	This is a general request which does not give precise details of amendment requested
Trustpower Limited	00311.068	GEN – General Submission	General	Amend	Amend as follows: Trustpower recognises the need for a clear and directive Regional Policy Statement that addresses all matters of Regional Significance and clearly sets out anticipated outcomes for regional and district plans.	S Mercury FS00605.086	Reject	This is a general request which does not give precise details of amendment requested
Trustpower Limited	00311.069	GEN – General Submission	General	Amend	Trustpower notes that whilst its submission supports the intent of the pRPS to provide clarity in decision making; the current approach to priorities, hierarchy and integrated management appears flawed and as currently formed is likely to result in confusion and	S Mercury FS00605.087	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					misinterpretation which needs to be addressed.			
Universal Developments Hawea Limited	00209.001	GEN – General Submission	General	Amend	Subject to the specific relief identified elsewhere, the Submitter requests that remaining provisions be either deleted or amended to accord to the reasons for relief set out in this Submission, and where any inconsistencies remain between the Operative RPS and the Proposed RPS, that the Operative RPS is to be reinstated.		Reject	This is a general request which does not give precise details of amendment requested
Waitaki District Council	00140.005	GEN – General Submission	General	Amend	There is a consistent approach to dates when actions are required – that dates are provided for all requirements to avoid any ambiguity in interpretation.		Reject	This is a general request which does not give precise details of amendment requested
Waka Kotahi NZ Transport Agency	00305.116	GEN – General Submission	General	Amend	Retain as notified except where specific amendments are sought		Reject	This is a general request which does not give precise details of amendment requested
Wise Response Society Inc	00509.003	GEN – General Submission	General	Amend	Identify and adopt a common set of ecologically sound natural resource and environmental standards across the region. More localized standards would always be stronger and never weaker than these.	S Central Otago Environmental Society FS00202.003 S Greenpeace FS00407.013 O Otago Water Resource Users FS00235.022	Reject	This is a general request which does not give precise details of amendment requested
Wise Response Society Inc	00509.006	GEN – General Submission	General	Amend	Use biomimicry as a way of identifying what are likely to be the most efficient and sustainable way to manage and use resources	S Central Otago Environmental Society FS00202.006 O Otago Water Resource Users FS00235.022	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Wise Response Society Inc	00509.009	GEN – General Submission	General	Amend	<p>Notwithstanding the baseline state requirements in the NPSFM, shift the philosophy of the Otago RPS to one where we impact and take only what we really have to, and concurrently promote the concept of “fair share”. This is because each demand we place on the environment represents a level of stress that weakens its biophysical capacity to support itself, its ecological processes and provide ecosystem services to society.</p> <p>A supporting concept is that all life has an inherent right to exist independent of utility to humans which we compromise or extinguish only as a last resort, and ultimately at our peril. The approach in the PRPS needs to change from focusing on the value and preservation of certain <u>outstanding or significant</u> life forms, to preserving and supporting the overall biophysical capacity (including many already highly modified ecosystems) because that provides the resilience to overall life supporting capacity required by the Act.</p> <p>Biophysical capacity is established by defining the extent to which regional activity is within biophysical boundaries and where these boundaries are exceeded. Where boundaries have been exceeded, activities contributing to those exceedances should be changed over time until</p>	O Otago Water Resource Users FS00235.023	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>cumulative impacts operate within boundaries.</p> <p>Likewise, wording in the draft should not imply we have some biophysical headroom, when this is not the case for many ecological categories ('environmental limits' s7(4)). The emphasis should be on enhancing and restoring, and not maintaining, avoiding, or minimising. Similarly, while identifying the maximum amount of harm or stress permitted makes explicit current practice, it reinforces the idea that natural systems exist to absorb negative effects.</p>			
Wise Response Society Inc	00509.001	GEN – General Submission	General	Amend	Amend to give priority to requiring us humans to better manage ourselves, rather than better management the environment. A swing from managing effects to controlling inputs falls in this category.	<p>S Central Otago Environmental Society FS00202.001</p> <p>O Otago Water Resource Users FS00235.023</p>	Reject	This is a general request which does not give precise details of amendment requested
Wise Response Society Inc	00509.011	GEN – General Submission	General	Amend	If we are to achieve the extent and depth of transition required, the sense of responsibility and duties of stewardship rightly claimed by Maori through Te Mana o Te Wai need to be extended to the environment generally and to all New Zealanders – particularly urban based.	<p>O Otago Water Resource Users FS00235.024</p>	Reject	For the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Yellow-eyed Penguin Trust	00120.001	GEN – General Submission	General	Amend	Ensure that convincing support is provided for the mandatory national policy statements and standards that guide the RPS document. This should include strong outcome		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					statements within the appropriate policies to ensure adequate protection of the natural environment, indigenous species and their habitats.			
Yellow-eyed Penguin Trust	00120.006	GEN – General Submission	General	Amend	Ensure that the different sections of the RPS are consistent, well integrated and effectively linked, in particular the sections on ecosystems and indigenous biodiversity, freshwater, coastal and terrestrial environments.	S Otago Fish and Game Council FS00609.223	Reject	This is a general request which does not give precise details of amendment requested but the Panel considers the recommended version for the reasons provided in the main report achieves integrated management of resources
Moutere Station	00026.003	GEN – General Submission	Land use	Amend	The land use provisions throughout the RPS21 would restrict the rights of landowners.		Reject	This is a general request which does not give precise details of amendment requested
Parcell, Edgar	00032.002	GEN – General Submission	Land use	Amend	The different aspects that arise from a land use change are not clearly defined. There needs to be clarity in terms of framework to give confidence and certainty to landowners about any change that might arise. This is about integrated management.		Reject	This is a general request which does not give precise details of amendment requested
Kāi Tahu ki Otago / Aukaha	00226.001	GEN – General Submission	Mana whenua	Support	Retain the recognition of the mana and rakatirataka of Kāi Tahu, and their status as partners under Te Tiriti o Waitangi.	S Te Rūnanga o Ngāi Tahu FS00234.002 Ngāi Tahu ki Murihiku FS00223.001	Accept in part	As set out in the main recommendations report particularly in the MW chapter parts of this submission point are adopted.
Kāi Tahu ki Otago / Aukaha	00226.004	GEN – General Submission	Mana whenua	Support	Retain references to the relationship with Kāi Tahu in the context of partnership.	S Te Rūnanga o Ngāi Tahu FS00234.003 S Ngāi Tahu ki Murihiku FS00223.002	Accept in part	As set out in the main recommendations report particularly in the MW chapter parts of this submission point are adopted.
Kāi Tahu ki Otago / Aukaha	00226.002	GEN – General Submission	Mana whenua	Amend	Amend throughout to better define mana whenua values (including concepts such as mana, whakapapa, mauri,	Otago Water Resource Users FS00235.025 (neutral) Otago	Accept in part	As set out in the main recommendations report particularly in the MW chapter parts of this submission point are adopted.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					rakatirataka, kaitiakitaka, and mātauraka) from the perspective of mana whenua.	Water Resource Users FS00235.025 (neutral) S Te Rūnanga o Ngāi Tahu FS00234.004 S Ngāi Tahu ki Murihiku FS00223.003		
Kāi Tahu ki Otago / Aukaha	00226.003	GEN – General Submission	Mana whenua	Amend	Amend throughout to specify Kāi Tahu preference for deep engagement in resource management processes by referencing “resource management processes and decision – making” when referring to the role of mana whenua in resource management.	Otago Water Resource Users FS00235.026 (neutral) S Te Rūnanga o Ngāi Tahu FS00234.005 S Ngāi Tahu ki Murihiku FS00223.004 Otago Water Resource Users FS00235.026 (neutral)	Accept in part	As set out in the main recommendations report particularly in the MW chapter parts of this submission point are adopted.
Kāi Tahu ki Otago / Aukaha	00226.329	GEN – General Submission	Mana whenua	Amend	Amend by including a map of Native Reserves and cross-referencing this from the Mana Whenua chapter	S Federated Farmers FS00239.052 S Te Rūnanga o Ngāi Tahu FS00234.006 S Ngāi Tahu ki Murihiku FS00223.005	Accept	We adopt the recommendations and reasons set out in various of the s42A Reports to accept this.
Ngāi Tahu ki Murihiku	00223.001	GEN – General Submission	Mana whenua	Amend	Recognise the role of the partnership between Kāi Tahu and Otago Regional Council that has resulted in co – development of text and provisions within the pORPS and preserve the intent of co – developed text and provisions.	Otago Water Resource Users FS00235.027 (neutral) Otago Water Resource Users FS00235.027 (neutral)	Accept in part	As set out in the main recommendations report particularly in the MW chapter parts of this submission point are adopted.
Ngāi Tahu ki Murihiku	00223.002	GEN – General Submission	Mana whenua	Amend	Ensure that issues of significance identified by Kāi Tahu are addressed in the pORPS, just as the pORPS directs regional and district	Otago Water Resource Users FS00235.027 (neutral) Otago Water Resource	Accept in part	As set out in the main recommendations report particularly in the RMIA and MW chapters parts of this submission point are adopted.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					plans to manage these issues.	Users FS00235.027 (neutral)		
Ngāi Tahu ki Murihiku	00223.003	GEN – General Submission	Mana whenua	Amend	Ensure that provisions provide clear guidance about how to achieve objectives, including those relevant to Kāi Tahu in the Mana Whenua chapter and Integrated Management chapter, in situations where mapping is intended but has not yet occurred and when targets or limits are required but have not yet been set.	Otago Water Resource Users FS00235.028 (neutral) S Te Rūnanga o Ngāi Tahu FS00234.007 Otago Water Resource Users FS00235.028 (neutral)	Reject	This is a general request which does not give precise details of amendment requested
Wise Response Society Inc	00509.045	GEN – General Submission	Methods	Amend	Ensuring Methods give effect to the proposed firming of policy provisions.		Reject	This is a general request which does not give precise details of amendment requested
Alluvium Ltd and Stoney Creek Mining Ltd	00016.001	GEN – General Submission	Mineral extraction	Amend	Amend RPS21 to provide for the mineral exploration, extraction, and processing activities to locate where the resource exists. This could be achieved through carrying forward the RPS19 mineral extraction policies to the RPS21.	S Oceana Gold FS00115.006 O Otago Fish and Game Council FS00609.023	Accept in part	We accept parts of this submission point, for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Fulton Hogan Limited	00322.047	GEN – General Submission	Mineral extraction	Amend	Amend as follows: Amendment is sought to recognise the importance of aggregate to many aspects of life in Otago. Aggregate literally forms the foundation of the infrastructure and buildings that the region rely on (details are outlined in the general submission of the submitter p2).	O Otago Fish and Game Council FS00609.091	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Fulton Hogan Limited	00322.048	GEN – General Submission	Mineral extraction	Amend	Amend as follows: Ensure aggregates industry plan provisions that are hostile to the establishment of secure aggregate supplies do not result in reverse	O Otago Fish and Game Council FS00609.092	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					sensitivity and the potential for encroachment by incompatible land uses. That is allows other incompatible land uses to encroach on existing quarrying or aggregate extraction activities, or to establish on or adjacent to land that contains valuable aggregate resource.			
Joostens, Phillip	00010.001	GEN – General Submission	Mineral extraction	Amend	Amend RPS21 to provide for the recognition and regional value of the extraction industry.	S Oceana Gold FS00115.007	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Matakanui Gold Limited	00021.001	GEN – General Submission	Mineral extraction	Amend	Amend the RPS21 to recognise the functional needs of mining and that the activity needs to occur where the resource exists, acknowledge the socioeconomic benefits of mining, and manage the effects of mining.	S Oceana Gold FS00115.008	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Matakanui Gold Limited	00021.003	GEN – General Submission	Mineral extraction	Amend	Amend the RPS21 to provide dedicated policies for mining because the extractive nature of mining is different to other primary production activities.	S Oceana Gold FS00115.009 O Otago Fish and Game Council FS00609.119	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Oceana Gold (New Zealand) Ltd	00115.007	GEN – General Submission	Mineral extraction	Amend	Include greater recognition and support of the mining industry in Otago throughout the PORPS. Include provisions recognise that the need to provide for future mining in Otago and at Macraes in particular is a significant resource management issue for the region and which: - Recognise the significant economic and	S Graymont (NZ) Limited FS00022.014 O Otago Fish and Game Council FS00609.145	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>social benefits from mineral extraction.</p> <ul style="list-style-type: none"> - Protect an ability to access these significant natural resources. - Recognise the finite nature of minerals. - Protect existing mineral assets from reverse sensitivity activities. <p>Enable a regime whereby further development of the region's minerals can occur while the effects on the natural environment are appropriately managed.</p>			
Oceana Gold (New Zealand) Ltd	00115.036	GEN – General Submission	Mineral extraction	Amend	Delete from the PORPS the unnecessarily restrictive “avoidance” approach in respect of mineral extraction – no particular details provided	○ Otago Fish and Game Council FS00609.146	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Aggregate and Quarry Association	00015.001	GEN – General Submission	Mineral extraction	Amend	Amend the RPS21 to recognise that quarrying is both a functionally and operationally constrained activity and that quarry resources need to be protected.	§ Graymont (NZ) Limited FS00022.006	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Sewhoy, Tony	00108.001	GEN – General Submission	Mineral extraction	Amend	Recognise in the PORPS the Importance of the value of the Extractive Industry		Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Sewhoy, Tony	00108.002	GEN – General Submission	Mineral extraction	Amend	Incorporate into RPS Land Deemed for Mineral Exploration, Extraction processing		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Straterra	00019.001	GEN – General Submission	Mineral extraction	Amend	Amend the RPS21 to allow for extractive activities to access the Effects Management Hierarchy and offer biodiversity offsetting and compensation as a consenting pathway for development to occur.	S Graymont (NZ) Limited FS00022.002 S Oceana Gold FS00115.010	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Straterra	00019.003	GEN – General Submission	Mineral extraction	Amend	Amend the RPS21 to recognise that mineral extraction, like infrastructure, is locally constrained.	S Graymont (NZ) Limited FS00022.003 S Oceana Gold FS00115.011	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Straterra	00019.004	GEN – General Submission	Mineral extraction	Amend	Amend the RPS21 to allow for mineral extraction, as a functionally constrained industry, to access the effects management hierarchy – whether in an SNA or not.	S Graymont (NZ) Limited FS00022.004 S Oceana Gold FS00115.012	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Horticulture New Zealand	00236.002	GEN – General Submission	Primary production	Not stated/unclear	[Specific changes not identified] Food production, food supply and food security must be issues that are promoted and considered alongside other uses for essential human health, when making trade-offs that will inevitably be required to meet natural environmental limits. This is particularly relevant in peri – urban areas where there is competition for resources from urban growth.	S Otago Water Resource Users FS00235.029 O Otago Fish and Game Council FS00609.104	Reject	
Horticulture New Zealand	00236.003	GEN – General Submission	Primary production	Not stated/unclear	[Specific changes not indicated] - The proposed Otago Regional Policy statement has a part to play with respect to strategic policy directions for enabling food production in the transition to a low	S Otago Water Resource Users FS00235.029 O Otago Fish and Game Council FS00609.105		This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>emissions economy within Otago.</p> <p>It is important to not create barriers to climate change adaptation and/or mitigation and enable long-term climate change adaptation and/or mitigation, though projects such as water storage and provisions which enable growing areas to move between water catchments, zones, districts and regions.</p>			
Horticulture New Zealand	00236.004	GEN – General Submission	Primary production	Not stated/unclear	<p>[Specific changes not identified]</p> <ul style="list-style-type: none"> - That urban development and productive land are considered together to provide a planned approach so new urban areas are designed in a manner that maintains the overall productive capacity of highly productive land. - Need to ensure economic and environmental sustainability of primary production are taken into account when protecting HPL. - It is important that the definition of highly productive land includes the key natural and physical resources that contribute to the land's productivity. We also recognise that some of these natural and physical factors can be modified with policy and investment, and that all of these factors contribute to the 	<p>§ Oceana Gold FS00115.035</p> <p>§ Otago Water Resource Users FS00235.030</p>	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>productive capacity of land.</p> <p>- HortNZ seek that the outcome related to the protection of HPL is focused on protecting the productive capacity of highly productive land from inappropriate subdivision, use and development.</p>			
Beef & Lamb NZ and Deer Industry NZ	00237.001	GEN – General Submission	Primary production	Amend	<p>That land use and ancillary discharges objectives policies and methods recognise and provide for drystock sector farming operations including:</p> <ul style="list-style-type: none"> i. diversity of systems, soil, geology, and climate; ii. recognising that resilience for agriculture and therefore communities and natural resources they manage comes from flexibility; iii. provide flexibility for land and resource users to adopt land use and farming operations to adapt to and meet markets, technology, and environmental constraints such as climate. iv. provide for adaptation and changes in farm systems and management approaches to respond to technology, climate change and markets; <p>that regulatory methods are tailored to address the environmental issues specific to a sub catchment</p>	S Otago Water Resource Users FS00235.031	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					or watershed and the land use.			
Federated Farmers of New Zealand	00239.197	GEN – General Submission	Primary production	Amend	Amend to provide significantly greater recognition of the importance of the primary sector in general, and food production in particular throughout the RPS from the introduction across remaining provisions.	S Otago Water Resource Users FS00235.032 O Otago Fish and Game Council FS00609.080	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Herlihy, Gavan James	00104.003	GEN – General Submission	Primary production	Amend	Include greater recognition of the importance of the primary sector within Otago.		Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Horticulture New Zealand	00236.005	GEN – General Submission	Primary production	Amend	HortNZ seek that the outcome related to the protection of HPL is focused on protecting the productive capacity of highly productive land from inappropriate subdivision, use and development and seeks an amendment so that the Act promotes the use of highly productive land for food production, both for domestic and export.	S Otago Water Resource Users FS00235.033	Reject	This is a general request which does not give precise details of amendment requested
Mouere Station	00026.001	GEN – General Submission	Primary production	Amend	The RPS21 does not take into account the positive impact of agriculture in Central Otago nor mitigate the negative impact that the adaptation of the RPS21 will have on agriculture in Central Otago.		Reject	This is a general request which does not give precise details of amendment requested
Mouere Station	00026.002	GEN – General Submission	Primary production	Amend	The RPS21 identifies agriculture as a significant contributor to the Otago region, however it fails to acknowledge this positive economic contribution in any of the domains or topics.		Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
OWRUG	00235.004	GEN – General Submission	Primary production	Amend	Supports the recognition and prioritisation of using highly productive land for primary production in the pRPS but seeks that this recognition should extend to all land used for food and fibre production.	O Otago Fish and Game Council FS00609.152	Reject	Particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report as to prioritisation issues
OWRUG	00235.005	GEN – General Submission	Primary production	Amend	Seeks that the pRPS provisions, and in particular the Land and Freshwater chapter, are amended to provide stronger recognition of the importance of primary production land and the economic uses of soil.	S DairyNZ Limited FS00601.004	Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Parcell, Edgar	00032.001	GEN – General Submission	Primary production	Amend	Articulate more clearly throughout the RPS21 the importance of the primary sector.		Accept in part	We accept parts of this submission point, particularly for the reasons outlined in the Legal section and the IM chapter of the main Recommendations report
Federated Farmers of New Zealand	00239.192	GEN – General Submission	Te reo	Amend	Adopt a comprehensive glossary of all te reo terms utilised in the RPS.	S Otago Fish and Game Council FS00609.081 S Otago Water Resource Users FS00235.034 S Queenstown Lakes District Council FS00138.055 S Waitaki District Council FS00140.010	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 317
Horticulture New Zealand	00236.111	GEN – General Submission	Te reo	Amend	Include a glossary of all te reo terms and phrases.	S Otago Water Resource Users FS00235.035 S Queenstown Lakes District Council FS00138.069 S Waitaki District Council FS00140.009	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 317

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Kāi Tahu ki Otago / Aukaha	00226.024	GEN – General Submission	Te reo	Amend	Amend the entire PORPS document to ensure correct and consistent use of te reo Māori regarding: <ol style="list-style-type: none"> 1. Use of Kāi Tahu dialect, unless using a proper noun or name in a different dialect (para. 3.2(a)); 2. Use of tohutō and capitalisation words in accordance with accepted orthographic conventions (para. 3.2(b)); 3. Use of Kāi Tahu spelling of Māori place names (para. 3.2(c)). 	<p>S Otago Water Resource Users FS00235.036</p> <p>S Ngāi Tahu ki Murihiku FS00223.006</p>	Accept	We adopt the recommendations and reasons set out in the s42A Report
Ngāi Tahu ki Murihiku	00223.085b	GEN – General Submission	Te reo	Amend	Macrons are needed on the first two ‘ā’s in ‘Tāwhirimātea’ in all instances where Tāwhirimātea is mentioned in the document.		Accept	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 317
Waitaki District Council	00140.003	GEN – General Submission	Te reo	Amend	Amend to include new glossary of te reo terms	S Otago Water Resource Users FS00235.037	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 317
Yellow-eyed Penguin Trust	00120.008	GEN – General Submission	Te reo	Amend	Amend as follows: Incorrect spelling: Maori Correct to Māori throughout the document.		Accept	We adopt the recommendations and reasons set out in the s42A Report
Wilson, Terry	00419.001	GEN – General Submission	Te Tiriti o Waitangi	Amend	Amend whole RPS by replacing all occurrences of “Principles of Te Tiriti o Waitangi” (and similar) with “The Treaty Of Waitangi”, so that references are to The Treaty itself, not the principles of The Treaty.		Reject	We adopt the recommendations and reasons set out in the s42A Report, particularly at paragraph 354.
Wilson, Terry	00419.003	GEN – General Submission	Te Tiriti o Waitangi	Amend	Recognise that the “Treaty Partnership” is fraudulent and remove all mention of	O Te Rūnanga o Ngāi Tahu FS00234.013	Reject	We adopt the recommendations and reasons set out in the s42A Report, particularly at paragraph 354.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					this from all parts of this RPS.			
Sole Matthew	00508.004	GEN – General Submission	Terminology	Oppose	‘sustain’, ‘encourage’, ‘promote’, ‘practicable’ or ‘wherever possible’ do not provide clear direction to the decision – maker and undermines the effectiveness of the provision.	S Otago Fish and Game Council FS00609.181 O Otago Water Resource Users FS00235.038	Reject	This is a general request which does not give precise details of amendment requested
Business South Inc	00408.008	GEN – General Submission	Terminology	Amend	Clarify use of “avoid” throughout document - avoid means avoid, will affect businesses starting or continuing activities		Reject	This is a general request which does not give precise details of amendment requested
Horticulture New Zealand	00236.112	GEN – General Submission	Terminology	Amend	There are places where the pRPS seeks to ‘avoid impacts on significant values and features identified in this RPS’ (e.g., UFD – O4 (UFD – P4 (5) UFD – P7 (1)). Ensure that there is clarity about what significant values and features identified in this RPS are to be considered for specific activities.		Accept in part	The main recommendations report addresses these issues with appropriate amendments at various places.
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.005	GEN – General Submission	Terminology	Amend	Amend provisions to remove ambiguous and unclear wording and replace with consistent, directive terms [specific relief not stated]	S Mercury FS00605.022 Otago Water Resource Users FS00235.042 (neutral) Otago Water Resource Users FS00235.042 (neutral)	Reject	This is a general request which does not give precise details of amendment requested
OWRUG	00235.035	GEN – General Submission	Terminology	Amend	Amend all references to ‘agriculture’ to ‘food and fibre sector’.	S Matakanui Gold Limited FS00021.009	Accept in part	We adopt the recommendations and reasons set out in the s42A Reports to utilise primary production in some locations
Royal Forest and Bird Protection Society of	00230.002	GEN – General Submission	Terminology	Amend	The RPS should be amended throughout to remove the term environmental limits and replace it with the outcome sought (e.g. ‘to	S The Fuel Companies FS00510.017 S Port Otago LTD FS00301.027	Accept in part	The main recommendations report addresses these issues with appropriate amendments at various places.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
New Zealand Incorporated					maintain and restore ecosystem health and indigenous biodiversity') unless it is clear that there is a specific environmental limit which cannot be breached for that particular objective policy or method.	S Transpower New Zealand Limited FS00314.008 S Waka Kotahi NZ Transport Agency FS00305.002		
Sole Matthew	00508.005	GEN – General Submission	Terminology	Amend	Replace 'improve', 'maintain' or 'enhance' with 'protect and restore' along with a definition for 'restoration'.	O Otago Water Resource Users FS00235.039	Reject	The main recommendations report addresses these issues and makes appropriate amendments in relevant provisions
Sole Matthew	00508.006	GEN – General Submission	Terminology	Amend	Replace 'bottom lines' and 'environmental constraints' with 'environmental limits' for consistency.	Otago Water Resource Users FS00235.044 (neutral) Otago Water Resource Users FS00235.044 (neutral)	Reject	The main recommendations report addresses these issues and makes appropriate amendments in relevant provisions
Trojan Holdings Limited (Trojan)	00206.004	GEN – General Submission	Terminology	Amend	Replace the following words with other words which have a practical or clearer/explicit meaning: 'Significant', 'Sustainable' / 'sustainable development' / 'sustained', 'Environmental limit', 'Bottom line', 'Environments', and Statements including or like "important features and values identified by this RPS"	S Port Otago LTD FS00301.035+ S Otago Fish and Game Council FS00609.195 O Otago Water Resource Users FS00235.040	Reject	The main recommendations report addresses these issues and makes appropriate amendments in relevant provisions
Trojan Holdings Limited (Trojan)	00206.005	GEN – General Submission	Terminology	Amend	Insert "natural" before landscape every time there is reference to "outstanding natural features or landscapes" and "highly valued natural features or landscapes".		Reject	Unnecessary
Trustpower Limited	00311.001	GEN – General Submission	Terminology	Amend	Amend as follows Throughout the document replace the word 'energy' with the word ' electricity ' wherever there are references to renewables.	S Meridian Energy Limited FS00306.001 O Mercury FS00605.059	Accept	The amendment sought is logical.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Waitaki Whitestone Geopark Trust	00117.001	GEN – General Submission	Terminology	Amend	Amend as follows: Delete the word “Historic” from the term “Historic Heritage” and replace with “Cultural & Natural Heritage” throughout the document		Reject	The panel accepts the s.42A HCV chapter report reasons and recommendations
Wayfare Group Ltd	00411.008	GEN – General Submission	Terminology	Amend	Amend entire RPS by replacing numerous vague terms in the pRPS, for example as listed below: <ul style="list-style-type: none"> • Significant • Sustainable / sustainable development / sustained • Environmental limit • Bottom line • Environments • Statements including or like “important features and values identified by this RPS” Replace these words with other words which have a practical or clearer/explicit meaning.	○ Otago Water Resource Users FS00235.041	Reject	The s.42A reports and the main recommendation report and some of the chapter reports have applied differing amendments relevant to the provisions involved and their settings.
Wayfare Group Ltd	00411.009	GEN – General Submission	Terminology	Amend	Delete term “possible” from the pRPS. Replace with clearer achievable or more practicable direction, or alternatively replace with “practicable”.		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments relevant to the provisions involved and their settings.
Wayfare Group Ltd	00411.010	GEN – General Submission	Terminology	Amend	Amend whole RPS by interesting “natural” before “landscapes” in every mention of “outstanding natural features or <u>natural</u> landscapes” and “highly valued natural features or <u>natural</u> landscapes”.		Reject	Unnecessary
Yellow-eyed Penguin Trust	00120.007	GEN – General Submission	Terminology	Amend	Amend as follows:		Accept	Minor spelling correction

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					Incorrect spelling: Otago Harbor. Correct to Otago Harbour throughout the document.			
Alluvium Ltd and Stoney Creek Mining Ltd	00016.025	GEN – General Submission	New provision	Amend	Include the following policy in the PRSP: <u>Recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue.
Danny Walker, Peter Hall, Cold Clutha Ltd and Awa Koura Mining Ltd	00017.023	GEN – General Submission	New provision	Amend	Include the following policy in the pRSP: <u>Recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Duncan, Brent & Kelly	00006.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective: Objective X.X <u>Sufficient land is managed and protected for economic production</u>	S Fonterra FS00233.001 S Oceana Gold FS00115.013 O Te Rūnanga o Ngāi Tahu FS00234.016	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Duncan, Brent & Kelly	00006.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.1 <u>Manage activities in rural areas and support the region's economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration,</u>	S Fonterra FS00233.002 S Oceana Gold FS00115.013 O Te Rūnanga o Ngāi Tahu FS00234.017	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>extraction and processing;</u>			
Duncan, Brent & Kelly	00006.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>	S Oceana Gold FS00115.013 O Te Rūnanga o Ngāi Tahu FS00234.018	Accept in part	
Duncan, Brent & Kelly	00006.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> <u>a) Giving preference to avoiding their location in the following:</u> <u>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u> <u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> <u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u>	S Oceana Gold FS00115.013 Te Rūnanga o Ngāi Tahu FS00234.019	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u></p> <p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>oid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u></p> <p><u>outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u></p> <p><u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u></p> <p><u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Foothills Mining Ltd	00008.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective: Objective X.X <u>Sufficient land is managed and protected for economic production</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Foothills Mining Ltd	00008.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.1 <u>Manage activities in rural areas and support the region's economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>	S Graymont (NZ) Limited FS00022.011	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Foothills Mining Ltd	00008.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>	S Graymont (NZ) Limited FS00022.012	Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Foothills Mining Ltd	00008.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> i. <u>Areas of significant indigenous vegetation</u>	S Graymont (NZ) Limited FS00022.013 O Kāi Tahu ki Otago FS00226.175	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>and significant habitats of indigenous fauna in the coastal environment;</u> <u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> <u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> <u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided</u> <u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u> <u>avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u> <u>outstanding or significant nature.</u> <u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u> <u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Gerber, Daniel	00004.01	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Objective:</p> <p><u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u></p>		Reject	We adopt the recommendations and reasons set out in the s42A Report.
Gerber, Daniel	00004.02	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u></p> <ul style="list-style-type: none"> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u> 		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Gerber, Daniel	00004.03	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.2</u></p>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>			
Gerber, Daniel	00004.04	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna in</u> <u>coastal environment;</u> <u>Outstanding natural character in the coastal environment;</u> <u>Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> iv. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>Outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> viii. <u>Places or areas containing historic heritage of regional or national significance where the effects on that</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>historic heritage cannot be avoided;</u> <u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u> <u>i. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature,</u> <u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u> <u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Graymont (NZ) Limited	00022.030	GEN – General Submission	New provision	Amend	<p>Amend the RPS21 to include the following Objective:</p> <p><u>Recognise the benefits derived from mineral extraction and processing activities, particularly their</u></p>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>contribution towards social, cultural and economic wellbeing.</u>			
Graymont (NZ) Limited	00022.032	GEN – General Submission	New provision	Amend	<p>Amend the RPS21 to include the following Policy:</p> <p><u>Manage the adverse effects of mineral extraction and processing activities while having regard to:</u></p> <p><u>(1) the functional and operational need to locate mineral processing activities where resources are available;</u></p> <p><u>(2) the extent and magnitude of adverse effects on the environment and the degree to which unavoidable adverse effects can be remedied or mitigated, or residual adverse effects are offset or compensated for;</u></p> <p><u>(3) requiring consideration of alternative sites, methods and designs, and offsetting or compensation measures (in accordance with any specific requirements for their use in this RPS), where adverse effects are potentially significant or irreversible.</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Graymont (NZ) Limited	00022.031	GEN – General Submission	New provision	Amend	<p>Amend the RPS21 to include the following Policy:</p> <p><u>Activities that may result in reverse sensitivity effects or compromise the operation or maintenance of mineral extraction and processing activities are, managed so that reverse sensitivity effects are minimised.</u></p>		Accept in part	We accept parts of this submission point, for the reasons outlined in the main Recommendations report on reverse sensitivity issues

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Greaves, Paul George	00105.001	GEN – General Submission	New provision	Amend	Amend PRPS21 to include the following Objective: <u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u>	S Oceana Gold FS00115.014	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Greaves, Paul George	00105.002	GEN – General Submission	New provision	Amend	Amend PRPS21 to include the following Policy: <u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>	S Oceana Gold FS00115.014	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Greaves, Paul George	00105.003	GEN – General Submission	New provision	Amend	Amend PRPS21 to include the following Policy: <u>Policy X.X.2</u> <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>	S Oceana Gold FS00115.014	Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Greaves, Paul George	00105.004	GEN – General Submission	New provision	Amend	Amend PRPS21 to include the following Policy: <u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u>	S Oceana Gold FS00115.014	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u></p> <p><u>ii. Outstanding natural character in the coastal environment;</u></p> <p><u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u></p> <p><u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u></p> <p><u>v. Outstanding natural character in areas beyond the coastal environment;</u></p> <p><u>vi. Outstanding natural features and landscapes beyond the coastal environment;</u></p> <p><u>vii. Outstanding water bodies or wetlands;</u></p> <p><u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u></p> <p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>i. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</p> <p>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</p> <p>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</p>			
Harriss, Gavin	00107.001	GEN – General Submission	New provision	Amend	<p>Amend PRPS21 to include the following Objective:</p> <p>Objective X.X Sufficient land is managed and protected for economic production</p>	S Oceana Gold FS00115.014	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Harriss, Gavin	00107.002	GEN – General Submission	New provision	Amend	<p>Amend PRPS21 to include the following Policy:</p> <p>Policy X.X.1 <u>Manage activities in rural areas and support the region’s economy and communities, by:</u></p> <p>a) <u>Enabling primary production and other rural activities that support that production;</u></p> <p>b) <u>Providing for mineral exploration, extraction and processing;</u></p>	S Oceana Gold FS00115.014	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Harriss, Gavin	00107.003	GEN – General Submission	New provision	Amend	<p>Amend PRPS21 to include the following Policy:</p> <p>Policy X.X.2</p>	S Oceana Gold FS00115.014	Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>			
Harriss, Gavin	00107.004	GEN – General Submission	New provision	Amend	<p>Amend PRPS21 to include the following Policy:</p> <p><u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> i. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u> ii. <u>Outstanding natural character in the coastal environment;</u> iii. <u>Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> iv. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> v. <u>Outstanding natural character in areas beyond the coastal environment;</u> vi. <u>Outstanding natural features and landscapes beyond the coastal environment;</u> vii. <u>Outstanding water bodies or wetlands;</u> viii. <u>Places or areas containing historic heritage of regional or national significance where the</u></p>	S Oceana Gold FS00115.014	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>effects on that historic heritage cannot be avoided;</u> <u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u> <u>i. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature,</u> <u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u> <u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Hattrill, Richard	00009.001	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Objective:</p> <p><u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Hattrill, Richard	00009.002	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region's economy and communities, by:</u></p> <ul style="list-style-type: none"> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u> 			activities without appropriate controls is not seen as being in accord with integrated management.
Hattrill, Richard	00009.003	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.2</u> <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u></p>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Hattrill, Richard	00009.004	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u></p> <ul style="list-style-type: none"> a) <u>Giving preference to avoiding their location in the following:</u> <ul style="list-style-type: none"> i. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u> iii. <u>Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> 		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> <u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided</u> <u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u> <u>oid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u> <u>outstanding or significant nature,</u> <u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u> <u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u>			
Horticulture New Zealand	00236.096	GEN – General Submission	New provision	Amend	<ul style="list-style-type: none"> - Include a new chapter RU – Rural Areas. - Move the following provisions from UFD to the RU chapter: UFD – O4, UFD – P7, UFD – P8 	<p>S NZ Pork FS00240.001</p> <p>S Federated Farmers FS00239.001</p> <p>S Otago Water Resource Users FS00235.045</p>	Reject	For reasons explained in the Legal section and the LF & UFD chapters of the main report in Appendix One.
Kok, Robert Matthew	00106.001	GEN – General Submission	New provision	Amend	<p>Include the following Objective:</p> <p>Objective X.X Sufficient land is managed and protected for economic production</p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Kok, Robert Matthew	00106.002	GEN – General Submission	New provision	Amend	<p>Include the following Policy:</p> <p>Policy X.X.1 <u>Manage activities in rural areas and support the region’s economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Kok, Robert Matthew	00106.003	GEN – General Submission	New provision	Amend	<p>Include the following Policy:</p> <p>Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and</u></p>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>processing activities to locate where the resource exists.</u>			
Kok, Robert Matthew	00106.004	GEN – General Submission	New provision	Amend	<p>Include the following Policy:</p> <p>Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> i. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u> ii. <u>Outstanding natural character in the coastal environment;</u> iii. <u>Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> iv. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> v. <u>Outstanding natural character in areas beyond the coastal environment;</u> vi. <u>Outstanding natural features and landscapes beyond the coastal environment;</u> vii. <u>Outstanding water bodies or wetlands;</u> viii. <u>Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u> b) <u>Where it is not practicable to avoid locating in the areas</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>i. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u></p> <p><u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u></p> <p><u>i. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
LAC Properties Trustees Limited	00211.054	GEN – General Submission	New provision	Amend	Include new provisions recognising appropriate diversification of the rural land resource beyond primary production	S Otago Water Resource Users FS00235.046	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Lane Hocking	00210.054	GEN – General Submission	New provision	Amend	Include new provisions recognising appropriate diversification of the rural land resource beyond primary production	S Otago Water Resource Users FS00235.047	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Liddicoat, Stuart	00012.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective: <u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Liddicoat, Stuart	00012.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: <u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Liddicoat, Stuart	00012.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: <u>Policy X.X.2</u> <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Liddicoat, Stuart	00012.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: <u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u></p> <p><u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u></p> <p><u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u></p> <p><u>outstanding natural character in areas beyond the coastal environment;</u></p> <p><u>Outstanding natural features and landscapes beyond the coastal environment;</u></p> <p><u>Outstanding water bodies or wetlands;</u></p> <p><u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided</u></p> <p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u></p> <p><u>outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>biological diversity, cannot practically be avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Mokihinui Gold Ltd	00002.001	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Objective:</p> <p><u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Mokihinui Gold Ltd	00002.002	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u></p> <ul style="list-style-type: none"> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u> 	S Graymont (NZ) Limited FS00022.008	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Mokihinui Gold Ltd	00002.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>	S Graymont (NZ) Limited FS00022.009	Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Mokihinui Gold Ltd	00002.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> <u>a) Giving preference to avoiding their location in the following:</u> <u>areas of significant indigenous vegetation and significant habitats of indigenous fauna in</u> <u>coastal environment;</u> <u>outstanding natural character in the coastal environment;</u> <u>Outstanding natural features and natural landscapes, including seascapes, in the coastal</u> <u>environment;</u> <u>areas of significant indigenous vegetation and significant habitats of indigenous fauna</u> <u>beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> <u>viii. Places or areas containing historic heritage of regional or</u>	S Graymont (NZ) Limited FS00022.010	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>national significance where the effects on that historic heritage cannot be avoided;</u></p> <p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u></p> <p><u>outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u></p> <p><u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u></p> <p><u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
New Zealand Pork Industry Board	00240.033	GEN – General Submission	New provision	Amend	Add new standalone topic on Rural Areas including relevant content from UFD – O4, UFD – P7, UFD – P8, UFD	S NZ Pork FS00240.002 S Federated Farmers FS00239.001 O	Reject	For reasons explained in the Legal section and the LF & UFD chapters of the main report in Appendix One.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					– E1, UFD – PR1 and UFD – AER11.	Otago Fish and Game Council FS00609.142		
OWRUG	00235.008	GEN – General Submission	New provision	Amend	Insert a new provision for the Food and Fibre Sector: <u>includes the primary sector production industries (excluding mining), the related processing industries and services industries along the value chain from producer to final consumer including transporters, storage, distribution marketing and sales.</u>	S Matakauui Gold Limited FS00021.010 O Otago Fish and Game Council FS00609.153	Accept in part	For reasons contained in the Reply report and in the UFD and LF sections of the main report some aspects of this relief have been included in the LF-LS provisions.
Pritchard, Christopher	00003.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective: Objective X.X <u>Sufficient land is managed and protected for economic production</u>	O Otago Fish and Game Council FS00609.161	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Pritchard, Christopher	00003.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.1 <u>Manage activities in rural areas and support the region's economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>	O Otago Fish and Game Council FS00609.162	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Pritchard, Christopher	00003.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<u>exploration, extraction and processing activities to locate where the resource exists.</u>			
Pritchard, Christopher	00003.004	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna in</u> <u>coastal environment;</u> <u>outstanding natural character in the coastal environment;</u> <u>Outstanding natural features and natural landscapes, including seascapes, in the coastal</u> <u>environment;</u> iv. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> viii. <u>Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall: avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain outstanding or significant nature.</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u></p> <p><u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u></p> <p><u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Rayonier Matariki Forests	00020.002	GEN – General Submission	New provision	Amend	Amend the RPS21 to include provisions to other tree plantings not just to plantation forests.	S Ernslaw One Ltd FS00412.006 O Otago Fish and Game Council FS00609.172	Reject	This is a general request which does not give precise details of amendment requested
Stephens, Sam	00001.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective:		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					Objective X.X <u>Sufficient land is managed and protected for economic production</u>			activities without appropriate controls is not seen as being in accord with integrated management.
Stephens, Sam	00001.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.1 <u>Manage activities in rural areas and support the region’s economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Stephens, Sam	00001.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Stephens, Sam	00001.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> <u>areas of significant indigenous vegetation and significant</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>habitats of indigenous fauna in coastal environment; outstanding natural character in the coastal environment; Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u></p> <p><u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment; outstanding natural character in areas beyond the coastal environment;</u></p> <p><u>Outstanding natural features and landscapes beyond the coastal environment;</u></p> <p><u>Outstanding water bodies or wetlands;</u></p> <p><u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u></p> <p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>i. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity,</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>cannot practically be avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Sycamore, Darryl	00018.001	GEN – General Submission	New provision	Amend	<p>Amend the RPS21 to include the following objective:</p> <p><u>Objective X.1</u> <u>The use of water and land is recognised as an enabler of mineral extraction and the economic, social and cultural well – being of the region.</u></p>	○ Kāi Tahu ki Otago FS00226.440	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Sycamore, Darryl	00018.002	GEN – General Submission	New provision	Amend	<p>Amend the RPS21 to include the following policy:</p> <p><u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u></p> <p>a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing.</u></p>	○ Kāi Tahu ki Otago FS00226.441	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Sycamore, Darryl	00018.003	GEN – General Submission	New provision	Amend	Amend the RPS21 to include the following policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>	<ul style="list-style-type: none"> ○ Kāi Tahu ki Otago FS00226.442 ○ Te Rūnanga o Ngāi Tahu FS00234.014 	Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Sycamore, Darryl	00018.004	GEN – General Submission	New provision	Amend	Amend the RPS21 to include the following policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> <ul style="list-style-type: none"> a) <u>Giving preference to avoiding their location in the following:</u> <ul style="list-style-type: none"> i. <u>Areas of significant indigenous vegetation;</u> ii. <u>Outstanding natural character in the coastal environment;</u> iii. <u>Outstanding natural features and natural landscapes;</u> iv. <u>Areas of significant indigenous vegetation and significant habitats of indigenous fauna;</u> v. <u>Outstanding natural character</u> vi. <u>Outstanding natural features and landscapes;</u> vii. <u>Outstanding water bodies or wetlands;</u> viii. <u>Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u> b) <u>Where it is not practicable to avoid locating in the areas</u> 	<ul style="list-style-type: none"> ○ Kāi Tahu ki Otago FS00226.443 ○ Te Rūnanga o Ngāi Tahu FS00234.015 	Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>i. Avoid, remedy or mitigate, as necessary, to minimise adverse effects on values in order to maintain the outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where practicable.</u></p>			
Trojan Holdings Limited (Trojan)	00206.001	GEN – General Submission	New provision	Amend	Insert new provisions which explicitly recognise, protect and promote the benefits of and provide for people’s well – being, including the use of and access to the natural environment for transport, the visitor industry inclusive of commercial recreation, and ancillary commercial and industry services. This relief should flow through each level or place in the plan architecture	S Otago Water Resource Users FS00235.049 O Otago Fish and Game Council FS00609.196	Reject	This is a general request which does not give precise details of amendment requested
Universal Developments Hawea Limited	00209.054	GEN – General Submission	New provision	Amend	Include new provisions recognising appropriate diversification of the rural land resource beyond primary production	S Otago Water Resource Users FS00235.048	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
van der Zwet, David	00011.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective: <u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
van der Zwet, David	00011.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: <u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
van der Zwet, David	00011.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: <u>Policy X.X.2</u> <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
van der Zwet, David	00011.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: <u>Policy X.X.3</u> <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u> <u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> <u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>Outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> <u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided</u> <u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u> <u>avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u> <u>outstanding or significant nature,</u> <u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u> <u>iii. Consider environmental compensation if adverse effects on indigenous</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>biological diversity, cannot practically be avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Vergeer, Bligh	00005.001	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Objective:</p> <p><u>Objective X.X</u> <u>Sufficient land is managed and protected for economic production</u></p>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Vergeer, Bligh	00005.002	GEN – General Submission	New provision	Amend	<p>Amend RPS21 to include the following Policy:</p> <p><u>Policy X.X.1</u> <u>Manage activities in rural areas and support the region’s economy and communities, by:</u></p> <ul style="list-style-type: none"> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u> 		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Vergeer, Bligh	00005.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Vergeer, Bligh	00005.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> <u>a) Giving preference to avoiding their location in the following:</u> <u>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment;</u> <u>outstanding natural character in the coastal environment;</u> <u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> <u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> <u>viii. Places or areas containing historic</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u></p> <p><u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall:</u></p> <p><u>oid, remedy or mitigate, as necessary, adverse effects on values in order to maintain</u></p> <p><u>outstanding or significant nature,</u></p> <p><u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u></p> <p><u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</u></p> <p><u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u></p> <p><u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Vergeer, Marius	0007.001	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Objective:		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					Objective X.X <u>Sufficient land is managed and protected for economic production</u>			activities without appropriate controls is not seen as being in accord with integrated management.
Vergeer, Marius	00007.002	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.1 <u>Manage activities in rural areas and support the region’s economy and communities, by:</u> a) <u>Enabling primary production and other rural activities that support that production;</u> b) <u>Providing for mineral exploration, extraction and processing;</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated management.
Vergeer, Marius	00007.003	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.2 <u>To recognise the functional needs of mineral exploration, extraction and processing activities to locate where the resource exists.</u>		Accept in part	The main recommendation report and some of the chapter reports have applied differing amendments to address this issue
Vergeer, Marius	00007.004	GEN – General Submission	New provision	Amend	Amend RPS21 to include the following Policy: Policy X.X.3 <u>Manage adverse effects from the exploration, extraction and processing of minerals, by:</u> a) <u>Giving preference to avoiding their location in the following:</u> i. <u>Areas of significant indigenous vegetation and significant habitats of</u>		Reject	For reasons explained in the Legal section and individual chapters of Appendix One prioritisation of activities or controls and enabling activities without appropriate controls is not seen as being in accord with integrated

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>indigenous fauna in the coastal environment;</u> <u>iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment;</u> <u>iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment;</u> <u>outstanding natural character in areas beyond the coastal environment;</u> <u>Outstanding natural features and landscapes beyond the coastal environment;</u> <u>Outstanding water bodies or wetlands;</u> <u>viii. Places or areas containing historic heritage of regional or national significance where the effects on that historic heritage cannot be avoided;</u> <u>b) Where it is not practicable to avoid locating in the areas listed in a) above due to the functional needs of that activity, the activity shall avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain outstanding or significant nature,</u> <u>ii. Consider first biological diversity offsetting, and then biological diversity compensation for residual adverse effects,</u> <u>iii. Consider environmental compensation if adverse effects on indigenous biological diversity, cannot practically be</u></p>			

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p><u>avoided, remedied or mitigated;</u> <u>iv. Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</u> <u>v. Reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible.</u></p>			
Wayfare Group Ltd	00411.002	GEN – General Submission	New provision	Amend	Amend whole RPS by inserting New – Provisions which explicitly recognise, protect and promote the benefits of and provide for people’s well-being, including the use of and access to the natural environment for transport, the visitor industry inclusive of commercial recreation, and ancillary commercial and industry services. This relief should flow through each level or place in the plan architecture.	S Otago Water Resource Users FS00235.050	Reject	This is a general request which does not give precise details of amendment requested
Wayfare Group Ltd	00411.004	GEN – General Submission	New provision	Amend	Amend whole RPS by inserting New – Provisions or amend the current provisions to provide clearer policy direction about how competing interests for water take and use will be addressed.	S Otago Fish and Game Council FS00609.205 Otago Water Resource Users FS00235.051 (neutral) Otago Water Resource Users FS00235.051 (neutral)	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.005	GEN – General Submission	New provision	Amend	Amend whole RPS by inserting New – Provisions or amend the current provisions to provide clear policy direction that provides for the ability of people to clear debris/slip movements out of waterbodies or adjoining land.	S Otago Fish and Game Council FS00609.206 S Otago Water Resource Users FS00235.052	Reject	This is a general request which does not give precise details of amendment requested
Wayfare Group Ltd	00411.006	GEN – General Submission	New provision	Amend	Amend whole RPS by inserting New – Provisions or amend the current provisions to provide clear policy direction about pest control (namely rabbits and possums [i.e. browsing mammalian pest species]) to maintain and enhance vegetation cover	S Otago Fish and Game Council FS00609.207 S Otago Water Resource Users FS00235.052	Reject	This is a general request which does not give precise details of amendment requested
Wise Response Society Inc	00509.012	GEN – General Submission	New provision	Amend	All policy will uphold Te Oranga o te Taiao where it incorporates– (a) the health of the natural environment; and (b) the intrinsic relationship between iwi and hapū and te taiao; and (c) the interconnectedness of all parts of the natural environment; and (d) the essential relationship between the health of the natural environment and its capacity to sustain all life.	O Otago Water Resource Users FS00235.053	Reject	This is a general request which does not give precise details of amendment requested
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.001	NOT – Not on RPS or otherwise out of scope	Freshwater planning process	Oppose	It is not lawful to put the entire RPS through the freshwater planning process.	S Ernslaw One Ltd FS00412.007 S Rayonier Matariki Forests FS00020.033 S Oceana Gold FS00115.015 S Waitaki District Council FS00140.003	Reject	The High Court has ruled on this issue

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Boxer Hills Trust	00025.001	NOT – Not on RPS or otherwise out of scope	Freshwater planning process	Amend	ORC should adopt a Schedule 1, Part 1 or Schedule 1, Part 5 process for the parts of the RPS21 that do not relate to freshwater.	S Waitaki District Council FS00140.002	Reject	The High Court has ruled on this issue
Federated Farmers of New Zealand	00239.193	NOT – Not on RPS or otherwise out of scope	Freshwater planning process	Amend	Panel recommendations give due consideration to and address the risks to the hearing process, in particular as to non-water matters with the RPS proceeding through the freshwater planning process.		Reject	This is a general request which does not give precise details of amendment requested
Waterfall Park Developments Limited	00023.001	NOT – Not on RPS or otherwise out of scope	Freshwater planning process	Amend	ORC should adopt a Schedule 1, Part 1 or Schedule 1, Part 5 process for the parts of the RPS21 that do not relate to freshwater.	S Waitaki District Council FS00140.001	Reject	The High Court has ruled on this issue
Queenstown Airport Corporation	00313.042	RPS	General	Oppose	That a conventional or streamlined planning process is used for those parts of the Proposed Otago Regional Policy Statement that do not genuinely relate to freshwater, in accordance with section 80A(3) of the Act	S Federated Farmers FS00239.003 S Waitaki District Council FS00140.004	Reject	The High Court has ruled on this issue
Ernslaw One	00412.006	S32 – Section 32 Report		Oppose	The Section 32 Document fails to show that the incumbent rule framework (the NES-PF), is not working		Reject	This is a general observation which does not give precise details of any amendment requested within the Panel's jurisdiction
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.015	S32 – Section 32 Report		Not stated/unclear	Any s.32 analysis of proposed controls on the coastal marine area must consider the FA as the most obvious and practical alternative for implementing controls on fishing to achieve the purpose of the RMA and the objectives of the RPS. If Council needed to do s.32 RMA assessment on the		Reject	The FA and RMA address differing resources

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					<p>benefits and costs of other proposals to control fishing, it would need to commission specialist advice to evaluate:</p> <ul style="list-style-type: none"> The economic impacts of any proposal on fishing activity, export earnings, quota value (including the value of settlement quota), and flow – on effects to local communities (employment, supporting maritime industries etc); and <p>The sustainability impacts of displacement of fishing activity.</p>			
Waitaki District Council	00140.006	S32 – Section 32 Report		Not stated/unclear	<ul style="list-style-type: none"> A revised section 32 analysis to assess the benefits, costs and risks of the proposed policies in MW – P1, MW – P2 and MW – P3. This includes providing the opportunity for further discussion with local authorities and their communities around the underlying principles of the mana whenua chapter. Note concerns and clarify ORC’s understanding of local authority Treaty partner status; WDC is concerned around the assumption that local authorities are a treaty partner. 	-	- Reject	There was ample opportunity to address s.32 and other issues related to MW provisions in this submission and hearing process.
Business South Inc	00408.002	S32 – Section 32 Report		Amend	Make clear where information gaps are for layperson		Reject	This is a general request which does not give precise details of any amendment requested within the Panel’s jurisdiction

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Ernslaw One	00412.003	S32 – Section 32 Report		Amend	No analysis of how plantation forestry activities have been regulated since the NESPF came into effect in 2018, no summary of Councils compliance monitoring and enforcement of the plantation forestry sector, and no justification for imposing further regulation over and above that already imposed via gazettal of the NES-PF in 2017. Further there is no supporting cost benefit analysis. Council should carefully incorporate the findings and recommendations of the MPI / Te Uru Rākau year one review of the NESPF before creating policy that would require District Councils in the Otago region to propose more stringent regulation of the plantation forestry sector under Regulation 6 of the NESPF		Reject	This is a general observation which does not give precise details of any amendment requested within the Panel's jurisdiction
Ernslaw One	00412.008	S32 – Section 32 Report		Amend	Para 315 – The impacts of forestry on the coastal environment, and the impacts of development, are two very separate issues and should be treated as such	○ Otago Fish and Game Council FS00609.076	Reject	This is a general observation which does not give precise details of any amendment requested within the Panel's jurisdiction
Oceana Gold (New Zealand) Ltd	00115.033	S32 – Section 32 Report		Amend	The section 32 analysis is poor, and does not meet the expectations of the RMA, particularly in terms of its almost total failure to evaluate the costs of implementing the provisions and its failure to recognise that in many cases (such as at Macraes) simply avoiding effects on significant biodiversity values will not protect them;	§ Federated Farmers FS00239.004	Reject	There was ample opportunity to address s.32 and other issues related to mining and avoidance provisions in this submission and hearing process.

Submitter Name	Submitter + Submission point number	Chapter	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.001	S32 – Section 32 Report		Amend	Include Central South Island Sports Fish and Game Management Plan 2012 – 2022 as a reference document.		Reject	No precise provisions are referred to in this request to warrant reference in the PORPS
Straterra	00019.002	S32 – Section 32 Report		Amend	The s32 report does not contain a cost benefit analysis of the change in direction for the mineral and mining sector in the Otago Region under the RPS21.		Reject	There was ample opportunity to address s.32 and other issues related to mining and avoidance provisions in this submission and hearing process.
Transpower New Zealand Limited	00314.054	S32 – Section 32 Report		Amend	The Section 32 Evaluation report does not meet the requirements of section 32 of the RMA, particularly in terms of whether the objectives meet the purpose of the RMA and in respect of the level of detailed analysis of options.		Reject	This is a general observation which does not give precise details of any amendment requested within the Panel's jurisdiction
Waitaki District Council	00140.007	S32 – Section 32 Report		Amend	A revised section 32 analysis to assess the benefits, costs and risks of the proposed methods in MW – M2. This includes providing the opportunity for further discussion with local authorities and their communities around the underlying principles of the mana whenua chapter.	S Federated Farmers FS00239.005	Reject	There was ample opportunity to address s.32 and other issues related to MW provisions in this submission and hearing process.
Waitaki District Council	00140.009	S32 – Section 32 Report		Amend	A revised section 32 analysis to assess the benefits, costs and risks of the proposed methods in MW – M4. This includes providing the opportunity for further discussion with local authorities and their communities around the underlying principles of the mana whenua chapter.		Reject	There was ample opportunity to address s.32 and other issues related to MW provisions in this submission and hearing process.

How the policy statement works

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions Support S – Support O – Oppose	Recommendation	Reason
Director-General of Conservation	00137.005	General	Amend	Add recognition of government agencies. Otherwise retain as notified, including recognition of the Minister of Conservation.	S Otago Fish and Game Council FS00609.051	Accept	We adopt the recommendations and reasons set out in the s42A Report.
Horticulture New Zealand	00236.009	General	Amend	Amend as follows: <ul style="list-style-type: none"> “resources that cross local authority boundaries which must be managed in a uniform manner, such as <u>water</u>, outstanding natural features, outstanding natural landscapes and significant natural areas; and <ul style="list-style-type: none"> duplicated effort for local authorities, <u>provide administrative or operational constraints for activities</u>, and increased cost for people <u>seeking where</u> consents <u>might be required</u> for activities that occur across local authority boundaries or require resource consent from two or more consent authorities. “ 	S Federated Farmers FS00239.014	Accept in part	We adopt the recommendations and reasons set out in the s42A Report.
Ngai Tahu ki KMurihiku	00223.012	General	Amend	Amend the second paragraph, as follows: “...”ki uta ki tai” — <u>often translated as “from the mountains to the sea”.</u> ”		Accept	We adopt the recommendations and reasons set out in the s42A Report.
Transpower New Zealand Limited	00314.002	General	Amend	Amend as follows: (Page 11 first para) “... Cross–boundary issues can arise in several ways, and generally manifest in issues for either plan preparation and review, or plan administration and the processing of applications for resource consents. Otago’s cross – boundary matters include: <ul style="list-style-type: none"> adverse effects in one jurisdiction due to the activities in another, particularly <u>including</u> where territorial authority boundaries do not match catchment boundaries, as with the Clutha Mata – au, or the Waitaki River catchment over which Otago and Canterbury Regional Councils share jurisdiction, or Otago’s coastal environment, which covers three territorial authorities’ jurisdictions, and may be affected by land uses in the other two (through 		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and some amendments have been accepted as requested.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions Support S – Support O – Oppose	Recommendation	Reason
				<p>sediment flowing down the Clutha Mata – au, for instance);</p> <p>...</p> <ul style="list-style-type: none"> resources that cross local authority boundaries which must be managed in a uniform manner, such as <u>regionally significant infrastructure</u>, <u>nationally significant infrastructure</u>, outstanding natural features, outstanding natural landscapes and significant natural areas; local, <u>regionally significant infrastructure</u> or nationally significant infrastructure <u>being developed and operated</u> operating across local authority boundaries, as with transport and electricity supply networks, and potentially shared services such as waste disposal; and ... <p>...</p> <p>Cooperation at a national level Cross – boundary issues may arise that are significant at a national level. This is particularly likely when addressing nationally important <u>significant</u> infrastructure such as the <u>National Grid</u> electricity transmission grid or land transport infrastructure. ...”.</p>			
Fonterra Co – operative Group Limited	00213.004	Resource Management Act 1991	Amend	Clarify the intent of Figure 1 and reconfigure as necessary.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and the figure title has been amended
Federated Farmers of New Zealand	00239.004	Resource Management Act 1991	Amend	Amend as follows or similar: “The regional policy statement must give effect to higher order national direction instruments, including National Environmental Standards (NES) , National Policy Statements (NPS), and the New Zealand Coastal Policy Statement (NZCPS), and <u>should</u> be written to comply with the National Planning Standards <u>and to not duplicate or conflict with National Environmental Standards (NES).</u> ”	<p>S Ernslaw One Ltd FS00412.009</p> <p>S Transpower New Zealand Limited FS00314.013</p> <p>S Horticulture NZ FS00236.004</p> <p>S Oceana Gold FS00115.017</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and some amendments have been accepted as requested
Federated Farmers of New Zealand	00239.004	Resource Management Act 1991	Amend	Amend as follows or similar: “The regional policy statement must give effect to higher order national direction instruments,		Accept	We adopt the recommendations and reasons set out in the s42A Report and note amendments have been made in response to other submissions

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions Support S – Support O – Oppose	Recommendation	Reason
				including National Environmental Standards (NES), National Policy Statements (NPS), and the New Zealand Coastal Policy Statement (NZCPS), and <u>should</u> be written to comply with the National Planning Standards and to <u>not duplicate or conflict with National Environmental Standards (NES).</u> ”			
Ngai Tahu ki KMurihiku	00223.011	Partnership, Te Tiriti o Waitangi and Kāi Tahu	Amend	Amend as follows: - Second to last bullet: “...including papakāika housing; and ...” - The last two sentences of Footnote 5: “The preference in Otago is to use a ‘k’ so southern Māori are known as Kāi Tahu, <u>such that in this document Kāi Tahu is a reference to the seven Papatipu Rūnanga with interests in the Otago region.</u> In this RPS, the ‘ng’ is used for iwi in general <u>or when there is reference to Ngāi Tahu ki Murihiku (Southland), when referencing statutory instruments or documents, and when specifically differentiating between the groupings of Papatipu Rūnanga represented by Aukaha Limited (Kāi Tahu ki Otago) and Ngai Tahu ki KMurihiku Incorporated (Ngāi Tahu ki Murihiku)</u> ”.		Accept	We adopt the recommendations and reasons set out in the s42A Report
Ngai Tahu ki KMurihiku	00223.011	Partnership, Te Tiriti o Waitangi and Kāi Tahu	Amend	Amend as follows: - Second to last bullet: “...including papakāika housing; and ...” - The last two sentences of Footnote 5: “The preference in Otago is to use a ‘k’ so southern Māori are known as Kāi Tahu, <u>such that in this document Kāi Tahu is a reference to the seven Papatipu Rūnanga with interests in the Otago region.</u> In this RPS, the ‘ng’ is used for iwi in general <u>or when there is reference to Ngāi Tahu ki Murihiku (Southland), when referencing statutory instruments or documents, and when specifically differentiating between the groupings of Papatipu Rūnanga represented by Aukaha Limited (Kāi Tahu ki Otago) and Ngai Tahu ki KMurihiku Incorporated (Ngāi Tahu ki Murihiku)</u> ”.			
Canterbury Regional Council (Environment Canterbury)	00013.001	Cross boundary matters	Amend	Amend as follows: • adverse <i>effects</i> in one jurisdiction due to the activities in another, particularly where <i>territorial authority</i> boundaries	○ Contact Energy Limited FS00318.004	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and some amendments have been made as requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions Support S – Support O – Oppose	Recommendation	Reason
				do not match catchment boundaries, as with the Clutha Mata – au, or the Waitaki River catchment over which Otago and Canterbury Regional Councils share jurisdiction, or Otago’s coastal environment, which covers three <i>territorial authorities</i> ’ jurisdictions, and may be affected by <i>land uses</i> in the other two (through sediment flowing down the Clutha Mata-Au, for instance) <u>and which may also have adverse effects on the Canterbury coastal environment;</u> ...			
Dunedin City Council	00139.003	Cross boundary matters	Amend	(page 11, 1 st bullet point) Amend to include acknowledgement of the impacts of dams on the distribution of larger – sized sediment.	○ Contact Energy Limited FS00318.006	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and some amendments have been accepted as requested
Dunedin City Council	00139.004	Cross boundary matters	Amend	(page 11, 5 th bullet point) Amend as follows: and potentially shared services such as waste disposal <u>waste management and minimisation</u> ; and...		Accept	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.005	Cooperation and partnerships with stakeholders	Amend	- Amend the introductory sentence as follows: “Stakeholders, from industry representatives to <u>landowners, catchment groups and</u> community – based volunteer groups, provide valuable strategic input to planning and decision – making. Inter – agency groups, such as Te Roopu Taiao, can assist with managing cross – boundary issues and issues affecting people across Otago strategically and collaboratively. ORC will seek to establish and build upon working relationships with other resource management stakeholders. This will help ensure that the processes it undertakes are efficient and, wherever possible, reduce duplication of effort. As new issues emerge in the region and work on existing issues continues, they are best managed through collaboration, which will improve effectiveness and deliver better outcomes. This is particularly important for enhancing and managing <u>processes that relate to important region – wide matters such as</u>		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and some amendments have been accepted as requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions Support S – Support O – Oppose	Recommendation	Reason
				regionally significant infrastructure and significant natural areas. “ - Insert a new non – regulatory method committing to the establishment of a Stakeholder Advisory Group (or similar)			
Horticulture New Zealand	00236.010	Cooperation and partnerships with stakeholders	Amend	Translate statement into a method that commits to the formation of a rural advisory panel.	S NZ Pork FS00240.005 S Federated Farmers FS00239.015	Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.007	Cooperation and partnerships with stakeholders	Amend	Translate statement into a method that commits to the formation of a rural advisory panel.	S Federated Farmers FS00239.016	Reject	We adopt the recommendations and reasons set out in the s42A Report
Canterbury Regional Council (Environment Canterbury)	00013.002	Cooperation and partnerships with other local authorities	Support	Retain as notified or preserve the original intent.	O Otago Fish and Game Council FS00609.175	Accept	We adopt the recommendations and reasons set out in the s42A Report
New Zealand Pork Industry Board	00240.003	Cooperation and partnerships with other local authorities	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Ngai Tahu ki KMurihiku	00223.013	Cooperation and partnerships with other local authorities	Amend	Amend the second sentence of the second bullet point, as follows: “This allows all effects of new activities ...”	O Federated Farmers FS00239.017	Accept	We adopt the recommendations and reasons set out in the s42A Report
Ngai Tahu ki KMurihiku	00223.014	Cooperation at a national level	Amend	Amend the first sentence of the final paragraph, as follows: “..., the Minister of Conservation in the coastal marine area ...”		Reject	We adopt the recommendations and reasons set out in the s42A Report at paragraph 105.
Ngai Tahu ki KMurihiku	00223.015	Transferring and delegating functions,	Amend	Amend as follows: - The first sentence of the first paragraph to reflect Section 33 of the RMA and include		Accept	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions Support S – Support O – Oppose	Recommendation	Reason
		powers and duties to other authorities		<p>reference to 'an iwi authority' in the listed entities.</p> <ul style="list-style-type: none"> - The first sentence of the second paragraph, as follows: <u>"...public authorities, and to enable a Treaty partnership approach to resource management."</u> - The second sentence as follows: <u>"...and enable iwi partners and important stakeholders to have an active role ..."</u> 			
Wise Response Society Inc	00509.013	Transferring and delegating functions, powers and duties to other authorities	Amend	<p>Amend as follows:</p> <p>The first paragraph is a misstatement of law.</p> <p>Suggest reword as: <u>"The RMA 1991 enables ORC to transfer its powers, functions and duties to another public authority, iwi authority or other statutory body. It may also delegate these to community boards, commissioners or employees. ORC can also enter joint management agreements with other statutory bodies and iwi authorities (such as Te Rūnanga o Ngāi Tahu)."</u></p>		Accept in part	We adopt the recommendations and reasons set out in the s42A Report at paragraph 107.
Ngai Tahu ki KMurihiku	00223.016	Helping to build capacity for, and improve, takata whenua involvement	Amend	<p>Add the following additional sentences at the end of the paragraph: <u>"Establishing and implementing relationship agreements such as Mana Whakahono a Rohe agreements, protocols and charters can provide a framework for the council to provide necessary support. Increasing skills and capacity within council staff and decision-makers through training in Te Tiriti o Waitangi, locally relevant Treaty Settlement mechanisms and tikanga Māori, and developing familiarity with Kāi Tahu documents, are also important means of improving takata whenua involvement in council processes."</u></p>	S Te Rūnanga o Ngāi Tahu FS00234.025	Accept	We adopt the recommendations and reasons set out in the s42A Report

Interpretation

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Beef & Lamb NZ and Deer Industry NZ	00237.003	General	Amend	Retain as notified except where specific amendments are sought by the submitter		Accept in part	We adopt the recommendations and reasons set out in the s.42A Introduction & general themes Interpretation No.3 Report and amendments have been made in response to other submissions
Maryhill Limited	00118.004	General	Amend	Amend, delete, or include new definitions required to give effect to the reasons outlined in the submissions below.		Reject	This is a general request which does not give precise details of amendment requested
Mt Cardrona Station	00114.004	General	Amend	Amend, delete, or include new definitions required to give effect to the reasons outlined in the submissions below.		Reject	This is a general request which does not give precise details of amendment requested
Network Waitaki Limited	00320.010	General	Amend	Amend as follows: Replace all instances of the term “electricity transmission network” with “ <u>electricity distribution network</u> ”.	O - Transpower New Zealand Limited FS00314.030	Reject	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 23
Network Waitaki Limited	00320.002	General	Amend	Amend as follows: Rationalise the definitions that relate to the electricity infrastructure and make consequential changes to the wording in the relevant provisions for the following definitions <ul style="list-style-type: none"> • Additional infrastructure • Distribution network • Electricity sub – transmission infrastructure • Specified infrastructure • Other infrastructure 	S - Transpower New Zealand Limited FS00314.029	Reject	We adopt the recommendations and reasons set out in the EIT 42A Report
New Zealand Infrastructure Commission	00321.106	General	Amend	Amend as follows: Guidance on the definition of nationally significant infrastructure should be provided with reference to the Te Waihangā 30 Year Infrastructure Strategy which is due to be published in March 2022. AND	S - Fonterra FS00233.003 S - Network Waitaki Limited FS00320.007 S - Contact Energy Limited FS00318.007 S - Federated Farmers FS00239.018 S - Oceana Gold FS00115.018	Reject	We adopt the recommendations and reasons set out in the EIT s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				Nationally consistent guidance on the “Regionally Significant” infrastructure would be beneficial. This should include infrastructure that is interdependent (ie one is of little value without the other) or interconnected (part of the same network without which the network as a whole fails) with existing nationally or regionally significant infrastructure. AND There should specifically reference to economic infrastructure without which the economies of Otago cannot function. including for example those highlighted by the submitters submission as unique to the Otago region and unable to locate outside of the areas listed in EIT-INF-P13 such as ski field infrastructure.	O - Director-General of Conservation FS00137.017, O - Dunedin International Airport Limited FS00316.009 O - Port Otago LTD FS00301.024 O - Royal Forest and Bird Protection Society FS00230.021		
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.007	General	Amend	Amend to define the term natural environment, which is used at critical points in the PORPS 2021, so it can be meaningful in a modern Otago context [specific relief not stated]		Reject	This is a general request which does not give precise details of amendment requested
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.009	General	Amend	Amend to remove references to ‘environmental bottom lines’ and ‘environmental constraints’ and instead use the term ‘environmental limits’ consistently	S - Horticulture NZ FS00236.009 O - Port Otago LTD FS00301.025	Reject	We adopt the conclusions reached in the Legal section of Appendix One.
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.098	General	Amend	The definitions section be refined so that it is smaller and easier to use, within the bounds of what is possible under the NPF 2019 and national planning standard. A marked up copy of relief is not provided as the action requested to be taken is self-evident.		Reject	We adopt the recommendations and reasons set out in the 42A Report
OWRUG	00235.020	General	Amend	Include te reo terms in the interpretation section (including, in particular, terms used in MW – AER2).	S - Federated Farmers FS00239.019 S - Queenstown Lakes District Council FS00138.100 S - Waitaki District Council FS00140.008		We adopt the recommendations and reasons set out in the MW 42A Report
PowerNet Ltd	00511.002	General	Amend	Amend as follows:	S - Transpower New Zealand Limited FS00314.034	Reject	We adopt the recommendations and reasons set out in the EIT s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p>Rationalise the definitions that relate to the electricity infrastructure and make consequential changes to the wording in the relevant provisions with respect the following</p> <ul style="list-style-type: none"> • Additional infrastructure • Distribution network • Electricity sub – transmission infrastructure • Specified infrastructure • Other infrastructure <p>Further details are provided in the Submitter’s full submission.</p>			
PowerNet Ltd	00511.010	General	Amend	<p>Amend as follows: Replace all instances of the term “electricity transmission network” with “electricity distribution network”.</p>	O - Transpower New Zealand Limited FS00314.035	Reject	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 23
Horticulture New Zealand	00236.016	General	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
Network Waitaki Limited	00320.004	General	Support	<p>Retain as notified</p> <ul style="list-style-type: none"> • Operational need • Infrastructure 		Accept	We adopt the recommendations and reasons set out in the s42A Report
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.014	General	Support	Retain, subject to other relief sought		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
OWRUG	00235.010	General	Support	Retain as notified.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
LAC Properties Trustees Limited	00211.003	General	Amend	Amend, delete, or include new definitions required to give effect to the reasons outlined in the submissions below.		Reject	This is a general request which does not give precise details of amendment requested
Lane Hocking	00210.003	General	Amend	Amend, delete, or include new definitions required to give effect to the reasons outlined in the submissions below.		Reject	This is a general request which does not give precise details of amendment requested
Universal Developments Hawea Limited	00209.003	General	Amend	Amend, delete, or include new definitions required to give effect to the reasons outlined in the submissions below.		Reject	This is a general request which does not give precise details of amendment requested
Wise Response Society Inc	00509.016	New definition – Adaptation	Amend	Add a new definition: <u>Adaptation as it applies to climate change involves adapting to life in a changing climate and involves adjusting to actual or expected future climate while deliberately husbanding our remaining resource base.</u> (https://climate.nasa.gov/solutions/adaptation – mitigation/)		Reject	A new definition was not seen as being necessary but a description of climate change adaptation and climate change mitigation measures has been recommended in IM-O4.
Queenstown Lakes District Council	00138.205	New definition – Affordability	Amend	Amend to add a definition for ‘affordability’ as follows: “Affordability: where a low – or moderate – income household spends no more than 35% of their gross annual income on rent or mortgage (principal and interest) repayments.”	S - Waka Kotahi NZ Transport Agency FS00305.003 O - Otago Fish and Game Council FS00609.165	Reject	A new definition was not seen as being necessary
Beef & Lamb NZ and Deer Industry NZ	00237.006	New definition – Agricultural intensification	Amend	Amend to include a definition of ‘agricultural intensification’ following consultation with the relevant agricultural sector representatives.	S - Federated Farmers FS00239.020 S - Waitaki District Council FS00140.012 O - Kāi Tahu ki Otago FS00226.022 O - Otago Fish and Game Council FS00609.034	Reject	A new definition was not seen as being necessary
Horticulture New Zealand	00236.012	New definition – Ambient air	Amend	Amend to add new definition as follows: <u>“Ambient air is air outside buildings and structures. It does not include indoor air, air in a workplace or contaminated air discharged from a source.”</u>	S - Silver Fern Farms FS00221.001 S - Federated Farmers FS00239.021	Reject	A new definition was not seen as being necessary

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Queenstown Lakes District Council	00138.028	New definition – Biodiversity offsetting	Amend	Amend to add a definition of ‘biodiversity offsetting’ from the proposed NPS for Indigenous Biodiversity, as follows: <u>“Means a measurable conservation outcome resulting from actions designed to compensate for residual, adverse biodiversity effects arising from activities after appropriate avoidance, remediation, and mitigation measures have been applied. The goal of a biodiversity offset is to achieve no – net – loss, and preferably a net – gain, of indigenous biodiversity values.”</u>	S - Federated Farmers FS00239.022 S - Waka Kotahi NZ Transport Agency FS00305.004 O - Contact Energy Limited FS00318.008 O - Otago Fish and Game Council FS00609.166 O - Oceana Gold FS00115.019	Reject	Consistency was recommended with the NPS IB definition
Wise Response Society Inc	00509.019	New definition – Biophysical capacity	Amend	Add a new definition: Biophysical capacity Reference needs to be made to the fundamental ecological principles of scale, interaction and complexity, biogeochemical cycles, and specificity of place, and the negative trends of disturbance, modification and fragmentation; contaminant accumulation and accumulated physical change; and biodiversity decline. There are a range of indicators associated with these trends that exist or can be developed to identify biophysical capacity locally, regionally, nationally and globally (Harker et al 2012:336 – 343; Almond et al 2020). The capacity of a system is influenced by the extent to which biophysical boundaries have been exceeded, or in contrast where human activity is currently within boundaries. One approach is downscaling the planetary boundaries analysis to the New Zealand conditions (Andersen et al 2020).		Reject	A new definition was not seen as being necessary
Waitaki District Council	00140.002	New definition – Carbon forestry	Amend	Amend to add new definition of ‘carbon forestry’ as follows: Carbon forestry “The practice of planting and growing trees to sequester atmospheric carbon into the soil, wood, leaves and roots.”	New Zealand Carbon Farming FS00602.003 (neutral) S - Kāi Tahu ki Otago FS00226.541 S - Otago Fish and Game Council FS00609.201 S - Te Rūnanga o Ngāi Tahu FS00234.035	Accept in part	A new definition for ‘carbon forestry’ was not seen as being necessary as the distinction between plantation forestry for harvesting and permanent forestry for carbon or enhancement purposes is well-known. LF-LS provisions are recommended to address permanent forestry issues.
Dunedin City Council	00139.113	New definition – Community drinking water supply	Amend	Add a definition of ‘community drinking water supply.’	S - Kāi Tahu ki Otago FS00226.071	Reject	No wording was advanced by the submitter

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					S - Otago Fish and Game Council FS00609.053		
Dunedin City Council	00139.127	New definition – Constructed wetland	Amend	Provide definition of ‘constructed wetland’ e.g. does it mean or include ponds/wetlands created for stormwater management purposes?	S - Federated Farmers FS00239.023 S - Otago Fish and Game Council FS00609.054 O - Kāi Tahu ki Otago FS00226.075	Reject	We adopt the recommendations and reasons set out in the LF s42A Report at paragraph 1646 in particular and note no wording was suggested in the submission.
Central Otago Heritage Trust	00212.009	New definition – Cultural Heritage Values	Amend	Bring the definition of cultural Heritage Values closer aligned to the UNESCO definition: Cultural heritage value/s (UNESCO and ICOMOS NZ) means possessing aesthetic, archaeological, architectural, commemorative, functional, historical, landscape, monumental, scientific, spiritual, symbolic, technological, traditional, or other tangible or intangible values, associated with human activities. In addition, make reference to Tangible and Intangible value: Tangible value (ICOMOS) means the physically observable cultural heritage value of a place including archaeological, architectural, landscape, monumental, scientific or technological values. Intangible value (ICOMOS) means the abstract cultural heritage value of the meanings or associations of a place*including commemorative, historical, social, spiritual, symbolic, or traditional values. *In practice also applies to historic artifacts, items, documents, photos, recorded stories and memories.	O - Kāi Tahu ki Otago FS00226.039	Reject	We adopt the recommendations and reasons set out in the HCV s42A Report at paragraphs 38 &39 in particular.
Queenstown Lakes District Council	00138.027	New definition – Ecological district	Amend	Amend to add a definition of ‘Ecological district’ as follows: “Means the ecological districts as shown in <u>McEwen, W Medium (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.</u> ”	Federated Farmers FS00239.024 (neutral) Otago Fish and Game Council FS00609.167	Accept in part	We adopt the recommendations and reasons set out in the ECO s42A Report at paragraphs 15 &16 in particular as to a footnote reference approach only.
Wise Response Society Inc	00509.020	New definition – Ecological processes	Amend	Add a new definition: Ecological processes References the earlier observation that ecosystems create patterns that become apparent at a systems level but defeat absolute levels of quantification at a component level. Investing in ecological processes (for example through green		Reject	We adopt the recommendations and reasons set out in the Intro and General Report 3 - Interpretations s42A Report at paragraphs 83 & 84 in particular.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				infrastructure) generates appreciating assets that become better at delivering services.			
Aurora Energy Limited	00315.014	New definition – Effects management hierarchy (Other Matters)	Amend	<p>Amend as follows: Add a new definition for “effects management hierarchy (Other Matters)” as follows:</p> <p><u>“Effects Management Hierarchy (other matters) means:</u></p> <p><u>An approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of a significant natural area, outstanding natural feature or landscape, outstanding water bodies (excluding rivers and natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wāhi tapu, wāhi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:</u></p> <p><u>(a) Adverse effects are avoided where practicable,</u> <u>(b) Where adverse effects cannot be avoided, they are minimised where practicable,</u> <u>(c) Where adverse effects cannot be minimised, they are remedied where practicable,</u> <u>(d) Where adverse effects cannot be remedied, they are mitigated to the extent practicable,</u> <u>(e) Where more than minor adverse effects cannot be avoided, minimised, remedied or mitigated offsetting and/or environmental compensation must be considered, where appropriate.</u></p> <p><u>AND</u> Any further other or consequential relief to provide an appropriate effects management regime for infrastructure in sensitive locations, including such locations set out in ss 6 and 7 RMA.</p>	<p>Contact Energy Limited FS00318.009 Oceana Gold FS00115.020 Waka Kotahi NZ Transport Agency FS00305.011</p> <p>Kāi Tahu ki Otago FS00226.003 Otago Fish and Game Council FS00609.024 Royal Forest and Bird Protection Society FS00230.022</p>	Reject	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
Network Waitaki Limited	00320.012	New definition – Effects management hierarchy (Other Matters)	Amend	<p>Amend as follows: Add a new definition for “effects management hierarchy (Other Matters)” as follows:</p> <p><u>Effects Management Hierarchy (other matters) means</u></p>	Waka Kotahi NZ Transport Agency FS00305.010	Reject	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p><u>An approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of a significant natural area, outstanding natural feature or landscape, outstanding water bodies (excluding rivers and natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wahi tapu, wahi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:</u></p> <p>(a) <u>Adverse effects are avoided where practicable,</u> (b) <u>Where adverse effects cannot be avoided, they are minimised where practicable,</u> (c) <u>Where adverse effects cannot be minimised, they are remedied where practicable,</u> (d) <u>Where adverse effects cannot be remedied, they are mitigated to the extent practicable,</u> (e) <u>Where more than minor adverse effects cannot be avoided, minimised, remedied or mitigated offsetting and/or environmental compensation must be considered, where appropriate.</u></p> <p><u>If offsetting and/or environmental compensation is not appropriate the activity itself is to be avoided.</u></p>			
OWRUG	00235.125	New definition – Effects Management Hierarchy (other matters)	Amend	<p>Add new definition of “Effects Management Hierarchy (other matters) means an approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of a, outstanding natural feature or landscape, outstanding water bodies (excluding natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wāhi tapu, wāhi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:</p> <p>(f) Adverse effects are avoided where practicable, (g) Where adverse effects cannot be avoided, they are minimised where practicable, (h) Where adverse effects cannot be minimised, they are remedied where practicable, (i) Where adverse effects cannot be remedied, they are mitigated to the extent practicable,</p> <p>Where more than minor adverse effects cannot be avoided, minimised, remedied or mitigated offsetting and/or environmental compensation must be considered, where appropriate.</p>	Federated Farmers FS00239.025 Horticulture NZ FS00236.007 Kāi Tahu ki Otago FS00226.341	Reject	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
PowerNet Ltd	00511.012	New definition – Effects management	Amend	<p>Amend as follows: Add a new definition for “effects management hierarchy (Other Matters)” as follows:</p>	Waka Kotahi NZ Transport Agency FS00305.012	Reject	We adopt the recommendations and reasons set out in the Intro

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
		hierarchy (Other Matters)		<p>“Effects management hierarchy (Other Matters)”<u>Effects Management Hierarchy (other matters) means</u></p> <p><u>An approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of a significant natural area, outstanding natural feature or landscape, outstanding water bodies (excluding rivers and natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wahi tapu, wahi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:</u></p> <p>(a) <u>Adverse effects are avoided where practicable,</u> (b) <u>Where adverse effects cannot be avoided, they are minimised where practicable,</u> (c) <u>Where adverse effects cannot be minimised, they are remedied where practicable,</u> (d) <u>Where adverse effects cannot be remedied, they are mitigated to the extent practicable,</u> (e) <u>Where more than minor adverse effects cannot be avoided, minimised, remedied or mitigated offsetting and/or environmental compensation must be considered, where appropriate.</u></p> <p><u>If offsetting and/or environmental compensation is not appropriate the activity itself is to be avoided.”</u></p>			and General 01 s42A Reply Report at paragraphs 145-147.
AWA	00502.006	New definition – Efficiency	Amend	<p><u>Efficiency</u></p> <p><u>Efficiency in relation to the use of water includes economic, technical, and dynamic efficiency, where ‘economic efficiency’ means maximizing the value (including non – monetary value) to communities from the use of water, including reduced GHG emissions.</u></p>	<p>Contact Energy Limited FS00318.022 Greenpeace FS00407.005</p> <p>Otago Fish and Game Council FS00609.030 Otago Water Resource Users FS00235.074</p>	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 88-90 in particular.
Wise Response Society Inc	00509.021	New definition – Enhancement	Amend	<p>Add a new definition:</p> <p>Enhancement To facilitate species recruitment, co – existence and succession processes by stabilising ecological functioning through time (Ulrich, 2021).</p>	<p>Kāi Tahu ki Otago FS00226.585 Otago Water Resource Users FS00235.072 Waitaki District Council FS00140.013</p>	Reject	We adopt the recommendations and reasons set out in the ECO Report at paragraphs 20-21 in particular.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Wise Response Society Inc	00509.022	New definition – Environment	Amend	Add a new definition: Environment Ecological processes and biotic and abiotic complexes.	Kāi Tahu ki Otago FS00226.586 Otago Water Resource Users FS00235.073	Reject	The RMA already contains such a definition which is used in the RPS
Queenstown Lakes District Council	00138.029	New definition – Environmental compensation	Amend	Amend to add a definition of ‘environmental compensation’	Federated Farmers FS00239.026 (neutral) Network Waitaki Limited FS00320.008 Contact Energy Limited FS00318.010 Federated Farmers FS00239.0 Oceana Gold FS00115.021	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraph 93 in particular.
Horticulture New Zealand	00236.011	New definition – Essential human health	Amend	Amend to add new definition as follows: <u>“Essential human health: means the physiological needs of humans, it includes safe drinking water and sanitation, nutritious food, adequate shelter and warmth.”</u>	Otago Water Resource Users FS00235.075 Kāi Tahu ki Otago FS00226.200 Otago Fish and Game Council FS00609.106 Royal Forest and Bird Protection Society FS00230.023	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraph 94 in particular.
Horticulture New Zealand	00236.013	New definition – Highly productive land	Amend	Amend to add new definition as follows: Highly productive land – <u>“(a) Land that has been identified as highly productive land using LF – LS – P19; OR (b) where identification has not occurred as in a), land in the rural area that is classified as LUC1,2 or 3 as mapped by the NZ Land Resource Inventory or by more detailed site mapping”</u>	Federated Farmers FS00239.027	Reject	The definition is now set by the NPSHPL which has been adopted in the PORPS
New Zealand Pork Industry Board	00240.025	New definition – Highly productive land	Amend	Amend to add definition: Highly productive land	Silver Fern Farms FS00221.005 Otago Fish and Game Council FS00609.143	Reject	No wording was suggested as relief and the definition is now set by the NPSHPL which has been adopted in the PORPS

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OWRUG	00235.009	New definition – Highly productive land	Amend	Include a definition for highly productive land as follows: a) <u>Land that has been identified as highly productive land using LF – LS – P19; OR</u> <u>where identification has not occurred as in a), land in the rural area that is classified as LUC 1,2 3 or 4 as mapped by the NZ Land Resource Inventory or by more detailed site mapping.</u>	Matakanui Gold Limited FS00021.011	Reject	The definition is now set by the NPSHPL which has been adopted in the PORPS
Director-General of Conservation	00137.011	New definition – Indigenous fauna	Amend	Indigenous fauna Insert a new definition of “indigenous fauna” as follows or words to like effect: <u>“means animals, including fish and invertebrates, that, in relation to a particular area, are native to the ecological district in which that area is located”</u>	Ngāi Tahu ki murihiku FS00223.122 Kāi Tahu ki Otago FS00226.053	Reject	We adopt the recommendations and reasons set out in the ECO Report at paragraph 24 in particular.
Yellow – eyed Penguin Trust	00120.009	New definition – Indigenous species	Amend	No definition of indigenous species. Add definition.		Accept	We adopt the recommendations and reasons set out in the ECO Report at paragraphs 30-31 in particular.
Wise Response Society Inc	00509.014	New definition – Integrated Resource Management	Amend	Add a new definition: <u>“Integrated Resource Management is a process of managing natural and physical resource use in a way that is efficient and sustainable, and optimises overall benefit from a set of defined objectives, while minimising adverse effects and risks. This is facilitated by ensuring that all plans and policies are vertically and horizontally compatible and do not conflict with each other within the region and as far as possible, between regions. It brings together the likes of natural heritage management, land use planning, water management, bio – diversity conservation, and the future sustainability of industries like agriculture, mining, tourism, fisheries and forestry.”</u>	Oceana Gold FS00115.026 Otago Water Resource Users FS00235.076	Reject	We adopt the recommendations and reasons set out in the IM Report at paragraph 70 in particular.
Queenstown Lakes District Council	00138.051	New definition – Kawa	Amend	Amend to include a definition for ‘kawa’	Kāi Tahu ki Otago FS00226.390	Accept in part	No definition is necessary but the term has been recommended to be added to tikaka in the Mana whenua chapter where it is explained in appropriate terms.
Kāi Tahu ki Otago / Aukaha	00226.038	New definition – Mahika kai	Amend	Add new definition as follows: <u>Mahika kai means gathering of food and natural materials by Kāi Tahu whānui in accordance with tikaka, the places where</u>	Te Rūnanga o Ngāi Tahu FS00234.026	Accept	Kāi Tahu’s definition is considered a helpful addition as the term is widely used in the RPS

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<u>those resources are gathered, and the work, methods and cultural activities involved in obtaining them.</u>	Ngāi Tahu ki murihiku FS00223.007 Otago Water Resource Users FS00235.077		
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.011	New definition – Major hazard facility	Amend	Include a definition of MHF as defined in the Health and Safety at Work (Major Hazard Facilities) Regulations 2016: <u>Major hazard facility means a facility that WorkSafe has designated as a lower tier major hazard facility or an upper tier major hazard facility under regulation 19 or 20 of the Health and Safety at Work (Major Hazard Facilities) Regulations 2016</u>	Contact Energy Limited FS00318.023	Reject	We adopt the recommendations and reasons set out in the HAZ Report at paragraphs 20-22 in particular.
Hopkins, Jim	00420.007	New definition – Mātauraka	Amend	Add a definition of <i>mātauraka</i> , including some means by which its precepts may be evaluated.	Kāi Tahu ki Otago FS00226.193 Otago Water Resource Users FS00235.078	Accept in part	No definition is necessary but the term has been recommended to be added in the Mana whenua chapter where it is explained in appropriate terms.
Blackthorn Lodge Glenorchy Limited	00119.035	New definition – Minimise	Amend	“Minimise” to be defined as follows: <u>Minimise – reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.</u>	Transpower New Zealand Limited FS00314.002 (neutral) Oceana Gold FS00115.022 Otago Water Resource Users FS00235.079	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 100-103 in particular.
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.017	New definition – Minimise	Amend	Amend as follows: Insert definition: Minimise means to reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.	Fonterra FS00233.005 Transpower New Zealand Limited FS00314.010 (neutral) Greenpeace FS00407.039	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 100-103 in particular.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Waka Kotahi NZ Transport Agency FS00305.007 Contact Energy Limited FS00318.011 Federated Farmers FS00239.028 Oceana Gold FS00115.023 Otago Water Resource Users FS00235.080		
Wayfare Group Ltd	00411.015	New definition – Minimise	Amend	Insert a new definition, “minimise”, as follows: <u>Reduce to the smallest amount reasonably practicable.</u> <u>Minimised, minimising and minimisation have the corresponding meaning.</u> Kāi Tahu ki Otago FS00226.563 Otago Water Resource Users FS00235.081	Transpower New Zealand Limited FS00314.032 (neutral)	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 100-103 in particular.
Matakanui Gold Limited	00021.004	New definition – Mining	Amend	Add a definition on mining. <u>Mining</u> <u>Has the same meaning as the Crown Minerals Act as set out in the box below:</u> <u>(a) means to take, win, or extract, by whatever means,–</u> <u>a mineral existing in its natural state in land; or</u> <u>a chemical substance from a mineral existing in its natural state in land; and</u> <u>(b) includes–</u> <u>the injection of petroleum into an underground gas storage facility; and</u> <u>the extraction of petroleum from an underground gas storage facility;</u> <u>(c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a)</u>	Otago Fish and Game Council FS00609.120 Oceana Gold FS00115.032 Oceana Gold FS00115.024	Reject	We adopt some of the recommendations and reasons set out in the Intro and General Report 01 at paragraphs 205-211 as far as they do not see a need for a specific mining chapter or definition. Other recommendations have been made in relation to other submissions to enable a consent pathway for mining activities amongst others.
Wise Response Society Inc	00509.015	New definition – Mitigation	Amend	Add a new definition: <u>Mitigation as it applies to climate change, involves reducing the flow of heat – trapping greenhouse gases into the atmosphere, either by reducing sources of these gases (for example, the burning of fossil fuels for electricity, heat or transport) or enhancing the “sinks” that accumulate and store these gases (such as the oceans, forests and soil).</u>	Otago Water Resource Users FS00235.091	Reject	A new definition was not seen as being necessary but a description of climate change adaptation and climate change mitigation measures has been recommended in IM-04.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.100	New definition – Natural Capital	Amend	Add a definition for “Natural Capital”	Otago Fish and Game Council FS00609.208 Otago Water Resource Users FS00235.082	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 106-109 in particular.
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.016	New definition – Natural environment	Amend	Amend as follows: Insert definition: Natural environment means: (a) land, water, air, soil, minerals, energy, and all forms of plants, animals and other living organisms, whether native to New Zealand or introduced, and their habitats, (b) ecosystems, their constituent parts and the natural processes that sustain these, (c) the natural landscape and landforms that are formed by the interactions between (a) and (b), and (d) excludes pests and domestic and farmed animals. Plus, consequential changes as referenced in the reasoning section.	Fonterra FS00233.004 Federated Farmers FS00239.029 (neutral) Kāi Tahu ki Otago FS00226.320 Otago Water Resource Users FS00235.092 Te Rūnanga o Ngāi Tahu FS00234.024	Reject	We adopt the recommendations and reasons set out in the IM Report at paragraphs 63-66 in particular.
Wayfare Group Ltd	00411.016	New definition – Natural environment	Amend	Insert a new definition, “ <u>natural environment</u> ”, as follows: <u>Means (a) land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and (b) ecosystems and their constituent parts.</u>	Otago Fish and Game Council FS00609.210 Kāi Tahu ki Otago FS00226.564 Otago Water Resource Users FS00235.093	Reject	We adopt the recommendations and reasons set out in the IM Report at paragraphs 63-66 in particular.
Wise Response Society Inc	00509.018	New definition – Net ecological gain	Amend	Add a new definition: Net ecological gain is a significant improvement in an <u>ecological function that might be expressed in one or more of the following attributes: scale, type, resilience, diversity, redundancy, variability.</u> The term is introduced in this policy statement primarily as an alternative approach to development with “minor adverse effect”.	Contact Energy Limited FS00318.012 Oceana Gold FS00115.025 Otago Water Resource Users FS00235.097	Reject	We adopt the recommendations and reasons set out in the ECO Report at paragraph 41 in particular.
Port of Otago Ltd.	00301.037	New definition – New infrastructure	Amend	Amend to include a definition to distinguish between activities that have differing policy tests in the RPS: <ul style="list-style-type: none"> • operation and maintenance of infrastructure • upgrades and development of existing infrastructure • new infrastructure 	Dunedin City Council FS00139.002 The Fuel Companies FS00510.004 Kāi Tahu ki Otago FS00226.375	Reject	We adopt the recommendations and reasons set out in the EIT Report at paragraph 555 in particular.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Otago Water Resource Users FS00235.098		
Dunedin City Council	00139.114	New definition – Off-stream storage of surface water	Amend	Add a definition of ‘off-stream storage of surface water.’	Otago Fish and Game Council FS00609.055 Kāi Tahu ki Otago FS00226.36 Otago Water Resource Users FS00235.098	Reject	We adopt the recommendations and reasons set out in the LF Report at paragraph 1272 in particular.
Port of Otago Ltd.	00301.038	New definition – Operation and maintenance of infrastructure	Amend	Amend to include a definition to distinguish between activities that have differing policy tests in the RPS: <ul style="list-style-type: none"> • operation and maintenance of infrastructure • upgrades and development of existing infrastructure • new infrastructure 	The Fuel Companies FS00510.005 Kāi Tahu ki Otago FS00226.36 Otago Water Resource Users FS00235.098	Reject	We adopt the recommendations and reasons set out in the EIT Report at paragraph 555 in particular.
Federated Farmers of New Zealand	00239.007b	New definition – Pest	Amend	Include the definition of “Pest” from the Biosecurity Act		Accept	We adopt the recommendations and reasons set out in the Introduction & General 03 Interpretation report at paragraph 113 in particular.
Wayfare Group Ltd	00411.017	New definition – Pests	Amend	Insert a new definition, “ <u>pests</u> ”, as described in the Regional Pest Management Plan. <i>ORC Note: the definition of “Pest” in the glossary (p92) of the Otago Pest Management Plan 2019 – 2029 has the following definition:</i> <i><u>Pest: has the same meaning as in the Biosecurity Act 1993: “an organism specified as a pest in a pest management plan.”</u></i>	Otago Fish and Game Council FS00609.209	Accept	We adopt the recommendations and reasons set out in the Introduction & General 03 Interpretation report at paragraph 113 in particular
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.018	New definition – Precautionary approach	Amend	Amend as follows: Insert definition: Precautionary approach means an approach that: (a) avoids not acting due to uncertainty about the quality of quantity of the information available, and (b) interprets uncertain information in a way that best supports the health, wellbeing and resilience of the natural environment	Greenpeace FS00407.040 Royal Forest and Bird Protection Society FS00230.024 Ngāi Tahu ki murihiku FS00223.142 Beef + Lamb New Zealand Ltd FS00237.065 Fonterra FS00233.006	Reject	We adopt the recommendations and reasons set out in the Introduction & General 03 Interpretation report at paragraphs 117-121 in particular

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Contact Energy Limited FS00318.013 Kāi Tahu ki Otago FS00226.321 Oceana Gold FS00115.027 Otago Water Resource Users FS00235.101		
Waitaki Irrigators Collective Limited	00213.013	New definition – Precautionary approach	Amend	Provide a definition in the interpretation section that aligns with the wording of the draft Natural and Built Environments Bill as follows: Precautionary approach means an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty.	Horticulture NZ FS00236.006 Kāi Tahu ki Otago FS00226.543 Otago Water Resource Users FS00235.102	Reject	We adopt the recommendations and reasons set out in the Introduction & General 03 Interpretation report at paragraphs 117-121 in particular
Fulton Hogan Limited	00322.001	New definition – Quarrying Activities	Amend	Amend as follows: Include the definition of Quarrying Activities included in Chapter 14 of the National Planning Standards. <u>“Quarrying Activities means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and cleanfilling of the quarry, and the use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry.”</u>	Otago Fish and Game Council FS00609.093	Reject	There is no need for a definition of such a well-known activity
Yellow – eyed Penguin Trust	00120.010	New definition – Rakatirataka	Amend	Add definition of rakatirataka.	Kāi Tahu ki Otago FS00226.595 Otago Water Resource Users FS00235.083	Reject	We adopt the recommendations and reasons set out in the MW Report at paragraph 21 in particular where a preference is expressed for explanations as in the Mana whenua chapter to be used rather than a definition.
Fonterra Co – operative Group Limited	00233.006	New definition – Regionally significant industry	Amend	Insert new definition of Regionally significant industry as follows: <u>means an economic activity based on the use of natural and physical resources in the region which has been shown to</u>	AgResearch Limited FS00208.001 Federated Farmers FS00239.030	Reject	We adopt the recommendations and reasons set out in the Introduction & General

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				<u>have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.</u>	Otago Water Resource Users FS00235.103 Kāi Tahu ki Otago FS00226.145 Otago Fish and Game Council FS00609.087 Te Rūnanga o Ngāi Tahu FS00234.023		Themes Report 01 at paragraph 120 in particular
Wise Response Society Inc	00509.023	New definition – Restoration	Amend	Add a new definition: Restoration Re – establish species or habitat by direct action (Ulrich, 2021).	Otago Water Resource Users FS00235.091	Reject	We adopt the recommendations and reasons set out in the Introduction & General Themes Report 03 Interpretation at paragraph 125 in particular but note that in response to other submissions a new definition of ‘restoration in relation to indigenous biodiversity’ has been recommended to be adopted.
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.019	New definition – Restore	Amend	Amend as follows: Insert definition: Restore means to return to a state of good health, well-being and resilience.	Federated Farmers FS00239.031 (neutral) Waka Kotahi NZ Transport Agency FS00305.008	Reject	We adopt the recommendations and reasons set out in the Introduction & General Themes Report 03 Interpretation at paragraphs 130 -131 in particular but note that in response to other submissions a new definition of ‘restoration in relation to indigenous biodiversity’ has been recommended to be adopted.
Dunedin City Council	00139.005b	New definition – Reticulated system	Amend	Amend by defining ‘reticulated system’.	Otago Fish and Game Council FS00609.056 Otago Water Resource Users FS00235.115	Reject	We adopt the recommendations and reasons set out in the LF Report at paragraph 1192 in particular which states “I am not convinced that definitions of the terms

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					Beef + Lamb New Zealand Ltd FS00237.066 Fonterra FS00233.007 Kāi Tahu ki Otago FS00226.322 Otago Water Resource Users FS00235.114		“reticulated system”, “wastewater system operator” or “stormwater system operator” are necessary. “
Fonterra Co – operative Group Limited	00213.005	New definition – Reverse sensitivity	Amend	Insert new definition of Reverse sensitivity as follows, or words to similar effect: <u>means the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment of other activities which are sensitive to the adverse environmental effects being generated by the pre – existing activity.</u>	Beef + Lamb New Zealand Ltd FS00237.026 The Fuel Companies FS00510.018 Federated Farmers FS00239.0 Otago Water Resource Users FS00235.104	Accept in part	We adopt the recommendations and reasons set out in the Introduction & General 03 Interpretation report at paragraphs 136-143 in particular
Waka Kotahi NZ Transport Agency	00305.005	New definition – Reverse Sensitivity	Amend	Amend as follows: Include a definition of Reverse Sensitivity, and we suggest the following, or similar, definition, which is taken from the Partially Operative Otago RPS 2018 as follows: <u>“The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the established activity.”</u>	AgResearch Limited FS00208.002 Silver Fern Farms FS00221.006 Fulton Hogan Limited FS00322.005 The Fuel Companies FS00510.019 New Zealand Defence Force FS00304.011 Transpower New Zealand Limited FS00314.017 Contact Energy Limited FS00318.014 Horticulture NZ FS00236.008 Otago Fish and Game Council FS00609.204 Otago Water Resource Users FS00235.105 Network Waitaki Limited FS00320.011 Meridian Energy Limited FS00306.005	Accept in part	We adopt the recommendations and reasons set out in the Introduction & General 03 Interpretation report at paragraphs 136-143 in particular

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Fonterra Co – operative Group Limited	00233.007	New definition – Rural Industry	Amend	Insert a new definition of Rural Industry as follows: <u>... has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</u> <u>means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.</u>	Silver Fern Farms FS00221.007 Federated Farmers FS00239.033 Horticulture NZ FS00236.009 Otago Water Resource Users FS00235.106	Accept	We adopt the recommendations and reasons set out in the UFD report at paragraphs 86-92 in particular
Wayfare Group Ltd	00411.019	New definition – Rural Industry	Amend	Insert a new definition, “ <u>Rural Industry</u> ”, as follows: EITHER: (Source: QLDC PDP) <u>Means the use of land and buildings for the purpose of manufacturing, fabricating, processing, packing and/or storage of goods and materials grown or sourced outside the urban environment and the storage of goods, materials and machinery associated with commercial contracting undertaken outside the urban environment.</u> OR: (Source: National Planning Standards) <u>Means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production.</u>	Otago Water Resource Users FS00235.107	Accept in part	We adopt the recommendations and reasons set out in the UFD report at paragraphs 86-92 in particular
Aurora Energy Limited	00315.013	New definition – Significant electricity distribution infrastructure	Amend	Amend as follows: Add a new definition for significant electricity distribution infrastructure as follows: <u>“Significant Electricity Distribution Infrastructure means electricity distribution infrastructure which supplies:</u> 1. <u>Essential and emergency services(such as hospitals and lifeline facilities);</u> 2. <u>Other 139 infrastructure or individual consumers requiring supply of 1MW or more;</u> 3. <u>700 or more consumers; or</u> <u>Communities that are isolated and which do not have an alternative supply in the event the line or cable is compromised and where the assets are difficult to replace in the event of failure.”</u>	Federated Farmers FS00239.034 Otago Fish and Game Council FS00609.025	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter) and the supplementary evidence by Mr Langman on EIT at paragraphs 30-34.
Network Waitaki Limited	00320.011	New definition – Significant electricity distribution Infrastructure	Amend	Amend as follows: Add a new definition for significant electricity distribution infrastructure as follows: <u>“Significant Electricity Distribution Infrastructure means electricity distribution infrastructure which supplies:</u>	Horticulture NZ FS00236.014	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter) and the supplementary evidence by

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p>1. <u>Essential and emergency services (such as hospitals and lifeline facilities);</u></p> <p>2. <u>Other regionally significant infrastructure or individual consumers requiring supply of 1MW or more;</u></p> <p>3. <u>700 or more consumers; or</u></p> <p><u>Communities that are isolated and which do not have an alternative supply in the event the line or cable is compromised and where the assets are difficult to replace in the event of failure.”</u></p>			Mr Langman on EIT at paragraphs 30-34.
PowerNet Ltd	00511.011	New definition – Significant electricity distribution infrastructure	Amend	<p>Amend as follows: Add a new definition for “significant electricity distribution infrastructure” as follows:</p> <p><u>“Significant Electricity Distribution Infrastructure means electricity distribution infrastructure which supplies:</u></p> <p>(1) <u>Essential and emergency services (such as hospitals and lifeline facilities);</u></p> <p>(2) <u>Other regionally significant infrastructure or individual consumers requiring supply of 1MW or more;</u></p> <p>(3) <u>700 or more consumers; or</u></p> <p><u>Communities that are isolated and which do not have an alternative supply in the event the line or cable is compromised and where the assets are difficult to replace in the event of failure</u></p>	Horticulture NZ FS00236.030	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter) and the supplementary evidence by Mr Langman on EIT at paragraphs 30-34 .
Trojan Holdings Limited (Trojan)	00206.013	New definition – Ski Area Infrastructure	Amend	<p>Amend as follows: Insert a new definition</p> <p>Ski Area Infrastructure Means infrastructure associated with the construction, operation, maintenance, upgrading, or expansion of the following existing ski field areas:</p> <p>(a) Cardrona Alpine Resort</p> <p>(b) Coronet Peak</p> <p>(c) Remarkables</p> <p>(d) Treble Cone</p>	O - Otago Fish and Game Council FS00609.197 O - Royal Forest and Bird Protection Society FS00230.037	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter) and in the supplementary evidence by Mr Langman on EIT.
Wayfare Group Ltd	00411.020	New definition – Ski Area Infrastructure	Amend	<p>Insert a new definition, “Ski Area Infrastructure”, as follows: <u>Means infrastructure associated with the construction, operation, maintenance, upgrading, or expansion of the following existing ski areas:</u></p> <p><u>(a) Cardrona Alpine Resort</u></p> <p><u>(b) Coronet Peak</u></p> <p><u>(c) Remarkables</u></p> <p><u>(d) Treble Cone</u></p>	O - Royal Forest and Bird Protection Society FS00230.036	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter) and in the supplementary evidence by Mr Langman on EIT.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Dunedin City Council	00139.110	New definition – Stormwater system operator	Amend	If amendments sought by submitter to LF – FW – P15 (2)(b) and (b) are retained, add definition of “stormwater system operator”. The definition of ‘stormwater network operator’ provided in the Water Services Bill could provide guidance.	Fonterra FS00233.009	Otago Fish and Game Council FS00609.057	We adopt the recommendations and reasons set out in the LF Report at paragraph 1192 in particular which states “I am not convinced that definitions of the terms “reticulated system”, “wastewater system operator” or “stormwater system operator” are necessary. “
Queenstown Lakes District Council	00138.030	New definition – Taoka	Amend	Amend to add a definition of ‘taoka’	Kāi Tahu ki Otago FS00226.391 Otago Water Resource Users FS00235.084	Reject	We adopt the recommendations and reasons set out in the MW Report at paragraph 21 in particular where a preference is expressed for explanations as in the Mana whenua chapter to be used rather than a definition.
Hopkins, Jim	00420.006	New definition – Te Tiriti o Waitangi	Amend	Add a definition of <i>Te Tiriti o Waitangi</i> which is identical to that included in the ‘exposure draft’ of the proposed Natural and Built Environments Bill. This definition says the words Te Tiriti o Waitangi have the same meaning as The Treaty of Waitangi.	Kāi Tahu ki Otago FS00226.194	Reject	No definition is needed
Chorus, New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand	00310.002	New definition – Telecommunication and Radiocommunication Facilities	Amend	Amend as follows: Add a new definition of “Telecommunication and Radiocommunication Facilities” that encompasses all lines and wireless networks OR Amend the definition of Regionally Significant Infrastructure by changing the listed term “Telecommunication and Radiocommunication Facilities” to “Telecommunication and Radiocommunication <u>Networks</u> ”.	O - Director-General of Conservation FS00137.014	Reject	We adopt the recommendations and reasons set out in the EIT report at paragraphs 77-79 in particular
Waitaki Irrigators Collective Limited	00213.015	New definition – Threshold	Amend	Provide a definition for the term “threshold” and provide guidance for those preparing district and regional plans as to how they are to be implemented, and how they differ from limits.	Federated Farmers FS00239.035 Otago Fish and Game Council FS00609.202 Otago Water Resource Users FS00235.108	Reject	We adopt relevant parts of the recommendations and reasons set out in the Introduction & General themes 01 report at paragraphs 131-147 in particular and in the Legal section of Appendix One on the “Terminology of ‘limits’,

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
							<i>'environmental limits', 'tipping points' and 'thresholds'.</i>
Queenstown Lakes District Council	00138.050	New definition – Tikaka	Amend	Amend to include a definition for 'tikaka'	Kāi Tahu ki Otago FS00226.392 Oceana Gold FS00115.028 Otago Water Resource Users FS00235.085	Reject	We adopt the recommendations and reasons set out in the MW Report at paragraph 21 in particular where a preference is expressed for explanations as in the Mana whenua chapter to be used rather than a definition.
Beef & Lamb NZ and Deer Industry NZ	00237.008	New definition – Tipping point	Amend	Amend to include a definition of 'tipping point'.	Federated Farmers FS00239.036 Otago Water Resource Users FS00235.109	Reject	We adopt relevant parts of the recommendations and reasons set out in the Introduction & General themes 01 report at paragraphs 131-147 in particular and in the Legal section of Appendix One on the "Terminology of 'limits', 'environmental limits', 'tipping points' and 'thresholds'".
Meridian Energy Limited	00306.012	New definition – Upgrade	Amend	Amend as follows: <u>"Upgrade means activities to bring existing structures up to current standards or to improve the functional characteristics of structures, provided that the effects of the activity are the same or similar in character, intensity and scale as the existing structure and activity.</u> <u>Within the footprint of authorised renewable electricity generation activities, upgrade also means increasing the generation or transmission capacity, or the efficiency or security of regionally significant infrastructure; and replacing ancillary structures"</u>	Chorus NZ, Spark NZ and Vodafone NZ FS00310.001 Network Waitaki Limited FS00320.012 Transpower New Zealand Limited FS00314.020 (neutral) Contact Energy Limited FS00318.15 Horticulture NZ FS00236.031 Mercury FS00605.029 Transpower New Zealand Limited FS00314.020 Horticulture NZ FS00236.016	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report in particular at paragraph 37

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Kāi Tahu ki Otago FS00226.259 Otago Water Resource Users FS00235.115		
Port of Otago Ltd.	00301.036	New definition – Upgrades and development of existing infrastructure	Amend	Amend to include a definition to distinguish between activities that have differing policy tests in the RPS: <ul style="list-style-type: none"> • operation and maintenance of infrastructure • upgrades and development of existing infrastructure • new infrastructure 	The Fuel Companies FS00510.003 Queenstown Airport Corporation Ltd FS00313.001 Kāi Tahu ki Otago FS00226.377 Otago Water Resource Users FS00235.099	Reject	We adopt the recommendations and reasons set out in the EIT Report at paragraph 555 in particular.
Dunedin City Council	00139.109	New definition – Wastewater system operator	Amend	If amendments sought by submitter to LF – FW – P15 (2)(b) and (b) are retained, add definition of “wastewater system operator”. The definition of ‘wastewater network operator’ provided in the Water Services Bill could provide guidance.	Fonterra FS00233.008 Otago Fish and Game Council FS00609.058	Reject	We adopt the recommendations and reasons set out in the LF Report at paragraph 1192 in particular which states “I am not convinced that definitions of the terms “reticulated system”, “wastewater system operator” or “stormwater system operator” are necessary. “
Wayfare Group Ltd	00411.089	New definition – Water sensitive design	Amend	Clarify or define what is meant by “water sensitive design” in clause 3(d) of UFD – M2		Reject	We adopt the recommendations and reasons set out in the UFD s42A Report at paragraph 456 in particular and in the LF report at paragraph 1203.
Dunedin City Council	00139.111	New definition – Water sensitive urban design	Amend	Include a definition of ‘water sensitive urban design’ within the RPS to promote greater clarity.	Otago Fish and Game Council FS00609.059	Reject	We adopt the recommendations and reasons set out in the UFD s42A Report at paragraph 456 in particular and in the LF report at paragraph 1203
Dunedin City Council	00139.005a	New definition – Waterways	Amend	Amend by defining ‘waterways’ (or use alternative consistent terminology)	Otago Fish and Game Council FS00609.060	Reject	We adopt relevant parts of the recommendations and reasons set out in the

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Otago Water Resource Users FS00235.115		Introduction & General themes 03 report at paragraphs 157-158 in particular
Federated Farmers of New Zealand	00239.006	1990 mean sea level (Otago Metric Datum)	Amend	Consider whether the NZ Vertical Datum 2016 should instead be used, as this is the official vertical datum for New Zealand		Accept in part	We adopt relevant parts of the recommendations and reasons set out in the Introduction & General themes 03 report at paragraphs 160-162 in particular
Ara Poutama Aotearoa the Department of Corrections	00102.002	Additional infrastructure	Support	Retain the definition of “Additional Infrastructure”		Accept	We adopt the recommendations and reasons set out in the Introduction and General Themes 03 s42A Report
Aurora Energy Limited	00315.001	Additional Infrastructure	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the Introduction and General Themes 03 s42A Report
Federated Farmers of New Zealand	00239.007a	Afforestation	Amend	Amend definition term to: “Afforestation for plantation forestry”	Rayonier Matariki Forests FS00020.014	Reject	We adopt the recommendations and reasons set out in paragraph 22 of the Introduction and General Themes 03 s42A Report
Kāi Tahu ki Otago / Aukaha	00226.025	Aquaculture activities	Amend	Amend as follows: (d) does not include an activity specified in paragraph (a) or (b) if: <i>i.</i> the activity is carried out solely for the purpose of monitoring the environment, <u>or</u> <u>the activity involves customary food culturing on structures undertaken by mana whenua for non – commercial purposes.</u>	Te Rūnanga o Ngāi Tahu FS00234.027 Ngāi Tahu ki murihiku FS00223.008	Reject	We adopt the recommendations and reasons set out in paragraph 27 of the Introduction and General Themes 03 s42A Report
Heritage New Zealand Pouhere Taonga	0123.006	Archaeological site	Amend	Amend Definition [Archaeological site] as follows: <u>Archaeological site has the same meaning as in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014(as set out in the box below) means, subject to section 42(3),–</u>	Te Rūnanga o Ngāi Tahu FS00234.036	Accept in part	We adopt the recommendations and reasons set out in paragraphs 10-18 of the supplementary

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p>(a) <u>any place in New Zealand, including any building or structure (or part of a building or structure), that-</u></p> <p>(i) <u>was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and</u></p> <p>(ii) <u>provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and</u></p> <p>(b) <u>includes a site for which a declaration is made under section 43(1)</u></p>			evidence of A.M. Fenemor to the HCV s42A Report
Director-General of Conservation	00137.007	Commercial Port Activity	Amend	<p>Correct reference from "AO" to "A0" (i.e. A zero).</p> <p>Add definition of "A0", either by a description or by reference to MAP2 and/or applicable consents.</p>		Accept in part	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 473
Ravensdown Limited	00121.004	Commercial port activity	Amend	<p>Amend the definition of 'Commercial port activity' as follows: means commercial shipping operations associated with the Otago Harbour and the activities carried out at the ports at Port Chalmers, Ravensbourne and Dunedin, which include:</p> <p>(a) Operation of commercial ships in Otago Harbour;</p> <p>(b) ...</p>		Accept in part	We adopt the recommendations and reasons set out in the supplementary evidence of M.H. Langman to the EIT s42A Report at paragraphs 40 & 41
Ngāi Tahu ki murihiku	00223.017	Commercial port activity	Amend	Clarify the meaning of 'AO' as a location in (g)		Accept in part	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 473
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.007	Commercial port activity	Amend	<p>Amend as follows:</p> <p>d. <u>Provision, maintenance and development of buildings, installations, other structures or equipment at or adjacent to a port and used in connection with the port's operation or maintenance.</u></p> <p>e. <u>Provision, maintenance and development of S-structures, facilities and pipelines for fuel storage, and refuelling of ships;</u></p> <p>Clarify that commercial port activities are not included in the undefined term 'transport system'.</p>		Reject	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 475

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				Otherwise retain the definition as notified.			
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.004	Commercial port activity	Oppose	Delete		Reject	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 474
Port of Otago Ltd.	00301.002	Commercial port activity	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 468
Director-General of Conservation	00137.008	Degraded	Amend	Either amend the definition or amend the use of the term within the LF chapter, to ensure it is not applied outside the specific NPSFM 2020 context.	Otago Water Resource Users FS00235.116	Accept in part	We adopt the recommendations and reasons set out in the LF s42A Report at paragraphs 77-79
Aurora Energy Limited	00315.002	Distribution Network	Amend	Amend as follows: “has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (as set out in the box below) <u>Means</u> (a) means lines, cables and associated equipment that are used for conveying electricity and are operated by a business engaged in the distribution of electricity; but (b) does not include lines and associated equipment that are part of the national grid” AND Add the following text as a note below the definition to assist RPS21 readers: “Note: Includes electricity sub – transmission infrastructure and significant electricity distribution infrastructure.”	Horticulture NZ FS00236.017	Reject	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraphs 30-34
Director-General of Conservation	00137.009	Effects management hierarchy	Amend	Amend the definition of “effects management hierarchy” and/or Policy ECO – P6 to ensure consistency.	Federated Farmers FS00239.037 Otago Water Resource Users FS00235.117 (neutral)	Accept in part	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Waka Kotahi NZ Transport Agency FS00305.009 Port Otago LTD FS00301.010 Meridian Energy Limited FS00306.004		
Meridian Energy Limited	00306.001	Effects management hierarchy	Amend	<p>Amend as follows: “has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below) and in this RPS also applies to natural wetlands</p> <p><u>(1) in relation to natural inland wetlands, rivers, means an approach to managing the adverse effects of an activity on the extent or values of a natural wetland, or river or lake (including cumulative effects and loss of potential value) that requires means that:</u></p> <p>(a) adverse effects are avoided where practicable, <u>and</u></p> <p>(b) where adverse effects cannot be avoided, they are minimised where practicable, <u>and</u></p> <p>(c) where adverse effects cannot be minimised, they are remedied where practicable, <u>and</u></p> <p>(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided, and</p> <p>(e) <u>if aquatic offsetting of more than minor residual adverse effects is not practicable, aquatic compensation is provided; and</u></p> <p>(ef) if aquatic compensation is not appropriate, the activity itself is avoided.</p> <p><u>(2) in relation to managing the adverse effects of renewable electricity generation activities on the extent or values of a natural wetland, river or lake (including cumulative effects and loss of potential value) means that:</u></p> <p><u>(a) adverse effects are avoided, remedied or mitigated where practicable, and</u></p> <p><u>(b) where the adverse effects cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.”</u></p>	Fonterra FS00233.010 Contact Energy Limited FS00318.016 Mercury FS00605.025 Oceana Gold FS00115.029 Otago Water Resource Users FS00235.117 (neutral) Kāi Tahu ki Otago FS00226.260 Otago Water Resource Users FS00235.117 (neutral)	Reject	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
New Zealand Infrastructure Commission	00321.002	Effects management hierarchy	Amend	Amend as follows: The term “mitigate” should be reintroduced because it means “to make less severe”, as opposed to minimise or “remedy”, which means to repair or fix or make good	Silver Fern Farms FS00221.002 Network Waitaki Limited FS00320.009 Otago Water Resource Users FS00235.117 (neutral) Otago Fish and Game Council FS00609.132	Reject	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.005	Effects management hierarchy	Amend	- Amend as follows: “has the same meaning as in clause 3.21 of the National Policy Statement for Freshwater Management 2020 (as set out in the box below) and in this RPS also applies to natural inland wetlands and rivers in the circumstances set out in the NPSFM.” - Make other consequential amendments to ensure that the effects management hierarchy is applied only for those activities specified in the NPSFM and amendments to ensure that the RPS would not conflict with the NES for Freshwater by directing plan provisions that would be more lenient or duplicate those of the NES. - Make other amendments to resolve any confusion in terminology with the approach set out in ECO – P6. Amend the RPS as necessary to ensure that the effects management hierarchies are not applied within the coastal environment.	Otago Water Resource Users FS00235.117 (neutral)	Reject	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
Aurora Energy Limited	00315.004	Effects Management Hierarchy	Support	Retain as notified	Otago Water Resource Users FS00235.117 (neutral)	Accept in part	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
New Zealand Infrastructure Commission	00321.001	Effects management hierarchy	Support	Retain as notified.	Otago Water Resource Users FS00235.117 (neutral)	Accept in part	We adopt the recommendations and reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
Ngāi Tahu ki murihiku	00223.018	Effects management hierarchy	Support	Retain the definition of ‘Effects management hierarchy’ and its application to natural wetlands.	Oceana Gold FS00115.030	Accept in part	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Otago Water Resource Users FS00235.117 (neutral)		reasons set out in the Intro and General 01 s42A Reply Report at paragraphs 145-147.
Meridian Energy Limited	00306.002	Electricity sub – transmission infrastructure	Amend	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 63
Transpower New Zealand Limited	00314.003	Electricity sub – transmission infrastructure	Amend	Amend as follows: “means electricity infrastructure <u>that is not the National Grid and that which conveys electricity between:</u> (a) energy generation sources <u>and zone substations;</u> (b) the National Grid and zone substations; <u>or and</u> (c) between zone substations.”	Horticulture NZ FS00236.018	Accept	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 64
Aurora Energy Limited	00315.003	Electricity sub – transmission Infrastructure	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the EIT s42A Report at paragraph 63
Network Waitaki Limited	00320.003	Functional need	Amend	Amend as follows: “has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below). means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment, <u>taking into account the efficiency of the proposal or activity.</u> ” OR Other relief to give effect to this submission point.	Otago Water Resource Users FS00235.118 (neutral)	Reject	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42
Network Waitaki Limited	00320.005	Functional need	Amend	Amend definition as follows: means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment, <u>taking into account the efficiency of the proposal or activity.</u> Or other relief to give effect to this submission point.	Otago Water Resource Users FS00235.118 (neutral) Horticulture NZ FS00236.019 Kāi Tahu ki Otago FS00226.294	Reject	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
New Zealand Infrastructure Commission	00321.003	Functional need	Amend	Amend as follows: Include a criterion of feasibility, practicality and cost-effectiveness, noting this is to an extent already covered by "operational need" for infrastructure	Otago Water Resource Users FS00235.118 (neutral)	Reject	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42
PowerNet Ltd	00511.005	Functional need	Amend	Amend as follows: "means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment, <u>taking into account the efficiency of the proposal or activity.</u> " OR Other relief to give effect to this submission point.	Otago Water Resource Users FS00235.118 (neutral)	Reject	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42
Aurora Energy Limited	00315.005	Functional Need	Support	Retain as notified	Otago Water Resource Users FS00235.118 (neutral)	Accept	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42
Waka Kotahi NZ Transport Agency	00305.001	Functional need	Support	Retain as notified.	Sanford Limited FS00122.003 Silver Fern Farms FS00221.003 Otago Water Resource Users FS00235.118 (neutral)	Accept	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.006	Hard protection structure	Amend	Amend the definition as it applies beyond the coastal environment as follows: "...outside the coastal environment, means any dam, weir, stopbank, carriageway, groyne, or reservoir, and any structure or appliance of any kind which is specifically established for <u>that has the primary purpose or effect of protecting an activity from or mitigating effects of natural hazard flooding risk mitigation.</u> "	Waka Kotahi NZ Transport Agency FS00305.005	Accept in part	We adopt the recommendations and reasons set out in the HAZ s42A Report at paragraphs 16-19 & Reply report at 168-171
Waka Kotahi NZ Transport Agency	00305.002	Hard protection structure	Amend	Amend as follows: The definition for Hard Protection Structure to include the following:		Accept in part	We adopt the recommendations and reasons set out in the Introduction and general

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				“...and, Outside the coastal environment, means any dam, weir, stop bank, carriageway, groyne, reservoir, <u>rip rap</u> , and any structure or appliance of any kind which is specifically established for the purpose of natural hazard mitigation”			Themes – Interpretation 03 s42A Report at paragraphs 39-42
Kāi Tahu ki Otago / Aukaha	00226.026	Hard protection structure	Support	Retain as notified	Te Rūnanga o Ngāi Tahu FS00234.028	Accept in part	We adopt the recommendations and reasons set out in the Introduction and general Themes – Interpretation 03 s42A Report at paragraphs 39-42
Fulton Hogan Limited	00322.003	Highly valued natural features and landscapes	Amend	Amend as follows: Definition to refer to the correct appendix. “Highly valued natural features and landscapes highly valued natural features, landscapes and seascapes are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP79.”		Reject	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue
Kāi Tahu ki Otago / Aukaha	00226.027	Highly valued natural features and landscapes	Amend	Amend as follows: highly valued natural features, landscapes and seascapes are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP7 APP9		Reject	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue
Port of Otago Ltd.	00301.003	Highly valued natural features and landscapes	Amend	Amend definition or APP9 to provide suitable guidance on what the threshold is for highly valued landscapes and natural features.	Sanford Limited FS00122.005	Reject	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.007	Highly valued natural features and landscapes	Amend	Amend the definition as follows: “highly valued natural features, landscapes and seascapes are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP9, <u>and which are considered are amenity landscapes for the purpose of implementing the NES for Plantation Forestry.</u> ”		Reject	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue
Director-General of Conservation	00137.010	Highly valued natural features and landscapes	Oppose	Replace “APP7” with “APP 9”.		Reject	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue which recommended deletion of all reference to highly valued

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
							natural features and landscapes
Meridian Energy Limited	00306.003	Highly valued natural features and landscapes	Oppose	Delete	Sanford Limited FS00122.006 Contact Energy Limited FS00318.017 Oceana Gold FS00115.031 Otago Water Resource Users FS00235.119	Accept	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue which recommended deletion of all reference to highly valued natural features and landscapes
Ravensdown Limited	00121.005	Highly valued natural features and landscapes	Oppose	Delete and as a consequential amendment, remove and/or amend all references to 'highly valued natural features and landscapes'.	Network Waitaki Limited FS00320.010	Accept	We adopt the recommendations and reasons set out in the main recommendations NFL chapter on this issue which recommended deletion of all reference to highly valued natural features and landscapes
Carter, Gerald	00416.001	Historic Heritage	Amend	Amend to Delete the word "Historic" from the term "Historic Heritage" and replace with "Cultural & Natural Heritage" throughout the document		Reject	We adopt the recommendations and reasons set out in the HCV s42A Report at paragraph 26 in particular.
Central Otago Heritage Trust	00212.001	Historic Heritage	Amend	following wording to paragraph (b) of the definition of "Historic Heritage": "(b) Includes – ... heritage values associated with natural and physical resources"		Reject	We adopt the recommendations and reasons set out in the HCV s42A Report at paragraph 26 in particular.
Queenstown Lakes District Council	00138.026	Indigenous biodiversity	Amend	Amend as follows: "means vascular and non – vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located. <u>Means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance including both vascular and non – vascular plants. "</u>	Federated Farmers FS00239.040 (neutral)	Reject	The NPSIB definition is appropriate
Director-General of Conservation	00137.012	Indigenous flora	Amend	Either: Replace references to "indigenous flora" with "indigenous vegetation"; or Insert a new definition of "indigenous flora" as follows or words to like effect:	Ngāi Tahu ki murihiku FS00223.123	Reject	We adopt the recommendations and reasons set out in the ECO

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<u>“has the same meaning as indigenous vegetation”</u>			s42A Report at paragraph 27 in particular.
Director-General of Conservation	00137.013	Indigenous vegetation	Amend	<ul style="list-style-type: none"> - Amend as follows or words to like effect: “means vascular and non – vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located <u>and freshwater and marine plants and seaweed.</u> “ - Review to ensure consistency with district plan provisions relating to indigenous vegetation. 	Kāi Tahu ki Otago FS00226.054	Reject	We adopt the recommendations and reasons set out in the ECO s42A Report at paragraph 27 in particular.
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.008	Indigenous vegetation	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the ECO s42A Report at paragraph 27 in particular.
Dunedin City Council	00139.006	Infrastructure	Amend	Amend to include ‘(m) landfills.’	Big Stone Forest Limited FS00603.007, Dunedin International Airport Limited FS00316.010 Kāi Tahu ki Otago FS00226.073	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 483-487
New Zealand Defence Force	00304.003	Infrastructure	Amend	Amend as follows: “has the same meaning as in section 2 of the Resource Management Act 1991 (as set out in the box below), <u>and also includes nationally significant infrastructure and regionally significant infrastructure”</u>	Royal Forest and Bird Protection Society FS00230.025	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 483-487
New Zealand Infrastructure Commission	00321.004	Infrastructure	Amend	Amend as follows: <ul style="list-style-type: none"> • Adding defense, corrections, health and educational facilities to this definition Rationalising infrastructure definitions for clarity, and/or adding further explanation as to the different contexts in which they are used (i.e. some subset definitions are used in the Urban Form and Development policies in terms of regulating when other development can occur, while others are used in relation to providing direction as to how the effects of infrastructure itself are to be managed).	New Zealand Defence Force FS00304.001 Ministry of Education FS00421.001 Horticulture NZ FS00236.020 Kāi Tahu ki Otago FS00226.300	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 483-487
Port of Otago Ltd.	00301.004	Infrastructure	Amend	Amend to add to the beginning as follows:	Kāi Tahu ki Otago FS00226.378	Reject	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<u>"Is the same meaning as in Section 2 of the RMA 1991 (as set out in the box below) together with all facilities required for "commercial port activity".</u>	Royal Forest and Bird Protection Society FS00230.026		reasons set out in the s42A EIT Report at paragraphs 483-487
Aurora Energy Limited	00315.006	Infrastructure	Support	Retain as notified	New Zealand Defence Force FS00304.002	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 483-487
PowerNet Ltd	00511.009	Infrastructure	Support	Retain as notified.	New Zealand Defence Force FS00304.003	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 483-487
Kāi Tahu ki Otago / Aukaha	00226.028	Kāiaka	Support	Retain as notified	Te Rūnanga o Ngāi Tahu FS00234.029 Otago Water Resource Users FS00235.086	Accept	The definition is appropriate
Kāi Tahu ki Otago / Aukaha	00226.029	Kaitiakitanga or kaitiakitaka	Support	Retain as notified	Te Rūnanga o Ngāi Tahu FS00234.030 Otago Water Resource Users FS00235.087	Accept	The definition is appropriate and accords with the RMA definition
Ngāi Tahu ki murihiku	00223.019	Key civic public spaces	Amend	Clarify the relationship of the 'Key civic public spaces' definition with the provisions of the pORPS.		Accept	Amended by deletion as not needed as set out in para 96 of the s.42A UFD report.
Port of Otago Ltd.	00301.005	Lifeline utilities	Amend	Amend as follows: "means utilities provided by those entities listed in Schedule 1 of the Civil Defence Emergency Management Act 2002, <u>and for the avoidance of doubt includes all commercial port activity"</u>	Royal Forest and Bird Protection Society FS00230.027	Reject	We adopt the recommendations and reasons set out in the s42A Introductions & general Themes 03 Interpretation Report at paragraph 47
Aurora Energy Limited	00315.007	Lifeline Utilities	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
							Introductions & general Themes 03 Interpretation Report at paragraph 47
Waka Kotahi NZ Transport Agency	00305.003	Lifeline utilities	Support	Retain as notified.		Accept	We adopt the recommendations and reasons set out in the s42A Introductions & general Themes 03 Interpretation Report at paragraph 47
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.008	Lifeline utilities	Support	Retain as notified.		Accept	We adopt the recommendations and reasons set out in the s42A Introductions & general Themes 03 Interpretation Report at paragraph 47
Canterbury Regional Council (Environment Canterbury)	00013.003	Local authority	Support	Retain as notified or preserve the original intent.		Accept	The definition is appropriate and accords with the Local Government Act 2002
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.010	Loss of values	Amend	Ensure the RPS provides direction for the protection of wetlands as defined in the RMA and to achieve s6(a). Add consideration for natural character of the coastal environment under (b)	Otago Water Resource Users FS00235.094	Accept in part	This is a general request but the definition as amended as a result of other submissions will refer to the NPSFM definition
Ngāi Tahu ki murihiku	00223.020	Loss of values	Support	Retain as notified	Otago Water Resource Users FS00235.095	Accept	
Kāi Tahu ki Otago / Aukaha	00226.030	Mana whenua	Support	Retain as notified	Te Rūnanga o Ngāi Tahu FS00234.031 Otago Water Resource Users FS00235.088	Accept	The definition is appropriate and accords with the RMA

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Graymont (NZ) Limited	00022.001	Mineral	Support	Retain as notified.		Accept	The definition is appropriate and accords with the Crown Minerals Act 1991
Trojan Holdings Limited (Trojan)	00206.009	Minimise	Amend	Amend as follows: Insert definition for "minimise", as below: <i>"Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning."</i>	Transpower New Zealand Limited FS00314.003 (neutral)	Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 100-103 in particular.
Transpower New Zealand Limited	00314.004	National Grid	Amend	Amend as follows: "has the same meaning as in the Interpretation section of the National Policy Statement on Electricity Transmission 2008 for Renewable Electricity Generation 2011 as follows "means the assets lines and associated equipment used or owned by Transpower New Zealand Limited to convey electricity"	Kāi Tahu ki Otago FS00226.484	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraph 72
Business South Inc	00408.006	Nationally Significant Infrastructure	Amend	The definition of nationally significant infrastructure has been taken from the NPSUD but should be amended to be relevant to Otago ie. why list North Island infrastructure.		Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Business South Inc	00408.007	Nationally Significant Infrastructure	Amend	Clarify new or expanded infrastructure, for example, Lake Onslow, would meet the definition of renewable generation under the nationally significant infrastructure definition	Federated Farmers FS00239.041 (neutral) Dunedin International Airport Limited FS00316.021 Federated Farmers FS00239.041 (neutral) Royal Forest and Bird Protection Society FS00230.028	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Business South Inc	00408.005	Nationally Significant Infrastructure	Amend	Amend to clarify how new or expanded infrastructure get included in the definition(s) without having to do a plan change	Dunedin International Airport Limited FS00316.022	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Chorus, New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand	00310.001	Nationally Significant Infrastructure	Amend	Amend as follows: Add the following: “... (k) International and inter – regional telecommunications links.”	Kāi Tahu ki Otago FS00226.039	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
New Zealand Defence Force	00304.002	Nationally significant infrastructure	Amend	Amend as follows: The definition of ‘nationally significant infrastructure’ to include defense facilities. For example, either: “(a) adopt the definition of ‘Nationally significant infrastructure’ in the UDA; OR (b) amend the proposed definition as follows (addition is underlined): “has, to the extent applicable to the Otago Region, the same meaning as in clause 1.4(1) of the National Policy Statement for Urban Development 2020 (as set out in the box below), and also includes defence facilities”	Kāi Tahu ki Otago FS00226.299	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
New Zealand Infrastructure Commission	00321.005	Nationally significant infrastructure	Amend	Amend as follows: Include telecommunications (or a subset of telecommunications that are nationally significant e.g. key links between regions), and defence and corrections infrastructure, for the same region. These sets of services benefit all New Zealanders, regardless of where they are located	New Zealand Defence Force FS00304.004 Kāi Tahu ki Otago FS00226.301 Royal Forest and Bird Kāi Tahu ki Otago FS00226.301 Royal Forest and Bird Protection Society FS00230.029 Protection Society FS00230.029	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Port of Otago Ltd.	00301.006	Nationally significant infrastructure	Amend	Amend to replace (j) as follows: Replace (j) in the definition as follows: “(j) the port facilities (but not the facilities of any ancillary commercial activities) of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002 <u>(j) commercial port activity”</u>	Kāi Tahu ki Otago FS00226.379 Royal Forest and Bird Protection Society FS00230.030	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Transpower New Zealand Limited	00314.005	Nationally Significant Infrastructure	Amend	<p>Amend as follows: “has, to the extent applicable to the Otago Region, the same meaning as in clause 1.4(1) of the National Policy Statement for Urban Development 2020 (as set out in the box below)</p> <p>means all of the following: a. State highways b. the National Grid electricity transmission network c. renewable electricity generation facilities that connect with the National Grid d. the high – pressure gas transmission pipeline network operating in the North Island e. the refinery pipeline between Marsden Point and Wiri d.f. the New Zealand rail network (including light rail) e.g. rapid transit services (as defined in this clause) f. h. any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers g.i. the port facilities (but not the facilities of any ancillary commercial activities) of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002</p>	Horticulture NZ FS00236.021	Reject	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Limited	00510.009	Nationally significant infrastructure	Amend	Amend the definition to clarify that terminals and ancillary pipelines are nationally significant infrastructure and that the definition applies to both Port Chalmers and Dunedin.		Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509.
Contact Energy Limited	00318.002	Nationally significant infrastructure	Support	Retain as notified.	O - New Zealand Defence Force FS00304.005	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Dunedin International Airport Limited	00316.001	Nationally Significant Infrastructure	Support	Retain as notified.	O - New Zealand Defence Force FS00304.006	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Queenstown Airport Corporation	00313.002	Nationally Significant infrastructure	Support	Retain as notified.	O - New Zealand Defence Force FS00304.007	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Trustpower Limited	00311.002	Nationally significant infrastructure	Support	Retain as notified (particularly Clause (3))	O - New Zealand Defence Force FS00304.008	Accept	We adopt the recommendations and reasons set out in the s42A EIT Report at paragraphs 500-509
Trojan Holdings Limited (Trojan)	00206.081	Natural Capital	Amend	Define Natural Capital.		Reject	We adopt the recommendations and reasons set out in the Intro and General Report 03 Interpretation at paragraphs 106-109 in particular.
Trojan Holdings Limited (Trojan)	00206.010	Natural environment	Amend	Amend as follows: Insert definition of “Natural Environment” , as follows: <u>Means (a) land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and (b) ecosystems and their constituent parts.</u>	S - Federated Farmers FS00239.042	Reject	We adopt the recommendations and reasons set out in the IM Report at paragraphs 63-66 in particular.
Ravensdown Limited	00121.006	Natural hazard works	Oppose	Delete and make consequential amendments arising from this submission point.		Reject	This definition accords with the definition in the NES for Freshwater2020
Ballance Agri-Nutrients	00409.012	Natural Wetland	Amend	Amend the definition of <i>natural wetland</i> to align with the Ministry for the Environment final version of guidance on the definition of a <i>natural wetland</i> , once released.	Contact Energy Limited FS00318.021 Federated Farmers FS00239.043 Oceana Gold FS00115.044 Otago Water Resource Users FS00235.120	Reject	We adopt the recommendations and reasons set out in the main FPI recommendations report on the issue of the definition of wetlands.
Director-General of Conservation	00137.014	Naturally rare	Amend	Amend definition to ensure that it is appropriate whenever used throughout the pORPS.	Otago Water Resource Users FS00235.096	Reject	The phrase is now only used in the CE chapter after its removal from APP 4 consequent upon other submissions.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Kāi Tahu ki Otago / Aukaha	00226.031	Nohoaka or nohoanga	Amend	Amend as follows: means a site occupied by Kāi Tahu on a seasonal and temporary basis for mahika kai or other customary purposes	Otago Water Resource Users FS00235.089	Accept	Minor correction to spelling.
Aurora Energy Limited	00315.008	Operational Need	Support	Retain as notified	Otago Water Resource Users FS00235.110	Accept	We adopt the recommendations and reasons set out in the s42A Introduction & general themes 03 report
New Zealand Infrastructure Commission	00321.006	Operational need	Support	Retain as notified: AND Ensure it is also used in all objectives and policies that relate to the constraints on infrastructure's ability to manage adverse effects	Queenstown Airport Corporation Ltd FS00313.002 Otago Water Resource Users FS00235.111	Accept in part	We adopt the recommendations and reasons set out in the s42A Introduction & general themes 03 report
PowerNet Ltd	00511.007	Operational need	Support	Retain as notified.	Otago Water Resource Users FS00235.112	Accept	We adopt the recommendations and reasons set out in the s42A Introduction & general themes 03 report
Waka Kotahi NZ Transport Agency	00305.004	Operational need	Support	Retain as notified.	Sanford Limited FS00122.004 Silver Fern Farms FS00221.004 Otago Water Resource Users FS00235.113	Accept	We adopt the recommendations and reasons set out in the s42A Introduction & general themes 03 report
New Zealand Infrastructure Commission	00321.007	Other infrastructure	Amend	Retain as notified: Defence facilities are nationally significant and should be moved into that category.		Reject	The provision that formerly contained this phrase 'other infrastructure' being LF-FW-P9 has been recommended to be deleted and replaced with a provision which no longer contains that phrase, so it is redundant. It was also recommended to be deleted at para 412 of the FPI report.
Ravensdown Limited	00121.007	Other infrastructure	Oppose	Delete and make consequential amendments arising from this submission point.		Accept	The provision that formerly contained this phrase being LF-FW-P9 has been recommended to be deleted and replaced with a provision

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
							which no longer contains that phrase so it is redundant. It was also recommended to be deleted at para 412 of the FPI report.
Aurora Energy Limited	00315.009	Other Infrastructure	Support	Retain as notified		Reject	The provision that formerly contained this phrase being LF-FW-P9 has been recommended to be deleted and replaced with a provision which no longer contains that phrase so it is redundant. It was also recommended to be deleted at para 412 of the FPI report.
Ngāi Tahu ki murihiku	00223.021	Over-allocation	Amend	Clarify the meaning of 'Over-allocation' as it relates to the definition of 'Degraded' when a limit has not been set in an FMU or part of an FMU	Kāi Tahu ki Otago FS00226.444 Te Rūnanga o Ngāi Tahu FS00234.020 Otago Water Resource Users FS00235.121	Accept in part	Amendments were suggested in the FPI process to meet these concerns at paragraphs 415-420 of the FPI report.
Cain whānau	00010.003	Papakāika	Amend	Retain and amend definition of Papakāika or papakāinga as follows: <i>Papakāika or papakāinga means <u>subdivision, use and development by mana whenua or others as allowed by mana whenua, of ancestral or tribal lands and resources to provide for sustain themselves and others in general accordance with tikanga Māori, which may include residential activities and non – residential activities for cultural, social, recreational, environmental or limited commercial purposes.</u></i>	Te Rūnanga o Ngāi Tahu FS00234.022 Ngāi Tahu ki murihiku FS00223.117 Te Rūnanga o Ngāi Tahu FS00234.021	Accept in part	The Legal section of the main recommendations report in Appendix One addresses this definition.
Kāi Tahu ki Otago / Aukaha	00226.032	Papakāika or papakāinga	Amend	Amend as follows: means use and development by mana whenua of ancestral or tribal lands to sustain themselves in accordance with tikanga Māori, which may include residential activities and non – residential activities for cultural, social, <u>educational</u> , recreational, environmental or limited commercial purposes.	Te Rūnanga o Ngāi Tahu FS00234.032 Ngāi Tahu ki murihiku FS00223.009	Accept in part	The Legal section of the main recommendations report in Appendix One addresses this definition.
Ravensdown Limited	00121.008	Polluted airshed	Oppose	Delete and make consequential amendments arising from this submission point.		Reject	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
							reasons set out in the s42A Air report at paragraph 27.
Beef & Lamb NZ and Deer Industry NZ	00237.004	Primary Production	Amend	Amend the definition of primary production to specifically exclude forestry or the purposes of carbon sequestration.	Ernslaw One Ltd FS00412.008 New Zealand Carbon Farming FS00602.014 (neutral) Federated Farmers FS00239.045 (neutral) Waitaki District Council FS00140.014 Rayonier Matariki Forests FS00020.001 Otago Water Resource Users FS00235.122	Reject	The definition of primary production is a mandatory definition in the National Planning Standards 2019. Its use is discussed in the LF chapter report.
Fulton Hogan Limited	00322.002	Primary Production	Amend	Amend as follows: Include the definition of Primary Production included in Chapter 14 of the National Planning Standards. <u>“Primary Production means:</u> <u>(a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and</u> <u>(b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);</u> <u>(c) includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but excludes further processing of those commodities into a different product.</u>	Matakanui Gold Limited FS00021.005 Federated Farmers FS00239.046 Horticulture NZ FS00236.010 Otago Water Resource Users FS00235.122 Te Rūnanga o Ngāi Tahu FS00234.037	Reject	The definition of primary production is a mandatory definition in the National Planning Standards 2019. Its use is discussed in the LF chapter report.
Matakanui Gold Limited	00021.002	Primary production	Amend	Amend the definition of “primary production” to recognise that mineral extraction is not a suitable component of primary production as it relates to LFLS – P19 High and UFD – P7 – Rural Area which seeks to enable primary production (including mining) on land or soils identified as highly product	Oceana Gold FS00115.033 Te Rūnanga o Ngāi Tahu FS00234.038	Reject	The definition of primary production is a mandatory definition in the National Planning Standards 2019. Its use is discussed in the LF chapter report.
Kāi Tahu ki Otago / Aukaha	00226.033	Primary production	Oppose	Delete definition and replace with a term that is clearly limited to outdoor agricultural, pastoral and horticultural activities.	Beef + Lamb New Zealand Ltd FS00237.044 Te Rūnanga o Ngāi Tahu FS00234.033	Reject	The definition of primary production is a mandatory definition in the National Planning Standards 2019. Its use is discussed in the LF chapter report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					Ngāi Tahu ki murihiku FS00223.010 Fulton Hogan Limited FS00322.001 Federated Farmers FS00239.053 Horticulture NZ FS00236.011 Otago Water Resource Users FS00235.122		
Oceana Gold (New Zealand) Ltd	00115.001	Primary production	Support	Primary Production Retain the definition but also make changes to objectives and policies (LS – LF Land and Soil Chapter) to better recognise that mining is a valuable form of primary production that needs access to the key land that hosts valuable minerals.	Graymont (NZ) Limited FS00022.015	Accept in part	The definition of primary production is a mandatory definition in the National Planning Standards 2019. It use is discussed in the LF chapter report.
Sanford Ltd.	00122.003	Primary production	Support	Retain as notified		Accept	The definition of primary production is a mandatory definition in the National Planning Standards 2019. It use is discussed in the LF chapter report.
Queenstown Lakes District Council	00138.125	Public transport	Amend	Amend definition of ‘public transport’ to provide more certainty as to what constitutes a planned public transport service. We suggest that a planned Public Transport service should only include services that have a high degree of certainty that they will be delivered and be provided on an ongoing basis.		Reject	We adopt the recommendations and reasons set out in the s42A Introduction & General Themes –Interpretation 03 Report at paragraph 51
Ravensdown Limited	00121.009	Receiving environment	Oppose	Delete and make consequential amendments arising from this submission point.	O - Otago Water Resource Users FS00235.123	Reject	We adopt the recommendations and reasons set out in the s42A Introduction & General Themes –Interpretation 03 Report at paragraph 55
Ara Poutama Aotearoa the Department of Corrections	00102.001	Regionally significant infrastructure	Amend	Regionally significant infrastructure should also include essential social infrastructure. 1. Add Otago Corrections Facility and community corrections activity to the list of activities in the definition of “Regionally Significant Infrastructure” as follows:	O - Horticulture NZ FS00236.023 O - Royal Forest and Bird Protection Society FS00230.031	Reject	We adopt the recommendations and reasons set out in the s42A Reply Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p><i>means:</i></p> <p><u>13. Otago Corrections Facility and community corrections activity.</u></p> <p>2. Any consequential amendments required to give effect to this relief.</p>			
Aurora Energy Limited	00315.010	Regionally Significant Infrastructure	Amend	<p>Amend as follows</p> <p>Sub – clause (2):</p> <p>“means:</p> <p>....</p> <p>(2) electricity sub – transmission infrastructure <u>and significant electricity distribution infrastructure.</u></p> <p>....”</p>	O - Horticulture NZ FS00236.024	Accept	We accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).
Business South Inc	00408.016	Regionally Significant Infrastructure	Amend	Amend to clarify how new or expanded infrastructure get included in the definition(s) without having to do a plan change	O - Dunedin International Airport Limited FS00316.023	Reject	We adopt the recommendations and reasons set out in the s42A Reply Report
Christchurch International Airport Limited (CIAL)	00307.001	Regionally significant infrastructure	Amend	<p>Amend as follows</p> <p>Drafting is amended as follows:</p> <p>“Means Includes”</p> <p>.....</p> <p><u>(6) airports and aerodromes and their ancillary infrastructure, including the following airports: Dunedin, Queenstown, Wanaka, Alexandra, Balclutha, Cromwell, Oamaru, Taieri</u></p> <p>.....”</p>	<p>S - Horticulture NZ FS00236.022</p> <p>O - Queenstown Airport Corporation Ltd FS00313.003</p> <p>O - Queenstown Lakes District Council FS00138.043</p> <p>O - Royal Forest and Bird Protection Society FS00230.032</p>	Reject	We do not accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).
Director-General of Conservation	00137.015	Regionally significant infrastructure	Amend	<ul style="list-style-type: none"> - Insert the following or words to like effect in Clause 10: “community stormwater infrastructure <u>servicing no fewer than 25 households</u>” - Delete Clause 12. “Otago Regional Council’s hazard mitigation works including flood protection infrastructure and drainage schemes-” 		Reject	We do not accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Dunedin City Council	00139.007	Regionally significant infrastructure	Amend	Amend as follows: <ul style="list-style-type: none"> - Clause (1) Replace 'One Network Road Classification' with 'One Network Framework'. - Clauses (9) – (11) and/or provide additional definitions (e.g. a definition of 'community drinking water supply') to give greater clarity. - Include: (13) landfills 	S - Waka Kotahi NZ Transport Agency FS00305.006 O - Big Stone Forest Limited FS00603.008 O - Dunedin International Airport Limited FS00316.011 O - Kāi Tahu ki Otago FS00226.074	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter).
Federated Farmers of New Zealand	00239.008	Regionally significant infrastructure	Amend	Amend as follows or similar: "Regionally Significant infrastructure means: (1) roads classified as being of regional importance in accordance with the One Network Road Classification, ⁷ (2) electricity sub – transmission infrastructure, (3) renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility, (4) telecommunication and radiocommunication facilities, (5) facilities for public transport hubs, including terminals and stations, (6) the following airports: Dunedin, Queenstown, Wanaka, Alexandra, Balclutha, Cromwell, Oamaru, Taieri. (7) navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant, (8) defence facilities, (9) community potable water systems drinking water abstraction, supply treatment and distribution infrastructure that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution infrastructure (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking – water supplies) (10) community stormwater and land drainage infrastructure, (11) wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households, and (12) Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes and (13) <u>Established community – scale irrigation and stockwater infrastructure.</u> "	S - Horticulture NZ FS00236.012 S - Waitaki Irrigators Collective Limited FS00213.001 O - Director-General of Conservation FS00137.001 O - Kāi Tahu ki Otago FS00226.094 O - Royal Forest and Bird Protection Society FS00230.033 O - Te Rūnanga o Ngāi Tahu FS00234.039	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter).

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Fonterra Co – operative Group Limited	00233.008	Regionally significant infrastructure	Amend	Add new (13) to the Definition – Regionally significant infrastructure as follows: <u>(13) infrastructure necessary to enable the operation of regionally significant industry.</u>	S - Oceana Gold FS00115.040 S - Otago Water Resource Users FS00235.124 O - Kāi Tahu ki Otago FS00226.146 O - Royal Forest and Bird Protection Society FS00230.034	Reject	We do not accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).
Kāi Tahu ki Otago / Aukaha	00226.034	Regionally significant infrastructure	Amend	Amend as follows: Reword clause 5 to restrict the public transport facilities included in the definition to facilities that serve a regionally significant function and that are not readily relocatable.	S - Te Rūnanga o Ngāi Tahu FS00234.034	Accept in part	We accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).
Network Waitaki Limited	00320.001	Regionally Significant Infrastructure	Amend	Amend as follows: “... (2) electricity sub – transmission infrastructure <u>and significant electricity distribution infrastructure</u> ...”	O - Horticulture NZ FS00236.025	Accept	We accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).
Port of Otago Ltd.	00301.007	Regionally significant infrastructure	Amend	- Amend as follows: “means: <u>all infrastructure identified as nationally significance infrastructure,</u> (2) roads classified as being of regional importance in accordance with the One Network Road Classification...” As a consequential change, assuming other changes to definitions requested in these submissions are adopted, delete (7)	S - Transpower New Zealand Limited FS00314.016	Accept in part	We accept this submission point in part, for the reasons outlined in the main Recommendations report (EIT Chapter).
PowerNet Ltd	00511.001	Regionally Significant Infrastructure	Amend	Amend as follows: Retain definition subject to amending clause (2) as follows: “... (2) electricity sub- transmission infrastructure <u>and significant electricity distribution infrastructure</u> ...”	O - Horticulture NZ FS00236.026	Accept	We accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).
Queenstown Lakes District Council	00138.106	Regionally significant infrastructure	Amend	Amend to add as follows: <u>“(13) Municipal landfills and associated solid waste sorting and transfer facilities.”</u>	S - Te Rūnanga o Ngāi Tahu FS00234.041 O - Big Stone Forest Limited FS00603.009	Accept	We accept this submission point, for the reasons outlined in the main Recommendations report (EIT Chapter).

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
					O - Dunedin International Airport Limited FS00316.019 O - Kāi Tahu ki Otago FS00226.393 O - Royal Forest and Bird Protection Society FS00230.035		

INTRODUCTION AND GENERAL PROVISIONS

Introduction

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
OWRUG	00235.006	General	Amend	<p>Amend as follows:</p> <ul style="list-style-type: none"> • <u>Appropriately record the significant role of the Food and Fibre Sector</u> • <u>Identify that the region is nationally recognised for its unique productive capacity and place in the national food and fibre supply network.</u> • <u>Identify that the unique climatic conditions create unique opportunities for the food and fibre sector, particularly horticulture and fine wool production.</u> <p><u>Recognise the importance of efficient irrigation and water storage to the production of food and fibre</u></p>	S Federated Farmers FS00239.007	Accept in Oupart	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
Te Ao Mārama	00223.009	General	Amend	<ul style="list-style-type: none"> - Incorporate reference to Te Ākau Tai Toka, the Catlins area, with the Coast and Natural Character and Landscapes descriptions as there is no mention of this significant part of the region. - Amend second paragraph, final sentence as follows: “...Pomōahaka catchment ...”, and “...Wāānaka ...” with a macron, and all instances where Wānaka is mentioned in the document should be so amended. 		Accept in part	Some aspects of the requests here have been adopted in various amendments recommended to be made in the PORPS.
Director-General of Conservation	00137.004	New provision	Amend	Insert a new section headed “Land” which incorporates key information on terrestrial ecosystems from the Wildlands reports 2020a and 2020b (good summary information is included in the Executive Summaries).	S Federated Farmers FS00239.008 O Otago Water Resource Users FS00235.054	Accept in part	The request made is too general but aspects of it have been recommended by the s.42A report which is accepted.
Hopkins, Jim	00420.001	Foreword or mihi	Amend	Amend the Forward to include the concept of the human ecosystem as part of the wider environment and acknowledge that use of the environment for human benefit is legitimate and should be enabled within parameters that allow development, modification, enhancement and reinstatement.	S Otago Water Resource Users FS00235.055	Reject	We adopt the recommendations and reasons set out in the s42A Report.
Hopkins, Jim	00420.004	Foreword or mihi	Amend	Amend phrase “Mana whenua and ORC have faced this planning challenge together” to include and acknowledge the other people, communities and organisations who have been involved.		Accept	We adopt the recommendations and reasons set out in the s42A Report.
Otago Fish & Game Council and the Central South Island	00231.013	Foreword or mihi	Amend	Reword and correct the focus of the Foreword to cover the totality of the natural and built environments [specific relief not stated]	S Otago Water Resource Users FS00235.057	Reject	We adopt the recommendations and reasons set out in the s42A Report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Fish & Game Council							
Te Ao Marama	00223.007	Foreword or mihi	Amend	Amend as follows: <ul style="list-style-type: none"> - Remove the phrase “in Otago and Southland” from the fourth line of the first paragraph - Amend the long term vision wording, as follows: “...and supporting...” - Amend the last line of the second to last paragraph, as follows: “... habitat in a way that ...” - Space required in first line of the first paragraph – “...identify_our...” Space required in first line of the second paragraph – “...is_hardly...”		Accept in part	We adopt the recommendations and reasons set out in the s42A Report.
Herlihy, Gavan James	00104.001	Foreword or mihi	Support	Retain “to create a future of opportunity and security for all of us.”		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and amendments have been made in response to other submissions
WAI Wanaka	00222.002	Foreword or mihi	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and amendments have been made in response to other submissions
Fonterra Co – operative Group Limited	00233.003	Purpose	Amend	Retain the acknowledgement of the need to for the PORPS to enable a community (social, economic and cultural) growth and development. Extend the section as necessary to reflect the philosophy and approach of the PORPS as sought in this submission.	S Otago Water Resource Users FS00235.058 O Otago Fish and Game Council FS00609.086	Reject	We adopt the recommendations and reasons set out in the s42A Report but note that amendments have been made in response to other submissions which may address parts of this general request
Hopkins, Jim	00420.002	Purpose	Amend	Amend Paragraph 2 of the Purpose to read: The Otago Regional Policy Statement (ORPS) provides policy framework that aims to achieve long-term environmental <u>and social</u> sustainability by integrating the protection, restoration, enhancement and use of Otago’s natural and resources <u>with the sustaining of communities and their well-being</u> .	S Otago Water Resource Users FS00235.056	Reject	We adopt the recommendations and reasons set out in the s42A Report but note that amendments have been made in response to other submissions which may address parts of this general request
Hopkins, Jim	00420.005	Purpose	Amend	Amend phrase “Regional and district plans must give effect to the ORPS” to allow this to be exercised in a measured and moderate way which allows TLAs a reasonable discretion so that the requirement “to give effect” is achieved in a way best suited to the particular circumstances of the any particular Council. Provide more flexibility and nuance with the requirements set out in the ORPS.		Reject	The RMA sets the requirements in this regard.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Horticulture New Zealand	00236.007	Purpose	Amend	Amend as follows: “The ORPS responds to identified significant regional values and resource management issues relating to Otago’s environment, historic heritage, economy, <u>food production</u> , recreational opportunities and communities.”	S NZ Pork FS00240.003 S Federated Farmers FS00239.009 S Otago Water Resource Users FS00235.059	Reject	We adopt the recommendations and reasons set out in the s42A Report.
New Zealand Pork Industry Board	00240.001	Purpose	Amend	Amend to identify an additional regionally significant value and resource management issue relating to Otago’s food production capacity.	S Federated Farmers FS00239.010 S Horticulture NZ FS00236.001	Reject	We adopt the recommendations and reasons set out in the s42A Report.
Te Ao Mārama	00223.008	Purpose	Amend	Amend second to last sentence, as follows: “..., as well as relevant national direction instruments and , and is informed by iwi authority planning documents.”		Accept	We adopt the recommendations and reasons set out in the s42A Report.
Wise Response Society Inc	00509.008	Purpose	Amend	Amend as follows: Change the tenor of the foreword and purpose to truly reflect the process of ecological breakdown that is unfolding around us on a planetary scale and which NZ is part of and hence, the profound nature of the transformation required by all to avert catastrophic harm and suffering within the lifetime of those already living. To set the scene it would be appropriate to list the premises accepted (effectively a positioning statement) as the basis for this RPS. We recommend the following be adopted <ul style="list-style-type: none"> • <u>That there is a fundamental contradiction between economic growth and sustainability that must be resolved if sustainable management of natural and physical resources is to be achieved.</u> • <u>The ecological core of sustainability dictates that resolution relies in changing the nature of our economy’s largely exploitative relationship with the environment to one of conservation and cycling resources under a “fair share” rather than “more” philosophy.</u> • <u>There are myriad signs that safe environmental limits are already met or overshoot and that we have limited time to reverse the growing damage and looming climate catastrophe.</u> • <u>While climate change is a pressing issue that needs resolution, it is never – the – less, just a</u> 	S Central Otago Environmental Society FS00202.008 O Federated Farmers FS00239.011 O Horticulture NZ FS00236.002 O Otago Water Resource Users FS00235.061	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 31 of the Chapter 2 Introduction and general provisions report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p><u>symptom of a socio – economic system that has got too far out of step with the biophysical processes and ecological systems</u></p> <ul style="list-style-type: none"> • <u>A level of climate change is already locked in, so adaptation to and mitigation are necessary. However, unless we actually address its cause – in large part due to our excessive use of fossil fuels – then our efforts to secure wellbeing for our environment and citizenry will ultimately come to naught as conditions overwhelm our capacity to adapt.</u> • <u>As the way we do things is responsible for climate change the way we do things will need to change if we are to fix it. Logically, this involves better managing ourselves to accommodate the environment, rather than better managing the environment to accommodate us.</u> • <u>The climate threat level is such now that incremental change is no long sufficient – systems – level interventions will be required. Such transformation cannot be expected to occur without a significant shift in our current modes and enterprise.</u> • <u>Communities will need to identify and work within the biophysical capacity of a district and region, and account for planetary boundaries, in a way that also supports the well – being of present generations without compromising the wellbeing of future generations</u> • <u>This set of circumstances requires a new kind of RPS – one that is more directive in its outcomes, removes barriers to magnifying action, shifts the focus from revenue to resilience and which demands all of us examine to what extent our lives and activities help or hinder the transformational change required, and act accordingly.</u> • <u>Encouraging is that the actions necessary to reduce carbon emissions are, in large part, the same as those required anyway for a more sustainable, secure and respectful life going forward.</u> 			
Federated Farmers of New Zealand	00239.001	Purpose	Oppose	<p>- Delete the following two sentences: “As a community, we in Otago are moving into an age that requires solutions to both entrenched legacy issues and significant emerging issues in order to promote positive sustainable change while also enabling the Otago community to</p>	<p>S Contact Energy Limited FS00318.003 S Horticulture NZ FS00236.003 S Oceana Gold FS00115.016</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 30 of the Chapter 2 Introduction and general provisions report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<p>flourish, and to enjoy all that the region has to offer. The ORPS responds to identified significant regional values and resource management issues relating to Otago's environment, historic heritage, economy, recreational opportunities and communities “</p> <p>- Reinstatement of the following two paragraphs from the Overview section of the partially operative RPS 2019: <u>“Continued prosperity and wellbeing is essential to ensuring the community is equipped to face the environmental, economic, cultural and social changes of the 21st century, and to provide opportunities for all people to realise their aspirations.</u> <u>A thriving and healthy natural environment is vital to sustaining our wellbeing. The RPS is a high level policy framework for the sustainable integrated management of resources, identifying regionally significant issues, the objectives and policies that direct how natural and physical resources are to be managed and setting out how this will be implemented by the region's local authorities. “</u></p>	S Otago Water Resource Users FS00235.060		
Herlihy, Gavan James	00104.002	Purpose	Support	Retain “ The Otago Regional Policy Statement (ORPS) provides a policy framework that aims to achieve long – term environmental sustainability by integrating the protection, restoration, enhancement, and use of Otago's natural and physical resources.”		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
Federated Farmers of New Zealand	00239.002	Description of the Region	Amend	Amend as follows (or similar): <u>“Otago's economy centres around agriculture, tourism, mineral mining, and education. Agriculture is the basis of Otago's economy, and the primary production sector continues to be a major source of revenue, employment and vibrancy for the districts and wider region. Otago's 3300 farms are a key contributor towards Otago's GDP. The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the local economy. Tourism has also had a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.”</u>		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Horticulture New Zealand	00236.008	Description of the Region	Amend	Amend as follows: “ <u>The region is nationally recognised for its unique productive capacity and place in the national food supply network.</u> ”	S NZ Pork FS00240.004 S Federated Farmers FS00239.012	Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
New Zealand Pork Industry Board	00240.002	Description of the Region	Amend	Amend to describe Otago’s food production capacity.	S Federated Farmers FS00239.013	Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
Trojan Holdings Limited (Trojan)	00206.006	Description of the Region	Amend	Amend as follows: ... Tourism has also hasd a significant impact on the regional economy, contributing about a quarter of the region’s total gross domestic product...		Accept	We adopt the recommendations and reasons set out in the s42A Report
Waitaki District Council	00140.001	Description of the Region	Amend	- Amend Para 5 to use generic descriptor “primary production” to replace agriculture and mining references – horticulture and viticulture are included within the generic primary production definition. Include reference to North Otago alongside South Otago and Central Otago, or use a generic reference to “rural Otago”	S Oceana Gold FS00115.045	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.011	Description of the Region	Amend	Amend paragraph 5 of the description of the region as follows: ... Tourism <u>has</u> also hasd a significant impact on the regional economy, contributing about a quarter of the region’s total gross domestic product...		Accept	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.003	Coast	Amend	Amend as follows or similar: “The Otago coastline stretches for 480 km and is extremely diverse, encompassing pebble and sandy beaches, basalt formations, dune systems, eelgrass and saltmarshes, estuaries, rolling downlands and striking cliff heads, <u>alongside working farms.</u> ”		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but amendments have been made in response to other submissions
Heritage New Zealand Pouhere Taonga	00123.008	Coast	Amend	Amend Description of the Region – Coast as follows: Coastal erosion and the decline of the regional coastline is well documented, posing a long – term threat to residential and commercial coastal developments <u>and historic heritage, particularly wāhi tūpuna.</u>		Accept	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Marama	00223.010	Coast	Amend	First paragraph under Coast heading, second to last sentence, amend each instance of “harbor” to “harbour”, and all instances where this is mentioned in the document.		Accept	Minor correction to spelling.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.012	Coast	Amend	Amend paragraph 1 of the Coast section of description of the region as follows: ... Otago Harbor Harbour is the region's only commercial freight handling harbor harbour , however commercial fishing ramps fleet are present in <u>Careys Bay</u> , Oamaru, Moeraki, Karitāne, and Taieri Mouth.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.012	Coast	Not stated/unclear	There do not appear to be any policies relating to commercial fishing ramps (or any other) industry infrastructure. There are other important fishing areas along the Otago Coast, such as where harvesters dive for pāua – certain areas are important for commercial fishers, but also for recreational and customary fishers. We request that the Council involve the fishing industry and FNZ when policies are developed that affect industry infrastructure and fishing areas. There are also recreational fishing bodies (such as the Tautuku Club based on the Otago Peninsula) who should be consulted.		Reject	This is a general request which does not give precise details of amendment requested
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.011	Coast	Support	Retain reference to commercial fishing ramps present in Oamaru, Moeraki, Karitāne, and Taieri Mouth (p7).		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but note that amendments have been made in response to other submissions.
Trojan Holdings Limited (Trojan)	00206.007	Waterbodies	Amend	Amend as follows: Otago's landscapes are diverse. Moving inland from Otago's diverse and varied coastline, the landscapes change dramatically. Rolling plains separated by mountain ranges, steep hillsides of tussock, and deep gorges make up a lot of South and Central Otago. This <i>land</i> is dissected by flowing bodies of water, towering mountainscapes, and fascinating geological formations. Modified landscapes encompassing farmland and remnants of the region's early gold mining activity are ever – present, creating a rich sense of heritage and regional identity. <u>There is a tremendous amount of unmodified land in our National Parks and Conservation Parks.</u>		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 64.
Wayfare Group Ltd	00411.013	Natural character and landscapes	Amend	Amend paragraph 1 of the Natural character and landscapes section of description of the region as follows: ... creating a rich sense of heritage and regional identity. <u>There is a tremendous amount of unmodified</u>		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 64.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S- Support O- Oppose	Recommendation	Reason
				<u>land in our National Parks and other Public Conservation Land Parks.</u>			
Trojan Holdings Limited (Trojan)	00206.008	Urban Form	Amend	Amend as follows: Urbanised areas in Otago occupy only about 1% of total <i>land</i> area, however 87% of people live in urban settlements. Dunedin is Otago's largest urban area, surrounded by hills and harbor, and has a large suburban area and commuter catchment especially to the south, with more recent expansion moving out to connect with an expanding Mosgiel. The Queenstown Lakes District population is approximately 91% urban. Its outstanding landscape has historically determined , and will continue to <u>influence urban growth</u> determine, how urban form develops.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 68.
Wayfare Group Ltd	00411.014	Urban Form	Amend	Amend paragraph 1 of the Urban Form section of description of the region as follows: ..., surrounded by hills and harbor <u>harbour</u> , and has a large suburban area and commuter catchment especially to the south, with more recent expansion moving out to connect with an expanding Mosgiel. The Queenstown Lakes District population is approximately 91% urban. Its outstanding landscape has historically determined , and will continue to <u>influence urban growth</u> determine, how urban form develops.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report but note that amendments have been made in response to other submissions

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Central Otago Heritage Trust	00212.003	General	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report.
Director-General of Conservation	00137.018	General	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report.
New Zealand Infrastructure Commission	00321.010	General	Support	Integration for those involved in resource management need to coordinate their policies, plans and actions	○ Kāi Tahu ki Otago FS00226.303	Accept in part	This is a general request which does not give precise details of amendment requested.
Federated Farmers of New Zealand	00239.015b	General	Amend	Set up a workstream between primary sector representatives and Kāi Tahu to develop understandings and practical ways to improve and ensure appropriate access.	S Otago Water Resource Users FS00235.146	Reject	We adopt the recommendations and reasons set out in the s42A Reply Report.
Te Ao Mārama	00223.023	General	Amend	Retain the content of this chapter, subject to the amendments outlined below.		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report.
Te Rūnanga o Ngāi Tahu	00234.003	General	Amend	Retain with amendments as sought below.		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report.
Hopkins, Jim	00420.009	New – Provision	Amend	Clarify how potential conflict either between mana whenua/rūnaka groups or the various roles and responsibilities of <i>mana whenua</i> may be managed in relation to planning decision making processes.	○ Kāi Tahu ki Otago FS00226.195	Reject	We adopt the recommendations and reasons set out in the s42A Reply Report and consider conflict resolution within mana whenua groups is for them to resolve applying their own tikanga.
Te Rūnanga o Ngāi Tahu	00234.006	New – Provision	Amend	Amend as follows: Following from the Ngāi Tahu Claims Settlement Act 1998 (NTCSA 1998) section, insert the following: <u>“Māori Commercial Aquaculture Claims Settlement Act 2004</u>	S Te Ao Mārama FS00223.153	Accept	We have recommended relevant amendments in this chapter and in the CE chapter to that effect

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>The Māori Commercial Aquaculture Claims Settlement Act 2004 provides full and final settlement of Māori commercial aquaculture claims since 21 September 1992. Settlement is delivered via Regional Aquaculture Agreements (RAA) which may describe areas to be provided to iwi for the purposes of commercial aquaculture. Any future Settlement outcomes will need to be provided for in Regional and District plans.</u>			
Federated Farmers of New Zealand	00239.009	Recognition of hapū and iwi	Amend	Delete reference to external webpages from the RPS as follows: <ul style="list-style-type: none"> • https://www.terunangaomoeraki.org/... • http://www.puketeraki.nz/... • http://www.otakourunaka.co.nz/... • https://www.hokonuirunanga.org.nz/ ... 		Reject	We adopt the recommendations and reasons in the s.42A report.
Kāi Tahu ki Otago / Aukaha	00226.039	Recognition of hapū and iwi	Amend	Amend as follows: Kāi Tahu <u>whānui</u> are takata whenua of the Otago region... ... resource use and ahikāroa (the long burning fires of occupation). Te Rūnaka <u>Rūnanga</u> o Ngāi Tahu... ... Four Three Papatipu Rūnaka <u>papatipu rūnaka</u> are based in Otago... Three Ngāi Tahu ki Murihiku Rūnaka <u>Four further papatipu rūnaka</u> ...	S Te Rūnanga o Ngāi Tahu FS00234.045	Accept	Nomenclature for mana whenua should accord with their usages.
Te Ao Mārama	00223.024	Recognition of hapū and iwi	Amend	- Amend the second paragraph as follows: “ Four Three Kāi Tahu ki Otago Papatipu Rūnaka have marae based in Otago. These are Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, <u>and</u> Te Rūnanga o Ōtākou, and whilst the fourth, Hokonui Rūnanga, <u>is based in neighbouring Southland.</u> ” Consider deleting Footnote 8.	-	- Accept in part	Nomenclature for mana whenua should accord with their usage
New Zealand Infrastructure Commission	00321.011	Environmental management perspectives and values of Kāi Tahu	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Reply Report.
New Zealand Infrastructure Commission	00321.012	Environmental management perspectives and values of Kāi Tahu	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Reply Report.
Kāi Tahu ki Otago / Aukaha	00226.040	Environmental management perspectives and values of Kāi Tahu	Amend	Amend as follows: ... <u>In the spirit of this partnership and the Under the articles and principles of Te Tiriti o Waitangi, Treaty</u>	S Te Rūnanga o Ngāi Tahu FS00234.046	Accept in part	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>principles the ORPS seeks to facilitate Kāi Tahu engagement in resource management <u>processes and decision – making</u> in Otago, as a Treaty partner.</p> <p>...</p> <p>Kāi Tahu do not see their existence as separate from Te Ao Tūroa <u>te ao tūroa</u>, the natural world... Whakapapa is central to Te Ao <u>te ao</u> Māori (a Māori worldview), ... It is through whakapapa that all things are intricately linked...</p> <p>...</p> <p>... The nurturing of all taoka and protection of their mauri is a prime concern and a kaitiaki <u>significant</u> obligation for Kāi Tahu <u>whānui as mana whenua and mana moana</u>, and as an expression of rakatirataka.</p> <p>... This pPolitical and operational authority over an area is undertaken by Kāi Tahu <u>mana whenua and encompasses kaitiakitaka and rakatirataka as an expression of rakatirataka, mana whenua, and mana moana</u>. The exercise of these powers in te taiao is <u>through the action of kaitiakitaka</u>. <u>An integral element of recognising kaitiakitaka and Recognition of the rakatirataka and mana of Kāi Tahu as kaitiaki whenua can in part, be achieved by is the recognition that Kāi Tahu have their own traditional means of enabling Kāi Tahu to identify and exercise their preferred means of managing and maintaining resources and the environment te taiao.</u></p> <p>Rakatirataka is about having <u>refers to the exercise of mana or authority to give effect to Kāi Tahu culture and traditions across all spheres in their takiwā, including the management of the natural world te taiao.</u></p> <p>The resources in any given area are a <u>taoka; they are a source of prestige for mana whenua of that area and are a statement of their identity...</u></p> <p>...</p> <p>Kaitiakitaka means <u>refers to</u> the exercise of guardianship over natural and physical resources and includes. <u>It is an expression of rakatirataka and mana</u>, and includes the ethic of stewardship...</p> <p>... kaitiakitaka is not passive custodianship, nor is it simply the exercise of traditional <u>customary</u> property rights, but it entails an active exercise of responsibility <u>and rakatirataka in a manner beneficial to the resource to ensure long-term sustainability of resources as taoka, and for the benefit to future generations – mō tātou, ā, mō kā uri a muri ake nei.</u></p> <p>... Taoka are treasured resources that are highly valued by Kāi Tahu, derived from the atua (gods), <u>linked to the</u></p>	<p>S Te Ao Mārama FS00223.012 <input type="radio"/></p> <p>Federated Farmers FS00239.054 <input type="radio"/> Otago Water Resource Users FS00235.147</p>		<p>reasons set out in the s42A Reply Report.</p>

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>people through whakapapa, and left by the tūpuna (ancestors) to provide for and sustain life...</p> <p>.. Maintaining mahika kai sites, gathering resources, and continuing to practice the tikaka that governs each resource, is an important means of <u>maintaining and honouring whakapapa connections to land, taoka and tūpuna, and passing on cultural values and mātauraka to the next generation.</u></p> <p>...</p> <p>... Pollution in the air and atmosphere adversely affects and <u>degrades the mauri of this taoka, of te taiao, and of other taoka such as plants and animals. Poor air quality damages and degrades ancestral lands, mahika kai sites, and other sites such as rock art, adversely affecting the mauri of the landscape and the mana of the people.</u></p> <p>...</p> <p><u>The tūpuna of Kāi Tahu were great ocean travellers. Like many other Pacific peoples, Kāi Tahu are connected by whakapapa to those people who spread across Te Moana Nui a Kiwa, the Pacific Ocean. Takaroa is the atua who is central to these beliefs, which influence the way Kāi Tahu relate to and manage marine resources associated with the oceans and seas, and their ecosystems. The marine environment is a moving force, a reminder of the power of Takaroa. As one of the children of Rakinui and Papatūānuku, Kāi Tahu are connected to Takaroa by whakapapa, affording rights and responsibilities in relation to te takutai moana.</u></p> <p><u>The tūpuna of Kāi Tahu were great ocean travelers, having navigated by waka across Te Moana – nui – a – Kiwa, the Pacific Ocean for generations before settling in Te Wai Pounamu. Knowledge and practices brought with these were adapted to meet the challenges and opportunities of the new environment. Over time, Kāi Tahu whānui developed the tikaka and mātauraka of takutai moana and mahika kaimoana that is used today.</u></p>			
Te Ao Mārama	00223.025	Environmental management perspectives and values of Kāi Tahu	Amend	<p>Amend as follows: In the final sentence of the first paragraph include a comma: “...and the Treaty principles, the ORPS ...”</p>		Accept	A minor error corrected.
Te Ao Mārama	00223.026	Environmental management perspectives and values of Kāi Tahu	Amend	<p>Amend the first sentence under the heading ‘Rakatirataka’, as follows: “Rakatirataka is about having the mana and authority to <u>give effect to that enables</u> Kāi Tahu cultural and traditions <u>to be given effect to</u> in the management of the natural world.”</p>	S Kāi Tahu ki Otago FS00226.449	Reject	We adopt the recommendations and reasons set out in the s42A Reply Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.013	Resources of Significance to Kai Tahu	Amend	Amend PORPS to recognise Kai Tahu's fishing interests and rights beyond just customary ones – they encompass customary, commercial and recreational fishing.	S Te Rūnanga o Ngāi Tahu FS00234.043	Reject	We adopt the recommendations and reasons set out in the s42A Reply Report and note that the FA and the RMA address differing resources.
Te Rūnanga o Ngāi Tahu	00234.004	Resources of significance to Kāi Tahu	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report.
Kāi Tahu ki Otago / Aukaha	00226.041	Ngāi Tahu Claims Settlement Act 1998	Amend	Amend spelling as follows: Waipori <u>Waipōuri</u> Taiari <u>Taiari</u> Wakatipu <u>Whakatipu – wai – māori</u> Waikouaiti <u>Waikōuaiti</u> Ōtakou <u>Ōtākou</u> Purakaunui <u>Pūrākaunui</u> Karitane <u>Karitāne</u> urupā <u>urupā</u>		Accept	Nomenclature for locations named by mana whenua should accord with their usage
Te Rūnanga o Ngāi Tahu	00234.005	Ngāi Tahu Claims Settlement Act 1998	Amend	Amend as follows: Nohoaka: <ul style="list-style-type: none"> • 'Waitaki River (two sites) • Waianakarua River • Taieri River (three sites) • Lake Hāwea (three sites) • Hāwea River • Lake Wānaka (two sites) • Lake Wakatipu • Shotover River (two sites) • Mata – au Clutha River (<u>four sites</u>)" Amend list of Native Reserves to add: <u>"Hawea and Wānaka (Wanaka Plantation Reserve), known as Sticky Forest SILNA"</u>	S Kāi Tahu ki Otago FS00226.466	Accept in part	Nomenclature for locations named by mana whenua or relevant directly to them should accord with their usage. The s.42A reports adopted that approach but some minor wording changes particularly as to reserve descriptions were recommended which we accepted.
Cain whānau	00010.002	Māori Land Reserves	Amend	Retain the list of Māori Land Reserves and amend to include land subject to be returned to landowners under ancillary claim provisions.	S Te Ao Mārama FS00223.118	Accept in part	We adopt the recommendations and reasons set out in the s42A Report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Kāi Tahu ki Otago / Aukaha	00226.042	Mana whenua – local authority relationships	Amend	Amend spelling as follows: Hapu <u>Hapū</u> and iwi planning documents		Accept	A minor correction as to use of a tohutō or macron.
Te Ao Mārama	00223.027	Mana whenua – local authority relationships	Amend	- Amend bullet point three as follows: “ <u>He Huarahi mō Ngā Uri Whakatupu – Charter of Understanding signed with 2016 between Te Ao Mārama Inc-Incorporated, representing Ngāi Tahu ki Murihiku, and Southland Rūnanga councils,</u> - Amend the final sentence, as follows: “...and Hokonui Rūnanga) and the local authorities, including Otago Regional Council, and Queenstown Lakes District Council and Clutha District Council. are signatories to Huarahi mō Ngā Uri Whakatupu as it applies in their areas of jurisdiction. ”	S Kāi Tahu ki Otago FS00226.445	Accept	Correction for accuracy sake
Kāi Tahu ki Otago / Aukaha	00226.043	Involvement and participation with mana whenua	Amend	Amend spelling as follows: Papatipu Rūnaka <u>papatipu rūnaka</u> Ōamaru <u>Ōamaru</u>		Accept	Correction for accuracy
Wise Response Society Inc	00509.024	Involvement and participation with mana whenua	Amend	You cannot delegate under s33 to an iwi, you can only transfer. Needs to refer to s 34A for delegation as well as s33 (for transfer). Correct phraseology		Accept	Correction for accuracy
Director-General of Conservation	00137.019	MW – O1	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report
Dunedin City Council	00139.009	MW – O1	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report
Federated Farmers of New Zealand	00239.010	MW – O1	Amend	Amend as follows: “The principles of Te Tiriti o Waitangi are given effect taken into account in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka to ensure that what is valued by mana whenua is actively protected in the region <u>Kāi Tahu values, interests and customary resources are recognised and provided for</u> ”	S Rayonier Matariki Forests FS00020.015 O Kāi Tahu ki Otago FS00226.095	Reject	We adopt the recommendations and reasons set out in the s42A Report
Fonterra Co – operative Group Limited	00233.011	MW – O1	Amend	Substitute the words “give effect to” with “ <u>take into account</u> ”.	S Silver Fern Farms FS00221.010 O Kāi Tahu ki Otago FS00226.147	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Hopkins, Jim	00420.008	MW – O1	Amend	Amend as follows The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a <u>collaborative or partnership approach</u> between councils and Papatipu Rūnaka <u>mana whenua</u> to ensure that <u>agreed what is valued by mana whenua values are</u> actively protected in the region.	○ Kāi Tahu ki Otago FS00226.196	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.044	MW – O1	Amend	Amend as follows: MW – O1 – Principles and articles of Te Tiriti o Waitangi The principles and articles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka <u>papatipu rūnaka</u> to ensure that what is valued by mana whenua is actively protected in the region.	○ Federated Farmers FS00239.055	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.02	MW – O1	Amend	Retain and clarify whether the PORPS 2021 is practically able to give effect to the Treaty of Waitangi.		Reject	We adopt the recommendations and reasons set out in the s42A Report and recognise the Treaty principle of active protection
OWRUG	00235.015	MW – O1	Amend	Amend as follows; The principles of Te Tiriti o Waitangi are <u>taken into account by Local Authorities</u> in resource management processes and decisions, utilising a partnership approach between with Papatipu Rūnaka to <u>support Kai Tahu Values and Resources of significance.</u>	S Federated Farmers FS00239.056 ○ Kāi Tahu ki Otago FS00226.342	Reject	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.028	MW – O1	Amend	Amend as follows: “The principles of Te Tiriti o Waitangi are <u>given effect to applied</u> in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka to ensure that what is valued by mana whenua, <u>taoka tuku iho</u> , is actively protected in the region.”		Reject	We adopt the recommendations and reasons set out in the s42A Report
Te Rūnanga o Ngāi Tahu	00234.007	MW – O1	Amend	Amend as follows: “Promote awareness and understanding of the obligations of local authorities in regard to the principles and articles of Te Tiriti o Waitangi, tikaka Māori and kaupapa Māori.”	S Kāi Tahu ki Otago FS00226.467	Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.023	MW – O1	Amend	Amend as follows: The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka to ensure that what is valued by mana whenua is	○ Kāi Tahu ki Otago FS00226.566	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				actively protected considered in <u>decision – making the region.</u>			
Wilson, Terry	00419.002	MW – O1	Amend	Amend all mentions of the requirement to “give effect to the principles of the Treaty”. Instead require that The Treaty is “considered” in determining resource management decisions.	○ Kāi Tahu ki Otago FS00226.582	Reject	We adopt the recommendations and reasons set out in the s42A Report
Wilson, Terry	00419.004	MW – O1	Amend	Restrict the areas of influence of Kai Tahu and the other tribes to the Māori land reserves and property that they own.	○ Kāi Tahu ki Otago FS00226.583	Reject	We adopt the recommendations and reasons set out in the s42A Report
Director-General of Conservation	00137.020	MW – P1	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Dunedin City Council	00139.010	MW – P1	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.045	MW – P1	Amend	Amend as follows: Promote awareness and understanding of the obligations of local authorities in regard to the principles <u>and articles</u> of Te Tiriti o Waitangi, tikaka Māori and kaupapa Māori.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Director-General of Conservation	00137.021	MW – P2	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Report
Dunedin City Council	00139.011	MW – P2	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Report
Wilson, Terry	00419.005	MW – P2	Oppose	Delete	○ Kāi Tahu ki Otago FS00226.584	Reject	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.011	MW – P2	Amend	- Delete as proposed or - Replace it with Policy 2.1.2 (Treaty principles) of the partially operative Otago RPS (and a new ‘j’) as follows: “ <u>Ensure that local authorities exercise their functions and powers, by:</u>	S Silver Fern Farms FS00221.011 ○ Kāi Tahu ki Otago FS00226.096	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>a) <u>Recognising Kāi Tahu’s status as a Treaty partner; and</u> b) <u>Involving Kāi Tahu in resource management processes implementation;</u> c) <u>Taking into account Kāi Tahu values in resource management decision – making processes and implementation;</u> d) <u>Recognising and providing for the relationship of Kāi Tahu’s culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka;</u> e) <u>Ensuring Kāi Tahu have the ability to:</u> i. <u>Identify their relationship with their ancestral lands, water, sites, wāhi tapu, and other taoka;</u> ii. <u>Determine how best to express that relationship;</u> f) <u>Having particular regard to the exercise of Kāitiakitaka;</u> g) <u>Ensuring that district and regional plans:</u> i. <u>Give effect to the Ngāi Tahu Claims Settlement Act 1998;</u> ii. <u>Recognise and provide for statutory acknowledgement areas in Schedule 2;</u> iii. <u>Provide for other areas in Otago that are recognised as significant to Kāi Tahu;</u> h) <u>Taking into account iwi management plans; and</u> i) <u>Involve Kāi Tahu in freshwater management in line with requirements in the National Policy Statement for Freshwater Management 2020, section 3.4. “</u></p>			
Fonterra Co – operative Group Limited	00233.013	MW – P2	Amend	<p>Amend as follows: Local authorities exercise their functions and powers in accordance with <u>taking into account</u> Treaty principles by: ...</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Hopkins, Jim	00420.011	MW – P2	Amend	Clarify the obligations set out in this policy, particularly the role of councils and how conflicting interests or concerns can be addressed in relation to the ‘give effect to’ principles.	○ Kāi Tahu ki Otago FS00226.197	Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.046	MW – P2	Amend	Amend as follows: MW – P2 – Treaty principles <u>and articles</u>	○ Te Ao Mārama FS00223.013	Accept in part	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>Local authorities exercise their functions and powers in accordance with Treaty principles <u>the articles and principles of Te Tiriti o Waitangi</u>, by:</p> <p>(1) recognising the status of Kāi Tahu <u>as mana whenua and mana moana</u> and facilitating Kāi Tahu involvement in decision – making as a Treaty-partner under Te Tiriti o Waitangi,</p> <p>(2) including Kāi Tahu in resource management processes, and <u>implementation and decision – making</u> to the extent desired by mana whenua,</p> <p>(3) ...</p> <p>(4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, wai <u>encompassing wai māori and wai tai</u>, <u>significant sites, wāhi tūpuna, wāhi tapu and wāhi taoka</u>, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,</p> <p>(5) ...</p> <p>(6) having particular regard to <u>the responsibility of ability of Kāi Tahu to exercise their role as kaitiakitaka as an expression of mana and rakatirataka</u>,</p> <p>(7) actively pursuing opportunities for:</p> <p style="padding-left: 40px;">(a) delegation of transfer of function to Kāi Tahu, and</p> <p style="padding-left: 40px;">(b) partnership or joint management <u>under Section 33 of the Resource Management Act or any successor legislation</u>, and taking into account <u>having particular regard to iwi management plans when making resource management decisions.</u></p>			
Te Ao Mārama	00223.029	MW – P2	Amend	<p>Amend as follows: “... (3) recognising and providing for Kai Tahu values, and <u>addressing resource management issues of significance to Kāi Tahu</u>, as identified by mana whenua, in resource management processes and plan implementation, ...”</p>	S Kāi Tahu ki Otago FS00226.446	Accept	We adopt the recommendations and reasons set out in the s42A Report
Te Rūnanga o Ngāi Tahu	00234.008	MW – P2	Amend	<p>Amend as follows: MW – P2 – Treaty principles Local authorities exercise their functions and powers in accordance with Treaty principles <u>and articles</u>, by:</p> <p>(1) recognising the status of Kāi Tahu and facilitating Kāi Tahu involvement in decision – making as a Treaty partner,</p>	S Kāi Tahu ki Otago FS00226.468	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and Reply Report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>(2) including Kāi Tahu in resource management processes and implementation to the extent desired by mana whenua,</p> <p>(3) recognising and providing for Kāi Tahu values and resource management issues, as identified by mana whenua, in resource management decision – making processes and plan implementation,</p> <p>(4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,</p> <p>(5) ensuring that regional and district plans recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, tōpuni, nohoaka and customary fisheries identified in the NTCSA 1998, including by actively protecting the mauri of these areas,</p> <p>(6) <u>ensuring that regional and district plans recognise and provide for aquaculture Settlement outcomes identified under the Māori Commercial Aquaculture Claims Settlement Act 2004</u></p> <p>(6) (7) having particular regard to the ability of Kāi Tahu to exercise kaitiakitaka,</p> <p>(7) (8) actively pursuing opportunities for:</p> <ol style="list-style-type: none"> a. delegation or transfer of functions to Kāi Tahu, and b. partnership or joint management arrangements, and <p>(8) (9) taking into account iwi management plans when making resource management decisions and</p> <p>(9) (10) <u>recognising and providing for mātauraka Tahu and tikaka Tahu in environmental and resource management.</u></p>			
Director-General of Conservation	00137.022	MW – P3	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Report
Dunedin City Council	00139.012	MW – P3	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Federated Farmers of New Zealand	00239.012	MW – P3	Amend	Adopt MW – P3(2) and (3). Amend MW – P3(1) to align with Policy 2.2.1 of the partially operative Otago RPS as follows: “(1) <u>Recognise and provide for Kāi Tahu’s customary uses and cultural values</u> “	S Silver Fern Farms FS00221.012 O Kāi Tahu ki Otago FS00226.097	Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.047	MW – P3	Amend	Amend as follows: MW – P3 – Supporting <u>the hauora of Kāi Tahu well-being</u> The natural environment is managed to support <u>the hauora of Kāi Tahu well-being</u> by: (1) protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu <u>as identified by Kāi Tahu</u> . to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities, (2) safeguarding the mauri and life-supporting capacity of natural resources, <u>recognising the whakapapa connections of Kāi Tahu with these resources as taoka, and the connections to practices such as mahika kai</u> , and working with Kāi Tahu to incorporate mātauraka in resource management <u>processes and decision – making</u> .	S Te Rūnanga o Ngāi Tahu FS00234.047 S Te Ao Mārama FS00223.014	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.016	MW – P3	Amend	Amend as follows; <u>Natural and Physical resources</u> are managed to support Kāi Tahu well-being by: 1. protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu to resources and areas of significance, and <u>enhancing</u> these uses and values where they have been degraded by human activities, <u>safeguarding health and well-being of natural resources so as to provide for the mauri of these resources</u> , and;	S Federated Farmers FS00239.057 O Kāi Tahu ki Otago FS00226.343	Reject	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.030	MW – P3	Amend	Consider amending to substitute the word ‘in’ with ‘into’ in sub – clause (3)		Accept	A minor correction in language
Director-General of Conservation	00137.023	MW – P4	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Report
Cain whānau	00010.004	MW – P4	Amend	Retain and amend MW – P4 as follows: <u>MW–P4 – Sustainable Protection, development and use of Māori land and resources</u> <i>Kāi Tahu are able to <u>protect, subdivide, occupy, develop, and utilise</u> protect, develop and use land and resources</i>	S Te Rūnanga o Ngāi Tahu FS00234.048 S Te Ao Mārama FS00223.119 O Queenstown Lakes	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and the Reply Report as well as the legal section of the Introduction to this

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>within native reserves and land held under Te Ture Whenua Māori Act 1993 <u>for the benefit of its owners, their whānau, and their hapū in a way consistent with their culture and traditions and economic, cultural and social aspirations, including for papakāika, marae and marae-related activities, while:</u></p> <p><u>(1) recognising and providing for the primacy of ahi kā, reconnection with the whenua and continuation of mahinga kai</u></p> <p><u>(2) avoiding significant adverse effects on the health and safety of people,</u></p> <p><u>(3) avoiding significant minimising adverse effects on matters of national importance, and</u></p> <p><u>(4) avoiding, remedying, or mitigating other adverse effects.</u></p> <p><u>MW – P4 shall be given primacy over any other provision in this RPS.</u></p> <p>Or as an alternative to inserting the term “MW – P4 shall be given primacy over any other provision in this RPS”:</p> <ul style="list-style-type: none"> • Include a provision which gives primacy to all MW provisions of other non – MW provisions in the RPS; or • Amend any provision necessary to ensure the owners can protect, occupy, subdivide, develop, and use their resources (inclusive of land, freshwater, coastal water and coastal marine area) to their benefit. 	District Council FS00138.033		recommendation report, but particularly note primacy or prioritisation as sought does not accord with Supreme Court decisions, and conflicts with the IM chapter objectives of seeking integrated application of all relevant policies.
Dunedin City Council	00139.013	MW – P4	Amend	Amend as follows: Clauses (1) & (3) to allow for some adverse effects while providing for the sustainable use of Māori land.		Reject	We adopt the recommendations and reasons set out in the s42A Report and the Reply report.
Fonterra Co – operative Group Limited	00233.014	MW – P4	Amend	Amend as follows: <u>(4) giving effect to Te Mana o te Wai</u>	S Federated Farmers FS00239.058	Reject	We adopt the recommendations and reasons set out in the s42A Report and note the FPI provisions of the PORPS achieve this anyway.
Kāi Tahu ki Otago / Aukaha	00226.048	MW – P4	Amend	Amend as follows: Kāi Tahu are able to protect, develop and use land and resources within native reserves, and land held under the Te Ture Whenua Māori Act 1993, <u>and land with a particular ancestral connection</u> , in a way consistent with their culture and traditions and economic, cultural and		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and the Reply Report and the legal section of the Introduction to this recommendation report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				social aspirations, including for papakāika, marae and marae related activities, while: (1) avoiding adverse effects on the health and safety of people, (2) avoiding significant adverse effects on matters of national importance, and, Avoiding, remedying, or mitigating other adverse effects.			
Te Rūnanga o Ngāi Tahu	00234.009	MW – P4	Amend	Amend as follows: “Kāi Tahu whānui are able to protect, develop and use land and resources within native reserves, and land held under the Te Ture Whenua Māori Act 1993, <u>and land with an ancestral connection, in accordance with matauraka and tikaka, and providing for their economic, cultural and social aspirations, including for papakāika, marae and marae related activities, while:</u> (3) avoiding adverse effects on the health and safety of people, (4) avoiding significant adverse effects on matters of national importance, and (5) Avoiding, remedying, or mitigating other adverse effects.” Consequential amendments may be required elsewhere in the plan.	S Te Ao Mārama FS00223.154	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and the Reply Report and the Legal section of the Introduction to this recommendation report.
Transpower New Zealand Limited	00314.008	MW – P4	Amend	Amend as follows: “Kāi Tahu are able to protect, develop and use land and resources within native reserves and land held under Te Ture Whenua Māori Act 1993 in a way consistent with their culture and traditions and economic, cultural and social aspirations, including for papakāika, marae and marae related activities, while: 1. avoiding adverse effects on the health and safety of people, 2. avoiding significant adverse effects on matters of national importance, <u>x. avoiding adverse effects, including reverse sensitivity effects, on the National Grid;</u> and 3. avoiding, remedying, or mitigating other adverse effects.”	O Kāi Tahu ki Otago FS00226.485	Reject	We adopt the recommendations and reasons set out in the s42A Report and the Reply Report and the Legal section of the Introduction to this recommendation report but also note that other provisions have been recommended particularly in the EIT chapter which more appropriately address such issues.
Director-General of Conservation	00137.024	MW – M1	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Highton, John	00014.001	MW – M1	Support	Retain collaboration with Ngai Tahu on environmental matters.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Cain whānau	00010.005	MW – M1	Amend	Retain and amend as follows: <i>MW–M1 – Collaboration with Kāi Tahu</i> <i>Local authorities must collaborate with Kāi Tahu to:</i> <i>(1) identify and map record places, areas or landscapes of cultural, spiritual or traditional significance to them, using methods and tools meaningful to mana whenua,</i> <i>(2) protect assess such places, areas, or landscapes, and the values and tikanga that contribute to their significance and management approach,</i> <i>(3) require Te Ao Kāi Tahu paradigms and mātauraka to be included the landscape assessment and the ‘appropriate’ test</i> <i>(4) identify indigenous species and ecosystems that are taoka in accordance with ECO – M3, and</i> <i>(5) identify and map outstanding natural features, outstanding natural landscapes and seascapes, and highly valued natural features, outstanding landscapes and seascapes and record their values.</i>	S Te Ao Mārama FS00223.120	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and note many of the submitter’s points are addressed by amendments made at the request of other mana whenua submitters.
Federated Farmers of New Zealand	00239.013	MW – M1	Amend	Amend as follows: “Local authorities must collaborate with Kāi Tahu to: 1. identify and map places, areas or landscapes of cultural, spiritual or traditional significance to them, 2. protect such places, areas, or landscapes, and the values that contribute to their significance, 3. identify indigenous species and ecosystems that are taoka in accordance with ECO – M23, and 4. identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.”		Reject	We adopt the recommendations and reasons set out in the s42A Report
Highton, John	00014.002	MW – M1	Amend	Amend to provide for the substantial recognition and environmental improvement for sites identified in MW – M1.	S Waitaki Irrigators Collective Limited FS00213.004	Accept in part	We adopt most of the recommendations and reasons set out in the s42A Report with the difference that we consider some aspects of this submission request are met by amendments adopted.
Kāi Tahu ki Otago / Aukaha	00226.049	MW – M1	Amend	Amend as follows: MW – M1 – Collaboration with Kāi Tahu	Federated Farmers FS00239.049 (neutral)	Accept in part	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>Local authorities must collaborate with Kāi Tahu to:</p> <ol style="list-style-type: none"> 1. Identify, and map <u>and protect</u> places, areas, or landscapes, <u>waters, taoka and other elements</u> of cultural, spiritual or traditional significance to them <u>mana whenua</u>, 2. <u>determine appropriate naming for places of significance in Otago, and</u> 3. <u>share information relevant to Kāi Tahu interests.</u> 4. protect such places, areas, or landscapes, and the values that contribute to their significance, <p>identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.</p>	S Te Rūnanga o Ngāi Tahu FS00234.049 O Otago Water Resource Users FS00235.148		reasons set out in the s42A Report
Meridian Energy Limited	00306.013	MW – M1	Amend	<p>Amend as follows:</p> <p>“.....</p> <p>(4) identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values</p> <p>....”</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Ravensdown Limited	00121.014	MW – M1	Amend	<p>Amend as follows:</p> <p>Local authorities must collaborate with Kāi Tahu to:</p> <ol style="list-style-type: none"> (1) identify and map places, areas or landscapes of cultural, spiritual or traditional significance to them, (2) protect such places, areas, or landscapes, and the values that contribute to their significance, <u>and</u> (3) identify indigenous species and ecosystems that are taoka in accordance with ECO – M3, <u>and</u> (4) identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values. 	O Te Rūnanga o Ngāi Tahu FS00234.044	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.031	MW – M1	Amend	<p>Amend as follows:</p> <p>“... (1) identify and map, <u>including mapping</u>, places, areas or landscapes ...</p> <p>(3) identify and map, <u>including mapping</u>, particular indigenous species and <u>associated</u> ecosystems that are taoka in accordance with ECO – M3, <u>and</u></p> <p>(4) identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.”</p>		Accept in part	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Director-General of Conservation	00137.025	MW – M2	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Hopkins, Jim	00420.012	MW – M2	Amend	Amend MW – M2 (3) to read as follows: 3. develop research and monitoring programmes that incorporate mātauraka and <u>the means by which it is assessed that are jointly led by mana whenua with agreed funding</u>	○ Kāi Tahu ki Otago FS00226.198	Reject	We adopt the recommendations and reasons set out in the s42A Report and note that in the Legal section of the Introduction to this recommendation report the legal difficulties as to funding commitments are addressed.
Kāi Tahu ki Otago / Aukaha	00226.050	MW – M2	Amend	Amend as follows: MW – M2 – Work with Kāi Tahu Mātauraka Māori Local authorities must <u>work in partnership</u> consult with Kāi Tahu to: 1. <u>incorporate mātauraka into resource management processes,</u> 2. <u>enable use of mātauraka in decision – making where appropriate, and</u> 3. 3- develop research and monitoring programmes that incorporate mātauraka and are led by mana whenua. 1. determine appropriate naming for places of significance in Otago, and share information relevant to Kāi Tahu interests.	S Te Rūnanga o Ngāi Tahu FS00234.050 S Te Ao Mārama FS00223.015	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.032	MW – M2	Amend	Amend as follows: “Local authorities must consult <u>work</u> with Kāi Tahu to: ...”		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Director-General of Conservation	00137.026	MW – M3	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.014	MW – M3	Amend	Amend as follows: “Involve Kāi Tahu at an early stage and throughout of <u>freshwater resource</u> management processes and implementation”	○ Kāi Tahu ki Otago FS00226.098	Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.051	MW – M3	Amend	Amend as follows: Local authorities must develop processes to:	S Te Ao Mārama FS00223.016	Accept	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				(1) ... (2) Involve Kāi Tahu at an early stage and throughout resource management processes, <u>decision – making</u> and implementation, ...			reasons set out in the s42A Report
Te Ao Mārama	00223.033	MW – M3	Amend	Amend as follows: “...(3) facilitate efficient and effective processes for <u>prepare</u> applicants to consult with Kāi Tahu on ...”	S Kāi Tahu ki Otago FS00226.447 S Otago Water Resource Users FS00235.149	Reject	We adopt the recommendations and reasons set out in the s42A Report
Director-General of Conservation	00137.027	MW – M4	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Reply Report and the Legal section of the Introduction to this recommendation report which identified the legal problems with funding commitments through an RPS or RMA plan.
Kāi Tahu ki Otago / Aukaha	00226.052	MW – M4	Amend	Amend title as follows: MW – M4 – Kāi Tahu involvement in resource management <u>rakatirataka</u>	Federated Farmers FS00239.060 (neutral) S Te Ao Mārama FS00223.017	Accept	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.034	MW – M4	Amend	- Amend as follows: “Local authorities must facilitate Kāi Tahu involvement in resource management (including decision – making) <u>to the extent desired by mana whenua, including by: ...</u> ” - Amend sub – clause (1) to remove the ‘s’ at the end of ‘requirement’	S Kāi Tahu ki Otago FS00226.448 O Silver Fern Farms FS00221.013	Accept	We adopt the recommendations and reasons set out in the s42A Report
Waitaki District Council	00140.008	MW – M4	Amend	Expectations around resourcing requirements to give effect to the RPS are proportionate to the size of the local authority.		Accept in part	We adopt the recommendations and reasons set out in the s42A Reply Report and the Legal section of the Introduction to this recommendation report which identified the legal problems with funding commitments through an RPS or RMA plan.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Director-General of Conservation	00137.028	MW – M5	Support	Retain as notified		Reject	We adopt the recommendations and reasons set out in the s42A Reply Report and the Legal section of the Introduction to this recommendation report which identified the legal problems with funding commitments through an RPS or RMA plan.
Cain whānau	00010.006	MW – M5	Amend	<p>Retain and amend as follows:</p> <p>MW–M5 – Regional and district plans Local authorities must amend their regional and district plans to:</p> <p>(1) Take Iwi Management Plans and resource management issues of significance to Kāi Tahu (RMIA) into account,</p> <p>(2) <u>Recognise Ancillary Claims in the Otago Region</u></p> <p>(2) provide for the <u>occupation, development and utilisation use</u> of native reserves and land held under Te Ture Whenua Māori Act 1993 in accordance with MW–P4, and</p> <p>(3) incorporate active protection of areas and resources recognised in the NTCSA 1998, <u>and act in accordance with the purpose of the redress provisions-</u> <u>When preparing plans or making decisions on applications under those plans (if applicable) MW – P4 shall be given primacy over any other provision in this RPS.</u></p>	S Te Ao Mārama FS00223.121	Accept in part (as to parts retained)	We adopt the recommendations and reasons set out in the s42A report and the Reply Report
Kāi Tahu ki Otago / Aukaha	00226.053	MW – M5	Amend	<p>Amend as follows:</p> <p>Local authorities must amend their regional and district plans to:</p> <p>(1) ...</p> <p>Provide for the use of native reserves, and land held under Te Ture Whenua Māori Act 1993 and <u>land with a particular ancestral connection</u> in accordance with MW – P4, ...</p>		Reject	We do not entirely accept this submission point, for the reasons outlined in the legal section of the Introduction to this Recommendation report
Ngāi Tahu ki Murihiku	00223.035	MW – M5	Amend	<p>Amend as follows:</p> <p>“... (1) take <u>into account</u> Iwi Mmanagement Pplans and <u>address</u> resource management issues of significance to Kāi Tahu (RMIA) into account, ...</p>		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Te Rūnanga o Ngāi Tahu	00234.010	MW – M5	Amend	<p>Amend as follows:</p> <p>“MW – M5 – Regional and district plans</p>	S Te Ao Mārama FS00223.155	Accept in part	We adopt the recommendations and

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>Local authorities must amend their regional and district plans to:</p> <ol style="list-style-type: none"> (1) take Iwi Management Plans and resource management issues of significance to Kāi Tahu (RMIA) into account, (2) provide for the use of native reserves and land held under Te Ture Whenua Māori Act 1993 in accordance with MW – P4, and (3) incorporate active protection of areas and resources recognised in the NTCSA 1998-and (4) <u>set aside areas to achieve Settlement outcomes identified under the Māori Commercial Claims Aquaculture Settlement Act 2004.</u> 			reasons set out in the s42A Report
Director-General of Conservation	00137.029	MW – M6	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.054	MW – M6	Amend	<p>Amend as follows:</p> <p>Local authorities are encouraged to ... promoting awareness and improving knowledge of tikaka and the principles <u>and articles</u> of Te Tiriti o Waitangi among staff and stakeholders, ...</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Director-General of Conservation	00137.030	MW – M7	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.055	MW – M7	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.015a	MW – M7	Oppose	Delete MW – M7		Reject	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.016	MW – E1	Amend	<p>Amend as follows:</p> <p>“The policies in this section are designed to achieve MW – O1 by setting out the actions that must be undertaken by local authorities to ensure the principles of Te Tiriti o Waitangi are <u>taken into account</u> given effect in resource management processes and decisions.”</p>	○ Kāi Tahu ki Otago FS00226.099	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Fonterra Co – operative Group Limited	00233.012	MW – E1	Amend	Substitute the words “give effect to” with “ <u>take into account</u> ”.	S Silver Fern Farms FS00221.014	Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.017	MW – E1	Amend	Amend as follows; ... to ensure the principles of Te Tiriti o Waitangi are <u>taken into account</u> in resource management processes and decisions. The policies also require the development and implementation of planning tools which recognise the role of Kāi Tahu in resource management and ensure their engagement with and participation in resource management <u>that arises from a partnership approach with Local authorities.</u>	S Federated Farmers FS00239.061 O Kāi Tahu ki Otago FS00226.344	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Marama	00223.036	MW – E1	Amend	Amend as follows: “...the principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, <u>and what is valued by mana whenua, taoka tuku iho, is actively protected in the region.</u> The policies <u>and methods</u> also require the development and implementation of planning tools <u>and other mechanisms which that:</u> recognise the role of Kāi Tahu in resource management and ensure mana whenua engagement with and participation in resource management; <u>and achieve outcomes that provide for Kāi Tahu values and support Kāi Tahu well-being.</u> ”	O Otago Water Users Resource FS00235.150	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.017	MW – PR1	Amend	Amend as follows: “Local authorities need to incorporate Treaty principles into their decision making and ensure they are properly applied, to account for the effects of resource management decisions on Kāi Tahu values, including those described in iwi resource management plans. Deliberate measures need to be taken to ensure the principles are <u>well clearly articulated and readily understood.</u> The principles are broadly expressed, so a measure of flexibility is needed in applying them. “	O Kāi Tahu ki Otago FS00226.100	Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.018	MW – PR1	Amend	Amend as follows; Deliberate measures need to be taken <u>by Local Authorities</u> to ensure the principles are well understood. The principles are broadly expressed <u>which can make it difficult for people to understand their implications and</u> a measure of flexibility is needed in applying them. <u>Local authorities have an important role in facilitating and providing clarity about the implementation of the principles at a practical level.</u>	S Federated Farmers FS00239.062 O Kāi Tahu ki Otago FS00226.345	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Te Ao Mārama	00223.037	MW – PR1	Amend	Amend as follows: “Te Tiriti o Waitangi creates a special relationship between takata whenua and the Crown, <u>which the Crown expresses to an extent in the provisions of the RMA 1991 and national instruments created in accordance with the Act, including requirements of local authorities.</u> Providing for cultural well-being is a feature of the sustainable management purpose of the Act. Section 8 of the RMA 1991 Act requires, and enables Treaty principles to be taken into account applied in an appropriate way. ... Implementation of the provisions in this chapter will occur primarily, <u>but not exclusively</u> , through regional and district plan provisions. However, Local authorities may also adopt additional <u>a range of methods, utilising statutory mechanisms and non – regulatory methods,</u> to implement the policies and support achievement of the objective.”	S Kāi Tahu ki Otago FS00226.450 S Te Rūnanga o Ngāi Tahu FS00234.051 O Otago Water Resource Users FS00235.150	Accept	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.018	MW – AER1	Amend	Amend as follows: “Resource management processes and decisions reflect the principles of Te Tiriti o Waitangi. <u>In relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”</u>	O Kāi Tahu ki Otago FS00226.101	Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.056	MW – AER1	Amend	Amend as follows: Resource management processed and decisions reflect the principles <u>and articles</u> of Te Tiriti o Waitangi.		Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.019	MW – AER1	Amend	Amend as follows; Resource management processes and decisions <u>take into account</u> the principles of Te Tiriti o Waitangi.	S Federated Farmers FS00239.063 O Kāi Tahu ki Otago FS00226.346	Reject	We adopt the recommendations and reasons set out in the s42A Report
Hopkins, Jim	00420.010	MW – AER2	Amend	Clarify the meaning of rakatirataka and <i>kaitiakataka</i> , particularly in relation to the extent of decision-making authority in relation to taoka tuku iho (ie beyond land and resources listed in the RPS, or more widely), the role of councils, and how conflicting interests or concerns can be addressed.	O Kāi Tahu ki Otago FS00226.199	Reject	We adopt the recommendations and reasons set out in the s42A Report

RMIA – Resource management issues of significance to iwi authorities in the region

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.028	RMIA – General Resource management issues of significance to iwi authorities in the region	Support	Retain	S Te Ao Mārama FS00223.144	Accept in part	We adopt the recommendations and reasons set out in the s42A Report, and note amendments have been made in response to other submissions
Ngāi Tahu ki Murihiku	00223.048	RMIA –General Resource management issues of significance to iwi authorities in the region	Amend	Retain the content of this chapter, subject to the amendments outlined below.			We adopt the recommendations and reasons set out in the s42A Report, and note amendments have been made in response to this and other submissions
Highton, John	00014.016	RMIA –General Resource management issues of significance to iwi authorities in the region	Amend	Amend to include a separate section recognising the importance of being able to gather food from a healthy environment for the general community. In particular, the gathering of whitebait, trout, salmon and hunting.	S Otago Fish and Game Council FS00609.100 O Kāi Tahu ki Otago FS00226.187	Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.058	RMIA –General Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report, and note amendments have been made in response to other submissions
Kāi Tahu ki Otago / Aukaha	00226.059	RMIA –WAI-Wai Maori Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report, and note amendments have been made in response to other submissions
Kāi Tahu ki Otago / Aukaha	00226.060	RMIA –WAI-I1 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
Federated Farmers of New Zealand	00239.029	RMIA – Resource management issues of significance to iwi authorities in the region	Oppose	Delete RMIA – WAI – I1	<ul style="list-style-type: none"> ○ Kāi Tahu ki Otago FS00226.102 ○ Royal Forest and Bird Protection Society FS00230.044 	Reject	Submission of no effect as made prior to re-notification of FPI.
Kāi Tahu ki Otago / Aukaha	00226.061	RMIA –WAI-I2 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report, and note amendments have been made in response to other submissions
Highton, John	00014.014	RMIA –WAI-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend to include separate recognition regarding the current water management not meeting other cultural expectations within the community.		Reject	We adopt the recommendations and reasons set out in the s42A Report, and note the issues he raises do not relate to issues of significance to iwi authorities.
Highton, John	00014.015	RMIA – WAI-I3 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified.	<ul style="list-style-type: none"> ○ Oceana Gold FS00115.061 ○ Waitaki Irrigators Collective Limited FS00213.05 ○ Kāi Tahu ki Otago FS00226.188 	Reject	Submission of no effect as made prior to re-notification of FPI.
Kāi Tahu ki Otago / Aukaha	00226.062	RMIA –WAI-I3 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Reject	Submission of no effect as made prior to re-notification of FPI.
Ngāi Tahu ki Murihiku	00223.049	RMIA – Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: “It represents a <u>significant loss for mana whenua and a diminishing of rakatirataka and of mana.</u> ”	<ul style="list-style-type: none"> ○ Kāi Tahu ki Otago FS00226.451 ○ Te Rūnanga o Ngāi Tahu FS00234.064 	Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.131	RMIA – Resource management issues of significance to iwi authorities in the region	Amend	Amend by adding “overfishing” and “pollution” as issues or reasons for loss of access.		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
Highton, John	00014.017	RMIA –WAI-I4 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified.		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.063	RMIA –WAI-I4 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Waitaki Irrigators Collective Limited	00213.005	RMIA – WAI-I5 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified.	S New Zealand Defence Force FS00304.010 S Transpower New Zealand Limited FS00314.004	Reject	We adopt the recommendations and reasons set out in the s42A Report
Manuherehia Catchment Group	00116.005	RMIA – WAI-I5 Resource management issues of significance to iwi authorities in the region	Oppose	Amend the vision, timeframe or policy so as not to completely exclude the cross mixing of water from different catchments in Otago.	O Kāi Tahu ki Otago FS00226.229	Reject	We adopt the recommendations and reasons set out in the s42A Report
Dunedin City Council	00139.020	RMIA – WAI-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend for consistency with other requested changes in this submission.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.030	RMIA – WAI-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: “• Water allocation concerns: ... ○ ... continuation of inefficient <u>poor</u> methods of water use.” “• Concerns about channel modification and river works: ... ○ ...indigenous vegetation and <u>planting of exotic</u> afforestation <u>(the wrong tree in the wrong</u>	O Ernslaw One Ltd FS00412.021	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
				<u>place for the wrong reason),</u>”			
Highton, John	00014.018	RMIA – WAI-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend to include the need to greatly improve the coordination between other agencies such as DOC, the Access Commission, LINZ and others.		Reject	We adopt the recommendations and reasons set out in the s42A Report and note the issue is addressed at IM-M2.
Kāi Tahu ki Otago / Aukaha	00226.064	RMIA –WAI-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: The effects of long duration of water take consents which lock in a pattern of resource use for a long time, limiting the ability for <u>of</u> Kāi Tahu to exercise kaitiakitaka responsibilities <u>their role as kaitiaki as an expression of mana and rakatirataka.</u>	§ Te Rūnanga o Ngāi Tahu FS00234.065	Accept	We adopt the recommendations and reasons set out in the s42A Report
Oceana Gold (New Zealand) Ltd	00115.009	RMIA –WAI-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: Delete reference to water quality being adversely impacted by mining activities. Where poor land management practices associated with mining (as with all other land uses) causes a deterioration in water quality this is already addressed in the first bullet point under this heading.	○ Kāi Tahu ki Otago FS00226.310 ○ Royal Forest and Bird Protection Society FS00230.045	Reject	We adopt the recommendations and reasons set out in the s42A Report
van der Zwet, David	00011.005	RMIA –WAI-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: <ul style="list-style-type: none"> • Concerns about channel modification <i>river</i> works: <ul style="list-style-type: none"> ○ The <i>effects</i> of bed disturbance, including suction dredging and gravel extraction, on stream morphology and habitats. 	○ Kāi Tahu ki Otago FS00226.540	Reject	We adopt the recommendations and reasons set out in the s42A Report
New Zealand Infrastructure Commission	00321.021	RMIA –MKB Resource management issues of significance to iwi	Amend	There are other ways of safeguarding mahika kai and biodiversity in Otago, and a ki uta ki tai approach would		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
		authorities in the region		promote an integrated solution to this problem AND Apply the effects management hierarchy to this issue			
Kāi Tahu ki Otago / Aukaha	00226.065	RMIA –MKB Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Director-General of Conservation	00137.037	RMIA –MKB-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend the 6 th bullet point as follows, or words to like effect: “Loss of indigenous fish <u>freshwater</u> species, many of which are taoka and mahika kai, through displacement and predation.”	S Kāi Tahu ki Otago FS00226.055	Accept	We adopt the recommendations and reasons set out in the s42A Report
Highton, John	00014.019	RMIA –MKB-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend to include that together with other agencies, the commercial exploitation of native species, such as eels, whitebait and freshwater crayfish are regulated. And that together with other agencies the breeding environment for smelt species are improved through investigation and monitoring.	O Kāi Tahu ki Otago FS00226.189	Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.066	RMIA –MKB-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: Specific concerns include: ... <ul style="list-style-type: none"> • <u>A persistent lack of recognition of Kāi Tahu perspectives, values and mātauraka in indigenous species and habitat management, planning, and decision – making, and</u> • <u>The loss of cultural knowledge, mātauraka, and tikaka that has accompanied the loss of mahika kai, and indigenous biodiversity.</u> 	S Te Rūnanga o Ngāi Tahu FS00234.066 S Te Ao Mārama FS00223.018	Accept	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
Waitaki District Council	00140.015	RMIA –MKB-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend last bullet point to include reference to carbon forestry as follows: “The impact of inappropriate forestry developments <u>including carbon forestry</u> , conversion of tussock lands and other intensification of farming on indigenous flora and fauna values, including ecological disturbance and displacement of species.”	New Zealand Carbon Farming FS00602.007	Reject	We adopt the recommendations and reasons set out in the s42A Report
Beef & Lamb NZ and Deer Industry NZ	00237.017	RMIA –MKB-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend to provide for Farm Plans to be used as a tool to determine protocol of accessing mahika kai sites between iwi and landowners.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.067	RMIA –MKB-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: ... Obstacles include lack of physical access, <u>habitat and species loss</u> , and the sites no longer being safe to access due to the site becoming polluted, or a change in flow velocity and/or depth.	S Te Rūnanga o Ngāi Tahu FS00234.067 S Te Ao Mārama FS00223.019	Reject	We adopt the recommendations and reasons set out in the s42A Report that this issue is already addressed in RMIA-MKB-I1
Kāi Tahu ki Otago / Aukaha	00226.068	RMIA –MKB-I3 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: Climate change is now affecting and will continue to affect habitat availability and suitability for species in Otago. ... Where possible, these effects should be planned for in environmental management, <u>including regard the impacts on Kāi Tahu and mana whenua values</u> .	S Te Rūnanga o Ngāi Tahu FS00234.068 S Te Ao Mārama FS00223.020	Accept in part	We adopt the recommendations and reasons set out in the s42A Report to reword relief sought.
Kāi Tahu ki Otago / Aukaha	00226.069	RMIA –MKB-I4 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.031	RMIA –MKB-I4 Resource management issues	Oppose	Delete RMIA – MKB – 14	O Kāi Tahu ki Otago FS00226.103	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
		of significance to iwi authorities in the region					
Lauder Creek Farming	00406.003	RMIA –MKB-I4 Resource management issues of significance to iwi authorities in the region	Amend	Amend to identify methods which can increase biodiversity in both rural and urban landscapes and communities		Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.070	RMIA –MKB-I5 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.132	RMIA –MKB-I5 Resource management issues of significance to iwi authorities in the region	Amend	Amend by noting the Department of Conservation also has obligations under the Wildlife Act and the New Zealand Coastal Policy Statement, not just the Conservation Act		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.071	RMIA –MKB-I6 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.072	RMIA –WTU-Wāhi tūpuna Resource management issues of significance to iwi authorities in the region	Amend	Amend context as follows: Areas of significance that form part of wāhi tūpuna include, but are not limited to: • ... Mauka (mountains), awa (rivers), roto (lakes), tai (coasts), and moana (seas)	S Te Ao Mārama FS00223.021	Accept	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.032	RMIA –WTU-I1 Resource management issues of significance to iwi	Oppose	Delete RMIA – WTU – I1	O Kāi Tahu ki Otago FS00226.104	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
		authorities in the region					
Ngāi Tahu ki Murihiku	00223.050	RMIA –WTU-I1 Resource management issues of significance to iwi authorities in the region	Amend	<ul style="list-style-type: none"> - Amend as follows: “Land, <u>freshwater and coastal</u> management regimes have failed to ...” - Amend to recognise that management of wāhi tūpuna extends beyond land use matters. - Amend to recognise that wāhi tapu and wāhi taoka include nohoaka sites and therefore freshwater management as well as land use matters and matters of access are significant issues. 	<p>S Kāi Tahu ki Otago FS00226.452</p> <p>S Te Rūnanga o Ngāi Tahu FS00234.069</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and note the amended wording sought is accepted by the Panel as an accurate description of mana whenua views.
Kāi Tahu ki Otago / Aukaha	00226.073	RMIA –WTA Resource management issues of significance to iwi authorities in the region	Amend	<p>Amend as follows:</p> <p>... This is reflected in Te-<u>Reo</u> te reo Māori, as the word... For Kāi Tahu, <u>the terms</u> wāhi tapu and wāhi taoka refers to places <u>with elevated mana and tapu due to their close association with atua and tūpuna. For example: that hold the respect of the people in accordance with tikaka or history including:</u></p> <p><u>Mauka (mountains), awa (rivers), roto (lakes), tai (coasts), and moana (seas),</u></p> <p>...</p>	<p>S Te Rūnanga o Ngāi Tahu FS00234.070</p> <p>S Te Ao Mārama FS00223.022</p>	Accept	We adopt the recommendations and reasons set out in the s42A Report
Oceana Gold (New Zealand) Ltd	00115.008	RMIA –WAI- Resource management issues of significance to iwi authorities in the region	Amend	<p>Amend as follows:</p> <p>Delete the generalised statement to mining activities being ‘culturally inappropriate’.</p>	O Kāi Tahu ki Otago FS00226.309	Reject	We adopt the recommendations and reasons set out in the s42A Report at paragraph 663.
Kāi Tahu ki Otago / Aukaha	00226.074	RMIA –WTA-I1 Resource management issues of significance to iwi authorities in the region	Amend	<p>Amend as follows:</p> <p>Specific concerns include:</p> <ul style="list-style-type: none"> • ... <p>The resurfacing of kōiwi takata (human remains) through natural and human –</p>	S Te Rūnanga o Ngāi Tahu FS00234.071	Accept	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
				induced process, such as climate change, and ensuring...			
Kāi Tahu ki Otago / Aukaha	00226.075	RMIA –WTA-I2 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified	Federated Farmers FS00239.292 (neutral)	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.051	RMIA –WTA-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend to recognise that wāhi tapu and wāhi taoka include nohoaka sites and therefore freshwater management as well as land use matters and matters of access are significant issues.	S Kāi Tahu ki Otago FS00226.453 S Te Rūnanga o Ngāi Tahu FS00234.072	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.076	RMIA –AA Resource management issues of significance to iwi authorities in the region	Amend	Amend context as follows: ... Pollution of the atmosphere adversely affects the mauri of air as a taoka, and other taoka such as plants and animals that rely on the life-supporting properties of air.	S Te Rūnanga o Ngāi Tahu FS00234.073 S Te Ao Mārama FS00223.023	Reject	We adopt the recommendations and reasons set out in the s42A Report
Dunedin City Council	00139.021	RMIA –AA-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend for consistency with other requested changes in this submission.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.033	RMIA –AA-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: “The cultural impacts of air pollution and discharges to air are poorly understood and seldom recognised. <u>Achieving these outcomes requires careful collaboration with surrounding landowners.</u> ”		Reject	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.077	RMIA –AA-I1 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: Specific concerns include: Potential impacts of climate change which could potentially negatively affect <u>taoka such as wai māori māori and wai tai</u> , mahika kai and	Federated Farmers FS00239.294 (neutral) S Te Rūnanga o Ngāi Tahu FS00234.074	Accept	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
				biodiversity, wāhi tūpuna, wāhi tapu, and wāhi taoka, coastal environment and the well-being of all people, and <u>the environment as an integrated system.</u>			
Kāi Tahu ki Otago / Aukaha	00226.078	RMIA –CE Resource management issues of significance to iwi authorities in the region	Amend	Change title as follows: RMIA – CE – Coastal environment (<u>te takutai Takutai</u> moana me te wai tai)	S Te Ao Mārama FS00223.024	Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.079	RMIA –CE-I1 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified	Federated Farmers FS00239.293 (neutral)	Accept	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.133	RMIA – Resource management issues of significance to iwi authorities in the region	Amend	Amend by adding “overfishing” and “pollution” as specific issues.		Reject	We adopt the recommendations and reasons set out in the s42A Report as this issue is dealt with in the CE chapter
Harbour Fish, Southern Fantastic and Fantastic Holdings	00126.002	RMIA – CE-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: Change “both land development and marine vessels” to “activities that occur on land and in the marine environment”.		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.080	RMIA – CE-I2 Resource management issues of significance to iwi authorities in the region	Amend	Add as follows: <u>Discharge of liquid human waste from mortuaries and funeral homes into stormwater systems and coastal waters.</u>	S Te Rūnanga o Ngāi Tahu FS00234.075 S Te Ao Mārama FS00223.025	Accept in part	The panel accepts the amendment sought as reworded in the reply version dated 10 October,2023 appropriately addresses this issue
Southern Inshore Fisheries Management Company Limited	00124.002	RMIA – CE-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: Change “both land development and marine vessels” to “activities that occur on land and in the marine environment”.		Accept	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.134	RMIA – CE-I2 Resource management issues of significance to iwi authorities in the region	Amend	Amend by amending the issue “Proliferation of rubbish in the coastal environment, including materials such as lengths of rope from boats and moorings, plastic packaging strips, discarded and lost fishing gear, glass and plastic bottles as well as other dumped material” to include “ <u>in lakes and rivers</u> ”	S Kāi Tahu ki Otago FS00226.567	Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.081	RMIA –CE-I3 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.082	RMIA –CE-I4 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept	
Kāi Tahu ki Otago / Aukaha	00226.083	RMIA –CE-i5 Resource management issues of significance to iwi authorities in the region	Amend	Amend as follows: ... the coastal waters of Te Tai-o-Ara Te Uru-Tai – o – Araiteuru ... Specific concerns include: <ul style="list-style-type: none"> • Damage to and disturbance of wāhi tapu resulting from coastal erosion <u>and the impacts of climate change</u>, earthworks... • ... Failure to recognise and provide for the effects <u>of climate change, and of</u> changing sea levels on coastal landscapes.	S Te Rūnanga o Ngāi Tahu FS00234.076 S Te Ao Mārama FS00223.026	Accept	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.084	RMIA –PO & PO-I1 Resource management issues of significance to iwi authorities in the region	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and the Reply report and the supplementary evidence of James Henry Adams dated 11 October 2022

Submitter Name	Submitter + Submission point number	Chapter	Position	Summary of Decision Requested	Further Submissions Support S- Support O-Oppose	Recommendation	Reason
Te Ao Mārama	00223.052	RMIA – Resource management issues of significance to iwi authorities in the region	Amend	Amend to recognise that protecting pounamu is about integrated management of lands and waters rather than just a concern associated with land use, and to recognise the work that has been done within the tribe to improve pounamu management.	S Kāi Tahu ki Otago FS00226.454 S Te Rūnanga o Ngāi Tahu FS00234.077	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and the reply report and the supplementary evidence of James Henry Adams dated 11 October 2022

RESOURCE MANAGEMENT OVERVIEW

SRMR – Significant resource management issues for the region

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Central Otago Environmental Society	00202.002	General	Amend	Include underlying causes of significant issues such as inappropriate land use and management.	O Otago Water Resource Users FS00235.151	Reject	This is a general request which does not give precise details of amendment requested
Director-General of Conservation	00137.031	General	Amend	Retain as notified, except where specific amendments are sought below.		Reject	This is a general request which does not give precise details of amendment requested
Dunedin City Council	00139.014	General	Amend	Amend as follows: - to identify damming of the Clutha River/Mata – Au as a regionally significant issue and legacy effect. - to include relevant objectives and policies to address this issue.	S Beef + Lamb New Zealand Ltd FS00237.018 O Otago Fish and Game Council FS00609.061	Accept in part	We adopt the reasons and recommendations in the main recommendations report as to recognition of renewable electricity generation provision as an issue particularly in the discussion of SRMR-I2
Fulton Hogan Limited	00322.004	General	Amend	Amend as follows: Include a new statement in Part 2 of the RPS as follows. <u>“Aggregates are a vital component of everyday life including as a key construction material for regionally and nationally significant infrastructure. While district and regional plans need to address the potential adverse effects of quarrying activities, it is important that district and regional plans also recognise the importance of aggregates and the constraints that can be placed on quarrying activities and river based aggregate extraction. These constraints include:</u> a) <u>A lack of appropriate emphasis being placed on the importance of aggregate to wellbeing.</u> b) <u>Land use planning provisions that either fail to appropriately facilitate aggregate extraction opportunities or are unreasonably restrictive to aggregate extraction activities, and</u>	S Queenstown Lakes District Council FS00138.060 S Waka Kotahi NZ Transport Agency FS00305.013 O Otago Fish and Game Council FS00609.094 O Royal Forest and Bird Protection Society FS00230.039	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-I10a

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>Establishment of incompatible land use activities on or adjacent to resources leading to reverse sensitivity effects or resource sterilisation.”</u>			
Minister for the Environment	00136.002	General	Amend	There is not sufficient recognition of over – allocation as a significant issue for the region. Recommend adding in a discussion around the over – allocation and the historic context of deemed mining permits.	Beef + Lamb New Zealand Ltd FS00237.058 (neutral) Federated Farmers FS00239.064 (neutral) S Central Otago Environmental Society FS00202.127 S Oceana Gold FS00115.047 S Te Rūnanga o Ngāi Tahu FS00234.052 O Otago Water Resource Users FS00235.152	Reject	We adopt the recommendations and reasons set out in the s42A Report in particular at para 281
Oceana Gold (New Zealand) Ltd	00115.006	General	Amend	This chapter of the PORPS also needs to better recognise and provide for mining which is a significant issue for the region because of the economic benefits it brings.	S Graymont (NZ) Limited FS00022.016 O Otago Fish and Game Council FS00609.147 O Royal Forest and Bird Protection Society FS00230.040 O Te Rūnanga o Ngāi Tahu FS00234.053	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.021	General	Amend	All the relief sought by Fish & Game is generally reflected as solutions within the SRMR chapter, to be redrafted in its entirety.	O Otago Water Resource Users FS00235.152	Reject	This is a general request which does not give precise details of amendment requested
OWRUG	00235.022	General	Amend	Replace ‘tipping point’ with ‘threshold’ throughout the SRMR.	S Contact Energy Limited FS00318.026 S Federated Farmers FS00239.066	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 530 and in the Legal section to Appendix One on this issue.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
					S Oceana Gold FS00115.046		
Te Ao Mārama	00223.038	General	Amend	Improve consistency of references to mana whenua values, cultural values and cultural well-being.		Reject	This is a general request which does not give precise details of amendment requested
Te Ao Mārama	00223.039	General	Amend	Amend the second sentence of the first paragraph, and consider similar amendments wherever the phrase 'water quantity and water quality' or 'water quality and water quantity' is used, as follows: " ... pest species, water quantity and <u>water quality and the habitat of aquatic species</u> , and biodiversity loss ..."		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 40
Transpower New Zealand Limited	00314.009	General	Amend	Amend as follows: Introductory text (including figure 2) to also address the use, development and protection of physical resources; and AND SRMR to include a new issue that addresses need to operate, maintain, develop and upgrade the National Grid as regionally important – whilst acknowledging that the new issue does not need to be exclusive to the National Grid, but may also relate to other important infrastructure and should recognise the National Grid's critical role in achieving New Zealand's carbon zero future.		Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a
Trojan Holdings Limited (Trojan)	00206.078	General	Amend	Insert new section to identify and discuss, in a positive frame, the benefits to people and the environment from subdivision, use and development of natural and physical resources. This section should also identify and discuss the wellbeing benefits (and need) of ensuring people can access and use the rural and natural environment.	S Oceana Gold FS00115.048 S Otago Water Resource Users FS00235.153 O Federated Farmers FS00239.067 O Otago Fish and Game Council FS00609.198	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Trojan Holdings Limited (Trojan)	00206.079	General	Amend	Amend each "Impact Snapshot" to say "Adverse Impact Snapshot".		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 37
Wayfare Group Ltd	00411.098	General	Amend	Amend each "Impact Snapshot" to say "Adverse Impact Snapshot".		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 37
Yellow – eyed Penguin Trust	00120.014	General	Amend	Ensure that the context and definitions of the impacts are clear, well defined and effectively cover all of the potential issues.		Reject	This is a general request which does not give precise details of amendment requested
Aurora Energy Limited	00315.015	New – Provision	Amend	<p>Amend as follows: Add a new significant resource management issue addressing the extent to which the aspirations, challenges and resource management issues are supported by a well – functioning electricity distribution network, suggested drafting as follows:</p> <p><u>SRMR – IX</u> <u>Resilient electricity supply is critical to the health, wellbeing and prosperity of Otago, particularly in adapting to climate change.</u></p> <p><u>Statement</u> <u>Electricity supply is essential to our way of life. It supports community wellbeing, health, safety and economic prosperity. It also has a critical role to play in adapting to climate change by supporting communities to become less reliant on fossil fuels for heating and transport. As such there will be a need for electricity network providers to undertake significant development and upgrades to support the communities needs in the future.</u></p> <p><u>Context</u> <u>Otago’s electricity supply comprises electricity generation (primarily from hydro – electricity generation); transmission</u></p>	<p>S Network Waitaki Limited FS00320.013 S Transpower New Zealand Limited FS00314.027 S Mercury FS00605.097 O Otago Fish and Game Council FS00609.026</p>	Accept in part	We adopt the reasons and recommendations in the main recommendations report as to recognition of renewable electricity generation provision as an issue particularly in the discussion of SRMR-I2

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>through the National Grid; distribution from grid – exit points to zone substations, electricity sub – transmission infrastructure and finally through the distribution network to consumers.</u></p> <p><u>The electricity distribution network connects Otago to electricity supply. As such, faults in the network can have a direct impact on the health and safety and wellbeing of people and communities. The importance of electricity distribution to the community is reinforced by its identification as a lifeline utility. Electricity distribution providers have obligations to plan and prepare for significant natural hazard events to ensure that supply is able to be maintained and/or reinstated as soon as practicable.</u></p> <p><u>Climate change will have adverse effects on these network providers by increasing the risks to the infrastructure due to increasing storm intensity, increasing temperatures etc. This will occur in conjunction with increasing demands on the network due to population growth and greater reliance on electricity. Providers will need to adapt to other changes including more small – scale community electricity generation (such as in home solar). and should be avoided by providing a framework for the operation, maintenance, upgrade and development of that infrastructure.</u></p> <p><u>Impact Snapshot</u> <u>Environmental</u></p> <p><u>The distribution network has adverse effects on the environment which need to be appropriately managed. However, the management of the distribution network is limited by its functional and operational</u></p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>needs which often dictate where it can be located in the environment.</u></p> <p><u>The development, operation, maintenance and upgrade of the distribution network can be constrained or adversely affected by the establishment of incompatible activities around the network which can give rise to reverse sensitivity effects.</u></p> <p><u>Economic</u></p> <p><u>The distribution network is critical to the economic wellbeing of people and communities. Faults in the distribution network arising from natural hazards; adverse effects from climate change and incompatible activities increase the risk of network faults.</u></p> <p><u>Failing to proactive manage incompatible activities in proximity to the distribution network may require those activities to be dis – established and cause unintended economic loss.</u></p> <p><u>A lack of integrated management and long – term strategic planning for land – use activities can delay urban growth and land use changes reliant on an electricity supply.</u></p> <p><u>Social</u></p> <p><u>Incompatible activities can have adverse effects on the distribution network and may give rise to reverse sensitivity effects. This is particularly the case where urban expansion and intensification seeks to locate near the distribution network to a degree that can create risks to the health and safety and wellbeing of people. To avoid those risks, it is appropriate to manage incompatible activities near the distribution network,</u></p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>including primarily electricity sub – transmission infrastructure and significant electricity distribution infrastructure.</u></p> <p><u>Where the electricity network is not resilient enough it can exacerbate the adverse effects and consequences of adverse weather events and natural hazards which can impact on communities already affected by these events.</u></p> <p>OR</p> <p><u>Amend the SRMR to include a new issue that addresses the need to operate, maintain, develop and upgrade regionally significant infrastructure, noting Aurora Energy welcomes the opportunity to work with the Council and other infrastructure providers to develop this text and in doing so, acknowledges that the new issue does not need to be exclusive to the distribution network, but may also relate to other important infrastructure and should recognise the critical role of electricity supply in achieving New Zealand’s carbon zero future.</u></p>			
Chorus, New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand	00310.003	New – Provision	Amend	<p>Amend as follows:</p> <p>Add a new Significant Resource Management Issue that addresses the need to operate, maintain, develop and upgrade infrastructure. Initial drafting to include:</p> <p><u>“The operation, maintenance, upgrade and development of infrastructure is essential to enabling people and communities to provide for their social, cultural and economic well – being and necessary to support safe, responsive and resilient communities. Infrastructure are often also lifeline utilities and must be able to function</u></p>	<p>S Transpower New Zealand Limited FS00314.024</p> <p>S Otago Water Resource Users FS00235.154</p> <p>O Director-General of Conservation FS00137.015</p> <p>O Otago Fish and Game Council FS00609.046</p>	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>to the fullest possible extent in emergencies.”</u>			
Cosy Homes Charitable Trust	00242.001	New – Provision	Amend	Add an SRMR Issue related to poor air quality: “Poor ambient air quality is negatively impacting human health”	<p>○ Silver Fern Farms FS00221.015</p> <p>○ Otago Fish and Game Council FS00609.050</p>	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraphs 550 & 551
Fonterra Co – operative Group Limited	00233.018	New – Provision	Amend	<p>Include a further “significant resource management issue” focusing on the dependence of regional communities’ social and economic well-being on:</p> <p>(a) resource use and the need to provide for that use within sustainable limits, and</p> <p>(b) the importance of regionally significant industry and infrastructure to economic and social well-being and the need to protect it from the effects of reverse sensitivity.</p>	<p>○ Federated Farmers FS00239.068</p> <p>○ Oceana Gold FS00115.049</p> <p>○ Otago Water Resource Users FS00235.155</p> <p>○ Otago Fish and Game Council FS00609.088</p>	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-I10a
Horticulture New Zealand	00236.029	New – Provision	Amend	Add new issue statement for Food Production, Food Security and Food Supply that includes consideration of biosecurity matters.	<p>○ NZ Pork FS00240.009</p> <p>○ Federated Farmers FS00239.069</p> <p>○ Otago Fish and Game Council FS00609.107</p>	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-I10a
Horticulture New Zealand	00236.033	New – Provision	Amend	<p>Add new Significant Resource Management Issue as follows:</p> <p><u>“SRME – IX Food production systems are coming under increased pressure from population growth, competing resource use, climate change, and the need to improve environmental outcomes.</u></p> <p><u>Statement</u></p> <p><u>The production of fruit and vegetables in Otago operates as part of a national system that produces healthy food to support the essential health needs of people and provides jobs and export earnings which</u></p>	<p>○ Beef + Lamb New Zealand Ltd FS00237.042</p> <p>○ NZ Pork FS00240.010</p> <p>○ Federated Farmers FS00239.070</p> <p>○ Otago Water Resource Users FS00235.156</p> <p>○ Waitaki District Council FS00140.016</p> <p>○ Otago Fish and Game Council FS00609.108</p>	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-I10a

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>support the social, economic, and cultural wellbeing of our population. Those systems are under increased pressure from population growth to produce and supply food and to maintain food security. Competing demands are reducing the availability of land for primary production (particularly highly productive land), including reverse sensitivity impacts on primary production, and freshwater resources needed to produce and process food.</u></p> <p><u>Context</u> <u>Otago has nationally recognised and regionally significant food production systems critical for the essential human health of current and future generations. Currently the highest concentrations of growers are in the Central Otago and Waitaki Districts. However, there are growers located outside these areas.</u> <u>The combination of soil and climate (including high diurnal range) means that Central Otago is especially suited to growing high quality crops. Central Otago is one of the main commercial growing areas in New Zealand for stonefruit. Whereas, in the Waitaki District area, a wide variety of fruit and vegetable crops are grown.</u> <u>The production of fruit and vegetables (both outdoor growing and covered crops) in New Zealand operates as part of a national system, The regions supply markets at different times of the year; a sustainable, year – round supply of produce for New Zealand is only possible if the different growing regions work in conjunction to ensure that seasonality and other variables, such as diseases and weather, do not interrupt that supply.</u> <u>Food security is a nationally important issue which needs to be addressed at a strategic</u></p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>level. While New Zealand is a net food exporter, many of the vegetables and some of the fruit that we grow are only for domestic food supply.</u></p> <p><u>Diversification to horticulture presents an opportunity to reduce emissions while increasing food production. The transition to developing indoor growing and outdoor food systems that have lesser emissions, will require an integrated approach, that include behaviour change, investment in research, infrastructure, and technology as well as regulatory signals. However, they require significant investment and as such regulatory certainty, particularly with respect to matters such as water access.</u></p> <p><u>Impact snapshot</u></p> <p><u>Environmental</u></p> <p><u>People are part of the natural environment, and the social, economic, and cultural wellbeing of all people must be provided for within natural environmental limits.</u></p> <p><u>For future generations, it is critical that Highly Productive Land (HPL) is protected from the continual trend of cumulative loss and loss of productive capacity due to reverse sensitivity and competition for natural resources. Any protection of HPL from inappropriate subdivision, must also recognise its value for current and future generations for food production and enable its use for food production.</u></p> <p><u>There needs to be flexibility to develop highly productive land in some places. What is important, is that urban development and productive land are considered together to provide a planned approach so new urban areas are designed in a manner that maintains the overall productive capacity of highly productive land.</u></p>			

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				<p><u>In the context of greenhouse gas emissions reduction targets, the Paris Agreement highlights the importance of food production and food security, recognising the “fundamental priority of safeguarding food security ...” and noting the need to adapt and foster resilience and lower emissions, in a manner that does not threaten food production.</u></p> <p><u>‘Ināia tonu nei: a low emissions future for Aotearoa’ includes the assumption (in the Demonstration Path) that 2,000 ha of land will be converted to horticulture per year from 2025 and notes that the Commission expect this could increase if “barriers – such as water availability, labour, supply chains and path to market – are addressed”.</u></p> <p><u>Opening up more opportunities for conversion to lower emissions production systems and land uses, including horticulture’ is listed as a critical outcome.</u></p> <p><u>The advice also notes that further land use change from livestock agriculture into horticulture and forestry (from 2021, additional 3,500 ha per year converted from dairy) would be required to meet the more ambitious end of the 2050 methane target if new technology does not come through.</u></p> <p><u>It is important to not create barriers to climate change adaptation and/or mitigation and enable long-term climate change adaptation and/or mitigation, though projects such as water storage and provisions which enable growing areas to move between regions. Climate change will also compound the impacts of existing pests and provide opportunities for new pests to establish themselves due to changed conditions potentially threatening food production systems and food supply.</u></p> <p><u>The regional value of food production is expressed through the vision of four the five Freshwater Management Units:</u></p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<ul style="list-style-type: none"> • <u>Clutha Mata – au FMU</u> • <u>North Otago FMU</u> • <u>Taieri FMU</u> • <u>Catlins FMU</u> <p><u>Water is necessary for food production. This is linked to population growth food demand and an essential human health.</u></p> <p><u>Economic</u> <u>For most vegetable crops, the domestic market is the primary market, but many growers produce export crops within their rotations for practical (soil health) and economic reasons. For example, onions which are predominately grown for export are grown with other vegetables crops in rotation. Onions grown in rotation with non – alliaceae crops promote soil health. Export income provides greater economic resilience.</u> <u>We need to ensure economic and environmental sustainability of primary production are taken into account when protecting HPL. Otherwise, we risk stranded assets being sold off as poorly performing lifestyle blocks.</u></p> <p><u>Social</u> <u>It is not just the economic benefits associated with primary production that are important. The rural economy supports rural communities and rural production defines much of the rural landscape. Food production values provide a platform for long term sustainability of communities, through the provision of food security.</u> <u>New Zealand also has an important role in exporting fresh vegetables to the Pacific Islands. For example, in 2016 76% of total exported potatoes went to Fiji, 87% of exported Kumara and 82% of exported cauliflower, 75% of exported cabbage went</u></p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>to the Pacific Islands. NZ has an important role in the food security of Pacific Islands. New Zealand and our Pacific Island neighbours are too remote to import many fresh vegetables from elsewhere in the world. Most vegetables that New Zealand imports are processed.</u></p> <p><u>While some fruit crops grown in New Zealand have a predominately export focus. Many fruit crops are grown mainly for the domestic supply.</u></p> <p><u>Ministry of Health data indicates that only 33.5% of adults and 44.1% of children are meeting fruit and vegetable intake guidelines.</u></p> <p><u>Despite, on the whole, New Zealand producing more food than we can consume (noting this is not true of all crops), many New Zealanders live in food insecurity. A 2019 Ministry of Health study analysed household food insecurity among children in New Zealand, it estimated that 174,000 (19%) of all children in New Zealand live in food – insecure households.</u></p> <p><u>There is an extensive body of research indicating that children experiencing household food insecurity have lower fruit and vegetable intake, diets higher in fat, and are at an increased risk of obesity.</u></p> <p><u>In New Zealand, for families living in deprived areas, increases in fruit and vegetable prices, especially around their off – season, compel them to substitute the purchase of healthier whole fruit and vegetables with cheap energy – dense and nutrient – poor products.</u></p> <p><u>Just as maintaining our environmental brand is of value to our high value export products, so too is ensuring that all New Zealanders have access to the healthy food, that we built our export reputation on.</u></p> <p><u>There are complex social and economic reasons that people struggle to meet their</u></p>			

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				<p><u>nutritional needs. Growers are passionate about providing healthy produce; however, it is still a business and for them to continue to grow the healthy food we rely on, it has to be economically viable.</u></p> <p><u>Regulatory pressure is preventing the expansion of vegetable growing from keeping up with population growth. This is predicted to result in increased cost for consumers, with tangible health consequences.”</u></p>			
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.022	New – Provision	Amend	Insert an additional issue to the SRMR chapter “ Interacting with water bodies” discussing the positive issue of the ways in which people interact with the environment in Otago for recreation and amenity, including but not limited to how resource management decisions impact upon this capability.	<ul style="list-style-type: none"> ○ Meridian Energy Limited FS00306.009 ○ Otago Water Resource Users FS00235.159 	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraphs 550 & 551
OWRUG	00235.058	New – Provision	Amend	<p><u>The Food and Fibre Sector is facing a significant period of change due to climate change and the need to improve environmental outcomes.</u></p> <p><u>Statement:</u></p> <p><u>The Food and Fibre sector is essential to the New Zealand and Otago economy. New Zealand is renowned for producing high quality products capable of achieving a premium price and providing food and materials for domestic consumption. This generates significant benefits for our economy and communities. However, the sector faces some significant challenges in the short, medium and long-term driven by climate change, requirements to improve environmental outcomes and global consumer trends. Otago is uniquely exposed to these challenges because of the profile of</u></p>	<ul style="list-style-type: none"> ○ NZ Pork FS00240.008 ○ Federated Farmers FS00239.071 ○ Horticulture NZ FS00236.032 ○ Waitaki District Council FS00140.020 ○ New Zealand Carbon Farming FS00602.013 ○ Otago Fish and Game Council FS00609.154 	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a

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				<p><u>its economy. As such, particular attention needs to be paid to how change is managed.</u></p> <p><u>Context</u> <u>The food and fibre sector accounts for a significant proportion of the Otago economy. For example, in Central Otago District 14.7% of GDP, compared to the national average of 6.2%. In the Clutha District, Agriculture, Forestry and Fishing make up 32.1% of GDP, and in the Waitaki District Agriculture, Forestry and Fishing make up 32.5% of GDP. This presents risks and opportunities for the region. It means that if change is managed poorly the region will feel the impacts of this disproportionately, but the reverse is also true. Regardless, careful management of change within the sector is important so that communities are not unnecessarily impacted in a negative way. This includes the potential downstream impacts of a successful transition that have the potential to create other challenges such as pressure for urban growth and associated infrastructure.</u></p> <p><u>Impact snapshot</u> <u>Environmental</u> <u>The Food and Fibre sector cannot operate on a business as usual basis. Even in locations where water availability and water quality issues are not of concern adaptations will be necessary so that the sector is contributing to New Zealand's carbon zero 2050 commitments. However, demand for the products produced by the Food and Fibre Sector are likely to continue to increase and the ability of the sector to meet this demand will be critical to the wellbeing of the community, particularly with respect to the provision of nutrient dense food. It will be necessary for the sector to innovate to ensure it can meet the demands of the community while working within</u></p>			

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				<p><u>environmental limits. There needs to be a considered and integrated approach to land – use change so that it does not give rise to unintended consequences. For example, widespread establishment of carbon forestry may adversely affect water availability, and irreversibly remove land from food production.</u></p> <p><u>Economic</u> <u>As highlighted above the Food and Fibre sector has a critical role in the national and regional economy. Ultimately a well – managed transition to more efficient production methods is likely to result in higher wages through demand for more highly skilled staff etc. In the interim though change has the potential to come at significant cost to the sector. Individual producers will have varying capacity to implement changes due to their current capital structure etc. Regulatory changes that significantly compromise productivity are likely to impact on land value which will affect the equity position of some businesses and hamper their ability to implement further changes. These issues reinforce the need for a well – managed transition that allows a degree of flexibility, particularly in the medium term.</u></p> <p><u>Social</u> <u>It is not just the economic benefits associated with primary production that are important. A thriving Food and Fibre Sector supports thriving rural communities ensuring these communities continue to have viable populations that support wider community activities including schools, recreational clubs, businesses etc.</u> <u>In recent years the rural community has faced significant pressure due to widespread concern about the effects of</u></p>			

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				<p><u>rural activities on the natural environment. These issues combined with the significant regulatory uncertainty arising as a result is having an adverse effect on the health and wellbeing of people within the rural sector.</u></p> <p><u>At its worst these pressures can result in suicide with suicide rates in rural communities significantly higher than in urban areas. This is another reason for ensuring that the transition required within sector is carefully managed with consideration given to the capacity of the community to sustain change.</u></p>			
Wayfare Group Ltd	00411.097	New – Provision	Amend	<p>Insert new section to identify and discuss, in a positive frame, the benefits to people and the environment from subdivision, use and development of natural and physical resources.</p> <p>This section should also identify and discuss the wellbeing benefits (and need) of ensuring people can access and use the rural and natural environment.</p>	<p>S Oceana Gold FS00115.050 S Otago Water Resource Users FS00235.157 O Federated Farmers FS00239.072</p>	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-I10a
Director-General of Conservation	00137.032	Introduction	Amend	Amend the first two paragraphs to recognise the value of the environment in its own right.	S Te Ao Mārama FS00223.124	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.019	Introduction	Amend	<p>Make the following amendments:</p> <ul style="list-style-type: none"> - Amend the provisions to acknowledge and reflect the fact Otago’s natural resource assets enable the people and communities within Otago to provide for their social, economic, and cultural wellbeing. - Amend sentence two of the first paragraph as follows: “Natural resources include freshwater (i.e., surface and groundwater, wetlands, estuaries), land, terrestrial, <u>soil</u> and freshwater ecosystems, coastal and marine ecosystems, and air, 	<p>S Oceana Gold FS00115.051 S Otago Water Resource Users FS00235.158</p>	Accept in part	<p>As to the first point we adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-I10a</p> <p>As to the second we adopt the recommendations and reasons set out in the s42A Report</p>

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				landscapes, vegetation and natural landforms”			
Highton, John	00014.003	Introduction	Amend	Amend to include ongoing loss of wetlands and tussocks uplands.		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraphs 64, 550 & 551
Horticulture New Zealand	00236.021	Introduction	Amend	<p>Amend as follows:</p> <p>Figure 2: amend to show food production, food supply and food security as a human health need and benefit along with housing.</p> <p>AND</p> <p>“...Natural resources include freshwater (i.e. surface and groundwater, wetlands, estuaries), land <u>and soil</u>, terrestrial and freshwater ecosystems, coastal and marine ecosystems, and air, landscapes, vegetation and natural landforms.</p> <p>...</p> <p>From a social and cultural perspective natural resources support and are impacted by <u>food production</u>, recreation, housing, and cultural activities (Refer Figure 2). <u>Food production, food supply and food security relate to essential human health needs which are to be provided for through sustainable resource management.</u></p> <p>AND</p> <p>This RPS identifies the eleven most significant issues impacting the Otago region. Issues firstly considered include natural hazards, climate change, <u>food production</u>, pest species, water quantity and quality, and biodiversity loss, collectively the “natural asset-based issues”.</p>	<p>S Beef + Lamb New Zealand Ltd FS00237.038</p> <p>S NZ Pork FS00240.007</p> <p>S Federated Farmers FS00239.073</p>	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Kāi Tahu ki Otago / Aukaha	00226.057	Introduction	Amend	Amend to emphasise the hauora and the mana of te taiao as the central focus of the	O Otago Water Resource Users FS00235.160	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				ORPS, and the overarching issue in resource management in Otago.			
New Zealand Pork Industry Board	00240.004	Introduction	Amend	Amend to describe Otago's food production values and in the relation between natural resources, resource use and strategies (Figure 2). AND Amend to identify an additional regionally significant value and resource management issue relating to Otago's food production capacity.	S Horticulture NZ FS00236.033	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a
Oceana Gold (New Zealand) Ltd	00115.005	Introduction	Amend	Amend as follows: Include "minerals" as a natural resource on Figure 2.	O Te Rūnanga o Ngāi Tahu FS00234.055	Accept	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraphs 61 and 65(b)
OWRUG	00235.021	Introduction	Amend	Amend as follows: Otago's people and communities rely on the natural resources that Otago's environment provides to enable their social, economic, and cultural well-being. Natural resources include freshwater (i.e. surface and groundwater, wetlands, estuaries), land <u>and soil</u> , terrestrial and freshwater ecosystems, coastal and marine ecosystems, and air, landscapes, vegetation and natural landforms. From an economic perspective natural resources support, and are impacted by, <u>food and fibre production</u> , urban development, industrial development, infrastructure, energy generation, transport, marine industries (fishing and aquaculture), tourism and mineral extraction. From a social and cultural perspective natural resources support and are impacted by <u>food and fibre sector production</u> , recreation, housing, and cultural activities (Refer Figure 2). <u>Food and fibre sector production, in particular secure food supply and security are essential to human health</u>	S Federated Farmers FS00239.074 S Horticulture NZ FS00236.034	Accept in part	We adopt the reasons and recommendations in the Reply report and the main recommendations report as to this issue which has been addressed in recommended SRMR-110a

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>needs which are to be provided for through sustainable resource management.</u></p> <p>This RPS identifies the eleven most significant issues impacting the Otago region. Issues firstly considered include natural hazards, climate change, <u>food and fibre sector production</u>, pest species, water quantity and quality, and biodiversity loss, collectively the “natural asset – based issues”.</p>			
OWRUG	00235.023	Introduction	Amend	Amend Figure 2 to refer to food and fibre production.	<p>S Matakauui Gold Limited FS00021.012</p> <p>S Federated Farmers FS00239.075</p> <p>S Horticulture NZ FS00236.035</p>	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 61
Rayonier Matariki Forests	00020.003	Introduction	Amend	Include plantation forestry in SRMR introduction and figure 2 as it is part of the primary production activities in the Otago region.	<p>S Ernslaw One Ltd FS00412.010</p> <p>S Ngai Tahu Forestry FS00600.002</p> <p>Federated Farmers FS00239.076 (neutral)</p>	Accept	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraphs 61 and 65(b)
Toitū Te Whenua, Land Information New Zealand	00101.002	Introduction	Amend	Amend so that the leading paragraphs better reflect the interrelation between natural resources and cultural or wellbeing values, including the natural system of biosphere elements, human and wildlife populations, the social system, the economic system, the political system, the cultural system etc		Reject	This is a general request which does not give precise details of amendment requested
Toitū Te Whenua, Land Information New Zealand	00101.003	Introduction	Amend	Amend to give greater weight to activities that affect and disturb soil as a resource management issue.		Reject	This is a general request which does not give precise details of amendment requested
Toitū Te Whenua, Land Information New Zealand	00101.004	Introduction	Amend	Amend to include a "High country" place – based issue that acknowledges the significance of the inherent values in Otago's high country and that this land area has low resilience and is therefore at	Federated Farmers FS00239.077 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 59

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				significant risk of economic and ecological failure in the face of climate change.			
Toitū Te Whenua, Land Information New Zealand	00101.005	Introduction	Amend	Amend as follows: Amend by moving the final paragraph of the introduction to the beginning. Making it clearer from the start that all the issues are interrelated.		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 58
Yellow – eyed Penguin Trust	00120.012	Introduction	Amend	Amend as follows: Include health benefits (as well as enabling social, economic and cultural well – being) Add “health” benefits		Reject	We adopt the recommendations and reasons set out in the s42A Report particularly at paragraph 57
Yellow – eyed Penguin Trust	00120.013	Introduction	Amend	Add background information on biodiversity values and services.		Reject	This is a general request which does not give precise details of amendment requested
Matakanui Gold Limited	00021.005	SRMR – Introduction	Amend	Amend Figure 2 to clarify the relationship between ‘benefit’s and ‘impacts’ with regard to mining.		Reject	This is a general request which does not give precise details of amendment requested
Director-General of Conservation	00137.033	SRMR – I1	Amend	Add the following, or words to like effect: “ <u>The risk resulting from natural hazards is not just due to the hazards themselves, but also whether human activities are located and operated in ways which make them vulnerable to those hazards.</u> ”	S Federated Farmers FS00239.078	Accept	We adopt the recommendations and reasons set out in the s42A Report
Dunedin City Council	00139.015	SRMR – I1	Amend	Amend wording in statement to align with all issues in the rest of this section.		Reject	This is a general request which does not give precise details of amendment requested
Dunedin City Council	00139.016	SRMR – I1	Amend	Amend to clearly identify the communities/areas most likely to be impacted.	S Federated Farmers FS00239.079	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.020	SRMR – I1	Amend	Amend ‘Statement’ as follows or similar: “ <u>Otago is prone to a range of natural hazards that pose a risk to Otago communities, property, infrastructure, and the wider environment. A major event could cause significant damage and may isolate Otago communities for</u>	S NZ Pork FS00240.011 S Horticulture NZ FS00236.036	Accept in part	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>an extended time. For example, particular areas of Otago are prone to flooding (e.g: South Otago and the Taieri Plains). Also, an earthquake on the Alpine fault could potentially cause catastrophic impacts on the entire region. Other natural hazard risks include; tsunami, sea level rise, coastal erosion, wild fires, and extreme weather events such as hail storms.”</u></p> <p>Amend ‘Context’ as follows: “... business disruption <u>and can significantly impact agricultural and other food production businesses and housing agriculture can be disrupted</u> in Otago’s floodplains (<u>including lower Clutha and Taieri</u>).”</p> <p>Amend ‘Impact snapshot – Economic’ as follows: “... social safety net mechanisms and institutions, <u>including access to health care via rural roading networks.</u> For industry, ... financial resilience of businesses <u>and their ability to access a skilled workforce</u>, which is a function of their existing loan commitments, credit worthiness and insurance cover. Food security can also be affected. <u>Whilst the primary industry has substantial resilience to severe weather events and supply chain disruptions, the cumulative impact of repeated events must be acknowledged.”</u></p> <p>Amend ‘Impact snapshot – Social’ as follows: “... resilience of a community. <u>The cumulative impact of events on physical and mental health must be acknowledged and planned for, along with the potential for there to be a rural and urban disparity in</u></p>			

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				<p><u>the severity of physical and mental health challenges.</u> Social impacts of events can result in immediate impacts on livelihoods for individuals and families, particularly for lower socio – economic groups <u>and on small rural communities.</u>”</p>			
Horticulture New Zealand	00236.022	SRMR – I1	Amend	<p>Amend ‘Statement’ as follows: “<u>A major hazard event could isolate all or parts of Otago for an extended time. Natural hazards pose a risk to essential human health needs including regionally and nationally significant food production and events can disrupt food supply.</u>”</p> <p>Amend ‘Context’ as follows: “The Otago region is exposed to a wide variety of natural hazards that impact on people <u>including essential human health needs of housing, food and water, property, infrastructure, historic heritage and the wider environment...</u> ... <u>business disruption, and a Agriculture and food production and food supply can be disrupted in Otago's floodplains (lower Clutha and Taieri) and elsewhere in heavy rain events.</u>”</p> <p>Amend ‘Impact snapshot – Economic’ as follows: ...<u>Food security production systems can also be affected impacting on the regional economy with immediate effect on jobs and longer – term effects on production value and domestic and export returns.</u>”</p> <p>Amend ‘Impact snapshot – Social’ as follows: “... <u>There can be short and long terms impacts on the regional and nationally significant Otago food production system.</u>”</p>	<p>S Beef + Lamb New Zealand Ltd FS00237.039 S NZ Pork FS00240.014 S Federated Farmers FS00239.080</p>	Accept in part	We adopt some of the reasons and recommendations in the Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>The food supply chain can be disrupted and the security of an essential human health need compromised.”</u>			
Lauder Creek Farming	00406.001	SRMR – I1	Amend	Amend to include Fire, from either human or natural causes, as a natural hazard, and undertake consequential changes as required elsewhere in the RPS	S Federated Farmers FS00239.081	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Meridian Energy Limited	00306.014	SRMR – I1	Amend	Amend as follows: (a) inserting the following statement at the end of the Economic impact paragraphs on page 66, <u>“The economic impacts of natural hazards within the Otago region can extend beyond the region’s boundary, particularly if renewable electricity generation activities are disrupted”</u> , or words of the same effect; and (b) inserting the following statement at the end of the Social impact (on page 66), <u>“The social impacts of natural hazards within the Otago region can extend beyond the region’s boundary, particularly if renewable electricity generation activities are disrupted”</u> , or words of the same effect.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report & Reply Report
New Zealand Pork Industry Board	00240.005	SRMR – I1	Amend	‘Statement’ to note that Natural hazards pose a risk to food production and supply. Amend ‘Context’ to note that Natural hazards pose a risk to food production and supply. Amend ‘Impact snapshot – Economic’ to identify an additional regionally significant value and resource management issue relating to Otago’s food production capacity and that the effects of natural hazards on food security extend beyond economic impacts.		Accept in part	We adopt some of the reasons and recommendations in the Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1
OWRUG	00235.024	SRMR – I1	Amend	Amend as follows: A major hazard event could isolate all or parts of Otago for an extended time.	S NZ Pork FS00240.012 S Federated Farmers FS00239.082	Accept in part	We adopt some of the reasons and recommendations in the Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>Natural hazards pose a risk to the food and fibre sector, both in terms of short term provision of food, but also longer term productivity. The role of local food production will be essential in the event of a significant natural hazard. The resilience of the sector is reliant in part on the infrastructure that serves it, such as transport, electricity and communications networks.</u>	S Horticulture NZ FS00236.037		
OWRUG	00235.025	SRMR – I1	Amend	Amend as follows: The Otago region is exposed to a wide variety of natural hazards that impact on people <u>including housing, food and water, property, infrastructure, historic heritage and the wider environment...</u> ... For example, flooding can affect Otago's main urban centres causing damage to housing and business disruption. <u>It can disrupt food and fibre production which can compromise food supply chains. It also creates animal welfare issues and damages productive land resulting in the likes of crop and infrastructure damage which takes considerable time and effort to reinstate. Recovering from these events can take a number of years.</u>	S NZ Pork FS00240.013 S Federated Farmers FS00239.083 S Horticulture NZ FS00236.038	Accept in part	We adopt some of the reasons and recommendations in the s.42A and Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1
OWRUG	00235.026	SRMR – I1	Amend	Amend as follows: Economic ... is a function of their existing loan commitments, credit worthiness insurance cover <u>and/or the speed at which normal service can resume (if at all). This will often depend on the ability for lifeline utilities to maintain or re – establish normal levels of service quickly.</u> <u>Food security and fibre sector production systems can also be affected impacting on the regional economy with immediate effect on jobs and longer – term effects on</u>	S Federated Farmers FS00239.084 S Horticulture NZ FS00236.039	Accept in part	We adopt some of the reasons and recommendations in the s.42A and Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>production value and domestic and export returns.</u>			
OWRUG	00235.027	SRMR – I1	Amend	Amend as follows: <u>Social</u> <u>... There can be short and long terms impacts on the regional and nationally significant Otago food production system. The food supply chain can be disrupted, the extent of which will be influenced by the nature of the event and the ability of lifeline utilities and essential service providers to maintain or re – establish normal levels of service quickly.</u>	S Federated Farmers FS00239.085 S Horticulture NZ FS00236.040	Accept in part	We adopt some of the reasons and recommendations in the s.42A and Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1
Queenstown Lakes District Council	00138.002	SRMR – I1	Amend	Amend 'Context' as follows: - That fire hazard be referenced in the first paragraph. - That a more definitive statement is provided within the fifth paragraph with respect to the impact of climate change on natural hazards within Otago. Attention should also be drawn to the body of evidence that has been produced, and will continue to be developed, with regard to the impacts of climate change on natural hazards. Amend 'Impact snapshot – Social' as follows: (page 66) include reference the transient nature of the Queenstown Lakes District population and their unique set of social characteristics and associated impacts.		Accept in part	We adopt some of the reasons and recommendations in the s.42A and Reply report but particularly adopt the main recommendations report as to food related issues which has been addressed in amended wording for recommended SRMR-I1
Te Ao Marama	00223.040	SRMR – I1	Amend	Amend as follows: Impact snapshot; Environmental: “... Seismic events result in liquefaction of land and associated soil disturbance, elevated sea levels and associated flooding, potential permanent inundation and coastal erosion.”		Accept	We adopt the reasons and recommendations in the s.42A report
Toitū Te Whenua, Land	00101.006	SRMR – I1	Amend	Don't refer to destruction of communities and the negative impacts on people as		Accept	We adopt the reasons and recommendations in the s.42A report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Information New Zealand				"secondary". Prioritise these ahead of other "social impacts"			
Trojan Holdings Limited (Trojan)	00206.080	SRMR – I1	Amend	Context The Otago region is exposed to a wide variety of <i>natural hazards</i> that impact on people, property, <i>infrastructure</i> , historic heritage and the wider <i>environment</i> . When a <u>major</u> <i>natural hazard</i> event occurs, it is usually difficult and costly for a community to recover. ..		Reject	We adopt the reasons and recommendations in the s.42A report writer's 5A supplementary evidence
Waitaki District Council	00140.010	SRMR – I1	Amend	Amend as follows: - Replace 'risk' with 'issue' - Remove "potentially" Amend 'Statement' as follows: "Coastal erosion is an risk issue in Waitaki District, Dunedin City and along the Clutha River Delta, potentially affecting communities and infrastructure near the coast." Amend 'Context' as follows: - Paragraph 2 – Replace agriculture with "primary production" - Include Lower Waitaki in the bracketed naming of specific rivers	S Matakanui Gold Limited FS00021.014	Accept in part	We adopt the reasons and recommendations in the s.42A report
Wayfare Group Ltd	00411.099	SRMR – I1	Amend	Amend first paragraph under Context as follows: The Otago region is exposed to a wide variety of <i>natural hazards</i> that impact on people, property, <i>infrastructure</i> , historic heritage and the wider <i>environment</i> . When a <u>major</u> <i>natural hazard</i> event occurs, it is usually difficult and costly for a community to recover. ..		Reject	We adopt the reasons and recommendations in the s.42A report writer's 5A supplementary evidence
Christchurch International	00307.002	SRMR – I2	Support	Retain as notified		Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the following supplementary evidence and Reply report as well as changes in the main recommendations report which accept changes requested in other

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Airport Limited (CIAL)							submissions.
Contact Energy Limited	00318.003	SRMR – I2	Amend	Amend as follows: Amend the issue statement to recognise the critical role renewable energy facilities have to play in achieving New Zealand’s climate change and decarbonisation requirements		Accept in part	We adopt the reasons and recommendations in the main recommendations report
Director-General of Conservation	00137.034	SRMR – I2	Amend	Amend para 5 as follows or words to like effect: “...have been identified as being at risk, such as South Dunedin and the Taieri Plains.”		Reject	We adopt the reasons and recommendations in the s.42A report
Federated Farmers of New Zealand	00239.021	SRMR – I2	Amend	Amend ‘Statement’ – add an additional sentence as follows or similar: “ <u>Climate change brings an increased risk of wildfire. With changing landscape use (increased forestry and afforestation) the risk of fire is increased. Another potential impact comes from increased pests and diseases associated with changing or warming climates, risking the health of livestock, vegetation and biodiversity</u> ”. Amend ‘Context’ to include the following or similar: “ <u>Rainfall and temperature change may result in drier soils and changes to river flow (low flow and floods), as well as increased occurrence of slips/landslides.</u> <u>Sea level rise will have impacts on coastal communities, infrastructure and habitats, while the risk of wildfire will also increase.</u> <u>Changing climate also risks increased biosecurity issues of increased plant, fungal and animal pests and diseases (e.g facial eczema), as well as disease vectors (e.g Mosquitos).</u> “	S Horticulture NZ FS00236.041 S Royal Forest and Bird Protection Society FS00230.043 S Waitaki District Council FS00140.019 O New Zealand Carbon Farming FS00602.015 O Rayonier Matariki Forests FS00020.016	Accept in part	We adopt the reasons and recommendations in the s.42A report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>Amend 'Impact snapshot – Economy – Regional Industry'; add the following or similar: <u>"Some of the responses to mitigate climate change such as increased afforestation for carbon offsetting, lead to other risks, such as further drying out of catchments, increased risk of wildfire, fragmentation of pastoral systems, increased pest numbers, and a resultant decline in rural communities. "</u></p> <p>Amend 'Impact snapshot – Social'; add the following or similar: <u>"There is also the potential for inequality between rural and urban dwellers, as responses to climate change may focus on the areas with greatest population density, and climate change mitigation strategies such as increased afforestation for carbon offsetting may directly impact rural communities. "</u></p>			
Highton, John	00014.004	SRMR – I2	Amend	Specify reduced river flows as reduced water reliability is too vague.		Reject	We adopt the reasons and recommendations in the s.42A report
Highton, John	00014.005	SRMR – I2	Amend	Amend to include increased algal growth and algal blooms as recognised hazards.		Reject	We adopt the reasons and recommendations in the s.42A report
Horticulture New Zealand	00236.023	SRMR – I2	Amend	<p>Amend title as follows: <u>"SRMR – I2 – Climate change is likely to will impact our economy and environment"</u></p> <p>Amend 'Statement' as follows: <u>"... land can sustain. Food production systems will need to change to respond to food supply and food security needs.</u> ... The impact of other climate change threats is unpredictable. <u>It is important to not create barriers to climate change adaptation and/or mitigation and</u></p>	S Federated Farmers FS00239.086	Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the following supplementary evidence and Reply report as well as the main recommendations report which accept some changes requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>enable long-term climate change adaptation and/or mitigation.”</u></p> <p>Amend ‘Context’ as follows: “The rate of future climate change depends on how fast greenhouse gas concentrations increase. <u>The region has a critical role to play to reduce emissions including through land use change.”</u></p> <p>A mend ‘Impact snapshot – Economy, Regional Industry’ as follows: “... <u>Diversification to horticulture presents an opportunity to reduce emissions and support the transition to a low emissions economy. It is important that decision makers can assess the benefits of land use change.</u> ... or water harvesting <u>and storage practices.”</u></p>			
Meridian Energy Limited	00306.015	SRMR – I2	Amend	Amend as follows: “...This will be compounded by stronger winds, increased temperatures and longer dry periods, which may affect the number and types of crops and animals that the land can sustain, <u>and the potential for renewable electricity generation...”</u>		Accept in part	We adopt the reasons and recommendations in the main recommendations report
New Zealand Pork Industry Board	00240.006	SRMR – I2	Amend	Amend ‘Impact snapshot – Economic’ as follows: <ul style="list-style-type: none"> - Identify an additional regionally significant value and resource management issue relating to Otago’s food production capacity and that the effects of climate change on primary production activities extend beyond economic impacts. - Indoor and outdoor pig farming is another key primary production activity in the region to be acknowledged. 		Accept in part	We adopt the reasons and recommendations in the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.023	SRMR – I2	Amend	Amend as follows: Remove the word ‘native’ throughout the passage, except where referring to interactions between native and introduced species in the first paragraph of the Environment sub–section.	<input type="radio"/> Contact Energy Limited FS00318.027 <input type="radio"/> Otago Water Resource Users FS00235.161	Accept in part	We adopt the reasons and recommendations in the s.42A report
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.024	SRMR – I2	Amend	Amend as follows: Insert additional sentence into the Environment section which reads: <u>Human adaptation to climate change, such as building or expanding dams or flood protection schemes, may impose adverse impacts upon ecosystems in addition to those imposed by climate change itself.</u>	<input type="radio"/> Greenpeace FS00407.041 <input type="radio"/> Contact Energy Limited FS00318.028 <input type="radio"/> Federated Farmers FS00239.087 <input type="radio"/> Meridian Energy Limited FS00306.006 <input type="radio"/> Otago Water Resource Users FS00235.162	Accept	We adopt the reasons and recommendations in the s.42A report and the main recommendations report
OWRUG	00235.028	SRMR – I2	Amend	Amend as follows: SRMR – I2 – Climate change is likely to <u>will</u> impact our economy and environment Statement ...may affect the number and types of crops and animals that the land can sustain. <u>Food and fibre production systems will need to change in response and to maintain food supply and important fibre sources for the community.</u> ... The impact of other climate change threats is unpredictable. <u>It is important to not create barriers to climate change adaptation and/or mitigation and for long-term climate change adaptation and/or mitigation to be actively facilitated to speed up the transition to a lower emissions economy.</u>	<input type="radio"/> Federated Farmers FS00239.088 <input type="radio"/> Horticulture NZ FS00236.042 <input type="radio"/> Greenpeace FS00407.053	Accept in part	We adopt the reasons and recommendations in the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
OWRUG	00235.029	SRMR – I2	Amend	Amend SRMR – I2 Context as follows: The rate of future climate change depends on how fast greenhouse gas concentrations increase. <u>The region has an important role to play to reduce emissions including through land use production system adaptation and change.</u>	S Federated Farmers FS00239.089 S Horticulture NZ FS00236.043	Reject	We adopt the reasons and recommendations in the s.42A report
OWRUG	00235.030	SRMR – I2	Amend	Amend SRMR – I2 Impact Statement / Economy / Regional Industry as follows: ... potentially enable resources previously unviable to come into production. <u>Diversification to different farm systems and transition to lower emission production systems presents an opportunity to reduce emissions and support the transition to a low emissions economy. It is important that decision makers can assess the benefits of land use change and that the resource management framework facilitates these transitions by providing certainty to enable investment. This includes the utilisation of water to support low emission production systems.</u> or through changes in crop intensification, or water harvesting <u>and storage practices.</u>	S Federated Farmers FS00239.090 S Horticulture NZ FS00236.044	Reject	We adopt the reasons and recommendations in the s.42A report
OWRUG	00235.031	SRMR – I2	Amend	Amend SRMR – I2 to recognise the risk on water resources due to afforestation of plantation forests for carbon sequestration.	New Zealand Carbon Farming FS00602.012 (neutral) S Federated Farmers FS00239.091 S Horticulture NZ FS00236.045 S Waitaki Irrigators Collective Limited FS00213.009	Reject	We adopt the reasons and recommendations in the s.42A report
Queenstown Lakes District Council	00138.003	SRMR – I2	Amend	Amend 'Impact snapshot – Environmental' as follows:		Accept in part	We adopt the reasons and recommendations in the s.42A report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<ul style="list-style-type: none"> (page 66/68) include reference to the effects of climate change on the visual appearance and recreational enjoyment of Otago's highly valued landscapes. <p>Amend 'Impact snapshot – Economic' as follows:</p> <ul style="list-style-type: none"> (page 68/69) include reference to the effects of climate change on Otago's significant tourism industry. (page 68/69) include reference to impacts to built environment from the range of natural hazards that are likely to be exacerbated by the effects of climate change, such as fire, wind, and mass movement (ie debris flow and landsliding). 			
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.023a	SRMR – I2	Amend	<p>Amend as follows: “SRMR – I2 – Climate change is likely to <u>will</u> impact our economy and environment”</p> <p>Amend the second paragraph of SRMR – I2 to recognise the impact which hard protection structures can have in terms of restricting coastal habitats and preventing coastal migration of coastal habitats and ecosystems.</p>	S Greenpeace FS00407.032	Accept in part	We adopt the reasons and recommendations in the s.42A report
Te Ao Mārama	00223.041	SRMR – I2	Amend	<p>Amend as follows: “SRMR – I2 – Climate change is likely to impact our economy environment and environment economy well-being”</p>		Reject	We adopt the reasons and recommendations in the s.42A report
Toitū Te Whenua, Land Information New Zealand	00101.007	SRMR – I2	Amend	<p>Amend the statement to focus more on the regional contributions to climate change and areas for change, not just the natural hazards that result from a changing climate. As with how the economic section speaks about impacts and opportunities, the</p>	S Otago Water Resource Users FS00235.163	Reject	This is a general request which does not give precise details of amendment requested.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				context should cover the causal and coincidental factors.			
Toitū Te Whenua, Land Information New Zealand	00101.008	SRMR – I2	Amend	Provide more context surrounding the need to future proof regional industries and that traditional and current practices are unlikely to hold up to climate change.	S Otago Water Resource Users FS00235.163	Reject	This is a general request which does not give precise details of amendment requested
Toitū Te Whenua, Land Information New Zealand	00101.009	SRMR – I2	Amend	Comment on the potential of increased climate induced urban drift.	S Federated Farmers FS00239.092 S Otago Water Resource Users FS00235.164	Reject	This is a general request which does not give precise details of amendment requested
Trojan Holdings Limited (Trojan)	00206.082	SRMR – I2	Amend	Climate change is likely to impact our economy and environment – Economy For <u>Some</u> tourism activities may be affected. For example, the amount of natural snowfall is expected to reduce meaning ski fields will be more reliant on snowmaking. , there will be negative impacts on skiing where the number of snow days experienced annually could decrease by as much as 30 – 40 days in some parts of the region. The duration of snow cover is also likely to decrease, particularly at lower elevations. This will also lead to reduced summer waterflows		Reject	We adopt the reasons and recommendations in the s.42A report
Trustpower Limited	00311.005	SRMR – I2	Amend	Amend as follows Add the following paragraph under the heading of ‘Regional Industry’. <u>“A number of hydroelectric power schemes are located within the Otago Region. The current Government has set a target for increasing renewable electricity to 100% by 2030. Alongside that sits New Zealand’s commitment to the Paris Climate Change Agreement – to reduce greenhouse gas emissions to 30% below the 2005 levels, and a domestic ‘net zero’ commitment of all greenhouse gas emissions (except methane) by 2050. For these commitments to be achieved, rapid electrification of the economy will be required, and this wil</u>	S Contact Energy Limited FS00318.029 S Meridian Energy Limited FS00306.007	Accept in part	We adopt the reasons and recommendations in the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>require a significant increase in the installed capacity of emissions free renewable electricity generation.”</u>			
WAI Wanaka	00222.006	SRMR – I2	Amend	Acknowledge the Government’s Climate Emergency declared in December 2020		Reject	We adopt the reasons and recommendations in the s.42A report
Waitaki District Council	00140.011	SRMR – I2	Amend	Amend ‘Statement’ to include Hampden Beach. Amend to include reference to carbon forestry as a resource management issue for Otago (p.67).	S Federated Farmers FS00239.093 O New Zealand Carbon Farming FS00602.004	Reject	We adopt the reasons and recommendations in the s.42A report
Wayfare Group Ltd	00411.101	SRMR – I2	Amend	Amend third paragraph under Economy as follows: For Some tourism activities may be affected. For example, the amount of natural snowfall is expected to reduce; meaning ski fields will be more reliant on snowmaking. there will be negative impacts on skiing where the number of snow days experienced annually could decrease by as much as 30 – 40 days in some parts of the region. The duration of snow cover is also likely to decrease, particularly at lower elevations. This will also lead to reduced summer waterflows		Reject	We adopt the reasons and recommendations in the s.42A report
Wise Response Society Inc	00509.025	SRMR – I2	Amend	Amend as follows: Remove text that suggests there are some wins.		Reject	This is a general request which does not give precise details of amendment requested
Yellow – eyed Penguin Trust	00120.015	SRMR – I2	Amend	Ensure that the gravity of climate impacts and increased pests and diseases are understood (particularly for already declining endemic species).		Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.025	SRMR – I3	Support	Retain as notified		Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the Reply report as well as the main recommendations report which accept some changes requested in other submissions
Beef & Lamb NZ and Deer Industry NZ	00237.009	SRMR – I3	Amend	Amend to recognise and support work already being implemented by private landowners.	S Federated Farmers FS00239.094	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.022	SRMR – I3	Amend	<p>Amend ‘Statement’ as follows or similar: “Pest species can be found throughout Otago, from alpine to marine environments. In Otago, <u>pest species include organisms from terrestrial species, diseases, to freshwater and marine aquatic pest species. For example, Rabbits ... impacting on primary production, soil quality, recreational values, hydrological and conservation values. “</u></p> <p>Amend ‘Context’ as follows or similar: “Otago’s landscape, <u>water</u>, and climate support many <u>organisms</u> plants and animals considered to be pests. This includes weeds, vertebrate pests (e.g. rabbits), invertebrate pests, <u>and diseases ...</u> Strategy priorities ...l production <u>and rural communities and economies. “</u></p> <p>Amend ‘Impact snapshot – Environmental’ as follows or similar: “Pests can also adversely impact natural features, <u>waterways</u>, and landscapes. ... <u>As a result</u>, severe erosion can have adverse effects on water quality. ... Possums <u>can spread disease (viral and bacterial)</u>, such as bovine tuberculosis, which can have severe impacts on stock <u>welfare and production. ...</u></p>	S NZ Pork FS00240.015 S Horticulture NZ FS00236.046 S Royal Forest and Bird Protection Society FS00230.041	Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the Reply report as well as the main recommendations report which accepted some changes requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>Nationally, weeds are conservatively estimated to cost New Zealand’s pastoral, arable and forestry sectors over \$1.6b. Also, weeds will were estimated to potentially affect 7% of the conservation estate within a decade, corresponding to a loss of native biodiversity equivalent to \$1.3 billion.</u></p> <p>For example, ... <u>impact soil nutrient cycling</u>, change the landscape and negatively impact recreational, hydrological and conservation values. Pest species destabilise aquatic habitats and negatively modify water flow with consequences for drainage, irrigation, power generation and recreational activities. The introduction of the freshwater diatom didymo (<i>Didymosphenia geminata</i>) in South Island streams is an example.”</p> <p>Amend ‘Impact snapshot – Economic’ as follows:</p> <p>“Pests ... <u>crop or animal production</u>, higher water requirements and reductions in animal health. Weeds can affect wool quality, <u>impact the quality of leather</u>, taint meat...</p> <p>...</p> <p>Biosecurity failure ... <u>bag</u>), <u>and to our primary sector export markets</u>...</p> <p>Weeds, for example, are conservatively estimated to cost the New Zealand primary (<u>pastoral, arable, and forestry</u>) sector economy ...</p> <p>Amend as follows or similar:</p> <p>“Recreation values can be impacted through loss of amenity, access or landscape values. Pests can also cause human health problems <u>and have a related economic cost</u>. For example, some weed</p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				pollens can induce asthma and cause allergies (e.g. hay fever). 20 Zoonoses (bacterium, viruses, parasites, prions) can result in diseases being transferred from animals to humans and include, for example, leptospirosis and campylobacter. <u>These diseases also have costs in terms of employee absence from work and necessary disease treatment.</u> “			
Horticulture New Zealand	00236.024	SRMR – I3	Amend	<ul style="list-style-type: none"> - Amend title as follows: " SRMR – I3 – Pest species pose an ongoing threat to indigenous biodiversity, <u>food production and food security</u>, economic activities and landscapes” - Amend ‘Statement’ as follows: “... health and recreation activities. <u>Climate change will compound the impacts of existing pests and providing opportunities for new pests to establish themselves due to changed conditions potentially threatening food production systems and food supply.</u> - Amend ‘Impact snapshot – Social’ as follows: “... and campylobacter. <u>Pests and biosecurity incursions can affect food production, food supply and food security matters that are also essential to human health needs.</u>” 	<p>S NZ Pork FS00240.016 S Federated Farmers FS00239.095</p>	Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the Reply report as well as the main recommendations report which accepted some changes requested
Meridian Energy Limited	00306.016	SRMR – I3	Amend	Amend as follows: The third paragraph of SRMR-I3 Impact snapshot, Economic be amended to “Weeds, for example, are conservatively estimated to cost the New Zealand economy \$1.6 billion per annum ¹⁹ in terms of loss of economic production, management and control costs. They also affect landscape amenity value and tourism experiences relied upon by the tourism sector. Weeds can also adversely impact	S Contact Energy Limited FS00318.031	Accept in part	We adopt the reasons and recommendations in the s.42A report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				infrastructure, (for example, water systems including irrigation, dams, and levies); power systems (e.g., generation penstock, gates, valves, surge tanks, transmission lines) <u>renewable electricity generation activities</u> ; and transportation systems (e.g. road beds, lake and river transportation, airstrips).”			
New Zealand Infrastructure Commission	00321.013	SRMR – I3	Amend	Amend as follow: Infrastructure access to the effects management hierarchy can help resource pest control, and this should be recognised as part of the solution to the problem	S Oceana Gold FS00115.052	Reject	This is a general request which does not give precise details of amendment requested.
New Zealand Pork Industry Board	00240.007	SRMR – I3	Amend	Amend ‘Statement’ to note that Pest Species pose a risk to biosecurity and food production. Amend ‘Context’ to ensure a clear linkage through the ORPS, the statement above should be amended to note that Pest Species pose a risk to biosecurity and food production. Amend ‘Impact snapshot – Economic’ to Identify an additional regionally significant value and resource management issue relating to Otago’s food production capacity and that the effects of pests and biosecurity on primary production activities extend beyond economic impacts.	S NZ Pork FS00240.006 S Federated Farmers FS00239.096	Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the Reply report as well as the main recommendations report which accepted some changes requested
OWRUG	00235.032	SRMR – I3	Amend	Amend SRMR – I3 as follows: Include reference to Wallabies throughout SRMR – I3 SRMR – I3 – Pest species pose an ongoing threat to indigenous biodiversity, <u>food and fibre production and food security</u> , economic activities and landscapes.	S NZ Pork FS00240.017 S Federated Farmers FS00239.097 S Horticulture NZ FS00236.047	Accept in part	We adopt the reasons and recommendations in the s.42A report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
OWRUG	00235.033	SRMR – I3	Amend	Amend SRMR – I3 Statement as follows: ... and affecting agriculture. <u>Wallabies are an increasing risk with incursion beyond their containment zone and illegal liberations resulting in an expanding range within Otago, particularly Waitaki, Central Otago and Queenstown Lakes.</u> ... <u>Climate change will compound the impacts of existing pests and provide opportunities for new pests to establish themselves. This will potentially threaten food and fibre production systems and food supply and undermine community wellbeing.</u>	S NZ Pork FS00240.018 S Federated Farmers FS00239.098 S Horticulture NZ FS00236.048 S Horticulture NZ FS00236.049	Accept in part	We adopt various of the reasons and recommendations in the s.42A report and the Reply report as well as the main recommendations report which accepted some changes requested
OWRUG	00235.034	SRMR – I3	Amend	Snapshot – Economic Amend the whole of the plan as follows; <u>Refer to Food and Fibre Sector instead of agriculture. This should be picked up throughout the plan.</u>	S Federated Farmers FS00239.099	Reject	We adopt the reasons and recommendations in the s.42A report
OWRUG	00235.036	SRMR – I3	Amend	Amend SRMR – I3 Impact snapshot / Social as follows: ... for example, leptospirosis and campylobacter. <u>Pests and biosecurity incursions can affect food and fibre production, food supply and food security matters.</u>	S NZ Pork FS00240.019 S Federated Farmers FS00239.100 S Horticulture NZ FS00236.050	Accept in part	We adopt the main recommendations report which accepted some changes requested
Port Blakely NZ Ltd	00033.002	SRMR – I3	Amend	Change reference from ‘Wilding Pines’ to ‘Wilding Conifers’.	S Ernslaw One Ltd FS00412.011	Accept	We adopt the reasons and recommendations in the s.42A report
Te Ao Mārama	00223.042	SRMR – I3	Amend	Recognise that wild goats are impacting on culturally significant lands and taoka species in parts of the region in a similar manner to deer and wallabies, here and at the top of page 80.	S Federated Farmers FS00239.101	Accept in part	We adopt the reasons and recommendations in the s.42A report
Toitū Te Whenua, Land Information New Zealand	00101.010	SRMR – I3	Amend	Acknowledge how historically poor practice and mistakes have heightened the prevalence of pest species in Otago. Acknowledge how human – mediated land		Reject	This is a general request which does not give precise details of amendment requested.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				use change can drive pest plant trait variation and therefore their prevalence and perseverance in modified and natural environments. Note that land use change and agricultural intensification have contributed to the prevalence of invasive pest species across the region; land use change associated with urbanisation and agricultural practices is a leading cause of environmental degradation; and non – native invasive species can and have transformed ecosystems at the landscape level by altering disturbance regimes, nutrient cycling as well as above and below ground ecosystem properties.			
Toitū Te Whenua, Land Information New Zealand	00101.011	SRMR – I3	Amend	In some cases pest species can be native and that the economic and social values may also be adversely affected by undesirable native species such as <i>Coriaria arborea</i> or <i>Wiseana cervinata</i> . Furthermore, this section lacks commentary on how pest species may affect the abiotic environment (the non – living part of the ecosystem).	S Federated Farmers FS00239.102	Reject	This is a general request which does not give precise details of amendment requested.
Toitū Te Whenua, Land Information New Zealand	00101.012	SRMR – I3	Amend	Give more weight to landscape values in relation to how pest species modify landscapes.		Reject	This is a general request which does not give precise details of amendment requested
Waitaki District Council	00140.012	SRMR – I3	Amend	Amend to include reference to carbon forestry as a resource management issue for Otago (p.70, 71).	S Oceana Gold FS00115.054 S Royal Forest and Bird Protection Society FS00230.042 S Te Rūnanga o Ngāi Tahu FS00234.056 O New Zealand Carbon Farming FS00602.005	Reject	This is a general request which does not give precise details of amendment requested
Wayfare Group Ltd	00411.102	SRMR – I3	Amend	Amend as follows: Replace all references to “ wilding conifers ” with “ <u>Wilding Tree Species</u> ”.		Reject	We adopt the reasons and recommendations in the s.42A report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.103	SRMR – I3	Amend	Amend third sentence of third paragraph under Economic as follows: Weeds, <u>including didymo and lake snow</u> can also adversely impact <i>infrastructure</i> , for example, <i>water</i> systems including irrigation, dams, and levies; power systems (e.g. generation penstock, gates, valves, surge tanks, transmission lines); and transportation systems (e.g. <i>road</i> beds, <i>lake</i> and <i>river</i> transportation, airstrips).		Accept in part	We adopt the reasons and recommendations in the s.42A report
Wise Response Society Inc	00509.026	SRMR – I3	Amend	Include coastal marine pests in the issue		Reject	We adopt the reasons and recommendations in the s.42A report
Yellow – eyed Penguin Trust	00120.016	SRMR – I3	Amend	Ensure that the gravity of climate impacts and increased pests and diseases are understood (particularly for already declining endemic species).		Reject	This is a general request which does not give precise details of amendment requested
AgResearch Limited	00208.004	SRMR – I4	Amend	Snapshot – Environmental Amend the first sentence of the second paragraph in the “Environmental” subsection of the “Impact Snapshot” section of SRMS – 14 as follows: <i>Urban development can also lead to reverse – sensitivity effects on existing or potential whereby traditional methods of pest management or the undertaking of rural primary production activities in rural areas or supporting activities that have an operational need to locate in these areas (e.g. rural research, rural industry) cannot be deployed due to the proximity of new urban populations and the potential for adverse impacts on those populations.</i>	<p> S Silver Fern Farms FS00221.016 S Horticulture NZ FS00236.051 O Queenstown Lakes District Council FS00138.002 </p>	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Beef & Lamb NZ and Deer Industry NZ	00237.010	SRMR – I4	Amend	<p>Amend to provide for the following:</p> <p>Context</p> <ul style="list-style-type: none"> Recognise that the growth of urban areas has an impact on the rural population. <p>Environmental</p> <ul style="list-style-type: none"> Explicitly identify that the loss of productive soil to urban growth is irreversible and that productive land is a finite resource that needs protecting. Highlight the link of loss of productive soil with the associated loss of biodiversity, ecosystem services, natural landscapes, and amenity values. Identify rural functions as essential and highly beneficial aspects of the regional environment. Change the perspective of describing the issue of reverse – sensitivity and ensure the onerous is put on urban development. <p>Economic</p> <ul style="list-style-type: none"> State that urban expansion onto productive land can result in reverse sensitivity issues when inadequately managed and compromise the existing rural function and that this should be avoided. <p>Social</p> <p>Describe the economic implications of loss of productive soil on rural communities and the wider region.</p>	<p>S Federated Farmers FS00239.038</p> <p>S Federated Farmers FS00239.103</p> <p>S Otago Water Resource Users FS00235.165</p> <p>S Waitaki District Council FS00140.015</p>	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Christchurch International Airport Limited (CIAL)	00307.003	SRMR – I4	Amend	<p>Amend as follows:</p> <p>Include discussion of the risk that incompatible urban growth can pose for significant infrastructure. Urban growth and infrastructure provision and planning should be donehand – in – hand, whilst supporting the recognition in SRMR – I4 that urban</p>	<p>S The Fuel Companies FS00510.036</p> <p>S Transpower New Zealand Limited FS00314.023</p>	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				growth is a significant resource management issue, in particular the recognition that urban development can lead to reverse sensitivity effects and impacts on infrastructure if not appropriately managed and located.			
Dunedin City Council	00139.017	SRMR – I4	Amend	Social – amend to refer to deaths and serious injuries on the transport network.	S Waka Kotahi NZ Transport Agency FS00305.015	Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.023	SRMR – I4	Amend	Include an additional sentence as follows or similar: <u>“It is better to regenerate existing urban areas than it is to unnecessarily expand into rural areas”</u> Adopt as proposed and ensure reverse sensitivity issues are adequately reflected throughout relevant RPS provisions.	S Horticulture NZ FS00236.052 S Otago Water Resource Users FS00235.166	Reject	We adopt the reasons and recommendations in the s.42A report
Fonterra Co – operative Group Limited	00233.015	SRMR – I4	Amend	Amend the heading as follows: Poorly managed urban and residential growth affects productive land, treasured natural assets, infrastructure, <u>industry</u> and community well-being	S AgResearch Limited FS00208.004 S Federated Farmers FS00239.104 S Otago Water Resource Users FS00235.167	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Fonterra Co – operative Group Limited	00233.016	SRMR – I4	Amend	Add to the list of bullet points under the “Economic” heading on p 73 the following additional matter: <u>Conflict arising from the location of incompatible activities within proximity of each other, including the potential for reverse sensitivity effects on the continued operation and growth of regionally significant industry.</u>	S AgResearch Limited FS00208.005 S Silver Fern Farms FS00221.017 S Federated Farmers FS00239.105 S Oceana Gold FS00115.055 S Otago Water Resource Users FS00235.167	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Fulton Hogan Limited	00322.005	SRMR – I4	Amend	Amend as follows: “Context [...]	S Federated Farmers FS00239.106	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>Where Urban growth, especially if it exceeds infrastructure capacity (either through sheer pace and scale or by lack of planning) or if it occurs in a way or at a rate that mean that appropriate infrastructure is not provided, is lagging or is inefficient, or encroaches on lawfully established activities or land valued for primary production, can result in adverse impacts (including reverse sensitivity effects) on the environment, existing residents, business and wider society. Quality urban environments are those that maximise the positive aspects of urban areas and minimise the negative.”</u></p> <p>AND Sub – section ‘Impact snapshot’ uses the term ‘rural production activities’, and ‘productive land’ when referring to reverse sensitivity effects and other issues associated with urban growth. Substitute these terms for the defined term ‘Primary Production’ throughout the pRPS to make it clear what activities the issues relate to.</p>	<p>S Horticulture NZ FS00236.053 S Oceana Gold FS00115.056</p>		
Fulton Hogan Limited	00322.006	SRMR – I4	Amend	Amend as follows: Retain reference to the direct and indirect (through reverse sensitivity effects) impact on land used for Primary Production within the economic ‘Impact snapshot’.	<p>S Federated Farmers FS00239.107 S Horticulture NZ FS00236.054</p>	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Highton, John	00014.006	SRMR – I4	Amend	Include altered chemical composition of lakes due to the melting of glaciers and permanent snow as an effect of climate change in the pre – amble of the SRMR chapter.		Reject	We adopt the reasons and recommendations in the s.42A report that this type of issue is addressed in SRMR-I6
Highton, John	00014.007	SRMR – I4	Amend	The protection and enhancement of urban waterways should feature more strongly in the RPS21.		Reject	This is a general request which does not give precise details of amendment requested

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Horticulture New Zealand	00236.025	SRMR – I4	Amend	<p>Amend ‘Statement’ as follows by adding after the sentence regarding Mosgiel: <u>“Cromwell’s growth is threatening the ability to use productive land for high value horticulture. Towns like Arrowtown, Clyde, Cromwell and Milton experience poor air quality in winter, while experiencing pressure to grow.”</u></p> <p>Amend ‘Context’ as follows: <u>“The productive land in Otago contributes to the social and economic wellbeing of the community through production of food and other rural production based products. Otago has areas of highly productive land which are particularly valuable for food production. The rural character of the rural area is also an attribute that contributes to the importance of the rural area. However where development occurs in a place or manner that removes or reduces the potential to use productive land, including through reverse sensitivity effects, the productive capacity of the land is compromised and not available for the benefit of society.”</u></p> <p>Amend ‘Impact snapshot – Environmental’ as follows: <u>“Urban or rural lifestyle expansion onto highly productive land removes the land resource from production, including the production of food.</u></p> <ul style="list-style-type: none"> ○ Identify that water is another resource that can be adversely affected by poorly managed urban growth and development. <p>- Support ‘Impact snapshot – Economic’ bullet point 1.</p>	<p>S Beef + Lamb New Zealand Ltd FS00237.040</p> <p>S Federated Farmers FS00239.108</p> <p>S Otago Water Resource Users FS00235.168</p>	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				Amend 'Impact snapshot – Social' by adding as follows: <u>"The loss of productive land (either directly though building on it, or indirectly though reverse sensitivity effects) affects the production of food and food security and hence the health needs of people."</u>			
OWRUG	00235.037	SRMR – I4	Amend	Amend SRMR – I4 Impact snapshot/Economic as follows; <u>Include the loss of productive land (either directly though building on it, or indirectly though reverse sensitivity effects) as a social impact on food production and food security.</u> <u>Identify that water is another resource that can be adversely affected by poorly managed urban growth and development.</u>	S Federated Farmers FS00239.109 S Horticulture NZ FS00236.055	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Queenstown Lakes District Council	00138.004	SRMR – I4	Amend	Amend 'Impact snapshot – Economic' as follows: - (page 73) be amended so that it more accurately describes the long established and growing housing affordability challenges that are present in the Queenstown Lakes District, such as constrained supply and diversity of housing, and the use of housing for non – residential activities within the Queenstown Lakes District such as short term visitor accommodation. - (page 73/74) be amended so that it more accurately describes the long established and growing housing affordability challenges that are present in the Queenstown Lakes District and the adverse effects this has had on its community.		Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Rural Contractors NZ	00410.002	SRMR – I4	Amend	Amend the first sentence of the second paragraph in the "Environmental"	S Federated Farmers FS00239.110	Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.

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				subsection of the "Impact Snapshot" section of SRMS-14 as follows: Urban development can also lead to reverse-sensitivity effects <u>on existing or potential</u> whereby traditional methods of pest management or the undertaking of rural primary production activities in rural areas or supporting activities that have an operational need to locate in these areas (e.g. rural industry (such as rural contractor depots)) cannot be deployed due to the proximity of <u>new</u> urban populations and the potential for adverse impacts on those populations.			
Te Ao Marama	00223.043	SRMR – I4	Amend	Amend to remove second parenthesis, as follows: "...The attraction of urban areas results from the benefits of proximity and access to a variety of other people, experiences, goods, services (e.g. shopping, education, specialist service providers, recreation and leisure facilities and infrastructure (usually described as agglomeration effect)). ..."		Reject	The words in parentheses are effective.
Toitū Te Whenua, Land Information New Zealand	00101.013	SRMR – I4	Amend	Give greater context around urban and residential development specifically suburban sprawl of seasonal homes (baches) in amenity areas near mountains, lakes, and other recreation – oriented settings. Also note that those high recreational value areas contain many of the region's most important natural resource values.		Reject	We adopt the reasons and recommendations in the s.42A report
Toitū Te Whenua, Land Information New Zealand	00101.014	SRMR – I4	Amend	Further detail of other potential reverse sensitivity effects should be noted		Accept in part	We adopt the reasons and recommendations in the s.42A report and the main recommendations report.
Wayfare Group Ltd	00411.104	SRMR – I4	Amend	Amend as follows: ... The growth of Wanaka and Queenstown is changing the natural landscape.		Reject	The deletion proposed would inappropriately change the nature of the issue being described.

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Wayfare Group Ltd	00411.105	SRMR – I4	Amend	<p>Amend Context, as follows: ... The open space and landscapes provided in rural <u>and unmodified natural areas additionally</u> also drives demand for rural residential/<u>lifestyle</u> living, particularly in areas with these qualities that are <u>similarly</u> also in relative proximity to urban services.</p> <p>...</p> <p>Urban growth, especially if it exceeds <i>infrastructure</i> capacity (either through sheer pace and scale or by lack of planning) or if it occurs in a way or at a rate that mean that appropriate <i>infrastructure</i> is not provided, is lagging or is inefficient, can result in adverse impacts on the <i>environment</i>, existing residents, business and wider society. Quality urban environments are those that maximise the positive aspects of urban areas and minimise the negative.</p>		Accept in part	We adopt the reasons and recommendations in the s.42A report .
Fire and Emergency New Zealand – Te Kei Region Otago Southland	00219.014	SRMR – I5	Support	Social (p75) – appropriate freshwater supply being available for firefighting as part of planned urban growth	S Federated Farmers FS00239.111	Reject	Submission of no effect as made prior to re-notification of FPI.
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.024	SRMR – I5	Support	Retain as notified		Reject	Submission of no effect as made prior to re-notification of FPI.
AWA	00502.001	SRMR – I5	Amend	<p>Amend as follows:</p> <p>...irrigation and other economic uses. <u>Some of these uses largely beneficial effects on the environment and communities; in contrast, other uses of water can have</u></p>	<p>S Queenstown Lakes District Council FS00138.003</p> <p>O Federated Farmers FS00239.112</p>	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>unacceptable adverse effects.</u> <i>Freshwater</i> resources in some places are reaching, or are beyond, their sustainable abstraction limits. However, t There continues to be debate in the community about how historical freshwater allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs. <u>The RMA enables regional councils to add rules to their plans to allocate water amongst competing activities. This approach will be adopted in the Regional Water Plan.</u>			
Beef & Lamb NZ and Deer Industry NZ	00237.011	SRMR – I5	Amend	Remove reference to goal of improving freshwater quality within 5 years.	S Federated Farmers FS00239.113 O Queenstown Lakes District Council FS00138.023	Reject	Submission of no effect as made prior to re-notification of FPI.
Central Otago Environmental Society	00202.003	SRMR – I5	Amend	Redraft ‘Freshwater demand exceeds capacity in some places’ paragraph to read to following: “Freshwater demand exceeds ecological capacity in some places In water – short catchments ecological capacity may not allow demand for consumptive uses to be met.”	O Federated Farmers FS00239.114 O Otago Water Resource Users FS00235.169	Reject	Submission of no effect as made prior to re-notification of FPI.
Dunedin City Council	00139.018	SRMR – I5	Amend	Amend ‘Context’ to clearly identify where ‘deemed permits’ are a key problem in Otago.	Beef + Lamb New Zealand Ltd FS00237.019 (neutral)	Reject	Submission of no effect as made prior to re-notification of FPI.
Ernslaw One	00412.005	SRMR – I5	Amend	Make clear that the provisions of the NES Plantation Forestry 2017 take precedence over the NES Freshwater 2020. The regional council can only set rules that are more stringent than the NESPF 2017 if there is evidence that the controls in the NESPF 2017 are not sufficiently stringent to meet the Councils objectives for freshwater.	O Te Rūnanga o Ngāi Tahu FS00234.057	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Fonterra Co – operative Group Limited	00233.017	SRMR – I5	Amend	Amend the text under the heading “Economic” to read: Freshwater in the Otago region is a factor of production that directly contributes to human needs (urban water supply), agriculture, <u>industry, including rural industry</u> , hydro – electric power supply, and mineral extraction.	S Silver Fern Farms FS00221.018 S Federated Farmers FS00239.115 S Otago Water Resource Users FS00235.170 O Kāi Tahu ki Otago FS00226.153	Reject	Submission of no effect as made prior to re-notification of FPI.
Highton, John	00014.008	SRMR – I5	Amend	Amend to include more detail on “deemed permits” and the permissive water resource management regime.		Reject	Submission of no effect as made prior to re-notification of FPI.
Horticulture New Zealand	00236.026	SRMR – I5	Amend	Amend ‘Statement’ as follows: “Many of these catchments are also experiencing urban growth, changes in rural land uses <u>to meet food supply demands of growing urban populations and will continue to change to respond to climate change</u> , and increased demand for hydro-electric generation.” Amend ‘Context’ as follows: “Population growth, <u>food production</u> and land-use intensification ...” Amend ‘Impact snapshot’ to specifically the health and safety issues associated with water demand including drinking, sanitation and food production. Link the impact snapshot to the FMU vision statements seeking outcomes whereby innovative and sustainable land and water management practices support food production and improve resilience to the effects of climate change.	S NZ Pork FS00240.020 S Federated Farmers FS00239.116 S Otago Water Resource Users FS00235.171	Reject	Submission of no effect as made prior to re-notification of FPI.
Lauder Creek Farming	00406.002	SRMR – I5	Amend	Amend to provide clear definitions on natural flow regimes	S Federated Farmers FS00239.117	Reject	Submission of no effect as made prior to re-notification of FPI.
New Zealand Pork Industry Board	00240.008	SRMR – I5	Amend	Amend ‘Context’ to note that population growth also increases food demand.	S Federated Farmers FS00239.118	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				Amend 'Impact snapshot – Economic' to note that freshwater in the Otago region is a factor of production that directly contributes to food production as a human need.	S Otago Water Resource Users FS00235.172		
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.026	SRMR – I5	Amend	Add sentence to the Environmental section: "... between species and their habitat. <u>The sum of these impacts affects the overall health, well-being and resilience of the water body.</u> How much an ecosystem ..."		Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.038	SRMR – I5	Amend	Amend SRMR – I5 Statement as follows: ... the health and well-being needs of the environment <u>freshwater</u> , the health and well-being needs of people, and the ability of people and communities to provide for their social, economic and cultural well-being. Many of these catchments are also experiencing urban growth, changes in rural land uses <u>to meet food and fibre supply demands from growing populations and the need to implement change to respond to climate change, including increased demand for hydro – electricity.</u>	S Horticulture NZ FS00236.056	Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.039	SRMR – I5	Amend	Amend SRMR – I5 Context as follows: Population growth, <u>food and fibre production</u> and land – use intensification in urban and rural environments can create increased demand for freshwater for human consumption, irrigation and other economic uses. Freshwater resources in some places are reaching, or are beyond, their sustainable abstraction limits. However, there continues to be debate in the community about how historical freshwater allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs. <u>Whatever the outcome of those debates there will need to be significant change</u>	S Federated Farmers FS00239.119 S Horticulture NZ FS00236.057	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>implemented over appropriate timeframes to adjust to the new allocation regime. Managing this transition carefully will be necessary to manage the impacts that will affect the social, economic and cultural wellbeing, including mental health of the community.</u></p>			
OWRUG	00235.040	SRMR – I5	Amend	<p>Amend SRMR – I5 Impact Snapshot as follows:</p> <p>... taking into account magnitude, frequency, timing, duration and rate of change, <u>species composition</u> and ecosystem capacity to recover.</p> <p>Freshwater in the Otago region is a factor of production that directly contributes to human needs (urban water supply <u>and food production</u>), <u>Food and fibre production</u> (including irrigation and irrigation storage), hydro – electric power supply, and mineral extraction...</p>	<p>S NZ Pork FS00240.021 S Federated Farmers FS00239.120 S Horticulture NZ FS00236.058</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.041	SRMR – I5	Amend	<p>Amend the Social Impact Snapshot by adding the following: <u>Many communities in Otago are heavily reliant on the food and fibre sector which generates significant economic activity, as well as providing product to both the domestic and export market. Reduction in water allocation will adversely impact on the productive capacity of the food and fibre sector with significant downstream economic consequences. These economic consequences will manifest as reduced social cohesion in small communities as people move away to find other sources of employment, or the availability of locally grown food diminishes. However, there are also opportunities for increased employment associated with the transition to new land use types that may be</u></p>	<p>S Federated Farmers FS00239.121 S Horticulture NZ FS00236.059</p>	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>precipitated by changes to allocation regimes and/or climate change adaptation. Managing this transition carefully will be necessary to manage the impacts that will arise for the social, economic and cultural wellbeing, including mental health of the community and seeking out opportunities that will improve these well-beings. In order to address these issues, providing certainty to resource users, including the food and fibre sector and a clear and integrated transition framework is necessary.</u></p>			
OWRUG	00235.042	SRMR – I5	Amend	<p>Amend SRMR – I5 Impact Snapshot as follows: <u>...How much an ecosystem is affected by taking of freshwater is typically determined by departure from natural flow regimes, taking into account the magnitude, frequency, timing duration and rate of change and ecosystem capacity to recover. However, in parts of Otago the flow regime that exists has been significantly altered due to the establishment of dams for water storage and hydro – electricity generation. In many cases these structures have been in place for many years (i.e. 80 to 100 years) and have values (including environmental, social and economic values) associated with them. These factors will in some instances affect the degree to which natural flow regimes can or should be restored. Further, exotic freshwater species, particularly salmonids are widespread with Otago’s waterbodies. They are valued by the community as a source of food and for their sports fishing values. However, they also can have adverse effects on indigenous species. In some cases flow regimes induced by abstractions have protected indigenous species from predation. Changes to flow regimes will need to be carefully managed to ensure that these interactions do not</u></p>	<p>S Federated Farmers FS00239.122 S Horticulture NZ FS00236.060</p>	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>give rise to significant loss of vulnerable indigenous species. These factors will in some instances affect the degree to which natural flow regimes can or should be restored.</u>			
Queenstown Lakes District Council	00138.005	SRMR – I5	Amend	Amend ‘Context’ as follows: “Population growth and land – use intensification in urban and rural environments can create increased demand for freshwater for human consumption, irrigation and other economic uses. <u>Some of these uses are more efficient and have greater beneficial effects on the environment and communities than others.</u> Freshwater resources in some places are reaching, or are beyond, their sustainable abstraction limits. <u>The RMA enables the allocation of water amongst competing activities.</u> However, there continues to be debate in the community about how historical freshwater allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs.”		Reject	Submission of no effect as made prior to re-notification of FPI.
Rayonier Matariki Forests	00020.006	SRMR – I5	Amend	Insert new reference to the NESPF and the effect of its regulations and explain where plan provisions may be more stringent and refer to research which justifies any greater restrictions.	S Ernslaw One Ltd FS00412.012 O Te Rūnanga o Ngāi Tahu FS00234.058	Reject	Submission of no effect as made prior to re-notification of FPI.
Stewart, Lynne	00030.001	SRMR – I5	Amend	Amend as follows: Include the following under the Statement header for SRMR – I5: <u>In water – short catchments ecological capacity may not allow demand for consumptive uses to be met.</u>		Reject	Submission of no effect as made prior to re-notification of FPI.
Te Ao Marama	00223.044	SRMR – I5	Amend	Include discussion of over-allocation of water resources in Otago	S Te Rūnanga o Ngāi Tahu FS00234.059	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				Amend the final sentence of the second paragraph under the heading Context, as follows: “ ... freshwater allocations can be adjusted to achieve a balance of <u>prioritise protection of the mauri of water bodies, meet the health needs of people, and provide for economic, environmental, social and cultural needs-well-being.</u> ”	O Otago Water Resource Users FS00235.175		
Toitū Te Whenua, Land Information New Zealand	00101.015	SRMR – I5	Amend	Give more context around the arid and semi – arid environments within Otago that have and are being modified because of water allocation		Reject	Submission of no effect as made prior to re-notification of FPI.
Toitū Te Whenua, Land Information New Zealand	00101.016	SRMR – I5	Amend	Consideration should be given to how land use change is impacting the quality of the limited freshwater available in some areas.		Reject	Submission of no effect as made prior to re-notification of FPI.
Trojan Holdings Limited (Trojan)	00206.083	SRMR – I5	Amend	Snapshot – Economic <i>Freshwater</i> in the Otago region is a factor of production that directly contributes to human needs (urban <i>water</i> supply), agriculture (including irrigation), hydro – electric power supply, <u>tourism (for example water supply for visitor destinations and snowmaking)</u> , and mineral extraction. <i>Freshwater</i> also indirectly contributes to the tourism industry through maintenance of <i>freshwater</i> assets for aesthetic and commercial recreational purposes. Lack of <i>freshwater</i> can negatively impact economic output of those industries that rely on <i>water</i> in the production process. To varying degrees these impacts can be mitigated through <i>water</i> efficiency measures and innovation. At the same time other industries, such as tourism <u>activities</u> that rely on the aesthetic characteristic of <i>rivers</i> and <i>lakes</i> , do not have such opportunities available to them and instead rely on management regimes that sustain flows and <i>water</i> levels suitable for their activities.		Reject	Submission of no effect as made prior to re-notification of FPI.

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Trojan Holdings Limited (Trojan)	00206.084	SRMR – I5	Amend	Snapshot – Social Ensuring appropriate <i>freshwater</i> supply for human <i>use</i> is available <u>is essential, including</u> as part of planned urban growth is essential . It is possible this may require consideration of additional <i>freshwater</i> storage in the future. The region’s <i>freshwater</i> assets also support a range of recreation uses, for example camping, fishing, <i>water</i> sports, and swimming. These values are strongly linked to environmental values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values <u>(including people’s wellbeing)</u> .		Reject	Submission of no effect as made prior to re-notification of FPI.
Upper Clutha Angling Club	00220.001	SRMR – I5	Amend	Pages 75 and 76 Quantified and measurable definition for ‘healthy state’		Reject	Submission of no effect as made prior to re-notification of FPI.
Waitaki District Council	00140.013	SRMR – I5	Amend	Amend to provide definition of ‘water – short catchments’	S Federated Farmers FS00239.123	Reject	Submission of no effect as made prior to re-notification of FPI.
Waitaki Irrigators Collective Limited	00213.003	SRMR – I5	Amend	Amend the economic impact snapshot: “...and innovation. <u>New and additional freshwater storage may also be required in the future.</u> ”	S Federated Farmers FS00239.124 S Otago Water Resource Users FS00235.173	Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.106	SRMR – I5	Amend	Amend Context, first two paragraphs as follows: <i>Freshwater</i> , including <i>rivers</i> and streams, <i>lakes</i> , <i>groundwater</i> systems, and <i>wetlands</i> , is a finite <u>non – exclusive</u> resource, critical to the <u>natural</u> environment, society and the economy. ... <i>Freshwater</i> resources in some places are reaching, or are beyond, their sustainable abstraction limits. However, there continues to be debate in the community about how historical <i>freshwater</i> allocations can be adjusted to achieve a <u>sustainable outcome</u> balance of	O Federated Farmers FS00239.125	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				economic, environmental, social and cultural needs.			
Wayfare Group Ltd	00411.107	SRMR – I5	Amend	Amend Economic, as follows: <i>Freshwater</i> in the Otago region is a factor of production that directly contributes to human needs (urban <i>water</i> supply), agriculture (including irrigation), hydro – electric power supply, <u>tourism (for example water supply for visitor destinations and snowmaking)</u> , and mineral extraction. ... At the same time other industries, such as tourism <u>activities</u> that rely on the aesthetic characteristic of <i>rivers</i> and <i>lakes</i> , do not have such opportunities available to them and instead rely on management regimes that sustain flows and <i>water</i> levels <u>suitable</u> for their activities.		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.109	SRMR – I5	Amend	Amend Social as follows: Ensuring appropriate <i>freshwater</i> supply for human <i>use</i> is available <u>is essential</u> , <u>including</u> as part of planned urban growth is essential . It is possible this may require consideration of additional <i>freshwater</i> storage in the future. The region's <i>freshwater</i> assets also support a range of recreation uses, for example camping, fishing, <i>water</i> sports, and swimming. These values are strongly linked to environmental values and as such, reduced environmental flows have a corresponding negative impact on social and cultural values <u>(including people's wellbeing)</u> .	S Otago Fish and Game Council FS00609.211	Reject	Submission of no effect as made prior to re-notification of FPI.
Federated Farmers of New Zealand	00239.024	SRMR – I5	Amend	- Amend 'Context' as follows or similar: "Freshwater, including rivers and streams, lakes, groundwater systems, and wetlands, is a finite resource critical	Horticulture NZ FS00236.061	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>to the <u>region's</u> environment, society, and the economy. In Otago, access to, allocation, and use of freshwater reflects current demands and historical development <u>and associated demands "deemed permits" (water permits under the RMA 1991) and a permissive water resource management regime. The deemed permits originated from mining licences issued under historic mining legislation and which enable water to continue to be used for a range of uses until October 2021.</u> Population growth and land – use intensification in urban and rural environments can create increased demand for freshwater for human consumption, <u>recreation, other social and cultural uses</u>, irrigation and other economic uses. Freshwater resources in some places are reaching, or are beyond, their sustainable abstraction <u>replenishment</u> limits. However, there continues to be debate in the community about how historical freshwater allocations can be adjusted to achieve a balance of economic, environmental, social and cultural needs, <u>and critical to that is the need to provide for sufficient transitioning for any required change in resource use.</u> On 3 September 2020 ... reversing past damage <u>degradation</u> ... (such as drinking water); and finally then, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p> <ul style="list-style-type: none"> - Amend 'Impact snapshot – Environmental' as follows or similar: "This can negatively impact <u>freshwater</u> ecosystems by affecting freshwater habitat, water quality, water quantity, and ecological processes. size and the shape and condition of the water body, including bed, banks, margin, riparian vegetation, connections to groundwater, water chemistry (for example by increasing concentrations 			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>of pollutants), and interaction between species and their habitat. “</p> <p>- Amend the following sentence as follows or similar: “Ensuring appropriate freshwater supply for human use is available as part of planned urban growth <u>and to support rural communities and households is essential</u> “</p>			
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.025	SRMR – I6	Support	Retain as notified	<p>S Federated Farmers FS00239.126</p> <p>S Greenpeace FS00407.033</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
Beef & Lamb NZ and Deer Industry NZ	00237.012	SRMR – I6	Amend	<p>Delete specific reference to stock access and winter grazing from the Environmental Impact Snapshot.</p> <p>If not deleted in its entirety, specifically recognise that these are regulated under the Resource Management Stock Exclusion Regulations 2020 and National Environment Standard for Freshwater as part of the wider Essential Freshwater Package 2020.</p> <p>If not deleted in its entirety, describe and distinguish effects of urban development to the same extent as agricultural land uses.</p>	<p>O Greenpeace FS00407.010</p> <p>O Queenstown Lakes District Council FS00138.024</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
Central Otago Environmental Society	00202.004	SRMR – I6	Amend	Amend statement paragraph to show that extraction for irrigation results in lack of flushing and dilution of discharge and thus adversely impacts water quality.	<p>O Federated Farmers FS00239.127</p> <p>O Otago Water Resource Users FS00235.176</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
Central Otago Environmental Society	00202.005	SRMR – I6	Amend	Amend context paragraph to show that extraction for irrigation results in lack of flushing and dilution of discharge and thus adversely impacts water quality.	<p>O Federated Farmers FS00239.128</p> <p>O Otago Water Resource Users FS00235.176</p>	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Central Otago Environmental Society	00202.006	SRMR – I6	Amend	Amend impact snapshot paragraph (2) to show that over allocation and rapid intensive land development has rapidly deteriorated water quality indicators in the Manuherekia.	<p>○ Federated Farmers FS00239.129</p> <p>○ Otago Water Resource Users FS00235.177</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
Central Otago Environmental Society	00202.007	SRMR – I6	Amend	Amend impact snapshot paragraph (7) to show that sedimentation from intensive agricultural activities is a major contributor to the sedimentation of lakes and rivers.	<p>○ Greenpeace FS00407.014</p> <p>○ Federated Farmers FS00239.130</p> <p>○ Otago Water Resource Users FS00235.177</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
City Forests Limited	00024.001	SRMR – I6	Amend	Provide more nuanced and conditional statements, e.g. that “poorly managed forestry harvesting or earthworks activity may contribute to sediment input”.	<p>○ Ernslaw One Ltd FS00412.013</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
Federated Farmers of New Zealand	00239.025	SRMR – I6	Amend	<p>Amend ‘Statement’ as follows or similar: “... trends in water quality which can <u>often</u> be attributed to discharges from land use intensification (both rural and urban) and land management practices. <u>Some areas are seeing the beginnings of a turnaround with some improving trends, but there is still much work to be done.</u>”</p> <p>Amend ‘Context’ as follows: “... reverse past damage <u>degradation as soon as practicable</u>, and bring New Zealand’s freshwater resources, waterways and ecosystems to a healthy state within a generation. “</p> <p>Amend ‘Impact snapshot – Environmental’ as follows or similar: “... for concern in <u>specific areas</u> about water quality and its trends with consequent potential impact on ecosystems and people. Water quality across Otago is variable <u>with some</u></p>	<p>○ Horticulture NZ FS00236.062</p> <p>○ Otago Water Resource Users FS00235.180</p>	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>areas such as the Upper Clutha and the Taieri having excellent water quality, with other areas, such as urban streams in the Dunedin locale, intensified catchments in North Otago and some tributaries of the Pomahaka having poorer water quality.</u> River water quality is best at river and stream reaches located at high or mountainous elevations under predominantly native vegetation cover, and mostly good in the upper areas of large river catchment and outlets from large lakes. <u>These sites tend to be associated with the upper catchments of larger rivers (e.g. Clutha River/Matau-Au, Taieri River and Lindis River) and the outlets from large lakes (e.g. Hawea, Wakatipu and Wanaka).</u></p> <p>Water quality is generally poorer in smaller low – elevation streams and coastal shallow lakes where they receive water from upstream pastoral areas or urban catchments. For example, catchments such as the Waiareka Creek (North Otago), Kāikorai Stream (Dunedin), and sub – catchments within the lower Clutha catchment, have some of the worst poorest water quality in the region. <u>The Waikouaiti River has the best water quality of the lowland sites.</u></p> <p>Stock entering water bodies can lead to pugging and destruction of riparian compaction of soils and beds that play an important role in filtering contaminants, as well as excreting directly in waterways. The growing practice of wintering cattle in Otago can exacerbate leaching effects, which may not connect to surface water until spring, creating spikes in nutrient loads.</p>			

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<ul style="list-style-type: none"> - Amend 'Impact snapshot – Economic' as follows or similar: “Water pollution (from <u>contaminants</u>, nutrients, chemicals, pathogens and sediment) can have far – reaching effects potentially impacting <u>the primary sector</u>, tourism, property values, commercial fishing, recreational businesses, and many other sectors that depend on clean water. “ - Amend as follows or similar: “... rivers and lakes are swimmable, <u>which is very high on a nationwide comparison</u>. <u>However</u>, where ... “ 			
Highton, John	00014.009	SRMR – I6	Amend	Amend the statement on declining water quality to acknowledge ORC’s management policies as a contributor to the deterioration of water quality.	S Greenpeace FS00407.051	Reject	Submission of no effect as made prior to re-notification of FPI.
Horticulture New Zealand	00236.027	SRMR – I6	Amend	<ul style="list-style-type: none"> - Amend 'Context' as follows: “...Water quality affects a wide range of environmental health factors, human <u>health and</u> survival needs, and cultural, social, recreational, and economic uses.” - Amend 'Impact snapshot' to specifically the health and safety issues associated with water quality including drinking, sanitation, and food production. - Link the impact snapshot to the FMU vision statements seeking outcomes whereby innovative and sustainable land and water management practices support food production and improve resilience to the effects of climate change. - Amend 'Impact snapshot – Economic' as follows: “Water pollution (from nutrients, chemicals, pathogens and sediment) can have far – reaching effects potentially impacting <u>food production</u>, tourism, ...” 	S Federated Farmers FS00239.131	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
McCall, Lloyd	00319.001	SRMR – I6	Amend	Amend as follows Page 76, Snapshot, Environmental – Use the most up to date water testing results to inform the areas base water quality for the RPS. This includes both physiochemical and physical assessments		Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.043	SRMR – I6	Amend	Amend SRMR – I6 Statement as follows: “...which can be attributed to discharges from land use activities (both rural and urban), land management practices <u>and aquatic pest species</u> .	S Federated Farmers FS00239.132	Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.044	SRMR – I6	Amend	Amend SRMR – I6 Context as follows: ... Population growth and <u>poorly managed</u> land – use in urban and rural environments has impacted the quality of water, increasing contamination from nutrients and sediment. Water quality affects a wide range of environmental health factors, human <u>health and</u> survival needs, and cultural, social, recreational, and economic uses. Add the following to the 3 rd paragraph: <u>“The direction in this higher order document is significant and will precipitate changes within the Otago Region. The direction of travel required by these documents has broad community support, however the detail regarding the degree of change and over what timeframe remain as points of contention within some communities. Whatever the outcome affected communities face a period of significant change which will be very challenging and may have adverse consequences for people and communities. This transition requires careful management in order to maintain social, cultural and economic wellbeing, including mental wellbeing.</u>	S Federated Farmers FS00239.133 S Horticulture NZ FS00236.063	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
OWRUG	00235.045	SRMR – I6	Amend	<p>Amend SRMR – I6 Environmental Snapshot as follows:</p> <p>Despite the region's lakes and rivers being highly valued by Otago communities, reports indicate there are reasons for concern about water quality and its trends in <u>some</u> areas with consequent potential impact on ecosystems and people.</p> <p>... Otago's central lakes are impacted by increased population, urban development, <u>aquatic pests</u> and tourism demand;</p> <p>Activities such as agricultural <u>land use</u>, mining, and forestry also contribute. <u>Poorly managed agricultural land – use</u> also contributes to nutrients (nitrogen and phosphorus) leaching into underlying groundwater or running off into surface water bodies, and can also increase the risk of E.coli contamination from animal waste.</p>	<p>S Federated Farmers FS00239.134</p> <p>S Horticulture NZ FS00236.064</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.046	SRMR – I6	Amend	<p>Amend Economic snapshot</p> <p>... Water pollution (from nutrients, chemicals, pathogens and sediment) can have far – reaching effects potentially impacting tourism, property values, commercial fishing, recreational businesses, <u>human health, food production</u> and many other sectors that depend on clean water.</p>	<p>S Horticulture NZ FS00236.065</p>	Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.047	SRMR – I6	Amend	<p>Amend Social snapshot</p> <p>For the wider community, wWater is a source of kai <u>for harvesting and food production.</u> and</p> <p><u>Water is also a source of</u> recreation, including swimming, fishing and water sports. Otago's rivers, lakes, estuaries and bays are important destinations for recreational use including swimming, fishing and water sports. Eighty – two per cent of Otago's rivers and lakes are swimmable.³³ Where water quality cannot</p>	<p>S Federated Farmers FS00239.135</p> <p>S Horticulture NZ FS00236.066</p>	Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				support these activities, the lifestyle of those living in Otago is impacted. <u>Thriving rural communities are also supported by the use of good quality water for food and fibre production. Where water quality is degraded quality the taoka habitats and species supported by the water may be adversely affected reduces and the mauri of the water reduced. and the habitats and species it supports, therefore also negatively affecting mahika kai and taoka species and places. This Loss of mahika kai and taoka species constitutes is a loss of Kāi Tahu culture, affecting the intergenerational transfer of knowledge handed down from tūpuna over hundreds of years; and it culminates in a loss of rakatirataka and mana.</u>			
Pomahaka Water Care Group	00207.001	SRMR – I6	Amend	<i>Use the most up to date water testing results to inform the areas base water quality for the RPS</i> This includes both physiochemical and physical assessments		Reject	Submission of no effect as made prior to re-notification of FPI.
Rayonier Matariki Forests	00020.004	SRMR – I6	Amend	Amend as follows: Activities such as <u>pastureland or farming</u> , agricultural intensification, mining, and forestry also contribute.	S Ernslaw One Ltd FS00412.014	Reject	Submission of no effect as made prior to re-notification of FPI.
Rayonier Matariki Forests	00020.007	SRMR – I6	Amend	Insert new reference to the NESPF and the effect of its regulations and explain where plan provisions may be more stringent and refer to research which justifies any greater restrictions.	S Ernslaw One Ltd FS00412.015 S Te Rūnanga o Ngāi Tahu FS00234.060	Reject	Submission of no effect as made prior to re-notification of FPI.
Stewart, Lynne	00030.002	SRMR – I6	Amend	Amend as follows: While the pristine areas of Otago generally maintain good <i>water</i> quality, some areas of Otago demonstrate poorer quality and declining trends in <i>water</i> quality which can		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				be attributed to <i>discharges from land use intensification (both rural and urban) and, land management practices, and extraction for irrigation purposes.</i>			
Stewart, Lynne	00030.003	SRMR – I6	Amend	Amend as follows: The negative impacts on water quality from the extraction of water for the purposes of irrigation needs to be acknowledge in this section as well as the importance of monitoring the effects of this activity.		Reject	Submission of no effect as made prior to re-notification of FPI.
Stewart, Lynne	00030.004	SRMR – I6	Amend	Amend as follows: The impact on the Manuherekia’s water quality from the combination of over allocation and rapid intensive land development should be mentioned in the second paragraph under ‘Impact snapshot’ as well as the effects on water quality caused by sediment runoff from intensive agriculture.	O Greenpeace FS00407.061	Reject	Submission of no effect as made prior to re-notification of FPI.
Te Ao Marama	00223.045	SRMR – I6	Amend	Amend the final sentence of the second paragraph, as follows: “...culminates in loss <u>diminishing</u> of rakirataka and mana.”	S Te Rūnanga o Ngāi Tahu FS00234.061	Reject	Submission of no effect as made prior to re-notification of FPI.
Toitū Te Whenua, Land Information New Zealand	00101.017	SRMR – I6	Amend	Greater context should be given to the specific agricultural activities in Otago that are driving the degradation of water quality	O Federated Farmers FS00239.136 O Otago Water Resource Users FS00235.179	Reject	Submission of no effect as made prior to re-notification of FPI.
Toitū Te Whenua, Land Information New Zealand	00101.018	SRMR – I6	Amend	Consideration could be given to the value which water polluting activities contribute to the Otago economy.	Federated Farmers FS00239.137 (neutral) S Otago Water Resource Users FS00235.174	Reject	Submission of no effect as made prior to re-notification of FPI.
Trojan Holdings	00206.085	SRMR – I6	Amend	Heading		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Limited (Trojan)				Declining <i>water</i> quality has adverse <i>effects</i> on the <u>natural environment</u> , our communities, and the economy			
Trojan Holdings Limited (Trojan)	00206.086	SRMR – I6	Amend	Statement While the pristine areas of Otago generally maintain <u>very good water</u> quality, some areas of Otago demonstrate poorer quality and declining trends in <i>water</i> quality which can be attributed to <i>discharges</i> from <i>land use</i> intensification (both rural and urban) and <i>land</i> management practices. Erosion, run – off and soil loss can lead to sediment and nutrients being deposited into <i>freshwater</i> bodies resulting in declining <i>water</i> quality.		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.110	SRMR – I6	Amend	Amend Heading as follows: Declining <i>water</i> quality has adverse <i>effects</i> on the <u>natural environment</u> , our communities, and the Economy		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.111	SRMR – I6	Amend	Amend Statement, as follows: While the pristine areas of Otago generally maintain <u>very good water</u> quality, some areas of Otago demonstrate poorer quality and declining trends in <i>water</i> quality which can be attributed to <i>discharges</i> from <i>land use</i> intensification (both rural and urban) and <i>land</i> management practices.		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.112	SRMR – I6	Amend	Amend, Context, first 2 paragraphs, as follows: The health of <i>water</i> is vital for the health of the <u>natural environment</u> , people and the economy. ... Population growth and land – use intensification in urban and <u>non – urban rural</u> environments has impacted the quality of <i>water</i> , increasing contamination from nutrients and sediment.		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				... Some of the biggest <u>adverse</u> impacts on <i>water</i> quality in Otago are considered to come from agriculture and urbanisation, through diffuse <i>discharges</i> and point source <i>discharges</i> .			
Yellow – eyed Penguin Trust	00120.017	SRMR – I6	Amend	Add wider effects on the coastal and marine environment		Reject	Submission of no effect as made prior to re-notification of FPI.
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.024	SRMR – I7	Support	Retain as notified Retain references to <i>the extent of impacts on marine species and environments is not well understood and threats to [Otago’s coast] are not always understood and not always well managed</i>	S Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated FS00125.001	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and amendments have been made in response to other submissions
Beef & Lamb NZ and Deer Industry NZ	00237.013	SRMR – I7	Amend	Delete reference to ‘modified region’.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.026	SRMR – I7	Amend	Amend ‘Statement’ as follows or similar: “ Biodiversity mapping indicates Otago is one of the most modified regions in New Zealand. ... lacking, <u>along with incentives, support and advice to assist landowners to protect and/or restore biodiversity where it remains or where it has been lost.</u> ” Amend ‘Context’ as follows: “... introduced species <u>and diseases, urban growth, human activities, pollution, physical changes to habitat from climate, landscape changes, environment</u> and harvesting of wild species. Almost 4,000 native species are currently threatened with, or at risk of, extinction. <u>Around 1,065 native species across New Zealand are currently</u>	S Horticulture NZ FS00236.067	Accept in part	We adopt the recommendations and reasons set out in the s42A Report

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				<p><u>threatened with extinction. A further 3,589 are in a second tier of risk, with 3,009 considered ‘naturally uncommon’.</u> The information available indicates Otago’s biodiversity faces the same challenges. “</p> <p>Amend the following sentence as follows: “Biodiversity and ecosystem services underpin agriculture the <u>primary sector</u> (ecosystem services such as water, soil biodiversity, pest protection, pollination) and tourism (the “clean green” image of “pure New Zealand” is related to a public/<u>consumer</u> perception of Otago’s healthy environment and biodiversity). “</p> <p>Adopt the following definition of ‘Natural Capital’ for clarity: “<u>Natural capital refers to all aspects of the natural environment. It includes individual assets such as minerals, energy resources, land, soil, water, trees, plants and wildlife, and also includes broader ecosystems and their services – i.e., the joint functioning of, or interactions among, different environmental assets, as seen in forests, soil, aquatic environments and the atmosphere.</u>”</p>			
Horticulture New Zealand	00236.028	SRMR – 17	Amend	<p>The issue statement addresses issues associated with pests and predators on biodiversity but fails to sufficiently address issues associated with pests on biosecurity and risks to the regional food production system, food supply and food security.</p> <p>Add new issue statement for Food Production, Food Security and Food Supply</p>	S Federated Farmers FS00239.138	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				that includes consideration of biosecurity matters.			
New Zealand Infrastructure Commission	00321.014	SRMR – 17	Amend	Amend as follow: Text is needed on the benefits that infrastructure can provide to the environment, to provide appropriate context		Reject	We adopt the recommendations and reasons set out in the s42A Report
New Zealand Pork Industry Board	00240.009	SRMR – 17	Amend	Amend 'Impact snapshot – Economic' to identify an additional regionally significant value and resource management issue relating to Otago's food production capacity and that the effects of pests and biosecurity on primary production activities extend beyond economic impacts.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.027	SRMR – 17	Amend	Insert a sentence to place focus on a more holistic gambit of issues facing native freshwater species: "degraded native fish communities, due to <u>anthropogenic alteration of waterways, such as damming, abstraction, bed manipulation, draining wetlands and the discharge of contaminants, the presence of the Clutha dams and their effects on eel populations</u> and trout predation on native galaxiids."	S Contact Energy Limited FS00318.032 S Greenpeace FS00407.042 S Te Ao Mārama FS00223.143 O Otago Water Resource Users FS00235.181	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.023	SRMR – 17	Amend	Amend as follows: Delete the references to <i>overfishing</i> and <i>downward trends in fish and crayfish catches</i> There is credible evidence to suggest otherwise – at least for certain species		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.048	SRMR – 17	Amend	Amend as follows: Environmental Add the following paragraph	S Federated Farmers FS00239.139	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<u>Despite the above, in some cases land management or water use practices are enabling indigenous species to persist. It is therefore important to carefully manage significant changes in such practices where they might give rise to unintended consequences.</u>			
OWRUG	00235.049	SRMR – 17	Amend	Amend ‘agriculture’ to ‘the food and fibre sector’.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Queenstown Lakes District Council	00138.006	SRMR – 17	Amend	Amend ‘Impact snapshot – Environmental’ (page 79) to acknowledge the contribution that biodiversity, including restored habitats, makes to climate change adaptation and mitigation.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.026	SRMR – 17	Amend	Amend as follows: “Impact snapshot Environmental ... There are 62 ecosystems <u>types</u> in the Otago region. ... Inland Otago has degraded native fish communities, due to <u>degraded water quality from pollution from land use change and discharges, over abstracted water bodies</u> , the presence of the Clutha dams and their effects on eel populations and trout predation on native galaxiids. ... Social ... Some introduced species such as trout, deer and pigs have social and recreation values but may also have impacts on native ecosystems and species.”	S Greenpeace FS00407.034 O Federated Farmers FS00239.140 O Otago Water Resource Users FS00235.182	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.046	SRMR – 17	Amend	The word ‘kōura’ should have a macron on the ‘ō’ [p.79] and in all instances where this word occurs.		Accept	We adopt the recommendations and reasons set out in the s42A Report

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Tini a Tangaroa – Fisheries New Zealand	00303.001	SRMR – I7	Amend	Amend as follows: This section (P. 79) could be rephrased to say: “In addition to sedimentation, other human impacts on kelp forests in the Otago region may include land-based nutrient inputs, rising sea surface temperatures associated with climate change, the introduction of invasive species like <i>Undaria pinnatifida</i> (Suárez -Jiménez et al. 2017) and fishing. There has also been a 70% decline in the abundance of hoiho (yellow -eyed penguin) on the Otago coast since 2008 ³⁷ although the factors causing this are not fully understood. The effects of climate change will add significantly to risks of continuing biodiversity decline.” Suárez-Jiménez, R., et al. (2017). "The invasive kelp <i>Undaria pinnatifida</i> hosts an epifaunal assemblage similar to native seaweeds with comparable morphologies." <i>Marine Ecology Progress Series</i> 582: 45-55.”		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Toitū Te Whenua, Land Information New Zealand	00101.019	SRMR – I7	Amend	Greater context surrounding the leading causes of biodiversity loss in the Otago region.	Federated Farmers FS00239.142 (neutral) Otago Water Resource Users FS00235.183 (neutral)	Reject	This is a general request which does not give precise details of amendment requested
Trojan Holdings Limited (Trojan)	00206.087	SRMR – I7	Amend	Insert statement/discussion in this section about the need to enhance and restore biodiversity, not just maintain or protect what’s left.		Reject	We adopt the recommendations and reasons set out in the s42A Report
WAI Wanaka	00222.021	SRMR – I7	Amend	Refer to the National Policy Statement for Indigenous Biodiversity	S Contact Energy Limited FS00318.034 S Oceana Gold FS00115.057 O Transpower New Zealand Limited FS00314.006	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.113	SRMR – 17	Amend	Amend by inserting statement/discussion about the need to restore biodiversity, not just maintain or protect what's left.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.114	SRMR – 17	Amend	Amend by inserting statement / discussion in this section to identify/acknowledge the effects Hydro dams are having on coastal erosion for example in respect of lack of sediment coming down Clutha River affecting beaches north of Clutha River outlet. (source H)	○ Contact Energy Limited FS00318.034	Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.115	SRMR – 17	Amend	Amend Environmental, Second paragraph, as follows: There are 62 ecosystems <u>units</u> in the Otago region.	Federated Farmers FS00239.141 (neutral)	Reject	We adopt the recommendations and reasons set out in the s42A Report
Yellow – eyed Penguin Trust	00120.018	SRMR – 17	Amend	Use MFEs Our Marine Environment Report 2019 as a reference.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Yellow – eyed Penguin Trust	00120.019	SRMR – 17	Amend	SRMR – 13 already covers the specific risks from pest species and so there is significant overlap. Suggestion that SMR – 17 focuses on the many other human activities affecting the environment (excluding pests).		Reject	We adopt the recommendations and reasons set out in the s42A Report
Yellow – eyed Penguin Trust	00120.020	SRMR – 17	Amend	Amend as follows: Hoiho (yellow – eyed penguins) are not only found on the Otago Peninsula, but also in the Catlins and North Otago Amend to include other areas.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Yellow – eyed Penguin Trust	00120.021	SRMR – 17	Amend	Explain which six ecosystems have less than 10 hectares remaining. Provide further explanation.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report

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Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated	00125.025	SRMR – I8	Support	Retain as notified Retain references to <i>the extent of impacts on marine species and environments is not well understood and threats to [Otago's coast] are not always understood and not always well managed</i>	S Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated FS00125.002	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and note amendments have been made in response to other submissions
Sanford Ltd.	00122.004	SRMR – I8	Support	Retain as notified		Accept in part	We adopt the recommendations and reasons set out in the s42A Report and note amendments have been made in response to other submissions
Director-General of Conservation	00137.035	SRMR – I8	Amend	Amend the first sentence as follows or words to like effect: "Otago's coastal environment is generally considered to extend from the land that forms the first significant ridgeline <u>includes land adjoining the coast where coastal factors apply (as outlined in NZCPS Policy 1), and the coastal marine area</u> out to the twelve nautical mile seaward limit."		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Ernslaw One	00412.004	SRMR – I8	Amend	Unsupported assertion that sediment from forestry is having significant adverse effects on the coastal environment. Ernslaw contends that cannot be occurring since the NESPF took effect in 2018 and if it is, it represents a failure by the Regional Council to enforce NES-PF Regulation 97 (Discharges, disturbances, and diversions).		Reject	This is a general request which does not give precise details of amendment requested
Federated Farmers of New Zealand	00239.027	SRMR – I8	Amend	Amend 'Context' as follows: "Activities occurring ... plantation and <u>carbon</u> forestry, "	S Waitaki District Council FS00140.017 S Waitaki Irrigators Collective Limited FS00213.002 O New Zealand Carbon Farming FS00602.016	Accept	We adopt the recommendations and reasons set out in the s42A Report
Horticulture New Zealand	00236.030	SRMR – I8	Amend	Amend as follows: " Otago's coast is a rich natural, cultural and economic resource that is under threat from a range of terrestrial and		Accept in part	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>marine activities, the context identifies that the activities occurring within or affecting the coastal environment include land and marine based (e.g aquaculture) <u>food production and other farming industries.</u>"</p> <p>Retain reference in 'Context' that activities occurring within or affecting the coastal environment include land and marine based (e.g., aquaculture) food production industries.</p>			
OWRUG	00235.050	SRMR – I8	Amend	Amend as follows: ... the coastal environment include land and marine based (e.g. aquaculture) <u>food and fibre production...</u>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Te Ao Mārama	00223.047	SRMR – I8	Amend	Amend the first sentence under the heading Impact Snapshot, as follows: "...pests, <u>fresh</u> water, and biodiversity loss."	S Te Rūnanga o Ngāi Tahu FS00234.062	Accept	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.116	SRMR – I8	Amend	Amend, Statement, as follows: Otago's coast provides habitat for rare species (including toroa and hoiho), comprises some of the region's outstanding <u>natural</u> landscapes, is a rich food source, provides many recreation opportunities, is the location for some industries, and has potential for further economic use (aquaculture).		Accept	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.117	SRMR – I8	Amend	Amend, Context, Second paragraph, as follows: ... Such activities are <u>can be</u> important contributors to the existing and future health and well – being of <u>people and</u> communities, when they are located and managed appropriately.	S Otago Fish and Game Council FS00609.212	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Yellow – eyed Penguin Trust	00120.022	SRMR – I8	Amend	Amend as follows:		Accept in part	00120.022

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				Beach erosion does not only occur at St. Clair in Dunedin. Suggest this is re – worded as an example (e.g. St Clair)			
Beef & Lamb NZ and Deer Industry NZ	00237.014	SRMR – I9	Support	Retain as notified	S Federated Farmers FS00239.143	Reject	Submission of no effect as made prior to re-notification of FPI.
Contact Energy Limited	00318.004	SRMR – I9	Amend	Amend as follows: Balances the issues more accurately as follows: “Natural features and landscape values are also <u>can be</u> adversely impacted by tourism and urban growth, and energy production. <u>A number of hydroelectric power schemes are located within the Otago Region. Some of these have directly influenced the surrounding environment in which they operate. These assets are significant to the region in providing renewable electricity generation, contributing to economic development and also attracting visitors to the area.”</u>	S Meridian Energy Limited FS00306.008 S Otago Water Resource Users FS00235.184	Reject	Submission of no effect as made prior to re-notification of FPI.
Highton, John	00014.010	SRMR – I9	Amend	Amend to include hydroelectricity as a current and major future effect on lakes.		Reject	Submission of no effect as made prior to re-notification of FPI.
OWRUG	00235.051	SRMR – I9	Amend	Amend ‘agriculture’ to “ the Primary Sector’ throughout this Issue.		Reject	Submission of no effect as made prior to re-notification of FPI.
Trojan Holdings Limited (Trojan)	00206.088	SRMR – I9	Amend	Snapshot – Environmental ...However, <u>water</u> quality is being adversely impacted by increased population <u>and</u> , urbandedevelopment and tourism demand which is straining existing waste management infrastructure. In addition, localised degradation of some areas is occurring due to overuse and unregulated use (e.g. freedom camping). The amenity of		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>these areas is being compromised in some places by over – crowding. Recreation <i>use</i> impacts on the <i>environment</i> can be a <i>risk</i>, for example the distribution of pest species can be accelerated as has occurred for lake snow and <i>Lagarosiphon</i> weeds being spread by recreation boating movements. Natural features and landscape values <u>can</u> are also <u>be</u> adversely impacted by tourism <u>development</u>, and urban growth, and energy production.</p>			
Trojan Holdings Limited (Trojan)	00206.089	SRMR – 19	Amend	<p>Snapshot – Economic</p> <p>The economic benefits of urban development, tourism, agriculture, energy production and <i>water</i> supply can be positive for the Otago – Lakes’ communities and visitors. It also impacts on the region’s natural assets with a growing cost to the region that puts at <i>risk</i> the <i>environment</i> highly prized by residents and visitors. There are also impacts between industry sectors.</p> <p>For example, the clean green image of New Zealand, of which the Otago Lakes area is symbolic, is at <i>risk</i> of being compromised because of over – crowding <u>if the quality of lakes becomes degraded or visitor numbers exceed the servicing capacity of the district in peak tourism seasons.</u> This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry’s social licence to operate. At the same time tourism can negatively impact on how agriculture can operate, potentially limiting its contribution to the regional economy.</p> <p>Urban development brings economic development and improved opportunities and standards of living to the Otago lakes</p>		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				area but can adversely impact on both the <i>environment</i> and how agriculture can operate.			
Trojan Holdings Limited (Trojan)	00206.090	SRMR – I9	Amend	Snapshot – Social Poorly managed activities and Over – crowding impacts <u>can</u> adversely affect recreation experiences of both tourists and residents, <u>particularly outdoor recreation, such as fishing and water sports, and urban amenity.</u> Infrastructure capacity limits can, for example, result in an increased number of wastewater overflows <u>into</u> the environment when demand on the network exceeds capacity. These can have significant adverse impacts on human health <u>including recreation opportunities</u> as well as recreational amenity.		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.118	SRMR – I9	Amend	Amend, Heading, as follows: <u>Central</u> Otago lakes are subject to pressures from tourism and population growth		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.119	SRMR – I9	Amend	Amend, Statement, as follows: ... This influx brings economic <u>benefit through urban growth and tourism opportunities</u> , but the activities and services created to take advantage of it can degrade the <u>natural environment</u> and undermine the experience that underpins their attractiveness.		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.120	SRMR – I9	Amend	Amend Context, first paragraph, as follows: Healthy <i>lakes</i> are one of Otago's most valued natural resources and for the most part <i>water</i> quality is <u>very good</u> . The Values assigned to <i>lakes</i> include the natural features and <u>natural</u> landscapes, the quality and quantity of <i>water</i> accessible to the Otago communities, the accessibility of these resources for recreation <u>and transport</u> , the health of native flora and		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				fauna associated with Otago's rivers and lakes, and renewable energy production.			
Wayfare Group Ltd	00411.121	SRMR – I9	Amend	Amend SRMR – I9, Environmental, second and third paragraphs, as follows: However, <i>water</i> quality is being adversely impacted by increased population <u>and</u> , urban development and tourism demand which is straining existing waste management infrastructure. In addition, localised degradation of some areas is occurring due to overuse and unregulated use (e.g. freedom camping). The amenity of these areas is being compromised in some places by over – crowding. Natural features and landscape values <u>can</u> are also <u>be</u> adversely impacted by tourism <u>development</u> , and urban growth, and energy production.		Reject	Submission of no effect as made prior to re-notification of FPI.
Wayfare Group Ltd	00411.122	SRMR – I9	Amend	Amend, Economic, second paragraph, as follows: For example, the clean green image of New Zealand, of which the Otago Lakes area is symbolic, is at <i>risk</i> of being compromised because of over – crowding <u>if the quality of lakes becomes degraded or visitor numbers exceed the servicing capacity of the district in peak tourism seasons. This has the potential to adversely affect the existing regional economy and future economic development; and the tourism industry's social licence to operate. At the same time tourism can negatively impact on how agriculture can operate, potentially limiting its contribution to the regional economy.</u> Urban development brings economic development and improved		Reject	Submission of no effect as made prior to re-notification of FPI.

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				opportunities and standards of living to the Otago lakes area but can adversely impact on both the <i>environment</i> and how agriculture can operate.			
Wayfare Group Ltd	00411.123	SRMR – I9	Amend	Amend Social, second paragraph, as follows: <u>Poorly managed activities and Over – crowding impacts can adversely affect recreation experiences of both tourists and residents, particularly outdoor recreation, such as fishing and water sports, and urban amenity. Infrastructure capacity limits can, for example, result in an increased number of wastewater overflows into the environment when demand on the network exceeds capacity. These can have significant adverse impacts on human health including recreation opportunities as well as recreational amenity.</u>	S Otago Fish and Game Council FS00609.213	Reject	Submission of no effect as made prior to re-notification of FPI.
Beef & Lamb NZ and Deer Industry NZ	00237.015	SRMR – I10	Support	Retain as notified.	S Federated Farmers FS00239.144	Accept in part	We adopt the recommendations and reasons set out in the s42A Report and note amendments have been made in response to other submissions
Central Otago Environmental Society	00202.008	SRMR – I10	Amend	Statement Where reference to ‘water abstraction’ is made, the statement should be amended to read <i>water abstraction particularly for irrigation</i>	O Federated Farmers FS00239.145 O Otago Water Resource Users FS00235.178	Reject	We adopt the recommendations and reasons set out in the s42A Report
Central Otago Environmental Society	00202.009	SRMR – I10	Amend	Amend economic paragraph to include the adverse economic impact from degraded natural environments such as rivers, lakes and high-country landscapes and the effect this has on tourism	O Otago Water Resource Users FS00235.179	Reject	We adopt the recommendations and reasons set out in the s42A Report
City Forests Limited	00024.002	SRMR – I10	Amend	Provide more nuanced and conditional statements, e.g. that “poorly managed forestry harvesting or earthworks activity may contribute to sediment input”.	S Ernslaw One Ltd FS00412.016	Accept in part	We adopt the recommendations and reasons set out in the Panel’s main recommendation report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Dunedin City Council	00139.019	SRMR – I10	Amend	Amend 'Statement' to the following (or similar): Water abstraction and wastewater and stormwater discharges <u>can</u> adversely affect the natural environment, cultural and amenity values, and recreation <u>if not well managed</u> .	S Beef + Lamb New Zealand Ltd FS00237.020	Reject	We adopt the recommendations and reasons set out in the s42A Report
Ernslaw One	00412.007	SRMR – I10	Amend	Amend as follows <i>"sediment from <u>poorly managed development and forestry may flows into streams and builds up in the coastal environment.</u>"</i>		Accept in part	We adopt the recommendations and reasons set out in the Panel's main recommendation report
Ernslaw One	00412.018	SRMR – I10	Amend	Amend as follows <i>"sediment from <u>poorly managed development and forestry may flows into streams and builds up in the coastal environment.</u>"</i> See also Point 00412.007		Accept in part	We adopt the recommendations and reasons set out in the Panel's main recommendation report
Fonterra Co – operative Group Limited	00233.019	SRMR – I10	Amend	Either amend to more fully acknowledge that current generation's well-being is dependent on continued access to resources; and/or include an additional issue to provide balance to the description of the Region's issues as sought in relation to SRMR – I6	S Otago Water Resource Users FS00235.170	Reject	We apply the same approach as for other similar requests contained in the recommendations and reasons set out in the s42A Report
Harbour Fish, Southern Fantastic and Fantastic Holdings	00126.001	SRMR – I10	Amend	Amend as follows: Delete "Fishing" from the sentence. Combining fishing with the impact of land – based activities is not correct. It needs to be treated independently and with separate evidence of impact [Under "statement" – "Agriculture, fishing and minerals extraction support employment and economic well-being but		Accept in part	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				also change landscapes and habitats” – admin].			
Highton, John	00014.012	SRMR – I10	Amend	Include a provision requiring hydro – electricity generation to have increased mitigation measures put in place to manage their adverse effects on the region’s environment.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Horticulture New Zealand	00236.031	SRMR – I10	Amend	Delete the issue statement and replace with the following: “SRMR – I10 – The planning framework in Otago has failed to manage and protect Otago’s natural and physical resources, resulting in environmental stresses and unknown future impacts.”	S Beef + Lamb New Zealand Ltd FS00237.041	Reject	We adopt the recommendations and reasons set out in the s42A Report
New Zealand Pork Industry Board	00240.010	SRMR – I10	Amend	Amend ‘Statement’ to identify the value and contribution of food production in Otago for domestic food supply. Amend ‘Context’ to identify the value and contribution of food production in Otago for domestic food supply.		Accept in part	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.052	SRMR – I10	Amend	Delete the issue statement and replace with the following: <u>SRMR – I10 – The planning framework in Otago has at times and in some locations failed to manage and protect Otago’s natural and physical resources, resulting in environmental stresses and unknown future impacts.</u> <u>Change reference to ‘economic activities’ to refer to ‘activities’</u>	S Horticulture NZ FS00236.068	Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.053	SRMR – I10	Amend	Amend Context paragraph 2 as follows: <u>Delete first sentence and replace with “Activities that rely on natural and physical resources can adversely impact those resources if not appropriately managed or controlled. If these impacts are not managed</u>	S Contact Energy Limited FS00318.035 S Oceana Gold FS00115.058	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p><u>or controlled the sustainability of the regions natural resources can be threatened. Equally long-term economic, social and cultural values can be compromised or threatened.</u></p> <p><u>Amend 'tipping point' to 'thresholds'</u></p>			
OWRUG	00235.054	SRMR – I10	Amend	Delete 'Business' from Impact Snapshot Social.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Port Blakely NZ Ltd	00033.003	SRMR – I10	Amend	Amend the opening statement to acknowledge that this does not refer to compliant forestry activities nor to the majority of the forest rotation.	S Ernslaw One Ltd FS00412.017	Reject	We adopt the recommendations and reasons set out in the s42A Report
Port of Otago Ltd.	00301.009	SRMR – I10	Amend	Amend 'Statement' as follows: "Otago's port moves freight to and from Otago and Southland, but operates alongside sensitive environments, including the Aramoana saltmarsh <u>meaning the necessity for the port to operate safely and efficiently may have adverse environmental effects</u> . Tourism, which relies on the environment, can also..."		Reject	We adopt the recommendations and reasons set out in the s42A Report
Queenstown Lakes District Council	00138.007	SRMR – I10	Amend	Amend 'Context' as follows: - (page 83) This issue suggests that tourism 'partially relies on the natural values of the region' – more accurately presents that significant reliance that tourism has on the natural values of the region, and in particular, those present within the Queenstown Lakes District. Amend 'Impact snapshot – Economic' as follows: (page 84) for this issue more accurately draws attention to the impact that adverse effects on the characteristics of highly valued landscapes can have on the economy of the Otago region, and in particular the Queenstown Lakes District.		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Rayonier Matariki Forests	00020.005	SRMR – I10	Amend	Amend as follows: Sediment from development and forestry <u>primary production activities</u> flow into streams and build up in the coastal environment, smothering kelp forests and affecting rich underwater habitats.	S Ernslaw One Ltd FS00412.018 Te Rūnanga o Ngāi Tahu FS00234.063	Accept in part	We adopt the recommendations and reasons set out in the s42A Report
Southern Inshore Fisheries Management Company Limited	00124.001	SRMR – I10	Amend	Amend as follows: “Fishing” is removed from the sentence. [Under “statement” – “Agriculture, fishing and minerals extraction support employment and economic well – being but also change landscapes and habitats” – admin].		Accept	We adopt the recommendations and reasons set out in the s42A Report
Stewart, Lynne	00030.005	SRMR – I10	Amend	Amend as follows: Water abstraction and , particularly for <u>irrigation</u> , and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Stewart, Lynne	00030.006	SRMR – I10	Amend	Amend SRMR – I10 by incorporating the following under the ‘Economic’ heading: Mention should be made of the adverse economic impact from degraded natural environments such as rivers, lakes and high – country landscapes and the effect this has on tourism and ability to attract skilled personal to live in the region.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Trojan Holdings Limited (Trojan)	00206.091	SRMR – I10	Amend	Context ... However, economic activity needs to more effectively account for and manage its impacts on the region’s natural resources. ⁴⁴ Where business and social activity does not account for its impacts on natural resources in the long term, not only is the sustainability of the region’s natural resources		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				threatened, but equally the associated long term and economic, social and cultural values are also threatened.			
Trojan Holdings Limited (Trojan)	00206.092	SRMR – I10	Amend	Snapshot – Environmental Economic activities can lead to, for example, biodiversity loss, poor <i>water</i> quality, coastal marine degradation, and loss of natural features and <u>natural</u> landscapes. These and other matters are considered in further detail elsewhere in this chapter. Negative impacts on the <u>natural environment</u> can also compromise the ecosystems and the services economic activities depend on (ecosystem services), for example loss of <i>wetlands</i> which provide flood attenuation services, loss of biodiversity which provide pest control and pollination services, and <u>loss of</u> soil biodiversity. Economic activity also has the potential to compromise or destroy natural <u>features and natural</u> landscapes. Such impacts are both immediate and cumulative. Cumulative impacts that are not addressed have the potential to lead to tipping points beyond which systems can no longer properly function.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Trojan Holdings Limited (Trojan)	00206.093	SRMR – I10	Amend	Snapshot – Social Damage to or loss of natural features and <u>natural</u> landscapes can compromise amenity values. Failure of business to <u>sustainably manage their impact on</u> natural resources can compromise the social licence of a business sector to operate. This <u>can adversely</u> impact social capital (trust) and can create community division. In extreme cases it can lead to calls for reduced access to resources.		Accept in part	We adopt the recommendations and reasons set out in the Panel's main recommendation report
Waitaki District Council	00140.014	SRMR – I10	Amend	- Amend to include reference to carbon forestry as a resource management issue for Otago (p.83).	S Graymont (NZ) Limited FS00022.001	Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<ul style="list-style-type: none"> - Include a greater recognition of mining operations in the Otago region and their contribution towards social and economic wellbeing. Recognise the Macraes Mine special zoning under the Waitaki District Plan within the PRPS.	S Matakauui Gold Limited FS00021.015 S Oceana Gold FS00115.053 O New Zealand Carbon Farming FS00602.006		
Wayfare Group Ltd	00411.124	SRMR – I10	Amend	Amend Context, second paragraph as follows: However, economic activity needs to more effectively account for and manage its impacts on the region’s natural resources. Where business and social activity does not account for its impacts on natural resources in the long term, not only is the sustainability of the region’s natural resources threatened, but equally the associated long term and economic, social and cultural values are also threatened.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.125	SRMR – I10	Amend	Amend Environmental, as follows: Economic activities can lead to, for example, biodiversity loss, poor <i>water</i> quality, coastal and marine degradation, and loss of natural features and <u>natural</u> landscapes. These and other matters are considered in further detail elsewhere in this chapter. Negative impacts on the <u>natural environment</u> can also compromise the ecosystems and the services economic activities depend on (ecosystem services), for example loss of <i>wetlands</i> which provide flood attenuation services, loss of biodiversity which provide pest control and pollination services, and loss of soil biodiversity. Economic activity also has the potential to compromise or destroy natural features and <u>natural</u> landscapes.		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Wayfare Group Ltd	00411.126	SRMR – I10	Amend	Amend, Social, as follows: Damage to or loss of natural features and <u>natural</u> landscapes <u>can</u> compromises amenity values. Failure of business to <u>sustainably</u> manage <u>their impact on</u> natural resources <u>can</u> compromises the social licence of a business sector to operate. This <u>can</u> adversely impacts social capital (trust) and can create community division. In extreme cases it can lead to calls for reduced access to resources.	S Otago Fish and Game Council FS00609.214	Accept in part	We adopt the recommendations and reasons set out in the Panel’s main recommendation report
Beef & Lamb NZ and Deer Industry NZ	00237.016	SRMR – I11	Amend	Amend and include focus on acquiring knowledge to inform decision making. Amend to provide for flexible and innovative management responses to ensure resilience.	S Federated Farmers FS00239.146	Reject	We adopt the recommendations and reasons set out in the s42A Report
Central Otago Environmental Society	00202.010	SRMR – I11	Amend	Environmental paragraph: A statement should be included that states <i>faced with insufficient knowledge and understanding a precautionary approach should be taken when making decisions or setting policy around natural resource management.</i>	O Otago Water Resource Users FS00235.186	Reject	We adopt the recommendations and reasons set out in the s42A Report
Federated Farmers of New Zealand	00239.028	SRMR – I11	Amend	Amend title as follows: “SRMR – I11 – Cumulative impacts <u>effects</u> and resilience – the environmental costs of our activities in Otago are adding up with tipping points <u>thresholds</u> potentially being reached” Amend ‘Statement’ as follows: “How and/or where we currently live is likely to change significantly in coming years. To respond to all the issues identified in this RPS, it is essential to <u>we may need to consider changes to</u> how ... “ Amend ‘Context’ as follows:	S Horticulture NZ FS00236.069 O Kāi Tahu ki Otago FS00226.118	Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				<p>“The long term environmental, economic, and social well-being of the Otago region requires anticipating and minimising cumulative environmental impacts <u>effects</u> before they reach <u>thresholds</u> a tipping point, beyond which systems can no longer properly function. “</p> <p>Amend ‘Impact snapshot – Environmental’ to add: <u>“There is much that remains unknown about the functioning of the Otago environment at a holistic and integrated level. “</u></p>			
Fonterra Co – operative Group Limited	00233.020	SRMR – I11	Amend	Either delete; and/or include an additional issue to provide balance the description of the Region’s issues as sought in relation to SRMR – I6		Reject	We adopt the recommendations and reasons set out in the s42A Report
Highton, John	00014.013	SRMR – I11	Amend	Amend to include improving monitoring and testing and adopting a proactive approach to responding to feedback from the community.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Horticulture New Zealand	00236.032	SRMR – I11	Amend	<p>Amend ‘Statement’ as follows: “<u>How and/or where</u> we currently live is likely to change significantly in coming years. To respond to all the issues identified in this RPS, it is essential to consider changes to how we travel, the industries our economy relies on, the use we currently make of the natural and physical resources of the region, and how we provide for <u>essential human health</u>, personal and community well-being, all while protecting our natural environment.”</p> <p>Amend ‘Context’ as follows: “The long term environmental, economic, and social well-being of the Otago region</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				and the health and safety of people and communities requires anticipating and minimising cumulative environmental impacts before they reach a tipping point threshold , beyond which systems can no longer properly function.”			
Meridian Energy Limited	00306.017	SRMR – I11	Amend	Amend as follows (or with words of similar effect): “Impact snapshot Environmental While many ecosystems have a degree of resilience, increasing pressures on the environment, typically as a result of human activities (for example economic development), can have an adverse cumulative effect. <u>A key tipping point is the pending effects of climate change that are resulting from greenhouse gas emissions. Some of these effects Climate change also has are already being experienced in the Otago region, and further climate change has the potential to seriously challenge ecosystem adaptive capacity and the location and functioning of business and communities in the region. Decarbonising our economy is a priority for mitigating the scale of climate change and the associated economic and social disruption that can result. Key to reducing greenhouse gas emissions is increasing renewable electricity generation. Much work is being undertaken to address this challenge, but it is still possible that permanent changes may occur (tipping point).</u> The first and best response to <u>possible tipping points</u> is to ensure sustainable management of our natural resources and avoid immediate and long-term cumulative effects that degrade the environment. At the same time a resilience approach is needed that identifies thresholds and sets limits on the use of natural resources to	S Otago Water Resource Users FS00235.185	Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.”:			
New Zealand Pork Industry Board	00240.011	SRMR – I11	Amend	<ul style="list-style-type: none"> - Amend ‘Statement’ to provide explicit recognition of food production values and the relationship to human health as a necessary consideration for decision making that responds to ORPS issues. - Amend ‘Context’ to provide explicit recognition of food production values and the relationship to human health as a necessary consideration for decision making that responds to ORPS issues. 	-	Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.055	SRMR – I11	Amend	<p>Amend Statement as follows:</p> <p>How and/or where we currently live is likely to change significantly over the long-term (2050). To respond to all the issues identified in this RPS, it is essential to consider changes to how we travel, the industries our economy relies on, the use we currently make of the natural and physical resources of the region, and how we provide for <u>human health needs</u>, personal and community well-being, all while protecting our natural environment.</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report
OWRUG	00235.056	SRMR – I11	Amend	The Impact Snapshot – Social be redrafted so that’s intent is clear and consistent language is used so as to avoid uncertainty.	S Federated Farmers FS00239.147	Reject	This is a general request which does not give precise details of amendment requested
OWRUG	00235.057	SRMR – I11	Amend	The Impact Snapshot –Economic be redrafted so that’s intent is clear and consistent language is used so as to avoid uncertainty.	S Federated Farmers FS00239.148	Reject	This is a general request which does not give precise details of amendment requested

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.027	SRMR – I11	Amend	Amend the 'Context' discussion to recognise and include the need and ability for environmental restoration Amend the "Impact snapshot" for Environment needs to be clearer in terms of thresholds and limits that retain and improve ecosystem function and indigenous biodiversity at a healthy rich and diverse state. Rather than working towards a tipping point we should be working towards restoring and improving ecosystem health.	S Ernslaw One Ltd FS00412.020	Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report
Stewart, Lynne	00030.007	SRMR – I11	Amend	Amend as follows: Include the following statement under the 'Environmental' header: <u>Faced with insufficient knowledge and understanding a precautionary approach should be taken when making decisions or setting policy around natural resource management.</u>	S Greenpeace FS00407.062 S Otago Fish and Game Council FS00609.174	Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report
Trojan Holdings Limited (Trojan)	00206.094	SRMR – I11	Amend	Heading SRMR-11 – Cumulative impacts and <i>resilience</i> – the <u>natural</u> environmental costs of our activities in Otago are adding up with tipping points potentially being reached		Reject	We adopt the recommendations and reasons set out in the s42A Report
Trojan Holdings Limited (Trojan)	00206.095	SRMR – I11	Amend	Context The long term environmental, economic, and social well – being of the Otago region requires anticipating and minimising cumulative environmental impacts before they reach a tipping point, beyond which systems can no longer properly function. This requires <i>resilient</i> frameworks that take account of the dynamic relationship between the <u>natural environment</u> , economy and people while acknowledging that the future is always uncertain, and knowledge is imperfect. Should a tipping point be		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				reached a <i>resilient</i> Otago society will have the ability to absorb, respond to, adapt to, and recover from disruptive events.			
Trojan Holdings Limited (Trojan)	00206.096	SRMR – I11	Amend	<p>Snapshot – Environmental</p> <p>While many ecosystems have a degree of <i>resilience</i>, increasing pressures on the <u>natural environment</u>, typically as a result of human activities (for example economic development), can have an adverse cumulative effect. ...</p> <p>The first and best response is to ensure sustainable management of our natural resources and <u>avoiding</u> immediate and long – term cumulative <i>effects</i> that degrade the <u>of environmental values which are already degraded</u> is required to achieve <u>sustainable management of our natural resources</u>. At the same time a <i>resilience</i> approach is needed that identifies thresholds and sets limits on the use of natural resources to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Trojan Holdings Limited (Trojan)	00206.097	SRMR – I11	Amend	<p>Snapshot - Environmental, Social, Economic</p> <p>The well – being of Otago’s people and communities in the long term will be sustained <u>protected</u> by the enduring ecological health and <i>resilience</i> of the <u>natural environment</u> and by human activity providing for the <u>natural environment</u> in equal or greater measure than is taken from it (in other words, net impact determines net well – being). It will also be sustained <u>protected</u> through community <i>resilience</i> so that it can adapt and nimbly respond to future challenges.</p>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Waitaki Irrigators Collective Limited	00213.004	SRMR – I11	Amend	SRMR – I11 – Cumulative impacts and resilience – the environmental costs of our activities are <u>accumulating</u> adding up with		Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				tipping points <u>limits</u> potentially being reached “...before they reach <u>limits</u> beyond which <u>some ecological and other</u> systems can no longer properly function...”			
Wayfare Group Ltd	00411.127	SRMR – I11	Amend	Amend, Heading, as follows: Cumulative impacts and resilience – the <u>natural</u> environmental costs of our activities in Otago are adding up with tipping points potentially being reached.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.128	SRMR – I11	Amend	Amend Context, as follows: ... This requires <i>resilient</i> frameworks that take account of the dynamic relationship between the <u>natural environment</u> , economy and people while acknowledging that the future is always uncertain, and knowledge is imperfect.		Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.129	SRMR – I11	Amend	Amend Environmental, as follows: While many ecosystems have a degree of <i>resilience</i> , increasing pressures on the <u>natural environment</u> , typically as a result of human activities (for example economic development), can have an adverse cumulative <i>effect</i> The first and best response is to ensure sustainable management of our natural resources and a <u>Avoiding immediate and long – term cumulative effects that degrade the on environmental values which are already degraded is required to achieve sustainable management of our natural resources.</u>		Reject	We adopt the recommendations and reasons set out in the s42A Report
Wayfare Group Ltd	00411.130	SRMR – I11	Amend	Amend Social and Environmental, as follows:		Reject	We adopt the recommendations and reasons set out in the s42A Report

Submitter Name	Submitter + Submission point number	Specific Provision	Position	Summary of Decision Requested	Further Submissions S-Support O-Oppose	Recommendation	Reason
				The well – being of Otago’s people and communities in the long term will be sustained-protected by the enduring ecological health and <i>resilience</i> of the <u>natural environment</u> and by human activity providing for the <u>natural environment</u> in equal or greater measure than is taken from it (in other words, net impact determines net well – being). It will also be sustained-protected through community <i>resilience</i> so that it can adapt and nimbly respond to future challenges.			
Wise Response Society Inc	00509.027	SRMR – I11	Amend	Amend as follows: Given recognition of the difficulty of identifying reliably where thresholds lie, it could usefully state that <u>buffers are needed to allow for misidentification of thresholds.</u>	○ Otago Water Resource Users FS00235.187	Reject	We adopt the recommendations and reasons set out in the s42A Report and in the Legal section of the main recommendations report

From: [Peter Oliver](#)
To: [RPS](#)
Subject: City Forests submission-on-proposed-otago-rps-2021
Date: Friday, 3 September 2021 2:44:57 p.m.
Attachments: [City Forests submission on proposed Otago RPS 2021.pdf](#)

Dear ORC, please find attached City Forests submission on the proposed Regional Policy Statement 2021.

Regards

Peter Oliver
General Manager, Forest Assets
City Forests Ltd
PO Box 210
Dunedin 9054
DDI: 03 467 7720
Mob: 027 245 3377





Written Submission on Proposed Otago Regional Policy Statement 2021

(Submissions must be received by Otago Regional Council by 3 pm Friday 3 September 2021)

To: Otago Regional Council

- 1. Name of submitter** *(full name of person/persons or organisation making the submission. Note: The submissions will be referred to by the name of the submitter)*

City Forests Limited

- 2.** This is a submission on the **Proposed Otago Regional Policy Statement 2021**.
- 3.** I **could not** *(Select one)* gain an advantage in trade competition through this submission. *(See notes to person making submission)*
- 4.** I **am** *(Select one)* directly affected by an effect of the subject matter of the submission that
- a.** adversely affects the environment; and
 - b.** does not relate to trade competition or the effects of trade competition *(See notes to person making submission)*
- 5.** I **wish** *(Select one)* to be heard in support of my submission
- 6.** If others make a similar submission, I **will** *(Select one)* consider presenting a joint case with them at a hearing
- 7. Submitter Details :**
- a. Signature of submitter** *(or person authorised to sign on behalf of submitter)*

A handwritten signature in blue ink, consisting of a large, stylized initial 'C' followed by a long horizontal line.



b. Signatory name, position, and organisation *(if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above)*

Name: Peter Oliver

Position: General Manager, Forest Assets

Organisation: City Forests Ltd

c. Date

3 September 2021

Address for service of submitter *(This is where all correspondence will be directed)*

d. Contact person *(name and designation, if applicable)*

Peter Oliver

e. Email:

peter.oliver@cityforests.co.nz

f. Telephone:

0272453377

g. Postal address *(or alternative method of service under [section 352](#) of the Act):*

PO Box 210, Dunedin 9054



8. My submission is:

General comments:

8.1 City Forests (CFL) is a major land and forest owner in the coastal Otago region. More than 24,000 hectares of company owned, and leased land, includes just over 19,300 hectares of productive plantation forest land, with the remainder in non-productive land-use, including nearly 600 km of internal roading, and over 2,300 hectares of designated and carefully protected ecological reserves. In 2006 the company celebrated 100 years since its first forests were planted – originally to help preserve water quality and prevent erosion in early Dunedin. Much of the company’s plantation forest area is now on its second or even third rotation as a commercial forest crop.

8.2 CFL has grown dramatically in its more than 100 years of forest plantation growing and management. This growth has come almost exclusively through land use change from less productive farmland to highly productive plantation forestry development and enhanced forestry economic activity. Despite this, the very large and growing areas of ecological reserves which CFL has set aside for careful protection have, without the need for outside enforcement or regulatory protections, flourished under CFL’s guardianship. CFL has extensive and longstanding monitoring records which clearly demonstrate the positive interaction of Plantation Forestry and natural ecological values, including rare, threatened, and endangered flora and fauna, many of which live and thrive in our intensively managed plantation areas. Plantation forestry in Otago is a natural ally of many biodiversity, water quality and general environmental values. As a general principle, CFL strongly contends that the natural environment does not need to be protected from plantation forests, and blanket and heavy-handed attempts to do so are destined to become a major disrupter to plantation forestry economic activity.

8.3 CFL has successfully held Forest Stewardship Council® (FSC®) certification since 2000. This is an international standard, audited annually, which verifies that CFL meets high international standards of environmental, social and economic practice.

8.4 An MPI study conducted in 2019 by PWC shows production forestry, including carbon, generates approximately twice the economic return per hectare and twice the employment per hectare compared to sheep and beef farming on equivalent land class.

8.5 CFL acknowledges the Otago Regional Council’s (ORC) objective to maintain Otago natural ecosystems quality or improve them where feasible and reasonable to do so, through the appropriate controls of activities. However, CFL can only conditionally support the Proposed Regional Policy Statement (PRPS) due to the chilling effect it will have on economic activity and future development in the region in general, and for Plantation Forestry in particular. CFL believes that the Section 32 report clearly shows this, and indeed acknowledges it (e.g., clause 170), yet largely fails to address these acknowledged shortcomings in its drafting.

8.6 CFL is concerned that the PRPS risks creating a massive coverage of legally defined significant natural areas (SNA) which could even include existing and future plantation forest areas because of the fact that certain indigenous species, particularly some mobile fauna, have found a ready and favourable habitat created by those



very plantation forest areas. Again, this will have a chilling effect on the economic activity and future development of Plantation Forestry in the region, and may actually lead to perverse outcomes for those very species that the PRPS seeks to protect and enhance.

8.7 The PRPS and associated appendices is a major and massive set of documents encompassing policy statements on a broad range of activities, not all of which will directly affect plantation forestry, and it is beyond the scope of our resources to provide a comprehensive submission on them all at this stage. The few specific comments below then, are by no means an exhaustive representation of CFL’s views on the document, but rather are representative or emblematic of concerns the company holds.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<p><i>The specific provisions of the proposal that my submission relates to are:</i></p> <p><i>(Please enter the relevant objective, policy, method, or ‘other’ provision reference where possible. For example, ‘AIR-01’.)</i></p>	<p><i>I support or oppose the specific provisions or wish to have them amended.</i></p> <p><i>(Please indicate “support” or “oppose” or “amend”)</i></p>	<p><i>The reasons for my views are:</i></p>	<p><i>I seek the following decision from the local authority:</i></p> <p><i>(Please be as clear as possible – for example, include any alternative wording for specific provision amendments.)</i></p>
<p><i>SRMR-16 and SRMR-110</i></p>	<p><i>Amend</i></p>	<p><i>Repeatedly including plantation forestry in the list of activities that contribute to sedimentation in Otago without qualification is inaccurate and not supported by evidence. Overwhelming and repeated scientific evidence exists that plantation forestry contributes water quality close to that of undisturbed native forest throughout its long rotation spans. Occasional instances of poor harvesting or earthworks practice may create elevated</i></p>	<p><i>Provide more nuanced and conditional statements, e.g. that “poorly managed forestry harvesting or earthworks activity may contribute to sediment input”.</i></p>

		<i>sediment flows, but these are by far and away the exception.</i>	
<i>IM-P15, CE-M3(6), ECO-P3(3)</i>	<i>Oppose</i>	<i>Plantation forestry is a very long-term investment. It requires certainty of its ability to realise the substantial investment made in establishing and carrying the cost of forests for many years before harvesting. A precautionary approach which does not commit to permitting the future management and harvesting of forests will have a chilling effect on forestry as an economic land use in Otago. It is CFL's view that sufficient protections for uncertainties are already provided for under the NES-Plantation Forestry (NES-PF) regime.</i>	<i>Remove the precautionary approach with respect to Plantation Forestry and acknowledge the efficacy of the NES-PF for managing future uncertainties.</i>
<i>CE-M3(4)(d)(ii)</i>	<i>Oppose</i>	<i>This statement implies that harvesting plantation forestry, including harvesting existing forests, will now become a controlled activity anywhere near coastal waters. This is a major change which City Forests opposes. Our view is that forestry, being a very long term, and major investment, requires long-term certainty. This is currently provided for with the very robust and cooperatively developed rules within the NES-PF. Our view is that there is ample regulation within those rules to</i>	<i>Remove this statement and acknowledge the efficacy of the NES-PF to manage potential effects.</i>

		<i>protect water quality during harvesting activity.</i>	
<i>LF-VM</i>	<i>Amend</i>	<i>The equal importance of fibre production (including the outputs from Plantation Forestry) should be acknowledged in these statements alongside food production.</i>	<i>Remove the references to “food” and amend the various statements to, “support primary production in the area”.</i>
<i>LF-FW-P8</i>	<i>Amend</i>	<i>The 0.05 ha threshold is unreasonable and will not achieve the net improvements in protection sought for wetlands. At the scales at which CFL operates 0.05ha is simply unmanageable. CFL’s forests are exceptionally well mapped and described, yet the company does not even map to that tiny level of detail. Furthermore, it has been CFL’s long experience that wetlands in Otago in general are significantly enhanced when within and adjacent to Plantation Forests. Instead, the threshold worked out over the 8 years of development of the NES-PF should be adopted.</i>	<i>Amend to “0.25 hectares or greater” in alignment with the NES-PF.</i>
<i>LF-LS-M12</i>	<i>Oppose</i>	<i>Ample protection is already provided under the NES-PF for afforestation activity. It is entirely inappropriate to single out Plantation forestry expansion in this statement.</i>	<i>Remove this clause in its entirety.</i>

ECO-01	Amend	<p><i>This statement is not realistic. People live and work and carry out economic activity in the region too. There is a risk that this statement could be interpreted as applying to individual instances rather than the region as a whole and needs to be clarified to make it clear that the net extent of populations and representative habitats are retained, i.e., some will be enhanced, and some may be changed because of economic activity. A balance must be maintained.</i></p>	<p><i>Amend to “...any net decline...”.</i></p>
ECO-P6	Amend	<p><i>Many species that are important to Otago’s indigenous biodiversity, live and thrive in the region’s plantation forests. Mobile fauna in particular, such as the Karearea, are highly dependent on plantation forest activity for their habitat and feeding grounds in coastal Otago. South Island Robin are another species which have found a ready home in some plantation forests whereas they are largely excluded on adjoining rural and urban land uses. The series of statements is insufficiently nuanced to distinguish the important qualitative difference between flora and fauna which are well adapted to the periodic disruption of plantation</i></p>	<p><i>Make it clear that the statement is not intended to create a pathway for the future regulation of economic activity which has created the very environment within which indigenous species have found a home.</i></p>

		<p><i>forestry activity, and which <u>in net terms</u> are flourishing under a plantation forestry land use. It is important to acknowledge and support the ongoing role of plantation forests in supporting indigenous biodiversity without creating a pathway for unnecessary regulation which will achieve little except have a chilling effect on this economic activity.</i></p>	
<p><i>ECO-P9, ECO-M5(6), ECO-E1, NFL-P5 and APP5</i></p>	<p><i>Amend</i></p>	<p><i>The APP5 list of species includes a number of species which are not particularly prone to wilding spread. This includes the main production species planted, radiata pine. Wilding spread is not a significant issue from modern plantation forestry, and its affects and an obligation to mitigate have already been provided for under NES-PF. Legacy plantings of shelter belts and occasionally older forests planted with problematic species in vulnerable locations have and are causing issues. Furthermore, any provision for future rules around buffer zone size must be evidence based. CFL has long experience with managing plantation forests adjacent to many hundreds of hectares of wetland and other areas of indigenous biodiversity. CLF's experience has been</i></p>	<p><i>Amend APP5 to remove heavy seed species such as radiata pine. Acknowledge the existing provisions in the NES-PF and the obligations of the Wilding Calculator already in place to manage any wilding spread from plantations. Do not promote increased buffer zones around SNAs beyond those already enacted in the NES-PF without clear scientific evidence of their efficacy.</i></p>

		<p><i>that these areas flourish when afforded the natural protection from grazing, and the shelter that adjacent plantation forests provide, and furthermore, that wilding risks from modern plantation species are negligible and easily managed.</i></p> <p><i>CFL is particularly disturbed to note the advice of the “reference group” cited in the section 32 report (822) which “expressed a strong preference to extend this prohibition [of planting wilding risk species - presumably those designated in APP5] into buffer zones along the edges of significant natural areas”. This “advice” appears to have failed to include the advice of forestry experts, who would have been able to explain and to demonstrate that:</i></p> <ul style="list-style-type: none"> <i>a. this risk is massively overstated in modern plantations, and is not supported by the evidence</i> <i>b. is already provided for in any case by the provisions of the NES-PF, and so therefore in any plantings established since 2017.</i> <i>c. The increased buffer zones around SNAs and wetlands in particular,</i> 	
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		<p><i>will very often in Otago, simply provide an opportunity for the intensive infestation of invasive weeds such as broom and gorse both around and within SNAs from the increased buffer area.</i></p>	
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From: [Lynette Baish](#)
To: [RPS](#)
Cc: [Anita Dawe](#); [Peter Weir](#)
Subject: Ernslaw One Submission to Otago Regional Council ORPS 2021
Date: Friday, 3 September 2021 3:56:02 p.m.
Attachments: [image001.png](#)
[ORC ORPS 2021 Submission Covering Letter.pdf](#)
[Submission to ORC Proposed Regional Policy Statement 2021.pdf](#)

Good afternoon,

Please find attached a covering letter and a submission from Ernslaw One Ltd in respect of the Otago Regional Policy Statement 2021 which was notified in June 2021.

Please take the covering letter as our Form 5. I hope I have included the correct address on the letter.

Please accept our submission despite its lateness – we have had a bit of a time with server issues today which has complicated communications during the day.

With kind regards,

Lynette Baish

Lynette Baish
Environmental Planner
Ernslaw One Limited
Mob 027 880 2964



CAUTION: This email is confidential and may be legally privileged. If received in error please destroy it and immediately notify the Sender. Thanks.



ERNSLAW ONE LIMITED

Otago Regional Council
Philip Laing House
Level 2
144 Rattray Street
Dunedin 9016

3 September 2021

Dear Sir/Madam,

Ernslaw One Limited wishes to submit to the Otago Regional Council Proposed Policy Statement 2021. Our submission is presented in the attached document, and Form 5 outlined below.

Form 5

Submission on notified proposal for policy statement or plan, change or variation
Class 6 of Schedule 1, Resource Management Act 1991

To:	Otago Regional Council
Name of Submitter:	Ernslaw One Limited
The specific provisions of the proposal that the submission relates to are:	
	The whole proposed policy statement
Contact:	Peter Weir, Head of Environmental Planning and Performance
Address for Service:	PO Box 36, Tapanui, West Otago
Email:	Peter.Weir@Ernslaw.co.nz

Please note that Ernslaw One Limited wishes to be heard in support of this submission.

If other parties make similar submissions, Ernslaw One Limited would consider presenting a joint case with those parties at the hearing.

Ernslaw One Limited could not gain an advantage in trade competition through this submission.

We are not directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade environment or the effect of trade competition.

Peter Weir
Ernslaw One Ltd
Tel. 027 454 7873



ERNSLAW ONE LIMITED

SUBMISSION ON THE PROPOSED REGIONAL POLICY STATEMENT

TO: Otago Regional Council (ORC)

SUBJECT: Proposed Otago Regional Policy Statement (June 2021)

SUBMITTER NAME: Ernslaw One Limited

ADDRESS FOR SERVICE: PO Box 36, Tapanui, West Otago

Attn: Peter Weir Head of Environmental Planning and Performance
Phone 027 454 7873, Email Peter.Weir@Ernslaw.co.nz

DATE: 3 September 2021

Introduction

1. Ernslaw One Limited (Ernslaw) is a production forestry company managing land holdings of up to 130,000ha throughout New Zealand. This includes 20,860ha of plantation in Pinus radiata and Douglas Fir within the Otago Region.
2. Ernslaw has over 25,000 ha of post-1989 compliant forests, making it one of the largest owners of post-1989 forests in New Zealand. Its plantation forests are managed as a sustainable resource with strategic long-term planning of harvesting and planting operations occurring successionaly throughout the estate to meet its carbon liabilities.
3. The company strives to achieve and exceed best industry standards, working with over 400 contractors nationally to ensure its resource management and environmental obligations as a steward of the land are met, including through the responsible management of hazardous substances, pest and predator control, protection of habitats of rare, threatened and endangered species, and social and cultural sites of significance, within and around its forests.
4. As a Forest Stewardship Council® (FSC®) certified forest owner, Ernslaw is committed to meeting international standards of forestry accreditation. All of Ernslaw's forests are certified under FSC by the FSC accredited certification organisation SGS. Products carrying the FSC label come from forests that are managed to meet the social, economic, and ecological needs of present and future generations.
5. Ernslaw wishes to make the below points in relation to the proposed regional policy statement as notified 26th of June 2021. Ernslaw would like to be heard in support of its submission. If other parties make similar submissions, Ernslaw would consider presenting a joint case with those parties at the hearing.

6. Ernslaw One Limited could not gain an advantage in trade competition through this submission. We are not directly affected by an effect of the subject matter of the submission that adversely affects the environment and does not relate to trade environment or the effect of trade competition.

Statutory Framework and Role of Otago Regional Policy Statement (ORPS) 2021

7. The stated purpose of the ORPS 2021 is to provide an overview of significant issues for the region and establish the policies and methods to achieve the integrated management of the natural and physical resources of the region. This is achieved by identifying the desired environmental outcomes, and then including these as objectives in its regional plan/s. Ernslaw acknowledges the effort made by Otago Regional Council to produce the ORPS 2019 and agrees with the Councils approach to propose a revised ORPS in 2021 which aligns with changes in the statutory landscape¹ and formats the document in accordance with the required national planning standards. These changes ensure that the coming efforts to undertake regional plan-making, consultation and engagement are efficient and on-point.
8. However, further change in national direction is coming, therefore Ernslaw submits that ORPS 2021 should be redrafted as an RPS with a freshwater focus, to prioritise the changes necessary to give effect to NPSFM 2020 and NESF 2020. These higher order documents require urgent change to improve ecosystem health and freshwater quality within 5 years, and to reverse degradation within a generation. Any provisions that do not address freshwater specifically, should be redrafted into a future RPS document which responds to the wholesale changes in national direction that will invariably transform the RMA, and the suite of national policy statements including those informing indigenous biodiversity, development, and soils. For this reason, Ernslaw submits that ORPS 2021 should be deleted in its entirety and replaced with a freshwater focused RPS.
9. Accepting that more national direction is coming, Ernslaw recognises that all regional councils have tight statutory timeframes to work within to produce regional plans including those that set limits² on resource use as well as contaminant discharges into freshwater. Ernslaw is keen to collaborate with the Council, community, and other stakeholders to shape the regulatory landscape, notwithstanding any further changes to national direction.

Otago Regional Policy Statement (ORPS) 2021 and Integrated Resource Management

10. An RPS is a touchstone between higher order documents that set national direction for natural and physical resources, and the regulatory machinery that delivers on community identified environmental outcomes in regions and districts. The ORPS 2021 builds on the 2019 version not just through its adaptation to changing statute and national policy, but also through its incorporation of additional significant emerging issues across the region.

¹ Noting the Council has reviewed all NPS, NES, the Water Conservation (Kawarau) Order 1997, Kai Tahu Treaty Settlement Act 1998, MOU, statutory acknowledgements, and iwi management plans.

² Or create action plans for, as the case may be.

11. There is a notable shift in ORPS 2021 which recognises the primacy of the life supporting capacity and mauri of the natural environment and te mana o te wai, followed by the health of people and the social and economic well-being of communities. Supporting that recognition is the concept of integrated resource management where Objectives IM01 – IM04 set out a regard for long term vision, ki uta ki tai, environmental sustainability, and climate change. The proposed framework sets an expectation for integrated resource management that flows through to all other provisions of ORPS 2021. If multiple provisions are relevant, they must be considered together, as well as alongside Objectives IM01 – IM04.
12. Ernslaw is supportive of an approach that recognises and effectively provides for the diversity of different interests and values associated with different resources and that takes into account the interconnectedness of the environment, and the impact of management of one natural resource over another. On the face of it, this is achieved through the provisions of ORPS 2021 which provides a platform for the integrated management of natural and physical resources.
13. Ernslaw finds the Section 32 analysis supporting the ORPS 2021 to be deficient. There is no analysis of how plantation forestry activities have been regulated since the NESPF came into effect in 2018, no summary of Councils compliance monitoring and enforcement of the plantation forestry sector, and no justification for imposing further regulation over and above that already imposed via gazettal of the NES-PF in 2017. Further there is no supporting cost benefit analysis. Ernslaw recommends that Council carefully incorporate the findings and recommendations of the MPI / Te Uru Rākau year one review of the NESPF³ before creating policy that would require District Councils in the Otago region to propose more stringent regulation of the plantation forestry sector under Regulation 6 of the NESPF.

Proposed Regional Policy Statement and the National Environmental Standard for Plantation Forestry (NESPF) 2017

14. The NESPF 2017 is the rule framework informing plantation forestry activities including afforestation (setbacks from SNA, management of wilding conifers), clearance of indigenous vegetation and activities impacting freshwater quality and freshwater values including harvesting, earthworks, replanting, and mechanical land preparation.
15. Although the NESPF 2017 has not been subject to amending changes⁴, Ernslaw notes that ORPS 2021 includes more direct references to NESPF 2017 and draws on the impacts of forestry activities with special regard to sedimentation, erosion, SNA's, afforestation, and the management of wilding conifers. Ernslaw is concerned that proposed SRPR-18 (page 80), makes the unsupported assertion that sediment from forestry is having significant adverse effects on the coastal environment. Ernslaw contends that cannot be occurring since the NESPF took effect in 2018 and if it is, it represents a failure by the Regional Council to enforce NES-PF Regulation 97 (Discharges, disturbances, and diversions).

³ <https://www.mpi.govt.nz/dmsdocument/44914-Report-on-the-Year-One-Review-of-the-National-Environmental-Standards-for-Plantation-Forestry>

⁴Despite release in April 2021 of first MPI review of NESPF 2017.

16. The proposed ORPS 2021 (page 74), fails to make clear that the provisions of the NESPF 2017 take precedence over the Resource Management (National Environmental Standards for Freshwater) Regulations (NESF) 2020.⁵ The regional council can only set rules⁶ that are more stringent than the NESPF 2017 if there is evidence that the controls in the NESPF 2017 are not sufficiently stringent to meet the Councils objectives for freshwater. The Section 32 Document fails to show that the incumbent rule framework (the NESPF), is not working. Nor is the statement made in SRMR-I10, ORPS 2021, referencing “*sediment from development and forestry flows into streams and builds up in the coastal environment*”, evidentially supported.
17. The NESPF 2017 comprises a suite of stringent controls on forestry earthworks, quarrying, harvesting and stream crossing installation where there were previously no such regulations operative in Otago. NESPF 2017 sets a high test for water clarity with the implication that any sediment originating from a forestry earthwork or harvesting operation must not result in any conspicuous change in colour or visual clarity. Ernslaw contends that the NESPF provides a clear and well-constructed regulation to avoid, remedy or mitigate impacts of any sedimentation on any water body. Ernslaw is yet to see any regional council undertake a robust analysis to shows that the NESPF controls that came into effect in May 2018 are not sufficiently stringent to deliver on the objectives of the NPSFM (2020).
18. With regard to SRMR-I10 (page 83) and elsewhere, Ernslaw contends that sedimentation arising from forestry activities adversely affecting water quality since Gazettal of the NES-PF, arises where forestry activities are poorly managed and where compliance monitoring and enforcement by Council is lacking. For this reason, Ernslaw submits that the statement in SRMR-I10 be amended to read “*sediment from ~~poorly managed development and~~ forestry ~~may~~ flows into streams and builds up in the coastal environment.*” This correlates with the reference made in the Section 32 Report (para 285), that activities, including forestry, “*can be important contributors to the existing and future health and well-being of communities, so long as they are located and managed appropriately.*”
19. The section 32 Report (para 315) states that “*feedback from community consultation on the coastal environment noted that development along the coast was a concern, especially considering rising sea levels exacerbated by climate change.*” Ernslaw further submits, that the impacts of forestry on the coastal environment, and the impacts of development, are two very separate issues and should be treated as such.
20. The Regional Council must manage the effects of land and resource use coherently and consistently. Ernslaw acknowledges that regulation 6 of the NESPF 2017 clearly articulates the settings where Councils can be more stringent (SNAs including regionally significant wetlands,

⁵ <https://www.legislation.govt.nz/regulation/public/2020/0174/latest/link.aspx?id=LMS364212> and <https://environment.govt.nz/assets/Freshwater-policy/interaction-between-the-nes-f-and-nes-pf.pdf>

⁶ If the rule gives effect to an objective developed to give effect to the NPSFM or specified policies in the New Zealand Coastal Policy Statement (NZCPS) 2010. A rule in a plan can also be more stringent than the NESPF if the rule recognises and provides for the protection of outstanding natural landscapes and features from inappropriate use and development, or significant natural areas. See <https://environment.govt.nz/assets/Freshwater-policy/interaction-between-the-nes-f-and-nes-pf.pdf>

ONFLs, upstream of water abstraction points, over shallow unconfined aquifers and in Karst terrain) or in giving effect to the NPSFM or NZ Coastal Policy Statement but only where there is evidence that that NESPF is failing to deliver on objectives. For forestry activities that are out of scope of the NESPF 2017 (e.g., burning forestry slash or agrichemical spraying), councils need to address competing interests in a resource, including cumulative impacts on common resources, and manage the interactions between multiple resource users. Ernslaw would be interested to participate, provide information and to assist in building any evidence needed should the regional council consider that the NESPF is not sufficient to safeguard freshwater values and environmental quality, or propose any rules intended to be more stringent than the NESPF.

21. Section CE-M3, ORPS 2021 states that the Regional Council must prepare, amend, or maintain its regional plans no later than 31 Dec 2028, including to “manage the discharge of contaminants into coastal waters by controlling the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry (CE-M3 – Regional Plans (4)(d)(ii)).” Again, the NESPF is purpose designed to ensure that in the undertaking of any forestry activities, plantation forest owners avoid, remedy, or mitigate the impacts of sedimentation and erosion.
22. Furthermore, plantation forestry works to standards and practices including the NZ Forest Owners Association (NZFOA) Forest Practice Guides (2020)⁷, earthworks, erosion and sediment control methods in the NZFOA Forest Road Engineering Manual (2020)⁸ and other industry guidance provided by MPI/Te Uru Rakau. Forest practices and recommended operational standards are regularly updated and reviewed to ensure that forestry is working to best and current practices. These include best management practices for earthworks stabilisation and mechanisms to avoid, remedy or mitigate loss of soil from cutover. Replanting is undertaken swiftly to ensure the succession of rotations within forests, which also maintains a continuous carbon stock.

Proposed Regional Policy Statement and Direction for Regional and District Plan Rules

23. Plantation forestry is itself a collection of highly orchestrated activities occurring on a rotational basis and supported by a diverse and highly specialised workforce. Harvest planning is a long-term planning exercise, supported by the installation over time, of an infrastructure within the forest to access the crop, provide drainage, sediment and erosion controls and manage the impact of storms and weather events. Any restriction on harvesting activities over and above the NESPF would have to be justified by evidence and pass a rigorous cost-benefit analysis before being worked through with the industry and MPI / Te Uru Rākau, given the significant impact such changes would have on the wider market and economic base, communities and the work force, forestry assets and the NZ’s climate change policy, to avoid the creation of stranded assets.
24. Ernslaw supports the provisions in ORPS 2021 which enable collaborative engagement between different local authorities, landowners, and communities for the management of eco-systems, freshwater or otherwise, and indigenous biodiversity. Many forest companies have invested in

⁷ <https://docs.nzfoa.org.nz/forest-practice-guides/>

⁸ <https://docs.nzfoa.org.nz/live/nz-forest-road-engineering-manual/>

technology to detect rare, threatened, and endangered species to meet obligations under the Wildlife Act and regional plan rules, schedules and maps defining significant indigenous vegetation and significant indigenous habitats. In many cases, forestry companies hold a wealth of data including monitoring and survey data collected over time, that could be shared with regional and district councils to ensure that setting of significant natural areas and boundaries around significant natural habitats are accurate, ground-truthed, and not based on a blanket approach to protection whereby constraints are imposed without a solid evidence base.

25. It should be acknowledged that, with effective risk-based compliance monitoring and enforcement of NESPF in place, as per the MPI / Te Uru Rākau guidance to Councils⁹, significant adverse environmental effects from the regulated plantation forestry activities can and will be avoided. Very few locations in Otago are so steep and erodible, that clear fell harvesting would give rise to significant adverse environmental effects. ORPS 2021 needs to recognise the long-term provision of positive ecosystems services that plantation forestry can provide, including the sequestration of carbon. ORPS 2021 currently fails to recognise that afforestation and the spatial extension of new plantation land area, as well as the consequent displacement of pastoral agriculture, will bring multiple eco-system services and benefits.
26. ORPS 2021 states that territorial authorities must prepare, amend, or maintain their district plans by no later than December 2026 to control the “*establishment of new or any spatial extension of existing plantation forestry activities were necessary to give effect to an objective developed under the NPSFM (ILF-LS-M12 – District Plans)*”. ORPS 2021 highlights wilding conifers as an adverse effect of forestry and afforestation, and the Section 32 Report (para 821/822) states that the Reference Group (Ecosystems and Indigenous Biodiversity) have expressed a preference for a prohibition on afforestation of species prone to wilding spread.
27. Wilding conifer risk is the subject of Sub-Part 1 of the NPSFM and is supported by the Wilding Risk Calculator which produces a score of wilding risk. The NESPF already requires a land use consent for afforestation of areas of high environmental risk. Low risk areas are appropriately a permitted activity, subject to controls including spatial buffers from significant natural areas, riparian margins, and neighbouring properties. Larger plantation forestry owners proactively work to monitor and destroy wildings in sensitive areas. Ernslaw submits that adequate controls exist within the NESPF 2017 in this regard (refer Regulations 11 and 79)¹⁰.
28. It is too early to review the effectiveness of NESPF wilding conifer controls in place since 2018, as trees planted in the interim are at least 5 years away from producing cones or fertile seeds. There is no evidence therefore, that the NESPF 2017 is not sufficiently stringent to manage wilding conifer risk. Should council have concerns, collaboration with industry to review the effort that has been made to control and manage wilding since NESPF 2017 regulation, and prior to NESPF 2017 regulation, would be the ideal first step.

⁹ <https://www.mpi.govt.nz/dmsdocument/28584/direct>

¹⁰ <https://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html#DLM7371044> and <https://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html#DLM7372150>
<https://www.mpi.govt.nz/dmsdocument/27933/direct>
<https://www.mpi.govt.nz/dmsdocument/27954/direct>

29. Finally, noting the stringent timeframes in which councils must notify and then make operative planning documents to give effect to freshwater objectives and national direction, Ernslaw considers it prudent that the chapeau to Policies CE-M3 and ILF-LS-M12, is amended to read “*review and finalise*” instead of “*prepare, amend or maintain*” as it is critical that plans are finalised, and that Council’s effort extend beyond simply “preparing.”

Submission Requests

30. Ernslaw generally supports the intent of ORPS 2021, however given impending changes in national direction, Ernslaw submits that ORPS 2021 be deleted and that a new RPS be drafted to prioritise regional policy needed to give effect to the NPSFM 2020 and the NESF 2020.
31. Ernslaw requests the rewording of SRMR-I10 per paragraph 18 above.
32. Ernslaw submits that Policies CE-M3 (4)(d)(ii), and ILF-LS-M12, are reconsidered given the NESPF provides for the regulation of plantation forestry activities resulting in specified adverse effects and there is no evidence in the Section 32 to say the NESPF is not effective in this regard.
33. Ernslaw further suggests in respect of Policies CE-M3 and ILF-LS-M12, that wording “*prepare, amend or retain*”, be amended to “*review and finalise*” for the reason stated in paragraph 26.

Submission prepared by,



Lynette Baish, MNZPI

Ernslaw One Ltd

From: [Robinson, Zac](#)
To: [RPS](#)
Subject: Port Blakely Submission on Regional Policy Statement- Request for Time Waiver
Date: Tuesday, 7 September 2021 10:18:46 a.m.
Attachments: [image001.png](#)
[image002.png](#)
[2021_09_ORC_Proposed_Regional_Policy_Statement_Submission_Signed.pdf](#)

Morning,

As indicated on your website we would like to request a time waiver to submit the attached submission on the ORC Proposed Regional Policy Statement. Due to the complexities of level 4 lockdown we were unable to get this in on the due date- we wholeheartedly apologise for this.

Can you please let me you if this request for time waiver has been accepted and our submission successfully received.

Regards,

Zac Robinson

Health, Safety & Environmental Manager



Port Blakely Ltd, NZ Forestry

122 Hilton Highway

PO Box 139

Timaru

03 688 2173

027 640 1389

PortBlakely.com



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Primary Industries Good Employer Awards

Ngā Tohu Kaitukumahi Pai o ngā Ahumahi Matua

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SUBMISSION ON THE PROPOSED OTAGO REGIONAL POLICY STATEMENT (ORPS) JUNE 2021

TO: Otago Regional Council (ORC)

SUBMITTER: Port Blakely NZ Ltd

ADDRESS: PO Box 139, Timaru 7940

CONTACT: Zac Robinson- Health, Safety & Environmental Manager.

Introduction

Port Blakely is a 5th generation family-owned business and also a member of the New Zealand Forest Owners Association. We own forests in the Otago, Canterbury and central North Island regions covering approximately 38,000Ha of which 14,025Ha is within the Otago Region.

Port Blakely has internationally recognised certification for responsible forestry practices across all of its forests since 2003. Port Blakely is committed to a strong Health & Safety culture across our staff and contractors along with responsible environmental management as per the company value of Stewardship².

Port Blakely's commitment to positive environmental & operational practices in the Otago region is well known and proven through numerous positive engagements with Otago Regional Council, Waitaki District Council and many other stakeholders over the years. Port Blakely acknowledges its forests hold significant environmental, historic and recreational values in some areas and are privileged to be in a position to protect and where possible enhance those values with responsible forestry practices.

Forestry contributes significantly to the social, environmental, and economic well-being of the Otago Region. Increasingly, forestry is being recognised as a critical part of New Zealand's commitment to managing its international climate change reduction targets as enshrined in law by the Zero Carbon Act. The Climate Change Commission has recognised the critical role that forests, both exotic and native, will play in NZ achieving it's GHG targets of being nett zero by 2050.

Further, the government has signalled changes to the RMA and have recognised the critical requirement for Regional Councils to factor climate change impacts into their policy making decisions. In this context, it is critically important that the Regional

Council focus on the significant benefits that afforestation provides the region, not only economically and socially but also in mitigating climate change effects. It has an imperative to set a policy statement that facilitates, rather than restricts the use of forestry to mitigate climate change objectives. It is recognised of course that forestry needs to do this in a way that meets the environmental standards that the community expects.

Port Blakely appreciates the opportunity to submit on the ORC Proposed Regional Policy Statement 2021.

Statutory Framework, Purpose & Cross-Boundary Matters

Port Blakely recognizes that this document is in response to the new statutory landscape which has a more national direction focus. We acknowledge this also includes tight timeframes for regional councils to produce plans. We appreciate the effort by ORC to produce the proposed ORPS which aligns with the new statutory landscape.

Port Blakely supports the cooperation and partnership approach as suggested and would be keen to collaborate with council, regulators and relevant stakeholders to help develop the regulatory framework within the Otago region, including the development of any rules intended to be more stringent to the NES-PF.

The NZ forestry industry works to standards and best practices such as the FOA Forest Practice Guides 2020 and FOA Forest Road Engineering Manual 2020. These guiding documents cover all forestry operations and would be a beneficial reference tool to be used during any collaboration processes and rule developments.

Proposed Regional Policy Statement & Alignment with the National Environmental Standard for Plantation Forestry (NES-PF) 2017.

Port Blakely recognizes that ORC have made direct references to the NES-PF in the ORPS. However, we feel there needs to be more clarity regarding certain forestry references in this document. The NES-PF 2017 is the framework by which plantation forestry activities are regulated. Throughout the ORPS there is references to forestry sedimentation, afforestation, wilding conifer management and setbacks from Significant Natural Areas all of which are currently regulated within the NES-PF.

It is also not clear that the NES-PF takes precedence over the National Environmental Standard for Freshwater (NES-F) when referring to a forestry activity such as sedimentation from harvesting.

Although there is an option under regulation 6 to apply more stringency than the NES-PF rules regarding a National Policy Statement objective, there first needs to be supporting evidence and analysis that the current controls in the NES-PF are not

adequate to meet such objectives. To date, Port Blakely is not aware of the ORC undertaking any robust analysis that shows the current NES-PF rules (when adhered to) are not delivering on the NPS-FM objectives.

Summary & Key Points

SRMR-13 – Pest species pose an ongoing threat to indigenous biodiversity, economic activities and landscapes

Change reference from 'Wilding Pines' to 'Wilding Conifers'.

Forestry is regularly referenced as a 'host' for pests however there seems to be a lack of reference to the impacts pests have on plantation forestry and the substantial pest control (flora & fauna) work forestry owners currently undertake. Pest control and management is an essential tool of production forestry and is vital to success. With the increase focus on afforestation (indigenous and exotics) to meet our Climate Change objectives recognition of the impacts of pests on establishing a successful forest should be referenced. For example, Otago forestry would be severely impacted if a wallaby population became well established. Port Blakely has large scale forests in the South Canterbury region and are very experienced in undertaking large-scale wallaby control operations to manage and protect both Production and Native Forests in the Waimate District. This operation is not part of a non-compliant notice but part of our risk management strategy and the economic success of the forest.

SRMR-110 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause

Port Blakely oppose the opening statement '*Sediment from development and forestry activities flow into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats*' as it is in our view that this would only occur if forestry activities were non-compliant with the NES-PF.

We would also note that for most of the forest rotation, with the exception for a short period associated with harvesting and reestablishment, forests are by in large low contributors to sedimentation relative to other land uses. This point needs to be acknowledged in any policy wording.

We submit that this statement be amended to acknowledge this does not refer to compliant forestry activities nor to the majority of the forest rotation.

ECO- Ecosystems & Indigenous Biodiversity

Port Blakely supports the views of collaborative engagement for the management of eco-systems & biodiversity as proposed. Port Blakely, like many forest companies,

invest significantly in indigenous biodiversity projects, initiatives and surveys which could be valuable in ensuring practical and pragmatic SNA boundaries and management tools are established instead of a blanket-approach without ground-truthing.

We also believe that the ORPS doesn't recognize that forestry provides a long-term net-positive eco-system service including the sequestration of carbon and that afforestation within the region will bring multiple eco-system services and benefits if managed correctly.

It should also be acknowledged that the regulatory framework for meeting policy *ECO-P9- Wilding Conifers* already exists through the afforestation rule in the NES-PF and associated wilding risk calculator. Should councils have concerns with the current perimeters of this rule consultation with industry should be the first step with the aim to maintain the regulatory management within the NES-PF.

Conclusion

- Port Blakely generally supports the intent and purpose of the ORPS 2021.
- Port Blakely requests the rewording of SRMR-110.
- Port Blakely submits that where policies and statements referring specifically to forestry activities already regulated under the National Environmental Standard for Plantation Forestry (NES-PF) remain regulated under the relevant NES-PF rule, unless substantial evidence and analysis is provided proving that the current rule is ineffective and more stringency is required.

Yours Respectfully,



Zac Robinson
Health, Safety & Environmental Manager
Port Blakely NZ

From: trish.fordyce@xtra.co.nz
To: [RPS](#)
Subject: Submission on the PRPS
Date: Friday, 3 September 2021 2:19:59 p.m.
Attachments: [Otago regional council submission.docx](#)
[ORPS Submission.docx](#)

Attached is the submission and its attached chart to the Proposed RPS.

Trish Fordyce

Mb 0274517253

From: trish.fordyce@xtra.co.nz
To: [RPS](#)
Subject: RE: Submission on the PRPS
Date: Friday, 3 September 2021 2:39:24 p.m.
Attachments: [image001.png](#)
[oledata.mso](#)

We wish to advise that the Submission to the Proposed RPS lodged on behalf of Rayonier Matariki Forests should include in its paragraph 2 the following:

“We are directly affected by an effect of the subject matter of the submission that

- a. adversely affects the environment; and
- b. does not relate to trade competition or the effects of trade competition.”



Trish Fordyce

From: RPS <rps@orc.govt.nz>
Sent: Friday, 3 September 2021 2:27 PM
To: trish.fordyce@xtra.co.nz
Subject: RE: Submission on the PRPS

Kia ora Trish,

Thanks for your submission. I happened to notice that you hadn't included an answer to the form 5 question that follows the trade competition one:

I **am/am not** (*Select one*) directly affected by an effect of the subject matter of the submission that

- a. adversely affects the environment; and
- b. does not relate to trade competition or the effects of trade competition (See notes to person making submission)

Happy to receive your answer by email.

Best

James

From: trish.fordyce@xtra.co.nz <trish.fordyce@xtra.co.nz>
Sent: Friday, 3 September 2021 2:20 p.m.
To: RPS <rps@orc.govt.nz>

Subject: Submission on the PRPS

Attached is the submission and its attached chart to the Proposed RPS.

Trish Fordyce

Mb 0274517253

Otago Regional Council Proposed Regional Policy Statement Submission

To: Otago Regional Council

1. Submitter details

Name: Rayonier Matarki Forests

Address: P O Box 13285

Tauranga 3141

Contact Person:

Kelsey Tills-Environmental Coordinator

Contact email address:

kelsey.tills@rayonier.com

Contact Person Contacts:

Mb-027 203 2969

2. Trade competition declaration

We would not gain an advantage in trade competition by this submission. Rayonier Matariki Forests is a forest company that owns and or manages plantation forests in the Otago region. The company and or its associates has operated in the Otago region since 1991.

3. Hearing options

We do wish to be heard in support of this submission and we would consider presenting a joint case with others that may make similar submissions.

4. Submission details

We attach a chart setting out the submission details.

Signed:

A handwritten signature in blue ink, appearing to read "Trish Fordyce".

.....
Trish Fordyce on behalf of Kelsey Tills

Dated 3 September 2021

Provision	Support/Not	Reasons	Relief
The entire PRPS	Not support	Given the RMA reform process the timing of the PRPS is inappropriate as there will need to be major changes after the reform process.	Delay the processing of this PRPS until after the RMA reform process and the introduction of the National Policy Statement for Indigenous biodiversity. AN alternate is to only advance those areas that give effect to the NPSFW.
General		The PRPS makes some reference to the NESPF and use definitions included in the NESPF such as afforestation. However, the NESPF only deals with plantation forestry and not the planting of trees for carbon and or shelter belts and amenity plantings. Overall there really does not appear to be any recognition or evaluation that the NESPF has operated within Otago since May 2018. There needs to be clear direction on the alignment with the provisions of the NESPF.	The PRPS should include provisions to other tree plantings not just to plantation forests. Alignment with the NESPF to be undertaken
SRMR introduction and figure 2	Support in part	There is no reference to plantation forestry which is part of the primary production activities of the region	Include plantation forestry
SRMR-16, pg 77 4 th paragraph last sentence	Support in part	There is only reference to agriculture intensification as a contributor to sedimentation, pastureland contributes to the generation of sediment and this should be recognised.	Insert “pastureland or farming” before agriculture intensification.
SRMR-110 statement	Do not support	The first sentence appears to state that sediment effects on the marine area originates from development and forestry activities. This is contrary to other statements of the PRPS such as pg 77 4 th paragraph and pg 76 Context 2 nd paragraph. As well as wrongly identifying forestry there is the inference by the heading of this	Delete the reference to forestry activities and replace with “primary production activities”. Refer to note that the NESPF has introduced extensive regulation for plantation forestry.

		provision that plantation forestry does not properly account for its impacts on the environment. There is no recognition that the NESPF was introduced in 2018 and has extensive controls on the impacts of plantation forestry on the environment.	
SRMR-15 and 16	Support in part	In the context there is no recognition that the NESPF has introduced controls on plantation forestry. These controls need to be recognised as council plans may be more stringent in certain circumstances (regulation 6) as long as there is evidence to support changes to the national regulations Section 32 (4) RMA)	Insert new reference to the NESPF and the effect of its regulations and explain where plan provisions may be more stringent and refer to research which justifies any greater restrictions.
CE-M3 (d) (ii)	Do not support	While a regional plan rule may be more stringent it must be supported by justification pursuant to section 32 (4) RMA.	With regard to the generation of sediment and impacts on coastal waters, there has been no assessment as to the effectiveness of the provisions of the NESPF. The section 32 reports provide no justification for including such a provision. Delete the provision.
CE-M4 (3)	Do not support	While a district plan rule may be more stringent it must be supported by justification pursuant to section 32 (4) RMA. There is none.	Delete the provision with regard to activities controlled by the NESPF.
LF-VM-M3 (4)	support	Plantation forestry has various Forest Practice guides to assist in the implementation of the NESPF.	retain
LF-FW-P13	Support in part	It is not clear as to the alignment with the NESPF which controls various activities to occur in the margins of waterbodies. This provision should be subject to the NESPF.	Amend to note that the provisions are subject to the NESPF controls on activities in margins. In other words the provisions of the NESPF would prevail.

LF-FW-M6 (5) (d)	Do not support	There is no alignment with the NESPF and no assessments have been undertaken as to the effectiveness of the regulations of the NESPF	Amend to make subject to the regulations of the NESPF prevailing
LF-FW-M6 (7)	Support in part	There is no alignment with the NESPF	Add "and the NESPF"
LF-LS-P19	Support	Support retention of all these provisions as recognition for primary production	retain
LF-LS-M11 (1) (b) and (d)	Support in part	Again, there is no reference to the NESPF. Before a provision may be more stringent if giving effect to a freshwater objective there must be an assessment as the effectiveness of the NESPF regulations. There has been no such assessment .	Amend by adding the provisions of the NESPF apply to plantation forestry activities
LF-LS-M12 (1)	Do not support	There is no evidence, no section 32 justification as to why plantation forestry should be restricted. It is not clear what spatial extension means with regard to existing plantation forests. The NESPF already provides restrictions on afforestation of plantation forests in areas of high erosion risk and outstanding values.	delete
LF-LS-M13	Support in part	Again no alignment with the NESPF which regulates various activities in margins	Amend to note that the provisions are subject to the NESPF controls on activities in margins.
ECO-P2	Support in part	The policy must be clear that identification includes the process of mapping and ground truthing of the extent of the maps. Mapping and verification provides certainty for plantation forestry	Amend to include mapping and verification.
ECO-P3 and ECO-P5	Support in part	Again no alignment with the NESPF. There are extensive regulations with regard to existing forestry activities within SNAs and with regard to other indigenous vegetation	Provide that subject to the provisions of the NESPF. In other words the provisions of the NESPF would prevail.
ECO-P9	Support in part	Wilding confers occur from more than plantation forests.	Include the planting of any forests, shelter belts and amenity planting

ECO-M5 (2)	Support in part	Again no alignment with the NESPF.	Provide that subject to the provisions of the NESPF. In other words the provisions of the NESPF would prevail.
NFL-P5	Support in part	Wilding conifers occur from more than plantation forests	Include the planting of any forests, shelter belts and amenity planting
NFL	Not support	Do not support the identification and then the following provisions of areas of high values. While the provisions to identify and map areas of outstanding values are supported there is no RMA imperative to identify areas of High value. The provisions lead to too much uncertainty as to the operation of existing forestry activities.	Delete all references and provisions to high values. The RMA reform does not support regulation for high value areas of landscape.
This is the attached chart to the submission by Rayonier Matariki Forests	NESPF is National Environmental Standards for Plantation Forestry 2017	RMA is resource Management Act 1991	

From: [Lynette Baish](#)
To: [RPS](#)
Subject: Ernslaw One Ltd Further Submission to PORPS 2021
Date: Friday, 12 November 2021 1:48:40 p.m.
Attachments: [image001.png](#)
[image002.png](#)
[Ernslaw One Ltd Further Submission on Proposed Otago Regional Policy Statement Nov 2021.pdf](#)

Tena koe,

Please find attached the further submission from Ernslaw One Ltd to the proposed ORPS 2021.

Kind regards,

Lynette Baish

Lynette Baish
Environmental Planner
Ernslaw One Limited
027 880 2964



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ERNSLAW ONE LIMITED

Further Submission on the Proposed Otago Regional Policy Statement

TO: Otago Regional Council (ORC)
SUBJECT: Proposed Otago Regional Policy Statement (June 2021)
SUBMITTER NAME: Ernslaw One Limited
ADDRESS FOR SERVICE: PO Box 36, Tapanui, West Otago
Attn: Peter Weir Head of Environmental Planning and Performance
Phone 027 454 7873, Email Peter.Weir@Ernslaw.co.nz
DATE: 3 November 2021

Introduction

1. Ernslaw One Limited (Ernslaw) is a production forestry company managing land holdings of up to 130,000ha throughout New Zealand. This includes 20,860ha of plantation in Pinus radiata and Douglas Fir within the Otago Region.
2. Ernslaw has over 25,000 ha of post-1989 compliant forests, making it one of the largest owners of post-1989 forests in New Zealand. All of Ernslaw's post-1989 forests in Otago are registered in the NZ Emissions Trading Scheme (NZ ETS) with NZ Units (NZUs) sold to emitters. Ernslaw plantation forests are managed as a sustainable and renewable source of wood fibre with strategic long-term planning of harvesting, and planting operations occur successionaly throughout the estate to meet its carbon liabilities.
3. The company strives to achieve and exceed best industry standards, working with over 400 contractors nationally to ensure its resource management and environmental obligations as a steward of the land are met, including through the responsible management of hazardous substances, pest and predator control, protection of habitats of rare, threatened and endangered species, and social and cultural sites of significance, within and around its forests.
4. As a Forest Stewardship Council® (FSC®) certified forest owner, Ernslaw is committed to meeting international standards of forestry accreditation. All of Ernslaw's forests are certified under FSC by the FSC accredited certification organisation SGS. Products carrying the FSC label come from forests that are managed to meet the social, economic, and ecological needs of present and future generations.

Further Submission

Ernslaw One (Ernslaw) sets out in the attached schedule each of the submissions it supports or opposes (or in some cases a combination of the two).

In addition to the reasons listed for supporting or opposing a provision (as the case may be):

a. Ernslaw supports the identified submissions, because what is proposed in accordance with:

- i. The Resource Management Act 1991;
- ii. A section 32 analysis;
- iii. Other relevant plan provisions and policy statements; and
- iv. The Ernslaw One submission on the proposed Otago RPS.

b. Ernslaw One opposes the identified submissions, because what is proposed is not in accordance with:

- i. The Resource Management Act 1991;
- ii. A section 32 analysis;
- iii. Other relevant plan provisions and policy statements; and
- iv. The Ernslaw One submission on the proposed Otago RPS.

Ernslaw continues to pursue the submission points in its original submission on the proposed Otago Regional Policy Statement, and where relevant prefers that relief in its submission to that sought by other submitters on the same point. In some cases, this is stated in the specific further submission points in the attached Schedule. In particular, we draw attention to point 8 in Ernslaw's initial submission:

8. However, further change in national direction is coming, therefore Ernslaw submits that ORPS 2021 should be redrafted as an RPS with a freshwater focus, to prioritise the changes necessary to give effect to NPSFM 2020 and NESF 2020. These higher order documents require urgent change to improve ecosystem health and freshwater quality within 5 years, and to reverse degradation within a generation. Any provisions that do not address freshwater specifically, should be redrafted into a future RPS document which responds to the wholesale changes in national direction that will invariably transform the RMA, and the suite of national policy statements including those informing indigenous biodiversity, development, and soils. For this reason, Ernslaw submits that ORPS 2021 should be deleted in its entirety and replaced with a freshwater focused RPS.

Ernslaw One has filed to be party to the High Court declaration proceedings initiated by the Otago Regional Council against Forest and Bird (the first defendant). Ernslaw is of the view that the matters traversed in the proposed Otago Regional Policy Statement are too broad to be considered as a "Freshwater Planning Instrument" (RMA S80A) and consequently it is not appropriate to be heard by, or decided upon, a panel of specialist Freshwater Commissioners.

In terms of this further submission Ernslaw maintains that position and any further submissions in respect of the proposed Otago Regional Policy Statement included here are made notwithstanding that primary relief sought. Ernslaw wishes to be heard in support of its further submission.

If others make a similar submission, Ernslaw would consider presenting a joint case with them at a hearing.

Submission prepared by

Lynette Baish, MNZPI
Ernslaw One Ltd

Form 6

Further submission in support of, or in opposition to, submission on notified proposed Otago Regional Policy Statement 2021

(Submissions must be received by Otago Regional Council by 5pm on Friday 12 November 2021, and by original submitters within 5 working days of service on ORC)


To: Otago Regional Council

1. Name of person making further submission

Ernslaw One Limited

2. This is a further submission in support of (or in opposition to) submission on the **Proposed Otago Regional Policy Statement 2021**.

3. I am (tick whichever applies and add grounds if required):

	A person representing a relevant aspect of the public interest. In this case, also specify the grounds for saying that you come within this category; or
	Ernslaw One Ltd is a person who has an interest in the proposal that is greater than the interest the general public has.
Grounds:	Ernslaw One Ltd lodged submissions on the PORPS and has and or manages plantation forests within the Otago Region.
	the local authority for the relevant area.

- 4. We wish to be heard in support of my further submission.
- 5. If others make a similar submission, **we will** consider presenting a joint case with them at a hearing.

6. Further Submitter Details

a. Signature of person making further submission

(or person authorised to sign on behalf of submitter. A signature is NOT required if you make your submission by electronic means).



b. Signatory name, position, and organisation *(if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above)*

Name Lynette Baish

Position Environmental Planner, Ernslaw One Ltd

c. Date

12 November 2021

Address for service of person making further submission *(This is where all correspondence will be directed)*

d. Contact person *(name and designation, if applicable)*

Peter Weir, Head of Environmental Planning and Performance, Ernslaw One Ltd

e. Email: *(this is our preferred means of contact)*

Peter.weir@ernslaw.co.nz

f. Telephone:

Mb 027 454 7873

g. Postal address (or alternative method of service under [section 352](#) of the Act):

Ernslaw One Ltd, PO Box 36, Tapanui, West Otago

7. My further submission is:

I support and or oppose the submissions of:

Port Blakely, City Forests, Federated Farmers, Otago Fish and Game Council, Rayonier-Matariki Forests, Royal Forest and Bird Society, Queenstown Lakes DC, University of Otago, Oceana Gold, Director-General of Conservation, Beef & Lamb/DINZ, Ministry for the Environment.

Original Submission				Further Submission		
Provision	Submitter	Sub No.	Relief Sought	Support/ Oppose	Allow/ Disallow	Reasons
General						
Benefits of forestry	00033 Port Blakely NZ Ltd	00033.005	Amend the RPS21 to recognise that forestry provides a long – term net – positive eco – system service, including the sequestration of carbon and that afforestation will bring multiple eco – system services and benefits, if managed correctly.	Support	Allow	Ernslaw agrees that ORPS21 needs to reflect the benefits and positive impacts brought about by any land use activity, including plantation and other types of forestry.
Forestry	00033 Port Blakely NZ Ltd	00033.001	There needs to be more clarity regarding certain NES – PF 2017 forestry references made in the RPS21, such as sedimentation, afforestation, wilding conifer management and setbacks from SNA. It is not clear if the NES – PF 2017 takes precedent over the NES – F when referring to forestry activities, such as sedimentation from harvesting. Robust analysis of adopting a more stringent rule than the NES – PF under regulation 6 needs to be undertaken in order to provide evidence that the current NES – PF rules are not delivering on the NPS – FM objectives.	Support	Allow	Ernslaw is concerned that sweeping statements in respect of sedimentation (esp. coastal), wilding conifers etc provide a biased view of the plantation forestry sector; furthermore, it is unclear where the NES-PF will be applied to manage related effects. An analysis of the NES-PF framework has not been undertaken.
General	00020 Rayonier Matariki Forests	00020.001	Delay the development of the RPS21 until after the RMA reform process and the introduction of the NPSIB, or an alternative is to only advance those sections of the RPS21 that give effect to the NPSFW.	Support	Allow	Given that freshwater improvement is mandated as urgent, Ernslaw agrees that an approach that prioritises and progresses sections of ORPS21 that give effect to the NPS-FW is appropriate.
General	00239	00239.196	Amend to include a broader acknowledgement towards (and recognition	Support	Allow	Ernslaw agrees that amendments could better reflect the diversity

	Federated Farmers		of) the roles resource users fulfil in meeting the positive outcomes sought under the RPS.			of interests and values associated with different resources, and related responsibilities, which are taken very seriously by land owners and land managers, in relation to resource use.
General	00231 Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.003	Amend so the RPS develops a framework for considering when protecting the habitat of trout and salmon is consistent with protecting the habitat of indigenous species and assists in managing species interactions where they are of concern [specific relief not stated]	Support	Allow	Ernslaw supports this submission and additionally requests further policy investigation into species interactions to better understand threats to indigenous fish species through enhanced migration of exotic fish species.
General	00020 Rayonier Matariki Forests	00020.002	Amend the RPS21 to include provisions to other tree plantings not just to plantation forests.	Support	Allow	Agree that ORPS21 should address different types of forests.
Freshwater Planning Process	00230 Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.001	It is not lawful to put the entire RPS through the freshwater planning process.	Support	Allow	Ernslaw contends that the freshwater planning process is intended for freshwater specific policies and non-freshwater plan components should be dealt with in a separate process.
Interpretation	Beef & Lamb/DINZ	21_00237	Amend the definition of primary production to specifically exclude forestry [for] the [sole] purposes of carbon sequestration.	Support in part, IF the submitter's intent was [for] & [sole], otherwise	Allow	"Plant and leave" Carbon only post-89 forests, registered in the NZ ETS, where there is no intention of harvest, are currently not regulated by the Activity Standards in the NES-PF (refer definition of Plantation Forest).

				Oppose if '[or]'		Refer: www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html#DLM7373522
Statutory Context						
RMA 1991	00239 Federated Farmers of New Zealand	00239.004	Amend as follows or similar: "The regional policy statement must give effect to higher order national direction instruments, including National Environmental Standards (NES) , National Policy Statements (NPS), and the New Zealand Coastal Policy Statement (NZCPS), and should be written to comply with the National Planning Standards <u>and to not duplicate or conflict with National Environmental Standards (NES).</u> "	Support	Allow	National Environmental Standards (NES) are in place applying to specific industries. NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES.
SRMR – Significant resource management issues for the region						
Introduction	00020 Rayonier Matariki Forests	00020.003	Include plantation forestry in SRMR introduction and figure 2 as it is part of the primary production activities in the Otago region.	Support	Allow	Plantation forestry is an established element of primary production activity in the Otago region. Ernslaw supports the submission.
SRMR – I3	00033 Port Blakely NZ Ltd	00033.002	Change reference from 'Wilding Pines' to 'Wilding Conifers'.	Support	Allow	Agree with the suggested amendment as there are many species of coning plantation trees.
SRMR – I5	00020 Rayonier Matariki Forests	00020.006	Insert new reference to the NESPF and the effect of its regulations and explain where plan provisions may be more stringent and refer to research which justifies any greater restrictions	Support	Allow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES.
SRMR – I6	00024	00024.001	Provide more nuanced and conditional statements, e.g. that "poorly managed	Support	Allow	Ernslaw agree the current statements concerning

	City Forests Limited		forestry harvesting or earthworks activity may contribute to sediment input”.			sedimentation, and forestry more generally, are inaccurate.
SRMR – I6	00020 Rayonier Matariki Forests	00020.004	Amend as follows: “Activities such as <u>pastureland or farming</u> , agricultural intensification, mining, and forestry also contribute.”	Support	Allow	Ernslaw agrees with the relief requested.
SRMR – I6	00020 Rayonier Matariki Forests	00020.007	Insert new reference to the NESPF and the effect of its regulations and explain where plan provisions may be more stringent and refer to research which justifies any greater restrictions.	Support	Allow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES. Ernslaw supports the submission.
SRMR – I6	00024 City Forests Limited	00024.002	Provide more nuanced and conditional statements, e.g. that “poorly managed forestry harvesting or earthworks activity may contribute to sediment input.”	Support	Allow	Ernslaw agree the current statements concerning sedimentation, and forestry more generally, are inaccurate and imprecisely worded.
SRMR – I10	00033 Port Blakely NZ Ltd	00033.003	Amend the opening statement to acknowledge that this does not refer to compliant forestry activities nor to the majority of the forest rotation.	Support	Allow	Ernslaw agree the current statements concerning sedimentation, and forestry more generally, are inaccurate and imprecisely worded.
SRMR – I10	00020 Rayonier Matariki Forests	00020.005	Amend as follows: “Sediment from development and forestry activities <u>primary production activities</u> flow into streams and build up in the coastal environment, smothering kelp forests and affecting rich underwater habitats.”	Support	Allow	Ernslaw agrees with the relief requested.
Legal Process	00230 Royal Forest and Bird	21_00230	Forest & Bird is concerned that the intention to use the freshwater planning process to	Support	Disallow	The scope of the proposed RPS is far broader than a Freshwater Planning instrument, and

	Protection Society of New Zealand Incorporated		consider the proposed ORPS in its entirety is inappropriate and does not follow the requirements set out in s80A of the RMA.			specialist Freshwater Commissioners are not necessarily appropriate to decide on the broad range of matters covered. Ernslaw supports the Forest & Bird assertion that (#10) it is not lawful to put the entire RPS through the freshwater planning process. Refer www.legislation.govt.nz/act/public/1991/0069/latest/whole.html#DLM7236557
SRMR – I11	00230 Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.027	Amend the 'Context' discussion to recognise and include the need and ability for environmental restoration; Amend the "Impact snapshot" for Environment needs to be clearer in terms of thresholds and limits that retain and improve ecosystem function and indigenous biodiversity at a healthy rich and diverse state. Rather than working towards a tipping point we should be working towards restoring and improving ecosystem health.	Support	Allow	Ernslaw agrees with the notion that tipping points are not useful and that the direction of travel needs to be one that restores and improves eco-system health rather than identifying a position in relation to a tipping point. Ernslaw supports the inclusion of clearer terms in reference to thresholds and limits for eco-system health.
RMIA – Resource management issues of significance to iwi authorities in the region						
RMIA – WAI – 15	00239 Federated Farmers of New Zealand	00239.030	Amend as follows: <ul style="list-style-type: none"> “• Water allocation concerns: ... o ... continuation of <u>inefficient poor</u> methods of water use.” “• Concerns about channel modification and river works: ... o ...indigenous vegetation and <u>planting</u> of exotic afforestation (<u>the wrong tree in the wrong place for the wrong reason</u>),” 	Oppose	Disallow	Ernslaw objects to the use of the reference and prefers “the right tree, in the right place, for the right reason” as this appropriately applies to <i>any</i> type of tree.

IM – Integrated management						
IM – P1	00231 Otago Fish & Game Council and the Central South Island Fish & Game Council	00231.032	Amend as follows: The objectives and policies in this RPS form an integrated package, in which: (1) all activities are carried out within the environmental constraints <u>limits</u> of <u>directed by this RPS, ...</u>	Support	Allow	Ernslaw supports the inclusion of more direct language, particularly where specificity is appropriately achieved.
IM – P2	00138 Queenstown Lakes District Council	00138.008	That the ‘decision priority’ framework in IM – P2 be limited to decision made on freshwater/those matters managed under the NPSFM 2020.	Support	Allow	Ernslaw contends that the freshwater planning process is intended for freshwater specific policies and non-freshwater plan components should be dealt with in a separate process. Agree that the decision priority framework relates exclusively to freshwater provisions.
IM – P2	00239 Federated Farmers of New Zealand	00239.036	Amend as follows or similar: “Unless expressly stated otherwise, all decision making under this RPS shall secure <u>safeguard</u> the long-term life-supporting capacity (and mauri), of air, water, soil, and ecosystems the natural environment , while enabling (1) secondly, <u>promote the health needs of people, and (2) thirdly, safeguard the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future</u>	Support	Allow	Ernslaw agrees with the suggested change in wording.
IM – P4	00239 Federated Farmers of New Zealand	00239.037	Amend as follows or similar: “(4) anticipates, or responds swiftly to, changes in activities, pressures, and trends, <u>and (5) Relies on scientifically robust data, or where data is incomplete, utilises appropriate and robust</u>	Support	Allow	Agree that where data is incomplete, or where robustness is questioned, effort is made to fill an information gap in an appropriate, evidenced based

			modelling that is updated with or replaced by <u>robust data or science as it becomes available.</u> “ _			manner, including the use of robust modelling.
IM – P6	00139 Dunedin City Council	00139.031	Add the following: <u>Determine whether delays in decision – making are unreasonable by balancing the advantages of more rapid decisions, which may rely on incomplete information, with any benefits that may be derived from having a more complete information set.</u>	Part-Support	Part-Allow	Ernslaw agrees that robust decision making around data and information gaps is necessary for processes to be fair, reasonable and transparent – it is appropriate for ORPS21 to make a position statement in this regard, but one which is worded to better outline the risks of not having a complete information set.
IM – P6	00127 University of Otago	00127.002	Amend as follows: Avoid unreasonable delays in decision – making processes by using the best information available at the time, including but not limited to mātauraka Māori, local knowledge, and reliable <u>evidence based</u> partial data.	Support	Allow	Ernslaw agrees with the suggested change in wording.
	Oceana Gold	21_0115	Oceana Gold submits that it is appropriate for the ORPS to address climate change risks, adaptation and mitigation. In doing so however Oceana Gold also seeks to ensure that there is suitable policy to support initiatives that land owners may wish to pursue to assist in mitigating or offsetting carbon emissions. For example, carbon forestry initiatives on private land. Oceana Gold seeks new provisions or policy which support and encourage landowners / individuals climate change mitigation / decarbonisation initiatives.	Support in part Amend to read: For example, carbon and Plantation forestry initiatives	Allow	Plantation forestry is adequately regulated by the NES-PF. During harvest, plantation forests provide feedstocks for bioenergy which allows major energy users to decarbonise without drawing on the electricity grid, which is already supply constrained. “Plant and Leave” carbon forests do not provide feedstocks for bioenergy production, and are not currently regulated by the NES-PF and likely not under most

				on private land		District Plans in Otago, so need not observe setbacks from streams, wetlands or areas designated SNA.
IM – M4	00139 Dunedin City Council	00139.045	Amend wording so that local authorities are 'coordinated' by ORC instead of 'led' or remove 'led by Otago Regional Council' entirely.	Support	Allow	Ernslaw agrees with the suggested change in wording.
CE – Coastal environment						
CE – New provision	00139 Dunedin City Council	00139.135	Add a policy to the Coastal Environment section to manage the effects of wilding conifers on the natural character of the coast.	Oppose	Disallow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES. The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
CE – O1	00230 Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.046	Amend as follows: "... (2) coastal water quality supports healthy ecosystems, natural habitats, water – based recreational activities, existing activities, and customary uses, including practices associated with mahika kai and kaimoana, (3) the dynamic and interdependent natural biological and physical processes in the coastal environment are maintained or enhanced, (4) representative or significant areas of indigenous biodiversity are protected, and (5) surf breaks of national significance are protected."	Oppose	Disallow	Ernslaw contends that the freshwater planning process is intended for freshwater specific policies and non-freshwater plan components should be dealt with in a separate process.

CE – P1	00137 Director- General of Conservation	00137.052	Insert the following or words to like effect: “x. <u>Ecosystems and indigenous biodiversity must be managed in accordance with the ECO – Ecosystems and indigenous biodiversity section of this RPS.</u> ”	Oppose	Disallow	Ernslaw contends that the freshwater planning process is intended for freshwater specific policies and non-freshwater plan components should be dealt with in a separate process.
CE – P1	00230 Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.051	Amend as follows: “Recognise that in addition to the CE provisions: ... (4) Land and water use activities beyond the coastal environment must be undertaken in a way that achieves the objectives and outcomes for the coastal environment, (5) the ECO indigenous biodiversity provisions apply, (6) The NLF natural features and landscape provisions apply”	Oppose	Disallow	Ernslaw contends that the freshwater planning process is intended for freshwater specific policies and non-freshwater plan components should be dealt with in a separate process.
CE – M3	00024 City Forests Limited	00024.004	Amend CE – M3(6) to remove the precautionary approach with respect to Plantation Forestry and acknowledge the efficacy of the NES – PF for managing future uncertainties.	Support	Allow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES. The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
CE – M3	00024 City Forests Limited	00024.006	Amend as follows: (a) reducing the discharge of sediment by: (i) ... (ii) controlling the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry, and ... Amend CE – M3(4)(d)(ii) to acknowledge the efficacy of the NES – PF to manage potential effects.	Support	Allow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES. The NES-PF is

						the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
LF – Land and freshwater						
LF – FW – P8	00024 City Forests Limited	00024.008	Amend LF – FW – P8(1) so that it is in alignment with the NES – PF Identify and map natural wetlands that are: (1) 0.05 0.25 hectares or greater in extent, or...”	Support	Allow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES. The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
LF – FW – M6	00020 Rayonier Matariki Forests	00020.015	Amend as follows: (3) identify and manage natural wetlands in accordance with LF – FW – P7, LF – FW – P8 and LF – FW – P9 while recognising that some activities in and around natural wetlands are managed under the NESF and NESPF, and ...”	Support	Allow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be better managed outside of an established NES. The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – Ecosystems and indigenous biodiversity						
ECO – General	00033 Port Blakely NZ Ltd	00033.004	Port Blakely supports the views of collaborative engagement for the management of eco – systems and biodiversity as proposed.	Support	Allow	Ernslaw supports a collaborative approach for the management of eco-systems and biodiversity.

ECO – General	00237 Beef & Lamb NZ and Deer Industry NZ	00237.049	Delete chapter and redraft when the NPS-IB has been made operative.	Support	Allow	Ernslaw contends that the freshwater planning process is intended for freshwater specific policies and non-freshwater plan components should be dealt with in a separate process, once the NPS-IB has been gazetted.
ECO – General	00024 City Forests Limited	00024.014	Amend to acknowledge the obligations of the Wilding Calculator to manage wilding conifer spread.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – General	00136 Minister for the Environment	00136.009	Amend ECO – Methods to give ORC an explicit role of providing initial spatial data and expertise for identifying Significant Natural Areas.	Support	Allow	Ernslaw agrees that the regional council must provide robust spatial data and expertise for identifying SNA's.
EC1– Explanation	Federated Farmers	21_0239	Amend to read: Although plantation forestry is managed under the NESPF a gap remains around carbon forestry, and the NESPF allows plan rules to be more stringent if they recognise and provide for the protection of significant natural areas. The policies adopt this direction by requiring district and regional plans to prevent inappropriate plantation or carbon afforestation within significant natural areas and establish buffer zones where they are necessary to protect significant natural areas.	Support in part,	Allow only in part	“Plant and leave” Carbon only post-89 forests, registered in the NZ ETS, where there is no intention of harvest, are currently not regulated by the Activity Standards in the NES-PF. NES-PF prohibits Afforestation with SNAs and creates Buffers around SNAs. Refer: https://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html#DLM7371046
ECO – P2	00020 Rayonier Matariki Forests	00020.018	Amend to include mapping and verification as part of the identification process.	Support	Allow	Ernslaw agrees with the relief requested.

ECO – P3	00024 City Forests Limited	00024.005	Amend ECO – P3(3) to remove the precautionary approach with respect to Plantation Forestry and acknowledge the efficacy of the NES – PF for managing future uncertainties.	Support	Allow	Ernslaw agrees with the relief requested. The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P3	00020 Rayonier Matariki Forests	00020.019	Amend to note that this Policy is subject to the provisions of the NESPF and that the NESPF would prevail.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P5	00020 Rayonier Matariki Forests	00020.020	Amend to note that this Policy is subject to the provisions of the NESPF and that the NESPF would prevail.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P9	00024 City Forests Limited	00024.012	Amend to exempt increased buffer zones around SNAs beyond those already enacted in the NES – PF without clear scientific evidence of their efficacy.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P9	00139 Dunedin City Council	00139.134	Amend the policy to manage wilding conifers within areas of indigenous vegetation/habitat that are not identified as SNAs.	Oppose	Disallow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P9	00033 Port Blakely NZ Ltd	00033.006	Amend ECO – P9 to acknowledge that the regulatory framework for meeting this Policy already exists through the afforestation rule in the NES – PF and associated wilding risk calculator.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P9	00138	00138.038	Amend to add new subclauses as follows: “ <u>Ensure that any planting and ongoing</u>	Oppose	Disallow	The NES-PF is the appropriate statutory document in this case,

	Queenstown Lakes District Council		<u>management of conifer species listed in APP5 is effective and can be practicably managed to avoid the adverse effects of the spread of wilding conifers.” “That any proposal for the planting and ongoing management of conifer species listed in APP5 shall consider the following to ensure the spread of wilding trees can be contained: a) The location and potential for wilding take – off, having specific regard to the slope and exposure to wind; b) The surrounding land uses and whether these would reduce the potential for wilding spread; c) The ownership of the surrounding land and whether this would constrain the ability to manage wilding spread; d) Whether management plans are proposed for the avoidance or containment of wilding spread; Whether a risk assessment has been completed and the results are favourable to the proposal”</u>			unless an evidenced-based process has established otherwise.
ECO – P9	00020 Rayonier Matariki Forests	00020.021	Amend as follows: (1) avoiding afforestation and replanting of plantation forests with wilding conifer species listed in APP5 within: (a) areas identified as significant natural areas, and (b) buffer zones adjacent to significant natural areas where it is necessary to protect the significant natural area, <u>and any forests, shelter belts and amenity planting, and ...</u>	Support	Allow	Ernslaw agrees with the relief requested.
ECO – P9	00230 Royal Forest and Bird Protection Society of New	00230.108	Amend as follows: “Reduce the impact of wilding conifers on indigenous biodiversity by: (1) avoiding afforestation and replanting of plantation forests with wilding conifer species listed in APP5 within: (a) areas identified as	Oppose	Disallow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.

	Zealand Incorporated		significant natural areas, and (b) buffer zones adjacent to significant natural areas where it is necessary to protect the significant natural area, and (2) <u>avoiding afforestation and replanting of plantation forests with wilding conifer species listed in APP5 within: (a) areas identified in a district plan as being of high amenity values; (b) outstanding natural features and landscapes; and (c) the coastal environment; and (d) within other areas, including prevailing upwind of such areas, where wilding spread would have adverse effects on indigenous biodiversity, ecosystem health or restoration where degraded; and (23) supporting initiatives to control and eliminate existing wilding conifers and limit their further spread.</u> "			
ECO – P9	00024 City Forests Limited	00024.012	Amend ECO – M5(6) to exempt increased buffer zones around SNAs beyond those already enacted in the NES – PF without clear scientific evidence of their efficacy.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P9	00024 City Forests Limited	00024.013	Amend to exempt increased buffer zones around SNAs beyond those already enacted in the NES – PF without clear scientific evidence of their efficacy.	Support	Allow	The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.
ECO – P9	00239 Federated Farmers of New Zealand	00239.111	The first policy in this chapter outlines how the kaitiaki <u>and stewardship</u> role of Kāi Tahu, <u>landowners and communities</u> will be recognised in Otago. The policies which follow then set out a management regime for identifying significant natural areas <u>and</u>	Part-Support	Disallow	NES detail the circumstances where regional and district rules can be more stringent - where an evidenced based process has established that effects would be

			<p>indigenous species and ecosystems that are taoka and protecting them by avoiding particular adverse effects on them. The policies ... established <u>where the ecological integrity of the significant natural area is at risk</u>. To maintain ecosystems and indigenous biodiversity, the policies set out mandatory and sequential steps in an effects management hierarchy to be implemented through decision making, including providing for <u>voluntary</u> biodiversity offsetting and compensation if certain criteria are met. Although the objectives of this chapter apply within the coastal environment, the specific management approach for biodiversity is contained in the CE – Coastal environment chapter. Given the biodiversity loss that has occurred in Otago historically, restoration or enhancement will play a part in achieving the objectives of this chapter and these activities are promoted. <u>In addition to the threats from pests and weeds</u>, wilding conifers are a particular issue for biodiversity in Otago. Although plantation forestry is managed under the NESPF <u>a gap remains around carbon forestry</u>, and the NESPF allows plan rules to be more stringent if they recognise and provide for the protection of significant natural areas. The policies adopt this direction by requiring district and regional plans to prevent <u>inappropriate plantation or carbon</u> afforestation within significant natural areas and establish buffer zones where they are</p>			<p>better managed outside of an established NES.</p> <p>Appropriate buffer distances from water bodies, coastal marine areas and SNA's are already provided in the NES-PF, in addition to risk management methods for wildings whereby consent is needed under the NES-PF for 'high risk' afforestation and replanting.</p> <p>The NES-PF is the appropriate statutory document in this case, unless an evidenced-based process has established otherwise.</p>
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			necessary to protect significant natural areas. The policies recognise that managing ecosystems and indigenous biodiversity requires <u>active management by landowners, and ...</u>			
ECO – AER4	00230 Royal Forest and Bird Protection Society of New Zealand Incorporated	00230.119	Amend as follows: “ECO – AER4 Within significant natural areas , the area of land vegetated by wilding conifers is reduced <u>and efforts for elimination of wilding conifers are increased throughout the region.</u> ”	Support	Allow	Ernslaw proactively manages wilding risk and would appreciate joined up approaches to manage wilding risk across the region.
ECO – APP5	00230 Royal Forest and Bird Protection Society of New Zealand Incorporated	21_00230	(2) avoiding afforestation and replanting of plantation forests with wilding conifer species listed in APP5 [and S32 Appendix 15] within: (a) areas identified in a district plan as being of high amenity values;	Oppose in part – in relation to Plantation Forests regulated under NES_PF: refer Wilding risk calculator	Allow in relation to “Plant and Leave” Carbon only post89 forests registered in NZ ETS (where there is no intent to harvest), where afforestation was not Notified	Wilding conifer spread from Plantation Forests is adequately regulated under NES-PF Reg 11 (Afforestation) & Reg 79 (Replant). ORC’s S32 analysis give no evidence that this regulation is not sufficient. Seeking avoidance of replant in plantations is in conflict with objectives of NZ’s Climate Change policy and triggers massive financial liabilities under NZ ETS. Relief sought - Remove reference in APP 5 (table 5) to Plantation forestry species grown in Otago – being radiata and Corsican pine, and Douglas-fir.

					under NES-PF Reg 10	
Natural Features and Landscapes						
NFL –P5 – Wilding conifers	Federated Farmers	21_0239	Avoiding afforestation and replanting of plantation forests with wilding conifer species listed in APP5 within: (a) areas identified as outstanding natural features or landscapes,	Oppose part – in Plantation Forests regulated under NES_PF: refer Wilding risk calculator	Allow in relation to “Plant and Leave” Carbon only post89 forests registered in NZ ETS (where there is no intent to harvest), where afforestation is not Notified under NES-PF Reg 10	Wilding conifer spread from Plantation Forests is adequately regulated under NES-PF Reg 11 (Afforestation) & Reg 79 (Replant). ORC’s S32 analysis give no evidence that this regulation is not sufficient. Seeking avoidance of replant in plantations is in conflict with objectives of NZ’s Climate Change policy and triggers massive financial liabilities under NZ ETS. Relief sought - Remove reference in APP 5 (table 5) to Plantation forestry species grown in Otago – being radiata and Corsican pine, and Douglas-fir.
Appendices						
Appendix 1	Beef & Lamb / DINZ	21_00237	Delete reference to ‘salmonid fish’.	Support	Allow	Salmonid fish are exotic game fish species which, if passage allows or is restored, predate unchecked on Otago’s non-migratory

						indigenous freshwater species, without regulatory protections for those indigenous species against salmonids.
Appendix 2	Beef & Lamb / DINZ	21_00237	Any regulation relating to significant natural areas, directly or indirectly, should be withdrawn then be redrafted in line with the operative NPS-IB when it is gazetted.	Support	Delete the appendix in its entirety	Consideration of SNAs is not within the scope of a Freshwater Planning instrument; Premature to draft policy on SNAs when an exposure draft of a NPS-IB is close to release.
Appendix 5 (Table 5)	Federated Farmers	21_0239	Delete APP5 and instead provide for local authority plans to specify a list of wilding species prone to spread in their District, without the RPS attempting to create a list that may fast become out of date OR provide for this list within the Regional Pest Management Plan, so that it will be easier to modify if changes in practice or understanding are found.	Support, in part	Allow, in relation to “Plant and Leave” Carbon only post89 forests registered in NZ ETS (where there is no intent to harvest), where afforestation is not Notified under NES-PF Reg 10	Wilding conifer spread from Plantation Forests is adequately regulated under NES-PF Reg 11 (Afforestation) & Reg 79 (Replant). ORC’s S32 analysis give no evidence that this regulation is not sufficient. Seeking avoidance of replant in plantations is in conflict with objectives of NZ’s Climate Change policy and triggers massive financial liabilities under NZ ETS. Relief sought - Remove reference in APP 5 (table 5) to Plantation forestry species grown in Otago – being radiata and Corsican pine, and Douglas-fir.

From: trish.fordyce@xtra.co.nz
To: [RPS](#)
Cc: andy.fleming@rayonier.com
Subject: Further Submission on Proposed Otago Regional Policy Statement
Date: Friday, 12 November 2021 10:35:29 a.m.
Attachments: [Schedule of further submissions.docx](#)

Attached please find the further submission lodged on behalf of Rayonier Matariki Forests

Regards

Trish Fordyce

Mb 0274517253

Form 6

Further submission in support of, or in opposition to, submission on notified proposed Otago Regional Policy Statement 2021

(Submissions must be received by Otago Regional Council by 5pm on Friday 12 November 2021, and by original submitters within 5 working days of service on ORC)

To: Otago Regional Council

1. Name of person making further submission

Rayonier Matariki Forests

2. This is a further submission in support of (or in opposition to) submission on the **Proposed Otago Regional Policy Statement 2021**.

3. I am *(tick whichever applies and add grounds if required)*:

	A person representing a relevant aspect of the public interest. In this case, also specify the grounds for saying that you come within this category; or
<input checked="" type="checkbox"/>	Rayonier Matariki Forests is a person who has an interest in the proposal that is greater than the interest the general public has. In this case, also explain the grounds for saying that you come within this category; or
Grounds:	Rayonier Matariki Forests lodged submissions on the PORPS and has and or manages plantation forests within the Otago Region.
<input type="checkbox"/>	the local authority for the relevant area.


4. We **wish** *(Select one)* to be heard in support of my further submission.

5. If others make a similar submission, **we will** (*Select one*) consider presenting a joint case with them at a hearing.

6. Further Submitter Details

a. Signature of person making further submission

(or person authorised to sign on behalf of submitter. A signature is NOT required if you make your submission by electronic means).



b. Signatory name, position, and organisation (*if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above*)

Name Patricia Fordyce

Position Consultant

Organisation

c. Date

12 November 2021

Address for service of person making further submission (*This is where all correspondence will be directed*)

d. Contact person (*name and designation, if applicable*)

Andy Fleming, Environmental Planner

e. Email: (*this is our preferred means of contact*)

andy.fleming@rayonier.com

f. Telephone:

06974 1282, Mb 0272489004

g. Postal address (or alternative method of service under [section 352](#) of the Act):

Rayonier Matariki Forests, PO Box 12134, Ahuriri, Napier 4144

Ground Floor 6B Ossian Street, Ahuriri, Napier 4144

7. My further submission is:

I support and or oppose the submissions of:

Beef and Sheep, Federated Farmers New Zealand, Forest and Bird, Sanford Limited, City Forests Limited, Greenpeace Aotearoa

Schedule of further submissions

Submitter/number	Point number	Support/oppose	reasons	relief
Beef and Sheep 00237	00237.004	oppose	Forestry relies on /land soil to produce trees. Plantation Forestry can be for harvest and carbon sequestration Indigenous plantings can be for both purposes	Disallow and retain the definition or ensure that plantation forestry is included.
	00237.007	support	For the reasons of the submitter	Allow relief of the submitter
	00237.030	support	For the reasons of the submitter	Allow relief of the submitter
	00237.035	support	For the reasons of the submitter	Allow relief of the submitter
	00237.038	support	For the reasons of the submitter	Allow relief of the submitter

	00237.039	oppose	There is no direct correlation between land use and natural character of land and effects on adjacent water. If a land use activity has an adverse effect on water quality then it should be controlled rather than by using an indirect and unrelated route of natural character.	Disallow and Retain provisions of PRPS
	00237.042	support	For the reasons of the submitter	Allow relief of the submitter
	00237.049	support	For the reasons of the submitter	Allow relief of the submitter
	00237.053	support	For the reasons of the submitter	Allow relief of the submitter
	00237.067	support	For the reasons of the submitter	Allow relief of the submitter
	00237.068	support	For the reasons of the submitter	Allow relief of the submitter
	00237.069	support	For the reasons of the submitter	Allow relief of the submitter
Federated Farmers New Zealand 00239	00239.007a	oppose	It may be that the submitter has concerns re tree plantings just for carbon forests but the relief would restrict afforestation for indigenous plantings	Disallow and Retain PRPS provision
	00239.010	support	For the reasons of the submitter	Allow relief of the submitter
	00239.021	oppose	Drought causing dry vegetation including tussock, grass, indigenous vegetation increases wildfire risk and to state that wildfire risk increases from increased afforestation is not factual. The Pigeon valley fire in Nelson is a reminder of this. Afforestation for carbon offsetting may include plantation forestry and to suggest that such afforestation may affect small rural communities is not	Disallow the first and fourth amendments.

			based on fact and research in Otago region.	
	00239.072	support	Primary production including plantation forestry should be supported in the rural environments	Allow relief of the submitter
	00239.077	support	For the reasons of the submitter	Allow relief of the submitter
	00239.078	support	For the reasons of the submitter	Allow relief of the submitter
	00239.079	support	For the reasons of the submitter	Allow relief of the submitter
	00239.080	support	For the reasons of the submitter	Allow relief of the submitter
	00239.081	support	For the reasons of the submitter	Allow relief of the submitter
	00239.084	support	For the reasons of the submitter	Allow relief of the submitter
	00239.099	support	For the reasons of the submitter	Allow relief of the submitter
	00239.101	support	For the reasons of the submitter	Allow relief of the submitter
	00239.102	support	For the reasons of the submitter	Allow relief of the submitter
	00239.104	support	For the reasons of the submitter	Allow relief of the submitter
	00239.105	support	For the reasons of the submitter	Allow relief of the submitter
	00239.108	support	For the reasons of the submitter	Allow relief of the submitter
	00239.111	Support in part	Agree that there is a gap with reference to carbon forestry	Allow the reference to carbon forestry but disallow the insertion of “inappropriate plantation forestry” as the NESPF already restricts afforestation of plantation forestry within an SNA.
	00239.130	support	For the reasons of the submitter	Allow relief of the submitter
Forest and Bird 00230	00230.001	support	For the reasons of the submitter	Allow relief of the submitter
	00230.051	Oppose in part	The addition of item (4) is so broad that it does not provide specific provision to be able to evaluate the impact on activities outside the CE	Disallow the addition of item (4)
	00230.053	oppose	The submitter has not provided any new policy and therefore the relief is not able to be evaluated	Disallow the relief

	00230.078	oppose	Visions are aspirational but the proposal is written as absolute requirements. The use of the word “protection” may ensure that no discharges to water could occur and the economic impacts of such a requirement may prevent primary production. It is very unclear at what point of time in history a river’s natural behaviour can be evaluated.	Disallow the relief
	00230.091	oppose	Outstanding water bodies, for the purposes of certainty should be identified in a plan process and not be part of a consenting process	Disallow adding “during the consenting process”
	00230.104	support	Maintenance and operation of activities that exist in an SNA is a practical way to provide for such activities	Allow relief of the submitter
	00230.108	oppose	Plantation forestry should not be mapped as a SNA and if it is then it should be allowed to be replanted and an existing land use Restrictions on replanting existing plantation forestry is controlled by the NESPF. Restrictions on replanting could lead to ETS liabilities for land/tree owners. The proposal is not effects based as planting of confers for other purposes such as shelter belts, carbon forests can lead to spread.	Disallow the entire relief

Sanford Limited 00122	00122.007	Oppose in part	The proposal is not in line with the NZCPS and is so broadly worded that the impacts on land uses is not able to be evaluated	Disallow the insertion of “the potential to protect, use and develop natural and physical resources in the coastal marine area should not be compromised by activities on land”
City Forests Limited 00024	00024.016	support	For the reasons of the submitter	Allow the relief of the submitter
Greenpeace Aotearoa 00407	00407.016	oppose	Forestry can apply synthetic fertiliser which is based on the need of the trees. Forestry can not run stock to provide natural fertiliser. This proposal has the potential to create adverse effects for forestry being able to protect and sustain their trees.	Disallow the relief
	00407.019	oppose	ditto	Disallow the relief
	00407.002	oppose	ditto	Disallow the relief
	00407.006	oppose	ditto	Disallow the relief
	00407.034	oppose	ditto	Disallow the relief
	00407.041	oppose	ditto	Disallow the relief