

**IN THE ENVIRONMENT COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY**

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

**ENV-2020-CHC-128**

**UNDER** the Resource Management Act 1991 (RMA)

**IN THE MATTER** of the Omnibus Plan Change - Plan Change 8, being part of a proposal of national significance directed by the Minister for the Environment to be referred to the Environment Court under section 142(2)(b) of the RMA

**AND**

**IN THE MATTER** of an application under section 149T of the RMA

**OTAGO REGIONAL COUNCIL**

**Applicant**

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**STATEMENT OF EVIDENCE OF FELICITY BOYD ON BEHALF OF THE  
OTAGO REGIONAL COUNCIL**

**URBAN PROVISIONS - PARTS A, G AND H**

**18 February 2022**

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## INTRODUCTION

- 1 My full name is Felicity Ann Boyd.
- 2 My qualifications and experience are set out in my Statement of Evidence dated 17 December 2021.
- 3 As with my previous Statement of Evidence, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that Code. Other than where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## SCOPE OF EVIDENCE

- 4 I have been asked by the Council to provide planning evidence in relation to the primary sector provisions in proposed Plan Change 8 (**PC8**) to the Regional Plan: Water for Otago (**RPW**).
- 5 This brief of evidence addresses the following parts of PC8:
  - (a) General submissions on the urban topics in Parts A, G and H of PC8;
  - (b) Part A – Discharge policies (as they relate to the urban provisions);
  - (c) Part G – Sediment from earthworks for residential development, including matters not agreed at mediation; and
  - (d) Part H – Nationally or regionally significant infrastructure
- 6 In accordance with the Court's minute dated 14 December 2021, this evidence addresses the proposed amendments and supporting reasons and provides a s32AA report for each of these topics. For completeness, I have also provided an overview of the submissions on the provisions and appended my recommended decisions on submissions.
- 7 In preparing my evidence I have reviewed the following documents and evidence in addition to the documents I reviewed for my primary brief:
  - (a) All of the evidence filed in relation to PC8.

- (b) 4Sight Consulting. (2017). *Queenstown Lakes District Council Proposed District Plan: Assessment of thresholds for earthworks. (the 4Sight Report)*;
- (c) Mediation Agreement Part A: Discharge Policies Urban and General Submissions dated 9 July 2021;
- (d) Mediation Agreement Part G: Sediment from earthworks for residential development dated 1 November 2021; and
- (e) Mediation Agreement Part H: Nationally or regionally important infrastructure, dated 26 November 2021.

## EXECUTIVE SUMMARY

- 8 Part of Part A, and all of Parts G and H make up the “urban” topics in PC8. In Part A, Policies 7.C.5, 7.C.6, 7.C.12 and (as agreed by the parties) 7.C.13 provide policy direction for decision-makers on resource consent applications for discharges from stormwater reticulation systems and reticulated wastewater systems. The amendments agreed through mediation are focused on clarifying the matters to be considered and ensuring that they are practical for the systems they seek to manage. The policies as amended will provide clearer guidance to decision-makers, particularly on the trajectory of improvements in the management of these discharges that is required in order to meet Kāi Tahu aspirations for freshwater and implement Te Mana o te Wai.
- 9 Part G is the largest of the urban topics and agreement has not been reached on all provisions. Parties agreed minor amendments to Policy 7.D.10 and Rules 14.5.1.1 and 14.5.2.1 which clarify the intent and application of the provisions, providing greater certainty for Council staff as well as plan users. However, there remains dispute over whether the rules should apply within the Queenstown-Lakes district, given the provisions in the Queenstown-Lakes District Council Proposed District Plan (**QLDC PDP**) for managing earthworks. There also remains dispute over the extent to which the permitted activity standards in Rule 14.5.1.1 should align with the corresponding standards in Chapter 25 of the QLDC PDP. In my view, and based on the technical evidence for the Otago Regional Council (**ORC**), suspended fine sediment is a significant issue in Otago and there is both historical and ongoing poor practice in the Queenstown-Lakes district when it comes to erosion and sediment

control measures on earthworks sites. I consider that this context means a precautionary approach should be taken to the management of earthworks in Queenstown-Lakes that prioritises, first, the health and well-being of the water bodies and freshwater ecosystems.

- 10 Part H seeks to replace “regionally important infrastructure” with “regionally significant infrastructure” in Policy 10.4.2, which is a key policy for considering resource consent applications to undertake activities in wetlands. Parties agreed to retain Part H as notified, meaning that the wording aligns with the Partially Operative Otago Regional Policy Statement 2019 (**pORPS 2019**) and the Proposed Otago Regional Policy Statement 2021 (**pORPS 2021**) which both define the term “regionally significant infrastructure”.
- 11 My evidence outlines the submissions on Parts A, G, and H and sets out the reasons for the amendments agreed at mediation. I have also identified the matters in dispute and provided my opinion on them. Where applicable, I have undertaken and attached an evaluation under section 32AA of the Act. In summary, I consider that the amendments broadly seek to improve the implementation of the provisions (and therefore their efficiency) and better align their content with higher order documents. In doing so, I consider that the amended provisions continue to achieve the purpose of the Act and are the most appropriate for achieving the objectives of PC8 as set out in the section 32 report.

#### **GENERAL SUBMISSIONS ON PARTS A TO F OF PC8**

- 12 I have previously prepared evidence for the hearing of submissions on the Primary Sector provisions in PC8. As part of my second statement of evidence for that hearing, I summarised the general submissions made on the whole of PC8<sup>1</sup> and included my recommended decisions on those submissions.<sup>2</sup> For clarity, I confirm that those submissions are also relevant to this hearing and that my recommendations remain the same. My recommended decisions on the general submissions made on the whole of PC8 are included as **Appendix 1** to my evidence.

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<sup>1</sup> Statement of evidence of Felicity Ann Boyd dated 15 October 2021 paragraphs 13 to 19.

<sup>2</sup> Appendix 8, Statement of evidence of Felicity Ann Boyd dated 15 October 2021.

- 13 A Summary of Submissions on the Omnibus Plan Change (Plan Change 1 – Regional Plan: Waste for Otago and Plan Change 8 – Regional Plan: Water for Otago) (the **Summary of Submissions**) was prepared for the Environmental Protection Authority by Stantec in September 2020. Many of the more general submission points made by submitters have not been captured in the Summary of Submissions and therefore have not been allocated submission point reference numbers in the same way as specific amendments to provisions have been. In these instances, I have referenced the original submission as follows: submitter number and name (page number). For example, 12345 Submitter (p.1).

## **PART A: DISCHARGE POLICIES**

### **Summary of provisions**

- 14 Part A of PC8 includes changes to policies for stormwater and wastewater discharges (amendments to existing Policies 7.C.5 and 7.C.6, and new Policy 7.C.12) as well as changes to policies for other rural discharges (amendments to existing Policy 7.D.5 and new Policy 7.D.6). Only the former provisions (Policies 7.C.5, 7.C.6, and 7.C.12) are within the scope of the urban topics and therefore relevant to my evidence.
- 15 An explanation of the notified provisions and their intent and linkages is included in my Statement of Evidence dated 17 December 2021 at paragraphs 162 to 170.
- 16 Operative Policy 7.C.5 is the primary policy for assessing resource consent applications for stormwater discharges from new reticulated systems, or extensions to reticulated systems. These discharges are managed under sections 12.B<sup>3</sup> and 12.A<sup>4</sup> of the RPW as either restricted discretionary activities under Rule 12.B.3.1 or, where a discharge from a reticulated stormwater system contains human sewage, a discretionary activity under Rule 12.A.2.1.

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<sup>3</sup> This section applies to discharges of hazardous substances, hazardous wastes, specified contaminants, and stormwater, and discharges from industrial or trade premises and consented dams.

<sup>4</sup> This section applies to discharges of human sewage.

- 17 Operative Policy 7.C.6 is the primary policy for assessing resource consent applications for stormwater discharges from existing reticulated systems. As with Policy 7.C.5, these discharges are managed under sections 12.B<sup>5</sup> and 12.A<sup>6</sup> of the RPW as either restricted discretionary activities under Rule 12.B.3.1 or, where a discharge from a reticulated stormwater system contains human sewage, a discretionary activity under Rule 12.A.2.1.
- 18 There are currently no specific policies for managing discharges of human sewage from reticulated wastewater systems. Decisions on resource consent applications are made using the 'general' water quality policies in 7.B primarily. PC8 introduced new Policy 7.C.12 containing specific direction for the management of these discharges which are discretionary activities under Rule 12.A.2.1 of the RPW.

### Summary of submissions

- 19 In this section, I have summarised the general submissions on Part A as well as the submission points on each provision. The specific decisions sought by submitters and my recommendations on those decisions sought are included as **Appendix 2** to my evidence.

#### *General submissions*

- 20 Three submitters made general submissions on Part A that have not been captured in the Summary of Submissions.
- 21 Dunedin City Council (**DCC**) considered that PC8, as proposed, did not adequately provide a "strengthened and clarified policy direction" for the following stormwater and wastewater issues that currently contribute to long-term planning and consent application challenges:<sup>7</sup>
- (a) The need to consider the wider system;
  - (b) The need to recognise the considerable cost of forward planning to achieve significant environmental improvements, and the need to provide clear, achievable standards;

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<sup>5</sup> This section applies to discharges of hazardous substances, hazardous wastes, specified contaminants, and stormwater, and discharges from industrial or trade premises and consented dams.

<sup>6</sup> This section applies to discharges of human sewage.

<sup>7</sup> 80018 DCC (paragraph 23).

- (c) The need to provide clear guidance on wastewater system issues;
  - (d) Recognise the positive effects of wastewater and stormwater systems, and enable balanced consideration of the effects;
  - (e) Provide clear guidance for the management or application of biosolids to land;
  - (f) Provide clear guidance on acceptable timeframes for making any improvements that may be required;
  - (g) Recognise the challenges of achieving stormwater water quality aspirations; and
  - (h) Avoid ambiguity within the planning framework.
- 22 DCC sought unspecified amendments to address the matters above, in addition to specific relief sought on Policy 7.C.6.<sup>8</sup>
- 23 In relation to stormwater and wastewater discharges, Friends of Lake Hayes stated that it has recognised significant deficiencies in the RPW policies and rules for managing stormwater and wastewater that impede the managed improvement of water quality in Lake Hayes and its catchment.<sup>9</sup>
- 24 Matthew Sole noted support for strengthened provisions for urban discharges, human waste, stormwater, and sediment from urban development.<sup>10</sup>

#### *Policy 7.C.5*

- 25 There were 17 submission points on Policy 7.C.5 in total, with ten seeking to retain the policy as notified.<sup>11</sup>
- 26 Central Otago Environment Society (**COES**) considered that regulatory limits should be specified in relation to both stormwater and sediment discharges and that existing stormwater discharge systems are

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<sup>8</sup> 80018.02 DCC.

<sup>9</sup> 8011.05 Friends of Lake Hayes (p.2).

<sup>10</sup> 80027 Matthew Sole (p.8).

<sup>11</sup> 80011.05 Friends of Lake Hayes, 80013.01 SDHB, 80016.01 Horticulture NZ, 80019.05 L and A Bush, 80027.03 Matthew Sole, 80038.01 Horticulture NZ, 80038.03 Ravensdown, 800055.02 DOC, 80059.01 Kāi Tahu ki Otago, 80090.03 Federated Farmers.



progressively upgraded to meet these limits.<sup>12</sup> The submitter did not provide the specific limits.

- 27 Similarly, Otago Fish and Game Council and the Central South Island Fish and Game Council (**Fish and Game**) sought minimum ecosystem health thresholds for stormwater systems but did not specify what these were.<sup>13</sup> Fish and Game also considered the policy should be strengthened further and sought the following amendments:<sup>14</sup>

~~Avoid Minimise~~ the adverse environmental effects of discharges ~~With respect to discharges~~ from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, to require by requiring:

...

(d) Measures to filter, attenuate or prevent runoff being discharged during rain events.

- 28 Fish and Game considered these amendments to be consistent with the intent of the policy by signalling the long-term direction in relation to stormwater management.

- 29 The Royal Forest and Bird Protection Society of New Zealand Incorporated (**Forest and Bird**) considered that relying on minimisation was uncertain as it may be interpreted with respect to the feasibility for an activity to minimise rather than taking actions to avoid, remedy or mitigate adverse effects.<sup>15</sup> The following amendments were sought:<sup>16</sup>

~~Avoid significant Minimise the~~ adverse environmental effects ~~and avoid where practicable, or minimise other adverse effects of discharges~~ ~~With respect to discharges with respect to discharges~~ from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, ~~to require:~~ by requiring:

...

(c) Measures to avoid, remedy and mitigate and minimise the presence of debris, sediments and nutrients runoff, including the ~~The~~ use of techniques to trap debris, sediments and nutrients present in runoff.

- 30 Ngāi Tahu ki Murihiku stated that contamination of water bodies with wastes or wastewater can be considered culturally offensive regardless of prior treatment and supported discharging to land as a first preference to discharging to water in order to protect the mauri of the water body.

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<sup>12</sup> 80028.01 COES.

<sup>13</sup> 80080.08 Fish and Game.

<sup>14</sup> 80080.09 Fish and Game.

<sup>15</sup> 80082.01 Forest and Bird.

<sup>16</sup> 80082.01 Forest and Bird.

The submitter considered this recognises and gives effect to Te Mana o te Wai and sought the following additional clause:<sup>17</sup>

(d) The use of discharge to land options as a preference wherever practicable.

31 As a consequential amendment, Fish and Game also sought the following amendment to the principal reasons:<sup>18</sup>

This policy is adopted to reduce the potential for ~~contaminants to be present in~~ adverse effects to arise from new stormwater discharges.

*Policy 7.C.6*

32 There were eighteen submission points on Policy 7.C.6. Eight of these supported the provision and sought to retain it as notified,<sup>19</sup> including Southern District Health Board (**SDHB**) which noted that it was aware of a number of existing urban localities in Otago that need to improve the way they manage stormwater to effectively address the risks to human health from existing stormwater reticulation systems.<sup>20</sup>

33 DCC submitted that the policy would not meet the outcome sought by ORC and would benefit from improved clarity and sought amendments to provide clarity regarding the policy's intent.<sup>21</sup> DCC considered it would be useful to clarify:<sup>22</sup>

- (a) What a "progressive" upgrade involves;
- (b) How "minimise the volume of sewage" would be determined;
- (c) When and how the policy would be applied to require stormwater upgrades that specifically address sewage overflows;
- (d) Whether there is a target or timeframe for reducing overflows; and
- (e) How the ORC would "require" the implementation of Policy 7.C.6 given there are no proposed changes to rules, including those that permit stormwater discharges that do not contain human sewage.

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<sup>17</sup> 80078.01 Ngāi Tahu ki Murihiku.

<sup>18</sup> 80080.10 Fish and Game.

<sup>19</sup> 80011.06 Friends of Lake Hayes, 80013.02 SDHB, 80016.02 Horticulture NZ, 80019.06 L & B Lash, 80027.04 Matthew Sole, 80038.02 Ravensdown, 80059.02 Kāi Tahu ki Otago, 80030.04 Federated Farmers.

<sup>20</sup> 80013 SDHB (p.3).

<sup>21</sup> 80018.03 DCC.

<sup>22</sup> 80018.03 DCC.

34 Additionally, DCC considered that common terminology should be used to support conversations around improvements and change and that the policy would benefit from clarifying whether overflows includes both dry and wet weather overflows.<sup>23</sup> The submitter did not seek specific amendments to the policy.

35 Ngāi Tahu ki Murihiku submitted that the policy should recognise and give effect to Te Mana o te Wai and support cultural health by emphasising the avoidance of direct discharges of wastes and wastewater to water and discharge to land as a first preference. The following was provided as an example of the relief sought:<sup>24</sup>

Reduce the adverse environmental effects from existing stormwater reticulation systems by:

- (a) Requiring the progressive upgrade of stormwater reticulation systems to minimise the volume of avoid sewage entering the system and the frequency and volume of sewage overflows; and
- (b) ~~To promote~~ Promoting the progressive upgrading of ~~the quality of water discharged from existing~~ stormwater reticulation systems to protect the mauri of waterbodies, including through:
  - (i) The separation of sewage and stormwater; and
  - (ii) Measures to prevent contamination of the receiving environment by industrial or trade waste; and
  - (iii) The use of techniques to trap debris, sediments and nutrients present in runoff.
- (d) the use of discharge to land options as a preference wherever practicable.

36 The Director-General of Conservation (**DOC**) submitted that clause (b) of Policy 7.C.6 needed to be strengthened to give effect to Policy 23(4) of the New Zealand Coastal Policy Statement (**NZCPS**) because of cross-contamination with sewage systems. The submitter sought the following amendments:<sup>25</sup>

- (b) ~~To promote~~ ~~Promoting~~ Requiring the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:
  - ...
  - (iv) Reducing contaminant and sediment loadings at source through contaminant treatment and by controls on land use activities; and
  - (v) Requiring integrated management of catchments and stormwater networks; and

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<sup>23</sup> 80018.03 DCC.

<sup>24</sup> 80078.02 Ngāi Tahu ki Murihiku.

<sup>25</sup> 80055.03 DOC.

(vi) Promoting design options that reduce flows into stormwater reticulation systems at source.

37 Alongside DOC, Māori Point Vineyard Ltd and B P Marsh also sought to replace “promoting” with “require” in clause (b).<sup>26</sup>

38 Forest and Bird supported the policy in part but considered a timeframe for achievement was necessary so that all stormwater discharges avoid adverse environmental and health effects as soon as possible. The submitter sought the following amendments:<sup>27</sup>

Progressively reduce the adverse environmental effects from existing stormwater reticulation systems by:

...

(b) To promote Promoting the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:

...

(iii) Measures to prevent the presence of debris, sediments and nutrients in runoff through the use of techniques to trap debris, sediments and nutrients present in runoff; and

(iv) Measures to filter reduce or prevent runoff being discharged during rain events.

39 COES sought amendments to specify regulatory limits for urban stormwater and sediment discharges but did not propose any.<sup>28</sup>

#### *Policy 7.C.12*

40 There were 12 submission points on new Policy 7.C.12 with five seeking to retain the policy as notified,<sup>29</sup> including SDHB which submitted that:<sup>30</sup>

- (a) The policy mitigates health risks of improperly designed, maintained and operated wastewater systems;
- (b) The policy mitigates the public health risks of sewage overflows into stormwater systems;
- (c) The policy should ensure dry weather overflows are the exception rather than a “likelihood”;

<sup>26</sup> 80004.02 Maori Point Vineyard, 80022.03 B P Marsh.

<sup>27</sup> 80082.02 Forest and Bird.

<sup>28</sup> 80028.02 COES.

<sup>29</sup> 80011.07 Friends of Lake Hayes, 80016.03 Horticulture NZ, 80019.07 L and A Bush, 80027.05 Matthew Sole, 80055.04 DOC.

<sup>30</sup> 80013 SDHB (p.3).

- (d) It supported the preference for discharges to land, recognising the predominance of municipal and industrial treated wastewater discharges to water in Otago at this time; and
  - (e) It supported having regard to any adverse effects on cultural values.
- 41 DCC considered Policy 7.C.12 to be uncertain and ambiguous and sought to amend the policy as follows:<sup>31</sup>
- (a) Provide clear guidance on expectations, targets and timeframes for improvement in wastewater overflows;
  - (b) Clause (a) should focus on providing guidance on expectations around the quality of the discharge required;
  - (c) Clarify clause (b) to the “measures” that are applied are clear and there are appropriate expectations for implementation of “measures” to reduce wet weather overflows and minimise dry weather overflows;
  - (d) Clarify the meaning of “progressively reduce” in clause (b);
  - (e) Clarify technical terms to avoid ambiguity, such as shifting between referring to discharges from a wastewater treatment plant in (a) and (c) and network discharges in (b);
  - (f) Clarify the wording of clause (c) which is stronger than Policy 7.B.1(g) of the RPW which *promotes* the discharge of contaminants to land in preference to water;
  - (g) Clearer guidance on the expectations for information requirements and monitoring data required for a stormwater or wastewater discharge consent application;
  - (h) Clarify when the level of adverse effects referred to in clause (d) become unacceptable or the mitigation required; and
  - (i) Clarify how ORC would “require” the implementation of this policy given there are no proposed changes to rules and no methods associated with this policy.

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<sup>31</sup> 80018.04 DCC.

42 The submitter did not seek any specific wording amendments to the policy.

43 Ngāi Tahu ki Murihiku submitted that the policy should recognise and give effect to Te Mana o te Wai and support cultural health by emphasising the avoidance of direct discharges of wastes and wastewater to water and discharge to land as a first preference. The following was provided as an example of the relief sought:<sup>32</sup>

Reduce the adverse effects of discharges of human sewage from reticulated wastewater systems by:

(a) Promoting the progressive upgrading of reticulated wastewater systems to protect the mauri of waterbodies, including through:

(i) preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than the discharge to water; and

(ii) recognising and providing for the relationship of Kāi Tahu and Statutory Acknowledgement Areras and cultural values associated with waterbodies; and

(iii) reducing the frequency and volume of overflows as an interim measure; and

~~(a)(b) Requiring reticulated wastewater systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and~~

~~(b) Requiring the implementation of measures to:~~

~~(i) Progressively reduce the frequency and volume of wet weather overflows; and~~

~~(ii) Minimise the likelihood of dry weather overflows occurring; and~~

~~(c) Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and~~

~~(d) Having particular regard to any adverse effects on cultural values.~~

44 Forest and Bird supported Policy 7.C.12 in part but considered that the required industry standards needed to be specified due to potential variation in those standards. The submitter also sought to require contingency measures that clearly apply to both sewage and stormwater facilities and for new systems to be designed to avoid, rather than reduce adverse effects. The following amendments were sought:<sup>33</sup>

Reduce the adverse effects of existing discharges of human sewage from reticulated wastewater systems, and avoid adverse effects of discharges from new reticulated systems by:

<sup>32</sup> 80078.03 Ngāi Tahu ki Murihiku.

<sup>33</sup> 80082.03 Forest and Bird.

...

(c) the implementation of contingency measures to minimise the risk of a discharge from wastewater reticulation system to surface water in the event of a system failure or overloading of the system beyond its design capacity; and

(d) Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and

~~(d)~~(e) Having particular regard to any adverse effects on cultural values.

45 Federated Farmers submitted that this policy would have significant cost repercussions for councils and consequently water users and ratepayers and that guidance may be required on what recognised industry standards are. Federated Farmers' submission stated that the requirement in clause (a) could be met for new systems but there would be practical difficulties with existing systems complying with industry standards and sought the following amendments:<sup>34</sup>

(a) ~~Requiring~~ Ensuring reticulated wastewater systems ~~to be~~ are designed, operated, maintained and monitored in accordance with recognised industry standards; and

46 Federated Farmers also questioned how clause (b) would be implemented in relation to existing systems or whether existing systems were excluded from the requirement. The submitter sought the following amendments:<sup>35</sup>

(b) Requiring the implementation of reasonable measures to:

47 SDHB supported the policy in part and sought to retain clauses (a), (b)(i), (c) and (d) as notified. The submitter sought to amend clause (b)(ii) as follows:

(b) Requiring the implementation of measures to:

...

(ii) ~~Minimise the likelihood of~~ Eliminate as far as practicable dry weather overflows occurring; and

48 Kāi Tahu ki Otago submitted that discharges of sewage to water (whether treated or not) are culturally offensive to Kāi Tahu and in the longer term mana whenua continue to seek stronger direction in rules to avoid discharges of sewage to water. The submitter supported the policy

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<sup>34</sup> 80090.05 Federated Farmers.

<sup>35</sup> 80090.05 Federated Farmers.

as an interim measure but sought amendments to clause (d) for consistency with other provisions in PC8:<sup>36</sup>

(d) ~~Having particular regard to any adverse effects on cultural values Kāi Tahu cultural and spiritual beliefs, values and uses.~~

### **Changes agreed in mediation and supporting reasons**

49 As a result of mediation on Part A, agreement has been reached between all parties at mediation on the provisions referred to mediation (Amendments to Policies 7.C.5 and 7.C.6, and new Policy 7.C.12). The agreed changes to the Part A provisions are attached to my evidence as **Appendix 3**. I address the amendments further as follows.

#### *Policy 7.C.5 (discharges from new or extended stormwater reticulation systems)*

50 Policy 7.C.5 applies to the discharge from any new stormwater reticulation system or any extension to an existing stormwater reticulation system. In response to the submissions by Forest and Bird and Fish and Game on the chapeau of the policy, parties agreed that there may be uncertainty about the extent of minimisation required and that it would assist implementation to instead require significant adverse effects to be avoided, and other adverse effects minimised.

51 I consider that this amendment also gives better effect to Te Mana o te Wai by prioritising the health and well-being of water bodies and freshwater ecosystems. While I recognise that “avoidance” is a high bar, in my opinion this is appropriate due to the need to give effect to Te Mana o te Wai and because the policy is constrained to new systems or extensions to systems, meaning there is an opportunity to design systems to meet the desired outcomes at the outset.

52 Parties agreed that some techniques to trap debris, sediments and nutrients present in run-off may not be appropriate in all circumstances and therefore clause (c) would be clarified by including “appropriate techniques”.

53 Fish and Game’s submission noted that reticulated stormwater systems often discharge a higher quantity of water during rain events which can have adverse effects by flushing contaminants into waterways. The submission noted the use of water sensitive design to attenuate the peak discharges of water and settle out or filter contaminants during rain

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<sup>36</sup> 80059.03 Kāi Tahu ki Otago.



events which have been adopted in many parts of New Zealand. On this basis, the parties agreed in principle that the additional clause sought by Fish and Game was appropriate but preferred alternative wording.

- 54 The parties considered that it may not always be possible to implement measures to filter, attenuate, or prevent run-off being discharged during rain events and instead agreed that the new clause (d) should require consideration of appropriate measures to reduce and/or attenuate stormwater being discharged from rain events. In my opinion, this acknowledges the practical considerations required when designing stormwater systems while still ensuring that reducing or attenuating higher flows is a matter considered during design.
- 55 Parties recognised that wastewater discharges to water are culturally offensive to Kāi Tahu and agreed, in principle, with the new clause (e) sought by Ngāi Tahu ki Murihiku. Parties agreed on alternative wording for this clause to emphasise again that any consideration must be of appropriate measures and clarify that the reason for preferring discharges to land is to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.
- 56 In preparing this evidence, I have further considered the wording of new clause (e) and consider two minor grammatical corrections are required:
- (a) Replacing “measures for discharge to land” with “measures for discharging to land”, and
  - (b) Replacing “direct discharge to water” with “discharging directly to water”.
- 57 Under section 149U(6) of the RMA, the Court must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority. Clause 10(2)(b) provides for a decision on provisions and submissions to include matters relating to any consequential alterations necessary arising from the submissions and any other matter relevant to the plan change arising from submissions. In my opinion, the grammatical corrections I have recommended above arise from a submission as clause (e) was added as a result of a submission and can be made as a consequential amendment.
- 58 When considering the amendments agreed, parties also agreed that a minor amendment to the principal reasons was appropriate to recognise

that the intent of the policy is to reduce the potential for adverse effects arising from contaminants to be present, rather than reducing the potential for contaminants to be present.

*Policy 7.C.6 (discharges from existing stormwater reticulation systems)*

- 59 Policy 7.C.5 applies to the discharge from any existing stormwater reticulation system. Parties agreed that the chapeau should be retained as notified as it recognised the more limited ability to manage adverse effects where infrastructure already exists.
- 60 There was uncertainty about the meaning of clause (a) and in particular what an “upgrade” of a stormwater reticulation system was. To resolve this, parties agreed to amend the clause so that it is clear that the requirement is to implement appropriate measures to progressively reduce sewage entering the stormwater reticulation system. This provides some flexibility for situation-specific measures to be implemented, while still retaining the overall goal (to reduce sewage in stormwater reticulation systems). It also addressed the concern raised in DCC’s submission about whether the notified wording was referring to wet or dry weather overflows (or both).
- 61 As set out in their submissions, some parties considered the direction in clause (b) should be strengthened while others highlighted the need to consider the practical constraints on upgrading existing infrastructure. Parties agreed that “requiring consideration of appropriate measures” addressed both concerns.
- 62 As a result of the agreed amendment clause to (a), parties agreed that clause (b)(i) was no longer necessary and should be deleted. Parties also agreed to retain (b)(ii) and (iii) as notified (renumbered as (i) and (ii) in **Appendix 3**. For the same reasons as I have set out in paragraphs 53 and 54 in relation to Policy 7.C.5, parties agreed to include two additional sub-clauses related to reducing and/or attenuating stormwater being discharged during rain events and preferring discharges to land.
- 63 As explained in paragraph 56, I recommend the same grammatical corrections as in Policy 7.C.5.

*Policy 7.C.12 and New Policy 7.C.13*

- 64 As notified, Policy 7.C.12 applied to all discharges of human sewage from reticulated wastewater systems and did not differentiate between

new and existing systems. In its submission, Federated Farmers highlighted the practical constraints with applying some parts of the policy to existing systems. Parties agreed that different approaches should be taken for new and existing systems in the same way as Policies 7.C.5 and 7.C.6 for stormwater. As a result, parties agreed to amend Policy 7.C.12 to focus on discharges from existing reticulated wastewater systems and introduce new Policy 7.C.13 for discharges from new reticulated wastewater systems.

- 65 Parties agreed to amend the chapeau of Policy 7.C.12 to limit its application to existing reticulated wastewater systems and extensions to those systems as extensions are generally only of the collection infrastructure and continue to convey wastewater to the main treatment plant.
- 66 A number of structural amendments were agreed which the parties considered improved readability. This included retaining (d) as notified but moving it up to become clause (a).
- 67 Consequential amendments were agreed to (b) to recognise that for existing systems, it will not be possible to require them to be designed in accordance with recognised industry standards but the systems should still be operated, maintained, and monitored in accordance with those standards.
- 68 Parties agreed to include new clause (c) requiring promoting the progressive upgrading of existing systems, to recognise that opportunities to improve systems should be encouraged when they arise.
- 69 Parties agreed to minor amendments to clause (d) to clarify that measures to be implemented must be appropriate, recognising that different systems will have different constraints. Consequential grammatical corrections were agreed to sub-clauses (i) and (ii).
- 70 The submission by Forest and Bird sought to include an additional clause relating to contingency measures. Parties agreed this was appropriate given the use of wastewater overflows in some systems in Otago, but preferred to simplify the clause as sought by Forest and Bird to improve implementation.

- 71 Parties agreed that clause (d) as notified was inconsistent with other wording adopted in PC8 related to Kāi Tahu values, including Policies 7.C.5 and 7.C.6, and agreed to replace it with “recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.” In my opinion, this also assists with recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga as required by section 6(e) of the RMA.
- 72 Parties agreed that stronger direction about adverse effects was appropriate in the chapeau of new Policy 7.C.13 as there is more opportunity to consider effects management when designing new systems. The submission by Ngāi Tahu ki Murihiku highlighted the cultural offense caused by discharges of human sewage to water. Parties agreed that, for new discharges and to give effect to Te Mana o te Wai and the NPSFM 2020, adverse effects should be avoided in the first instance and otherwise minimised. This was considered to set a higher bar than for existing systems where there can be more constraints on the ability to manage effects.
- 73 Clauses (a), (b), (c), and (d) mirror clauses (a), (b), (d), and (e) in Policy 7.C.12. I have explained these amendments and the supporting reasons in paragraphs 66 to 71 above.

#### **Outcomes to be achieved**

- 74 The RPW policies for managing stormwater and wastewater discharges have not been subject to substantive review since the RPW was made operative in 2004. They do not reflect any of the versions of the NPSFM and, as is evident from the submissions of Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku, current management falls well short of mana whenua aspirations.
- 75 The section 32 report for PC8 states that the objective of this part of PC8 was to clarify and strengthen the policy direction in the RPW for discharges of stormwater and wastewater (and from rural land uses, which has already been subject to hearing). I consider that this is an accurate description of the changes agreed at mediation. In part, the agreed amendments seek to clarify the requirements of the policies for infrastructure providers in order to reduce uncertainty and improve

implementation, while recognising that there are different approaches required for new and existing systems.

- 76 In my view, the agreed amendments also give better effect to Te Mana o te Wai by strengthening expectations for acceptable levels of adverse effects, particularly in relation to new reticulated stormwater and wastewater systems. They respond to the submissions by Kai Tahu ki Otago and Ngāi Tahu ki Murihiku by explicitly outlining a preference for discharges to land over water.
- 77 PC8 does not seek to amend the corresponding rules managing discharges of stormwater and wastewater. This will occur through the development of the new Land and Water Regional Plan (**LWRP**) which will be notified in 2023. However, as an interim step, I consider that Part A will ensure that any resource consent applications for these discharges are assessed under policies that give better effect to the NPSFM and mana whenua aspirations than the operative RPW provisions and will assist with transitioning towards an NPSFM-compliant planning framework.
- 78 A s32AA analysis for the changes shown in Appendix 3 is included in **Appendix 4**.

## **PART G: SEDIMENT FROM EARTHWORKS FOR RESIDENTIAL DEVELOPMENT**

### **Summary of provisions**

- 79 Part G of PC8 introduces a package of provisions to manage earthworks from residential development. As notified, it included:
- (a) New Policy 7.D.10;
  - (b) New Rule 14.5.1.1 (land use and associated sediment discharge – permitted);
  - (c) New Rule 14.5.2.1 (land use and associated sediment discharge – restricted discretionary); and
  - (d) A new definition of “earthworks”.
- 80 An explanation of the notified provisions and their intent and linkages is included in my Statement of Evidence dated 17 December 2021 at paragraphs 171 to 180.

- 81 New Policy 7.D.10 requires avoiding the loss or discharge of sediment from earthworks or, where avoidance is not achievable, implementing best practice guidelines for minimising sediment loss. The policy will inform decision-making on resource consent applications to undertake earthworks from residential development under Rule 14.5.2.1, in addition to the general water quality policies in section 7.B of the RPW.
- 82 New Rule 14.5.1.1 permits the use of land for, and associated discharge of sediment from, earthworks for residential development subject to conditions. Earthworks activities that do not meet the conditions of Rule 14.5.1.1 are restricted discretionary activities under New Rule 14.5.2.1.
- 83 To assist with interpretation, Part G also introduces a definition of “earthworks” as required by the National Planning Standards.
- 84 As a result of mediation, parties agreed a range of amendments to Policy 7.D.10, Rule 14.5.1.1, and Rule 14.5.2.1 as well as including a new definition of “residential development”. However, there was disagreement about whether the rules should apply in the Queenstown-Lakes district. I understand the following parties consider that the rules should not apply within that district:
- (a) RCL Henley Downs (**RCL**);
  - (b) Remarkables Park Limited (**Remarkables Park**);
  - (c) Vivian and Espie Limited (**Vivian and Espie**);
  - (d) Willowridge Developments Limited (**Willowridge**); and
  - (e) QLDC.
- 85 As at the time of writing this evidence QLDC had still reserved its position on the provisions and amendments agreed at mediation.

### **Summary of submissions**

- 86 In this section, I have summarised the general submissions on Part G as well as the submission points on each provision. The specific decisions sought by submitters and my recommendations on those decisions sought are included as **Appendix 5**.

#### *General submissions*

- 87 Seven submitters made general submissions on Part G that have not been captured in the Summary of Submissions.

- 88 QLDC highlighted in its submission that Chapter 25 of their Proposed District Plan (**PDP**) includes objectives, policies, rules, and other methods to manage erosion and sediment from earthworks. That chapter was notified in November 2017 and QLDC's decision on the provisions was made in March 2019. QLDC's submission set out the background of Chapter 25's development, including the technical report relied on. In particular, QLDC has drawn attention to the technical recommendation to include a slope factor in the threshold between permitted and consented activities.
- 89 QLDC considered that Chapter 25 is a more efficient and effective regime than Part G for the following reasons:<sup>37</sup>
- (a) Part G only applies to earthworks from residential development whereas Chapter 25 applies to any earthworks activity (noting that the definition of "earthworks" in the PDP differs to the definition in Part G);
  - (b) Part G requires resource consent for residential earthworks greater than 2500m<sup>2</sup> whereas the rules in Chapter 25 vary based on the slope;
  - (c) The rules in Part G are too onerous in relation to sites with a slope of less than 10 degrees and the costs of the rules are not justified;
  - (d) There is no obvious reason why earthworks for residential activities (as distinct from earthworks from other land uses) should be subject to an additional layer of management in the RPW;
  - (e) QLDC is better placed as a consenting authority to manage erosion and sediment management as all residential activities captured by Part G will require a resource consent under the PDP (typically for subdivision and development);
  - (f) QLDC is concerned that the PDP would not give effect to the pORPS 2019 and would be inconsistent with a regional plan addressing a matter specified in section 30(1);

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<sup>37</sup> 80076 QLDC (pp.11-15).

- (g) The Chapter 25 provisions are more advanced through the planning process than Part G and QLDC is concerned with unnecessary duplication of planning processes; and
- (h) The section 32 report for Part G does not adequately alternatives or the costs and benefits associated with territorial authorities who have more advanced and comprehensive provisions to manage erosion and sediment from earthworks.
- 90 DCC supported the intent of Part G to manage the effects of sediment on water quality and acknowledged that the Part G provisions were more comprehensive than the provisions in the Dunedin City Proposed District Plan (**2GP**). DCC submitted that Part G may result in duplication with 2GP provisions which is inefficient and may cause confusion for plan users. In particular, DCC drew attention to situations where activities may require consent under one or other of the plans, or under both, and the potential duplication in considering sediment control matters. The submitter also noted the misalignment between setback distances: while Part G adopts 10 metres, provisions in the 2GP either adopt 20 metres or 5 metres.<sup>38</sup>
- 91 RCL considered that Part G was an inefficient double-up of rules already existing in the QLDC PDP that would lead to additional costs and delays for applicants and the potential for different interpretation and implementation of standards between QLDC and ORC.<sup>39</sup> The submitter highlighted that Chapter 25 of the PDP already sets a resource consent trigger using area and slope thresholds and includes setbacks from waterways, maximum volumes, and lengths of time of work. RCL submitted that Part G would add unwarranted cost and delays to the residential subdivision industry (which is essential for employment generation and addressing housing shortages) for no apparent benefit.<sup>40</sup> The submission by RCL was supported by a further submission by Waterfall Park
- 92 Remarkables Park similarly submitted that the QLDC PDP already requires resource consent for some earthworks and therefore Part G introduces unnecessary duplication and cost and, within the

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<sup>38</sup> 80018 DCC (p.8).

<sup>39</sup> 80071 RCL (p.9).

<sup>40</sup> 80071 RCL (p.9).



Queenstown-Lakes district, would not achieve any environmental benefits or improved environmental outcomes.<sup>41</sup>

- 93 Similar to RCL and Remarkables Park, Vivian and Espie submitted that Part G duplicated provisions in Chapter 25 of the PDP and that requiring two separate resource consents for the same activity would be a clear duplication and result in significant compliance costs for no environmental benefits.<sup>42</sup>
- 94 Kāi Tahu ki Otago supported inclusion of strong policy direction and rules to improve management of earthworks. They submitted that a lack of integrated management of earthworks from urban development has contributed to sedimentation of water bodies, with resulting adverse impacts on mahika kai and on the life-supporting capacity and mauri of fresh and coastal water.<sup>43</sup>
- 95 In relation to residential earthworks, Friends of Lake Hayes stated that it has recognised significant deficiencies in the RPW policies and rules for managing these activities that impede the managed improvement of water quality in Lake Hayes and its catchment.<sup>44</sup> Friends of Lake Hayes submitted that:<sup>45</sup>
- “[Residential earthworks are] becoming more important as farming as a land use gives way to rapidly expanding residential and commercial land development. The effects of this are increased loads of sediment and nutrients in the streams feeding [Lake Hayes] but most especially during the periodic high rainfall events and the resulting freshes and floods. Overland run off and river channel scouring over a few hours of a food event can discharge sediment and nutrients that would take months to accumulate under normal flow conditions. Ove the last three years the lake has experienced increasingly intense cyanobacteria blooms which appear to relate directly to episodes of sediment discharge.”*
- 96 The submitter considered that PC8 would provide an improved basis for managing sediment loss and nutrient inputs to degraded and extremely sensitive receiving environments like Lake Hayes and support the changes, particularly as PC8 will raise awareness of the risks posed by residential development on sensitive catchments and water bodies.

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<sup>41</sup> 80113 Remarkables Park (p.5).

<sup>42</sup> 80037 Vivian and Espie (p.1).

<sup>43</sup> 80059 Kāi Tahu ki Otago (p.12).

<sup>44</sup> 8011.05 Friends of Lake Hayes (p.2).

<sup>45</sup> 8011.05 Friends of Lake Hayes (pp.2-3).

*Policy 7.D.10*

- 97 There were nine submissions on Policy 7.D.10, including six which sought to retain the policy as notified.<sup>46</sup> Of these six:
- (a) Horticulture New Zealand (**HortNZ**) supported a best practice approach for earthworks for residential development and noted that growers on the fringes of urban areas can be adversely affected by poorly managed earthworks;
  - (b) DOC and Forest and Bird considered the policy to be consistent with higher order documents, including the NPSFM 2020;
  - (c) Kāi Tahu ki Otago considered the policy would contribute to improving water quality outcomes and give better effect to Te Mana o te Wai (this submission point was supported by Ngāi Tahu ki Murihiku);
- 98 QLDC supported the policy in principle but considered it would be more effective if it definitively expressed an environmental outcome. QLDC submitted that the policy should focus on the discharge of sediment to water bodies (aligning with relief sought elsewhere by the submitter to limit the application of the rules to discharges only). QLDC noted that total avoidance of sediment discharges may not be possible and therefore the policy only seeks best practice which is not considered appropriate as it does not focus on implementing an environmental action. QLDC sought two options for wording, either:<sup>47</sup>
- (a) The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented to ensure water quality is maintained, or
  - (b) Ensure earthworks minimise erosion, land instability, and sediment generation and off-site discharge during construction activities associated with subdivision, use and development.
- 99 Fish and Game submitted that the discharge of sediment from earthworks, particularly residential development, is an ongoing issue and noted that sedimentation in water bodies can reduce the health of aquatic ecosystems and the productivity and reliance of populations within. The submitter supported the intent of the policy but sought amendments to specifically highlight cumulative effects within the policy

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<sup>46</sup> 80011.02 Friends of Lake Hayes, 80016.09 Horticulture NZ, 8055.26 DOC, 80059.27 Kāi Tahu ki Otago, 80078.27 Ngāi Tahu ki Murihiku, 80082.26 Forest and Bird.

<sup>47</sup> 80076.03 QLDC.

as the submitter considered the adverse effects of sedimentation are often cumulative in nature.<sup>48</sup> Fish and Game also sought to insert provisions to define or clarify what is meant by “best practice guidelines.”<sup>49</sup>

### *Section 14.5*

- 100 ORC submitted that an amendment to the advice note at the beginning of the rules in new section 14.5 would clarify which activities are managed by these rules as well as highlighting that other rules in the RPW may still apply. ORC sought the following amendment:<sup>50</sup>

Discharges resulting from earthworks for residential development are addressed only through rules in section 14.5.

#### *Rule 14.5.1.1*

- 101 There were eleven submission points on Rule 14.5.1.1 including three seeking to retain the rule as notified.<sup>51</sup>
- 102 Forest and Bird did not consider that the rule would ensure that adverse effects were avoided, or where avoidance is not achievable, minimised. The submitter stated that there should be no discharges of sediment permitted to natural state water bodies, the rule should contain a limit on the concentration of suspended solids in the discharge, and discharges should meet measurable receiving water quality standards. No specific amendments were sought.<sup>52</sup>
- 103 Like Forest and Bird, Fish and Game also considered the rule was not consistent with Policy 7.D.10 as a large amount of sediment could be discharged before any of the permitted activity standards were breached, which is not consistent with avoiding sediment discharges in the first instance. The submitter considered that while many recent examples of sediment discharge from earthworks are from residential development, earthworks from other activities also have the potential to discharge sediment but would not be captured by this rule. Fish and Game sought the following amendments:

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<sup>48</sup> 80080.22 Fish and Game.

<sup>49</sup> 80080.23 Fish and Game.

<sup>50</sup> 80042.21 80042.22 ORC.

<sup>51</sup> 80011.03 Friends of Lake Hayes, 80059.28 Kāi Tahu ki Otago, 80078.28 Ngāi Tahu ki Murihiku.

<sup>52</sup> 80082.27 Forest and Bird.

- (a) Delete “residential development” from Rule 14.5.1.1,<sup>53</sup> and
- (b) Include water quality limits on the discharge that will be consistent with the direction in Policy 7.D.10, ensure no reduction in the relevant numeric attribute state of the receiving water body and the water quality targets in Schedule 15.<sup>54</sup>
- 104 COES, Lynne Stewart, and Phil Murray Resource Management Ltd considered that regulatory limits should be specified for sediment discharges from urban development but did not specify the limits sought.<sup>55</sup>
- 105 DCC sought clarity on aligning the respective earthworks rules in Part G and the 2GP, including the potential for removing duplication from the 2GP. No specific amendments were sought.<sup>56</sup>
- 106 HortNZ considered that clause (g) of Rule 14.5.1.1 read as a matter of discretion rather than a permitted activity standard and could cause plan administration difficulties. HortNZ sought that either:<sup>57</sup>
- (a) Clause (g) be replicated in Rule 14.5.2.1; or
- (b) Clause (g) be deleted from Rule 14.5.1.1 and included in Rule 14.5.2.1 instead.
- 107 If option (a) above was adopted and clause (g) was retained in Rule 14.5.1.1, HortNZ also sought to include new (g)(vi) as follows:
- (g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:
- ...
- (iv) the rendering of fresh water unsuitable for the irrigation and processing of food crops.
- 108 For the same reasons, Federated Farmers also sought to delete clause (g) from Rule 14.5.1.1 and include it in Rule 14.5.2.1.<sup>58</sup>

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<sup>53</sup> 80080.24 Fish and Game.

<sup>54</sup> 80080.25 Fish and Game.

<sup>55</sup> 80028.05 COES, 80108.03 Lynne Stewart, 80049.03 Phil Murray Resource Management Ltd.

<sup>56</sup> 80018.07 80018.09 DCC.

<sup>57</sup> 80016.10 Horticulture NZ.

<sup>58</sup> 80090.46 Federated Farmers.

*Rule 14.5.2.1*

- 109 There were 16 submission points on Rule 14.5.2.1. Friends of Lake Hayes and Forest and Bird sought to retain the rule as notified.<sup>59</sup> John Edmonds & Associates Ltd, RCL, and Vivian and Espie sought to delete the rule as they considered it duplicated QLDC PDP rules.<sup>60</sup>
- 110 As set out previously, QLDC's submission did not support what it considered to be duplication between the Part G and Chapter 25 provisions. QLDC sought three options, being either:<sup>61</sup>
- (a) Exclude the Queenstown-Lakes district from Rule 14.5.2.1;
  - (b) Delete Rule 14.5.2.1; or
  - (c) Amend Rule 14.5.2.1 to be consistent with Chapter 25 of the PDP.
- 111 Similarly, Remarkables Park sought to either:
- (a) Amend the rule such that earthworks activities that have been granted resource consent under the QLDC PDP are considered permitted activities in the RPW; or
  - (b) Amend Rule 14.5.2.1 as follows:  
Except as provided by Rule 14.5.1.1, or where Queenstown Lakes District Council has granted resource consent for the use or works,...
- 112 Federated Farmers questioned whether the *Erosion and sediment control guidance for land disturbing activities in the Auckland region 2016* referenced in matter of discretion (c) were the most appropriate guidelines for Otago. The submitter sought to delete matter (c) and include a set of ORC user-friendly guidelines for compliance specific to the Otago geology and topography.<sup>62</sup>
- 113 Federated Farmers noted that matter of discretion (d) refers to adverse effects on water quality and considered it was unclear what is required by an applicant to comply with this clause. The submitter sought unspecified amendments to provide clarity of water quality guidelines.<sup>63</sup>

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<sup>59</sup> 80011.04, 80011.12 Friends of Lake Hayes, 80082.28 Forest and Bird.

<sup>60</sup> 80067.02 John Edmonds & Associates Ltd, 80071.02 RCL, 80037.02 Vivian and Espie.

<sup>61</sup> 80076.02 QLDC.

<sup>62</sup> 80090.47 Federated Farmers.

<sup>63</sup> 80090 Federated Farmers (p.63).

- 114 Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku considered that matter of discretion (e) should require consideration of effects on mahika kai as mahika kai is of central importance to Kāi Tahu identity and the ability to consider and address effects on mahika kai is necessary to enable exercise of kaitiakitaka.<sup>64</sup>
- 115 Federated Farmers requested clarity and guidance in regard to cultural values specific to Otago and sought to delete “spiritual beliefs” and “uses” from matter of discretion (f).
- 116 As set out in relation to Rule 14.5.1.1, Federated Farmers and HortNZ sought to include clause (g) of Rule 14.5.1.1 as a new matter of discretion (g) in Rule 14.5.2.1.<sup>65</sup>

### *Glossary*

- 117 There were five submissions on the definition “earthworks”.<sup>66</sup> Horticulture NZ and DOC sought to retain the definition as notified.<sup>67</sup> and three submitters seek the following specific amendments:
- 118 QLDC has sought a range of amendments to the Part G provisions and considers that for those amendments to be implemented, a more refined definition of “earthworks” is required. QLDC sought to either exclude earthworks in Queenstown Lakes District from the definition as notified or revise the definition for consistency with the QLDC PDP.<sup>68</sup>
- 119 Forest and Bird sought to include reference to root raking in the definition as this activity also disturbs the land.<sup>69</sup>
- 120 Federated Farmers sought to exclude pastoral farming activities from the definition as notified.<sup>70</sup> The submitter considered that while post hole digging and cultivation is excluded, excluding pastoral farming activities would mean that other small activities on farms would not unintentionally be captured.

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<sup>64</sup> 80053.29 Kāi Tahu ki Otago, 80078.29 Ngāi Tahu ki Murihiku.

<sup>65</sup> 80090.49 Federated Farmers, 80016.11 Horticulture NZ.

<sup>66</sup> 80016.12 Horticulture NZ, 80055.27 DOC, 80076.04 QLDC, 80082.19 Forest and Bird, 80090.50 Federated Farmers.

<sup>67</sup> 80016.12 Horticulture NZ, 80055.27 DOC.

<sup>68</sup> 80076.04 QLDC.

<sup>69</sup> 80082.19 Forest and Bird.

<sup>70</sup> 80090.50 Federated Farmers.

### Changes agreed in mediation and supporting reasons

- 121 As a result of mediation on Part G, agreement has been reached between all parties at mediation in relation to Policy 7.D.10 and the definition of “earthworks”. However, agreement has not been reached between all parties at mediation on Rules 14.5.1.1 and 14.5.2.1, and the proposed new definition of “residential development”.
- 122 In particular, agreement was not reached on whether Rules 14.5.1.1 and 14.5.2.1 should apply within the Queenstown-Lakes district and whether additional changes need to be made to the thresholds for requiring resource consent. I have discussed this separately below.
- 123 The agreed changes to Part G provisions are attached to my evidence as **Appendix 6**.

#### *Policy 7.D.10 and section 14.5*

- 124 Parties agreed to amend Policy 7.D.10 to clarify that the outcome sought is to maintain water quality. This largely adopts the relief sought by QLDC and provides context for decision-makers about the direction in the policy.
- 125 Parties agreed to amend Note 2 in section 14.5 to clarify that it discharges from earthworks for residential development are addressed only through the section 14.5 rules. This change is based on the amendment sought by ORC.<sup>71</sup>

#### *Rule 14.5.1.1*

- 126 Rule 14.5.1.1 is a permitted activity rule for the use of land for, and associated discharge of sediment from, earthworks for residential development. Some matters relating to this rule were not agreed and are discussed further below. This section explains the changes that were agreed by the parties, notwithstanding the wider matters still to be resolved.
- 127 Parties agreed minor amendments to clarify that the 12-month period referenced in clause (a) is a consecutive 12-month period and that the setback restriction in clause (b) does not apply to earthworks for riparian planting.

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<sup>71</sup> 80042.22 ORC.

- 128 Parties also agreed to delete the term “conspicuous” in clause (g)(ii). As discussed in my Statement of Evidence dated 17 December 2021 at [174], the RPW defines the term “conspicuous change in colour or visual clarity” as a visual change in water clarity of more than 40%. This is a considerably higher threshold than other regions (such as Southland and Canterbury). Deleting the word “conspicuous” from clause (g)(ii) means that this definition does not apply to Rule 14.5.1.1. I note that Ms Heather supports this amendment.<sup>72</sup>

*Rule 14.5.2.1*

- 129 Parties agreed to replace “compliance” with “the extent to which the activity complies with” the *Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016*. The guidelines are not rigid and provide a range of tools and methods for erosion and sediment control which need to be selected based on the specific site. This amendment acknowledges that there will be variation in the way the guidelines are used. I consider this is more appropriate wording for a matter of discretion, given that it is a matter for the Council to consider rather than a condition of a rule. I agree with Ms Strauss that, due to the differences between the two regions, strict compliance with the guidelines may not always be possible, necessary, or desirable.<sup>73</sup>
- 130 Parties agreed that matters (e) and (f) could be combined into one matter of discretion with sub-clauses to improve clarity. As notified, matter (f) required considering the measures to avoid, remedy, or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses. Parties agreed that this consideration should also apply to adverse effects on any natural or human use value and the use of water bodies or the coastal marine area for contact recreation and food gather (notified matter (e)). This wording is consistent with other matters of discretion for restricted discretionary rules in the RPW, such as matter (a) of Rule 12.3.3.1 and matter (h) of Rule 12.C.2.4.

*Glossary*

- 131 Parties agreed to retain the definition of “earthworks” as notified. Mandatory direction (1) in Standard 14 of the National Planning Standards requires that where terms defined in the *Definitions list*

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<sup>72</sup> Statement of evidence of Melanie Heather dated 11 February 2022, paragraph 56.

<sup>73</sup> Statement of evidence of Kerstin Strauss dated 11 February 2022, paragraph 58.



(contained in Standard 14) are used in a plan, and the term is used in the same context as the definition, local authorities must use the definitions as defined in the *Definitions list*. Parties agreed this was the case for the term “earthworks” and therefore no amendments could be made.

- 132 To improve clarity and implementation of the rules, all parties except Remarkables Park agreed to include a definition of the term “residential development”. The definition agreed draws on other definitions in the National Planning Standards for consistency, as these terms will all have the same definition where they are used in either regional or district plans. Remarkables Park considered there was not scope to include “visitor accommodation” in this definition.

### **Matters not agreed**

- 133 I understand there are two key unresolved planning matters in relation to Rules 14.5.1.1 and 14.5.2.1:

- (a) Whether Rules 14.5.1.1 and 14.5.2.1 should apply within the Queenstown-Lakes district; and
- (b) If Rule 14.5.1.1 does apply, whether clause (a) should align with the rules in Chapter 25 of the QLDC PDP.

- 134 In addition, Remarkables Park does not agree that there is scope to include “visitor accommodation” within the new definition of “residential activity”. As this is a legal matter, I do not address it in detail in my evidence, other than to outline the submission being relied upon to provide the scope for this amendment.

- 135 I have set out my opinion on these matters in the following sections.

*Should Rules 14.5.1.1 and 14.5.2.1 apply within the Queenstown-Lakes district?*

- 136 RCL, Remarkables Park, Vivian and Espie, and Willowridge consider that Rules 14.5.1.1 and 14.5.2.1 should not apply within the Queenstown-Lakes district. With the exception of QLDC, all other parties agree that the rules should apply within the Queenstown-Lakes district. I understand that QLDC is still considering its position on whether the rules should apply within the Queenstown-Lakes district.

137 I understand that RCL, Remarkables Park, Vivian and Espie, and Willowridge consider that the provisions in Part G duplicate earthworks provisions in Chapter 25 of the QLDC PDP. I do not agree that there is duplication and consider this is a reflection of the inherent complexity of managing earthworks. I refer to *Quality Planning*:<sup>74</sup>

*“Managing earthworks is a complex issue. This is due in part to the wide range of activities covered by the term ‘earthworks’, as well as the wide range of effects generated. It is also further complicated by:*

- *The overlap in jurisdictional responsibility between regional and territorial authorities under ss 30 and 31 of the RMA*
- *The role of the Building Act 2004 in controlling site works (including sedimentation) and stability of earthworks and structures through the issue of building consents*
- *The considerable technical/engineering component in determining the effects of proposed earthwork activities and appropriate management methods.” (p.1),*

138 In my opinion, regional councils and territorial authorities perform different (albeit interconnected) roles in managing earthworks. In my Statement of Evidence dated 17 December 2021, I have set out these roles and responsibilities in detail at [205] to [210]. In my view, the fact that there are differences between the two sets of provisions does not mean that they are necessarily inconsistent. There are many instances around the country of regional plans and district plans having differently formulated earthworks rules, with different thresholds for requiring resource consent set out in regional plans and district plans. This reflects the different functions of regional councils and territorial authorities in relation to the management of earthworks.

139 Ms Strauss has outlined the differences in the PDP and PC8 provisions from a consenting perspective, including the difference in the matters considered by decision-makers and the conditions placed on resource consents.<sup>75</sup> Ms Heather has described her experience with conducting joint site inspections with QLDC’s monitoring and enforcement team, including that QLDC is not able to enforce discharge standards, there can be associated activities that QLDC is not able to manage (for example, drainage of wetlands), and the expertise of ORC officers in

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<sup>74</sup> Quality Planning. (2013). *Plan topics – land: managing earthworks under the Resource Management Act*. Retrieved from <https://qualityplanning.org.nz/sites/default/files/2018-11/Managing%20Earthworks.pdf>

<sup>75</sup> Statement of Evidence of Kerstin Strauss dated 11 February 2022, paragraphs 74 to 84.

relation to discharges.<sup>76</sup> I consider that the evidence provided by Ms Strauss and Ms Heather highlights the different roles that ORC and QLDC play in managing earthworks and demonstrate that any alleged duplication is relatively narrow.

- 140 Despite this, I consider that there is a considerable degree of consistency between the two sets of provisions. When PC8 was prepared, ORC recognised that aspects of the PDP rules would be appropriate to apply region-wide. Accordingly, Part G uses some of the same thresholds as the PDP, including the area threshold of 2,500m<sup>2</sup>. This threshold was selected as a relatively conservative threshold where the size of the site and the potential for adverse effects was considered to be best assessed through a resource consent process. Many councils use area as a trigger for seeking resource consent, including:
- (a) Most zones in the Auckland Unitary Plan require resource consent for earthworks greater than either 1,000m<sup>2</sup> or 2,500m<sup>2</sup>;<sup>77</sup>
  - (b) The Proposed Natural Resources Plan for the Wellington Region requires resource consent for earthworks with an area of more than 3,000m<sup>2</sup>;<sup>78</sup>
  - (c) The Canterbury Land and Water Regional Plan requires resource consent for earthworks with an area of more than 1,000m<sup>2</sup> in a Sediment Prone Area and two hectares elsewhere;<sup>79</sup> and
  - (d) The Bay of Plenty Regional Natural Resources Plan requires resource consent for earthworks with an exposed area of more than 400m<sup>2</sup>, 500m<sup>2</sup>, 5,000m<sup>2</sup>, or 10,000m<sup>2</sup> depending on the zone and slope.<sup>80</sup>
- 141 I understand that the QLDC PDP earthworks provisions were based on a technical report prepared by 4Sight. I note that the authors of the 4Sight Report undertook a site visit to sites in the Wanaka, Millbrook, Arthurs Point, and Queenstown areas and concluded that “[o]verall observations

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<sup>76</sup> Statement of Evidence of Melanie Heather dated 11 February 2022, paragraphs 75 to 83.

<sup>77</sup> Table E12.4.1, Auckland Unitary Plan.

<sup>78</sup> Rule R99: Earthworks – permitted activity, Proposed Natural Resources Plan for the Wellington Region.

<sup>79</sup> Rule 5.94A, Canterbury Land and Water Regional Plan.

<sup>80</sup> Table LM1, Bay of Plenty Regional Natural Resources Plan.

from the site visit concluded that the current implementation of erosion and sediment control practice is limited and below current best practice.”<sup>81</sup> This report was commissioned prior to the PDP rules having legal effect, however Ms Heather has stated that she continues “to witness poor practice in the management of earthworks on sites in the Queenstown-Lakes district”, even after the PDP rules having legal effect.<sup>82</sup> This ongoing level of poor practice was a key reason that the Council chose to adopt the thresholds it did in Part G.

- 142 Although Part G has not adopted all of the PDP provisions (for example, the slope threshold), I do not consider this necessarily means the provisions are inconsistent, given they are designed to manage different activities and different types of effects. I note that the rules in Part G only apply to certain types of earthworks (those associated with residential development). By contrast the PDP provisions are much broader, covering a wider range of issues that fall outside of ORC’s jurisdiction (such as amenity considerations). I also note that none of the other territorial authorities in Otago share the view of QLDC regarding there being inconsistency between their district plan provisions and the PC8 provisions, including DCC which is a party to these proceedings and whose district plan contains earthworks rules.
- 143 Ultimately, while QLDC and ORC have overlapping responsibilities in relation to the use of land, QLDC cannot manage the discharge of sediment to water as this is a regional council function under section 30(1)(f) of the RMA. The discharge of sediment from earthworks arises from a use of land, therefore it is necessary for ORC to manage both the land use and discharge components of the activity in order to manage the potential adverse effects on water quality. The operative RPW provisions do not manage the land use component of this activity and are ineffective at managing the resulting discharge, as described in the evidence of Ms Heather.<sup>83</sup>
- 144 Unless the provisions of Chapter 25 of the PDP control the use of land for earthworks to such an extent that there is no discharge of sediment to water, or to land in circumstances where it may enter water, then

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<sup>81</sup> 4Sight Report, p.3.

<sup>82</sup> Statement of Evidence of Melanie Heather dated 11 February 2022, paragraph 17.

<sup>83</sup> Statement of Evidence of Melanie Heather dated 11 February 2022, paragraphs 31 to 53.

excluding the Queenstown-Lakes district from the application of Rules 14.5.1.1 and 14.5.2.1 will mean that the discharge component of earthworks activities will continue to be managed under the RPW's operative and ineffective discharge rules. I do not consider that this would prioritise the health and well-being of water bodies and freshwater ecosystems as required by the objective of the NPSFM 2020. I address the application of the NPSFM 2020 further at paragraphs 165 to 171 below in terms of the need for caution in respect of those submissions seeking that a slope factor be included within the PC8 rule framework. The same analysis of the NPSFM 2020 is also relevant in terms of why I have formed the opinion that the PC8 rules should apply within the Queenstown Lakes district.

*Alignment with Chapter 25 provisions*

145 Subject to the question above about the application of Rules 14.5.1.1 and 14.5.2.1 within the Queenstown-Lakes district at all, RCL, Remarkables Park, Vivian and Espie, and Willowridge consider that clause (a) of Rule 14.5.1.1 should be aligned with the rules in the QLDC PDP, and in particular the area and slope requirements. I understand the relevant area and slope thresholds for requiring resource consent under Chapter 25 of the PDP are:

- (a) 2,500m<sup>2</sup> where the slope is 10 degrees or greater; and
- (b) 10,000m<sup>2</sup> where the slope is less than 10 degrees.

146 I have read the 4Sight Report included with QLDC's submission which provided the technical basis for the PDP provisions. That report states the following:

*"It is important to recognise that there are a number of factors that influence soil erosion, the subsequent discharge of sediment from an earthwork site and the adverse effects that result. These include:*

- *Local climate conditions, particularly the frequency and intensity of rainfall events;*
- *Soil types and their erodibility, once exposed by earthworks;*
- *Topography – steep slopes are more susceptible to erosion than flat areas;*
- *The area of exposed soil, which influences the amount of soil that is eroded and discharged, and the duration of exposure;*
- *The application of erosion and sediment control measures to firstly minimise soil erosion and then to removed [sic] entrained sediment from runoff;*

- *The location and nature of receiving environments and their sensitivity to sediment-laden discharges.*

*Given this range of factors, there is no single measure that defines earthworks discharge 'risk'. Rather it is a combination of factors that need to be considered and assessed to determine the threshold(s) at which the risk is sufficient [sic] large to justify a more comprehensive approach to erosion and sediment control management, including regulatory assessment and oversight through a resource consent process." (p.1)*

147 I agree that slope is a relevant factor for determining the level of 'risk' of sediment discharges from earthworks. As Ms Ozanne has stated, if slope angle is doubled, three times the sediment is generated, while if the slope length is doubled, 1.5 times the sediment is generated.<sup>84</sup> Broadly, the greater the slope the more material (i.e. sediment) can be transported to water. My evidence in the remainder of this section focuses on whether it is efficient and effective to include a slope threshold in Rule 14.5.1.1 as a permitted activity condition. My concerns with the relief sought by RCL, Remarkables Park, Vivian and Espie, and Willowridge are primarily:

- (a) The lack of technical basis for applying the 4Sight slope thresholds outside the Queenstown-Lakes district;
- (b) Potential difficulties with implementation; and
- (c) The need to take a precautionary approach.

148 It is not clear to me at this stage whether the parties are seeking that Rule 14.5.1.1 is aligned with Chapter 25 for all of Otago or only within the Queenstown-Lakes district. For the avoidance of doubt, I have assumed the former.

#### Technical basis for slope thresholds outside the Queenstown-Lakes district

149 The 4Sight report assesses the comparative sediment yield discharging from a site and the factors that increase risk by using the Universal Soil Loss Equation (**USLE**). The USLE takes into consideration local rainfall, soil, and slope characteristics using several area and slope scenarios.<sup>85</sup> 4Sight state that:

*"An important aspect of implementing the USLE is to use local data and in this assessment, the Landcare online GIS resources: S-map and Our Environment were used to respectively define local soil constituents (% of clay, silt, and sand) and typical slope relative to operative and proposed development zones*

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<sup>84</sup> Statement of Evidence of Rachel Ozanne dated 11 February 2022, paragraph 58(c).

<sup>85</sup> 4Sight Report, p.8.

*in the district. Local rainfall intensity data was obtained from the Niwa HIRDS [High Intensity Rainfall Design System] where the 2 year, 6 hour duration storm is specified for the USLE.” (p.9).*

- 150 In my opinion, the 4Sight report and its recommendations are tailored to the specific conditions in proposed development zones in the Queenstown-Lakes district and are therefore not necessarily applicable to other parts of Otago, which vary considerably in their topography, soil types and rainfall. If there is to be alignment with respect to slope, I do not consider that those requirements should apply outside the Queenstown-Lakes district as I do not consider there is sufficient evidential basis to support this.

#### Implementation difficulty

- 151 A key concern I have about including slope thresholds in permitted activity rule 14.5.1.1 is the potential difficulty with implementation. For the purpose of this evidence, I have assumed that the amendments sought by the submitters is to replicate the wording used in the relevant rules of the QLDC PDP. Rule 25.5.11 in Chapter 25 of the PDP states:<sup>86</sup>
- Earthworks over a contiguous area of land shall not exceed the following area:*
- 25.5.11.1 2,500m<sup>2</sup> where the slope is 10° or greater.
- 25.5.11.2 10,000m<sup>2</sup> where the slope is less than 10°.
- 152 It is not clear to me how the slope threshold in these rules is applied in practice. In my experience, there are a number of ways to apply slope thresholds: absolute slope, mean or average slope, or maximum slope.
- 153 Absolute slope can be determined simply by using a clinometer (which can be downloaded as an application for most smart phones) on any given part of land. The difficulty when using absolute slope is what to do when slope varies across an area of land, resulting in many different slope values, which may be the case where a large residential development is occurring. In my view, this provides opportunity for users to ‘game the rules’ by taking measurements at the flattest part of an area and determining compliance on that basis, whether or not that measurement is representative of the entire site. In my opinion, that introduces considerable uncertainty to the application of the rule because different people could determine either compliance or non-compliance depending on the slope measured.

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<sup>86</sup> Submission by QLDC.

- 154 To address the issue of varying slopes within a site, one way to apply slope thresholds is by using a mean or average. The mathematical use of 'mean' requires adding up a number of values, then dividing the total by the original number of values. This requires, firstly, having more than one value (or slope measurement). Clarity about the number of measurements required assists with application. This also requires some way of determining whether measurements are representative of a site in order to avoid the situation I have described in 153 above, where measurements could be selectively taken from flatter parts of a site. I consider this is also uncertain.
- 155 Another method is to use maximum slope or maximum allowable slope. This would potentially capture more sites than using an average as any part of a site exceeding the stated threshold (for example, 10 degrees) would 'trigger' the condition rather than being able to 'average out' steeper and flatter areas across a site. There is still a considerable degree of discretion involved in determining compliance with this type of threshold as it would not be practical to measure the slope over every part of a site, therefore there remains an element of 'averaging'.
- 156 My experience with the implementation of slope thresholds is primarily in relation to cultivation and intensive winter grazing, however I consider that the general issues with implementing slope thresholds apply more broadly than those activities. I am aware of, and have specific experience with, two current examples of slope thresholds in relation to these activities:
- (a) Rule 25 (Cultivation) in the Proposed Southland Water and Land Plan 2018 (**pSWLP**), and
  - (b) Regulation 26 (Intensive winter grazing – permitted activity) in the National Environmental Standards for Freshwater 2020 (**NESF**).
- 157 Rule 25 in the pSWLP manages the use of land for cultivation in order to reduce sediment loss to water bodies. In accordance with Rule 25(a)(iv), cultivation is permitted as long as it does not occur on land with a slope greater than 20 degrees (as well as other conditions in clause (a)). In a footnote, the plan clarifies that:

*Slope in Rule 25(a)(iv) is the average slope over any 20 metre distance.*



- 158 I understand this to mean that if, at any 20 metre distance over the land being cultivated, the slope exceeds 20 degrees, then the condition is not met and resource consent is required.
- 159 In contrast, the NESF currently uses mean slope. Regulation 26(4)(b) requires, where there is no certified freshwater farm plan in place, that “the mean slope of a paddock that is used for intensive winter grazing must be 10 degrees or less.” The term ‘mean slope’ is not defined and there is currently no implementation guidance to clarify how this should be calculated.
- 160 There have been criticisms of the practicality of some of the regulations in the NESF, including the slope threshold. The Southland NES Advisory Group (the **SAG**) was set up following a hui with the Minister for the Environment and the Minister of Primary Industries in September 2020 to provide concise, practical recommendations to address implementation concerns with the NESF.<sup>87</sup> In December 2020, the SAG made a number of recommendations to the Ministers, including to replace ‘mean slope’ with wording that would require intensive winter grazing not to be conducted on slopes greater than 15 degrees. The SAG describes this as a maximum allowable slope which would allow lower slope parts of paddocks to be cultivated but avoided higher slope areas.
- 161 In August 2021, the Government released a discussion document on potential amendments to the NESF, including to the mean slope requirement.<sup>88</sup> That document noted that:

*“Feedback suggests that measuring the slope as a mean across a paddock is difficult to calculate and could result in grazing areas at a slope greater than the 10 degrees threshold where it is a small area of the paddock.” (p.8)*

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<sup>87</sup> Southland Intensive Winter Grazing NES Advisory Group Report, 10 December 2020, available from: <http://www.es.govt.nz/repository/libraries/id:26gi9ayo517q9stt81sd/hierarchy/environment/water/Essential%20Freshwater%20documents/Southland%20NES%20Advisory%20Group%2015-12-2020%20%28Final%29.pdf>

<sup>88</sup> Ministry for the Environment and Ministry for Primary Industries. (2021). *Managing intensive winter grazing: A discussion document on proposed changes to intensive winter grazing regulations*. Wellington, New Zealand.

162 In my opinion, these same concerns arise in relation to determining slope for the purposes of applying a rule managing earthworks. The discussion document made the following recommendation:<sup>89</sup>

*“Reg 26(4)(b): Amend to measure the slope threshold as maximum allowable slope instead of mean slope of a paddock (while keeping the existing threshold of 10 degrees).”* (p.11)

163 A footnote suggests that this could be measured as set out in the pSWLP which measures slope as the average slope across any 20-metre distance.

164 To summarise, I consider there is the opportunity for uncertainty and inconsistency in the application of a permitted activity condition containing a slope threshold unless there is clarity provided about how and where slope is to be measured. If such a condition is introduced, it will be the role of ORC’s Enforcement Officers to manage this uncertainty and ultimately decide whether a rule has been breached. As Ms Heather has outlined, the Council is not able to recover costs for monitoring permitted activities unless they are permitted under a National Environmental Standard. Ultimately, this cost would be borne by ratepayers across Otago.

#### The need for caution

165 Te Mana o te Wai is the fundamental concept of the NPSFM that recognises that protecting the health of freshwater protects the mauri of the wai and the health and well-being of the wider environment. It recognises that tangata whenua, decision-makers and all New Zealanders have a role in caring for the wai to sustain present and future generations, and it includes a hierarchy of obligations that is set out in the objective of the NPSFM. This objective requires that natural and physical resources are managed in a way that prioritises, first, the health and well-being of water bodies and freshwater ecosystems. The expression of Te Mana o te Wai in Otago is captured in LF-WAI-O1 of the pORPS. Achieving this objective requires that the mauri of Otago’s water bodies and their health and well-being is protected, and restored where it is degraded.

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<sup>89</sup> Ministry for the Environment and Ministry for Primary Industries. (2021). *Managing intensive winter grazing: A discussion document on proposed changes to intensive winter grazing regulations*. Wellington, New Zealand.

- 166 There are three policies in the LF-WAI section of the pORPS that set out the policy direction regarding what is required to give effect to Te Mana o te Wai in Otago. The hierarchy of obligations set out in the objective of the NPSFM is reflected in LF-WAI-P1, LF-FWAI-P2 set out how Kāi Tahu rakatirataka will be recognised and given practical effect, and LF-WAI-P3 outlines the requirements of an integrated approach to managing fresh water and land. Policy LF-WAI-P3(7) requires having regard to cumulative effects and the need to apply a precautionary approach where there is limited available information or uncertainty about potential adverse effects.
- 167 Mr Ellison and Mr Whaanga describe the fundamental importance of water to mana whenua<sup>90</sup> and the impacts of water quality degradation on the connection of mana whenua to the wai and on their cultural identity.<sup>91</sup> Mr Davis has outlined his concern with the impacts of urban development, including sedimentation, on Waiwhakaata (Lake Hayes) in the Queenstown-Lakes district.<sup>92</sup> From the evidence of Mr Ellison, Mr Whaanga, and Mr Davis, I consider it is evident that the degradation of water bodies in Otago, including as a result of sedimentation, has affected the mauri of the wai. I understand that giving effect to Te Mana o te Wai, restoring the mauri of Otago's water bodies, plays a significant role in recognising the relationship between mana whenua and wai taonga, and ultimately accords with protecting the health and well-being of the wider environment, including Otago's communities.
- 168 Ms Ozanne's evidence outlines the adverse effects that can be caused by suspended fine sediment, particularly on ecosystem health.<sup>93</sup> Her evidence reiterates that 40 sites across Otago (except in the North Otago Freshwater Management Unit) do not meet the NPSFM bottom line for suspended fine sediment and that trend analysis demonstrates an unlikely, at best, improvement in turbidity in more than 65% of

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<sup>90</sup> Statement of Evidence of Edward Weller Ellison dated 11 February 2022, paragraph 8 and Statement of Evidence of Dean Whaanga dated 11 February 2022, paragraphs 14 to 20.

<sup>91</sup> Statement of Evidence of Edward Weller Ellison dated 11 February 2022, Annexure 1, paragraphs 73 to 77 and paragraph 81.

<sup>92</sup> Statement of Evidence of Jana Davis dated 11 February 2022, paragraphs 44 to 48.

<sup>93</sup> Statement of Evidence of Rachel Ozanne dated 11 February 2022, paragraphs 40 and 46 to 58.

monitored sites.<sup>94</sup> I note that 26 of the 40 monitored sites that fail to meet the national bottom line<sup>95</sup> for suspended fine sediment are within the Clutha Mata-au FMU, where the Queenstown-Lakes district is located.<sup>96</sup>

- 169 The context for the Part G provisions is an environment with degraded water quality as a result (in part) of sedimentation that is having adverse effects on the ecosystem health of the water bodies, as well as on mana whenua values. Despite the improvements to QLDC's resource management framework under the PDP, Ms Heather has stated that she continues to see poor practice with regard to erosion and soil control on earthworks sites. In my opinion, this context supports taking a precautionary approach to the management of an activity that has the potential to result in significant adverse effects on water quality and freshwater ecosystems. I consider this is particularly so given the requirement in the NPSFM to, first, prioritise the health and well-being of water bodies and freshwater ecosystems.
- 170 I consider that using the slope and thresholds as per the QLDC PDP may result in uncertainty about potential adverse effects because there is likely to be inconsistency in the way slopes are measured and, without monitoring by ORC, could result in slopes being mismeasured and therefore resource consent not being sought when it should have been. In my opinion, there is a risk that this could provide ambiguity that, intentionally or otherwise, provides an opportunity for a less stringent application of Rule 14.5.1.1 and therefore a poorer outcome for the environment.
- 171 I also want to emphasise that the thresholds as I have discussed in this section of my evidence are simply conditions that, if not met, trigger the need to apply for resource consent for the activity. Ms Ozanne has outlined a number of factors that increase the risk of sediment moving to waterways, including slope,<sup>97</sup> which broadly mirror the matters identified in the 4Sight Report which I discussed previously. In my opinion, when there are many factors in play which affect the significance of adverse

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<sup>94</sup> Statement of Evidence of Rachel Ozanne dated 11 February 2022, paragraphs 40 and 41 to 44.

<sup>95</sup> Acknowledging that some fail due to being affected by glacial melt and others from mine tailings.

<sup>96</sup> Statement of Evidence of Felicity Boyd dated 17 December 2021, Appendix D, paragraph 221.

<sup>97</sup> Statement of Evidence of Rachel Ozanne dated 11 February 2022, paragraph 58.

effects, resource consent processes provide an opportunity to examine the activity and the physical environment in a holistic and considered way that is focused on the circumstances of each application. This is highlighted by Ms Strauss in her evidence on the variation between applications.<sup>98</sup> I consider that to be an appropriate framework for the management of earthworks from residential development.

*Scope to include definition of residential development*

172 As outlined above, Remarkables Park does not consider there is scope to include “visitor accommodation” within the new definition of “residential development”.

173 I understand that the legal issue of the scope to include “visitor accommodation” within the definition of “residential development” will be addressed in legal submissions. I note that the submission being relied on by the Council to provide scope for the new definition of residential development is the submission by Otago Fish and Game Council and the Central South Island Fish and Game Council (**Fish and Game**). In its submission, Fish and Game, sought to expand Rule 14.5.1.1 to all earthworks and not just earthworks for residential development.<sup>99</sup> The reasons for the relief sought by Fish and Game’s is as follows:

... while many recent examples of sediment discharge from earthworks are from residential development, this need not be the case. Fish and Game is concerned that earthworks from other forms of development, such as building for industrial or commercial purposes, has a similar potential to discharge sediment but will not be captured by Rule 14.5.1.1. Fish and Game seeks that the rule be made relevant to all earthworks.

174 Given Fish and Game’s submission sought all earthworks for all activities be captured, in my opinion the clarification that residential development includes earthworks associated with visitor accommodation is within the scope of the relief sought.

**Outcomes to be achieved**

175 There are two potential outcomes: one from the mediated agreement and one if the relief sought by the parties in opposition is accepted.

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<sup>98</sup> Statement of Evidence of Kerstin Strauss dated 11 February 2022, paragraphs 39 to 44.

<sup>99</sup> 80080.24 Fish and Game.

- 176 Ms Heather has outlined the many benefits of the Part G provisions for undertaking the Council's monitoring and enforcement functions. Overall, the provisions mean that sediment discharges from earthworks for residential development are able to be managed proactively by ORC rather than only reactively after a discharge has occurred. The resource consent process provides an opportunity for sites to be assessed on a case-by-case basis and appropriate erosion and sediment control practices to be put in place prior to work commencing on site. I expect this to result in less sediment entering water as a result of poor practice on sites of earthworks for residential development and, where there are potential breaches of consent conditions, an easier and simpler pathway for taking enforcement action.
- 177 The mediated agreements would ensure that there is regional consistency in the management of earthworks by ORC. With sedimentation in water bodies an issue in all freshwater management units, except North Otago, this is clearly a region-wide issue. The agreements would also reinforce the holistic and integrated approach to managing fresh water, ki uta ki tai. In my opinion, erring on the side of caution when it comes to thresholds for requiring resource consent appropriately recognises the degraded state of many water bodies in Otago and the need to prioritise, first, their health and well-being. I agree with Ms Strauss that the mediated agreements to these provisions will assist in providing clarification and greater certainty for consents planners, compliance officers and customers alike.
- 178 In my opinion, the relief sought to align Rule 14.5.1.1 with Chapter 25 of the QLDC PDP would result in a 'lowering' of the stringency of this rule. This is because it would permit earthworks to occur over a much larger area (10,000m<sup>2</sup> where the slope is less than 10 degrees), and potentially generate more sediment loss, and introduce ambiguity into the consenting triggers by relying on an uncertain and potentially inaccurate measurement. Management of that uncertainty would fall on ORC staff to determine and general ratepayers to fund.
- 179 Ms Heather has demonstrated in her evidence that the district with the greater number of enforcement actions taken in regard to sediment discharges from earthworks for residential earthworks is the

Queenstown-Lakes district.<sup>100</sup> Ms Heather has also stated that she continues to witness poor practice in the management of earthworks in the Queenstown-Lakes district.<sup>101</sup> On that basis, I do not consider there is a good reason to provide for a less stringent management framework in this area and, if that does occur, I would expect to see less improvement in the management of sediment discharges from earthworks from residential development than would be the case under the provisions as agreed at mediation.

180 I consider that the changes agreed at mediation do not alter the statutory assessment included in my previous statement of evidence.<sup>102</sup> A s32AA analysis of the changes shown in Appendix 6 is included in **Appendix 7**.

## **PART H: NATIONALLY OR REGIONALLY SIGNIFICANT INFRASTRUCTURE**

### **Summary of provisions**

181 Part H seeks to replace “regionally important infrastructure” with “regionally significant infrastructure” in Policy 10.4.2. This policy is important for considering applications for resource consent under a number of rules in section 13 of the RPW because whether or not an activity is “regionally important infrastructure” determines the approach to managing adverse effects.

182 An explanation of the notified amendment and its intent and linkages is included in my Statement of Evidence dated 17 December 2021 at paragraphs 211 to 215.

### **Summary of submissions**

183 In this section, I have summarised the submission points on Policy 10.4.2. The specific decisions sought by submitters and my recommendations on those decisions sought are included as **Appendix 8** to my evidence.

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<sup>100</sup> Statement of Evidence of Melanie Heather dated 11 February 2022, paragraph 63.

<sup>101</sup> Statement of Evidence of Melanie Heather dated 11 February 2022, paragraph 70.

<sup>102</sup> Statement of Evidence of Felicity Boyd dated 17 December 2021, paragraphs 71 to 152.

184 There are six submissions on Policy 10.4.2. Four seek to retain the policy as notified.<sup>103</sup> The other two submitters seek amendments to what is defined as ‘regionally significant infrastructure’ as follows:

- (a) DCC consider provision needs to be made for Smooth Hill landfill to align with the Dunedin 2GP,<sup>104</sup> and
- (b) Forest and Bird seek to stipulate Otago’s existing regionally significant infrastructure.<sup>105</sup>

### **Changes agreed in mediation and supporting reasons**

185 The parties agreed that no amendments were necessary and that the provision should be retained as notified. In particular, parties acknowledged that “regionally significant infrastructure” is defined in both the pORPS 2019 and pORPS 2021 and therefore changes to that definition is out of scope of PC8.

186 The agreed changes to the Part H provisions are attached to my evidence as **Appendix 9**.

### **Outcomes to be achieved**

187 As outlined in paragraphs 211 to 215 of my Statement of Evidence dated 17 December 2021, this amendment is expected to reduce the confusion around whether “regionally important infrastructure” is synonymous with “regionally significant infrastructure” and therefore improve the application of the policy, particularly for applications for resource consent for activities within the scope of Policy 10.4.2.

### **CONCLUSION**

188 In my first statement of evidence, I assessed PC8 against a range of higher order and other statutory instruments and concluded that the plan change as notified would achieve the purpose of the Act. The amendments agreed through mediation to Parts A, G, and H are largely clarifications or refinements that improve implementation and alignment with other planning documents. In my view, they continue to achieve the

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<sup>103</sup> 80016.13 Horticulture NZ, 80055.28 DOC, 80082.29 Kāi Tahu ki Otago, 80090.51 Federated Farmers.

<sup>104</sup> 80018.08 DCC.

<sup>105</sup> 80082.29 Forest and Bird.



same outcomes as expected from the notified provisions and therefore I consider that the amended Parts A, G, and H align with my earlier assessments.

- 189 There remain three unresolved matters in relation to Part G:
- (a) Whether Rules 14.5.1.1 and 14.5.2.1 should apply within the Queenstown-Lakes district;
  - (b) If Rule 14.5.1.1 does apply, whether clause (a) should align with the rules in Chapter 25 of the QLDC PDP; and
  - (c) Whether there is scope to include “visitor accommodation” within the new definition of “residential activity”.
- 190 In my view, the degraded state of many of Otago’s water bodies, particularly with respect to suspended fine sediment, and the ongoing poor practice in the management of earthworks in the Queenstown-Lakes district does not support taking a more lenient approach in this district. I consider that better outcomes will be achieved, and Te Mana o te Wai will be given better effect, by the amended provisions as agreed by most parties.
- 191 For completeness, I have included versions of all relevant chapters of the RPW amended by PC8 with the changes recommended shown in track changes as **Appendix 10**.



**Felicity Ann Boyd**

**18 February 2022**

**Appendix 1: Recommended decisions on submissions (general submissions)**

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
<b>Plan Change 8</b>									
1	<b>Plan Change 8</b>	80070	80070.01 80070.02		<b>Jillian Sullivan</b>	Support	Approve plan change 8 with amendments: Amend to strengthened through a regulatory framework to ensure no further degradation of natural waterways and wetlands; Include measures to provide financial support to encourage farmers to move away from intensive animal agriculture to crops	Reject	To the extent the submission relates to the urban sector provisions, PC8 is intended to be an interim first step in ensuring no further degradation while the new LWRP is being developed. The proposed Otago Regional Policy Statement 2021 (PORPS 2021) and the new LWRP will continue that work.  It is not appropriate to put financial support provisions in a regional plan however there are non-regulatory methods in the PORPS 2021 to enable this to occur, outside of the RMA.
2	<b>Plan Change 8</b>	80080	80080.01 80080.02		<b>Otago Fish and Game Council and the Central South Island Fish and Game Council</b>	Support in part	Generally supports intent of Plan Change 8. Amend to ensure the interim framework is consistent with the documents identified as relevant to these plan changes; and that the interim framework is effective in managing activities which are having an immediate adverse effect on water quality in Otago, to guarantee that no further degradation of the health of water bodies occurs both generally, and in reference to the relevant numeric attribute states in the NPS-FM 2020 and water bodies which do not meet minimum contact recreation standards or provide for ecosystems are improved in the short term.	Reject	To the extent the submission relates to the urban sector provisions, PC8 does not have scope to amend the Regional Plan: Water (RPW) to fully give effect to the NPSFM 2020, and the NPSFM 2020 will be addressed through the new LWRP.
3	<b>Plan Change 8</b>	80084	80084.01		<b>Beef + Lamb New Zealand</b>	Oppose	That PC8 be amended and re-notified.	Reject	PC8 does give effect to the RMA. It is important to note that the PC8 does not have numerical limits set under the NPSFM 2020 yet and the plan change is an interim step to address the policy gaps left by PC6AA.
	<i>Plan Change 8</i>			<i>FS809.25</i>	<i>Public Health South</i>	<i>Oppose</i>		Accept	
4	<b>Plan Change 8</b>	80084	80084.02		<b>Beef + Lamb New Zealand</b>	Oppose	Amend PC8 by adding the attached principles for the allocation of nutrients.	Reject	PC8 is not about the allocation of nutrients.
	<i>Plan Change 8</i>			<i>FS804.76</i>	<i>Federated Farmers of New Zealand - Otago and North Otago Provinces</i>	<i>Oppose</i>		Accept	

5	<b>Plan Change 8</b>	80103	80103.05		<b>Rachel Napier</b>	Oppose	Amend PC8 by adding 10 year "license to farm" to give certainty about farming future. Uncertainty of rules changing means viability of farming is uncertain, as additional compliance costs may make farming stock uneconomical.	Reject	To the extent the submission relates to the urban sector provisions, this proposal is too broad for ORC to achieve the outcomes it is required to achieve.
6	<b>Plan Change 8</b>	80103	80103.06		<b>Rachel Napier</b>	Oppose	Base water reforms on catchments.	Reject	To the extent the submission relates to the urban sector provisions, this sort of planning does not fit with the RPW. However, Freshwater Management Units will be a focus in the new LWRP, which is currently being developed.
7	<b>Plan Change 8</b>	80108	80108.07		<b>Lynne Stewart</b>	Oppose	Amend PC8 to specify intention to identify critical source areas, and topographical conditions relating to runoff in specific properties	Reject	ORC is mindful that Freshwater Farm Plans (FFP) under the RMA will set out minimum criteria for managing contaminants. Controls over issues such as managing critical source areas are likely to either be in the FFP's or managed by FMU as ORC develops the new Land and Water Regional Plan, which is currently being developed.
8	<b>Plan Change 8</b>	80017	80017.06		<b>Springwater Ag Limited</b>	Oppose	Introduce provisions to PC8 to allow ORC to offer rates relief to offset regulatory compliance costs stemming from the plan change.	Reject	Rates reliefs is not a matter that can be included in a regional plan under the RMA and is outside the scope of PC8.
9	<b>Plan Change 8</b>	80005	80005.01		<b>W Thompson</b>	Oppose	Promote sustainable farming practices by promoting soil health.	Reject	To the extent the submission relates to the urban sector provisions, soil health is not an issue addressed PC8. ORC considers this submission is not "on" PC8 and therefore the relief requested is outside the scope of PC8.
10	<b>Plan Change 8</b>	80090	80090.02		<b>Federated Farmers of New Zealand - Otago and North Otago Provinces</b>	Oppose	Oppose Plan Change 8 on grounds that targeted consultation with community and stakeholders has not been undertaken	Reject	This is not a matter within scope of the plan change and is not "on" PC8. Targeted consultation was undertaken as outlined in Section 2 of the section 32 report for PC8.
	<b>Plan Change 8</b>			FS806.14	<b>New Zealand Pork Industry Board</b>	Support		Reject	
	<b>Plan Change 8</b>			FS809.31	<b>Public Health South</b>	Oppose		Accept	
11	<b>Plan Change 8</b>	80057 80093	80057.01 80093.01		<b>WAI Wanaka - Upper Clutha Lakes Trust</b> <b>Landpro Limited</b>	Not stated Support	Amend Plan Change 8 to be consistent with National Policy Statement for Freshwater Management, and the National Environmental Standards for Freshwater Management 2020.	Accept	PC8 was notified prior to the NPS-FM 2020 and NES-FW 2020 being notified.  To the extent the submission relates to the urban sector provisions, some amendments have been

12	Plan Change 8	80056	80056.01		Two Farmers Farming Ltd	Oppose	Decline Plan Change 8 in its entirety and align with the NPSFW	Reject	proposed to the urban sector provisions of PC8 and the remainder of the NPSFM 2020 will be addressed through the new LWRP, which is currently being developed. PC8 does not have scope to amend the RPW to fully give effect to the NPSFM 2020. Alignment with the NPSFM is addressed in other specific submission points
13	Plan Change 8	80055	80055.01		Director General of Conservation	Support	The overall intent of PC8 is supported other than where specific changes are requested.	Accept in part	To the extent the submission relates to the urban sector provisions, some amendments have been proposed to the urban sector provisions of PC8 as a result of submissions and mediation.
		80004	80004.01		Maori Point Vineyard Ltd (Arthur)	Oppose			
14	Plan Change 8	80069	80069.01		Wise Response Society Inc	Not stated	Approve the plan change with amendments (specific relief not indicated)	Submission withdrawn	N/A
15	Plan Change 8	80025	80025.01		R G Wright	Support	Support the Plan Change	Reject	To the extent the submission relates to the urban sector provisions, some amendments have been proposed to the urban sector provisions of PC8 as a result of submissions and mediation.
		80077	80077.01		Shaping our Future Incorporated				
16	Plan Change 8	80075	80075.01		Nicola McGrouther	Oppose	Decline Plan Change 8	Reject	To the extent the submission relates to the urban sector provisions, ORC has recommended changes to PC8 as notified.
		80089	80089.01		Elizabeth Clarkson				
		80096	80096.01		MF and DA Dowling				
17	Plan Change 8	80072 80072	80072.01 80072.02		Te Runanga o Ngai Tahu	Support	Te Rūnanga supports the submissions from Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Te Rūnanga o Waihōpai, Te Rūnanga Ōraka Aparima and Te Rūnanga o Awarua sent in as submissions from Aukaha and Te Ao Marama Inc. Te Rūnanga adopts the relief sought in those submissions.	Reject	
<b>S32 Report</b>									
18	Section 32 Report	80010	80010.02		G F Dowling Ltd	Oppose	Recognise the findings in the s32 report.	Reject	The relief requested is not applicable to the provisions of the plan change and the submission is not "on" PC8.
19	Section 32 Report	80090	80090.01		Federated Farmers of New Zealand - Otago and North Otago Provinces	Oppose	Oppose Section 32 report as it is not adequate in terms of alternative options available, and that consultation has not been adequate.	Reject	

	<b>Section 32 Report</b>			FS806.13	<b>New Zealand Pork Industry Board</b>	Support		Reject	
	<b>Section 32 Report</b>			FS809.30	<b>Public Health South</b>	Oppose		Accept	
20	<b>Section 32 Report</b>	80010	80010.03		<b>G F Dowling Ltd</b>	Oppose	Oppose Farm Environmental Plans being mandatory.	Reject	<p>The relief requested is not applicable to the provisions of the plan change and the submission is not "on" PC8.</p> <p>The provision of Farm Environmental Plans is mandated under Part 9A of the RMA, with further direction still to come from central government.</p>
<b>Maps</b>									
21	<b>Maps</b>	80097	80097.01		<b>Neil Grant</b>	Oppose	Correct existing maps of lower slope zones and minor creeks in the eastern Rock and Pillar Range in the Strath Taieri area	Reject	<p>The relief requested is not applicable to the provisions of the plan change so the submission is not "on" PC8. PC8 does not include any new maps, or propose changes to existing maps.</p>

**Appendix 2: Part A recommended decisions on submissions**

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
<b>Amended Policy 7.C.5</b>									
1.	Policy 7.C.5	80018	80018.02		Dunedin City Council	Support	Provide a catchment-scale focus, clear and achievable standards and consideration of entire system requirements.	Reject	The relief requested is beyond the scope of PC8. However it is the intent of the Land and Water Regional Plan, which is currently being developed and will give full effect to the NPSFM 2020 by including limits and thresholds within Freshwater Management Units (FMUs).
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support		Reject	
2.	Policy 7.C.5	80028	80028.01		Central Otago Environment Society	Support	Specify regulatory limits for urban stormwater and sediment discharges and stormwater systems are progressively upgraded to meet such regulatory limits	Reject	
				FS803	Dunedin City Council	Oppose		Accept	
3.	Policy 7.C.5	80108	80108.03		Lynne Stewart	Oppose	Specify regulatory limits for urban stormwater and sediment discharges and stormwater systems are progressively upgraded to meet such regulatory limits	Reject	
4.	Policy 7.C.5	80080	80080.08		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend Policy 7.C.5 to insert minimum ecosystem health thresholds for stormwater systems	Reject	
				FS803	Dunedin City Council	Oppose		Accept	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Reject	
				FS811	Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (Kāi Tahu ki Otago)	Support		Reject	
				FS807	Ngai Tahu ki Murihiku	Support		Reject	
5.	Policy 7.C.5	80082	80082.01		Royal Forest and Bird Protection Society of New Zealand Inc	Support in part	Amend Policy 7.C.5 as follows  <u>Avoid significant <del>Minimise the</del> adverse environmental effects and avoid where practicable, or minimise other adverse effects of discharges</u> <del>With respect to discharges</del> <u>with respect to discharges</u> from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, <del>to require:</del> <u>by requiring:</u> (a) The separation of sewage and stormwater; and (b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and (c) <u>Measures to avoid, remedy and mitigate and minimise the presence of debris, sediments and nutrients runoff, including the</u> <del>The use of techniques to trap debris, sediments and nutrients present in runoff.</del>	Accept in part	At mediation, parties agreed it would assist implementation to require significant adverse effects to be avoided, and other adverse effects minimised.  Parties also agreed that some techniques to trap debris, sediments and nutrients present in run-off may not be appropriate in all circumstances and therefore clause (c) would be clarified by including "appropriate techniques".
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part		Accept in part	
6.	Policy 7.C.5	80080	80080.09		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend Policy 7.C.5 as follows:  <u>Avoid <del>Minimise the</del> adverse environmental effects of discharges</u> <del>With respect to discharges</del> from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, <del>to require</del> <u>by requiring:</u> ... (d) <u>Measures to filter, attenuate or prevent runoff being discharged during rain events.</u>	Accept in part	At mediation, parties agreed it would assist implementation to require significant adverse effects to be avoided, and other adverse effects minimised.  At mediation, it was agreed to add a new subclause requiring consideration of appropriate measures to reduce or attenuate



Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
				FS803	Dunedin City Council	Oppose		Reject in part	runoff being discharged during rain events as it may not always be possible to implement measures to filter, attenuate, or prevent run-off being discharged during rain events.
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
				FS807	Ngāi Tahu ki Murihiku	Support		Accept in part	
7.	Policy 7.C.5	80078	80078.01		Ngāi Tahu Ki Murihiku	Support	Add a new clause to Policy 7.C.5 to require discharges to land as a first preference to direct discharge of contaminants to water in order to protect the mauri of the waterbody:  <a href="#">d) The use of discharge to land options as a preference wherever practicable.</a>	Accept in part	At mediation, it was agreed to add a new subclause requiring consideration of appropriate measures for discharge to land, in preference to direct discharge to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.
				FS802	Director General of Conservation	Support		Accept in part	Two minor grammatical corrections are required to the mediated version.
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part		Accept in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
8.	Policy 7.C.5	80080	80080.10		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend the <b>Principle reasons for adopting</b> from reducing the potential for “contaminants to be present” to reducing the potential for “adverse effects to arise from”: This policy is adopted to reduce the potential for <a href="#">contaminants to be present in adverse effects to arise from</a> new stormwater discharges.	Accept in part	At mediation, it was agreed that a minor amendment to the principal reasons was appropriate to recognise that the intent of the policy is to reduce the potential for adverse effects arising from contaminants to be present, rather than reducing the potential for contaminants to be present.
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
9.	Policy 7.C.5	80011	80011.05		Friends of Lake Hayes Soc Inc	Support	Approve the plan change	Accept in part	Amendments are proposed to Policy 7.C.5 in response to other submissions.
		80019	80019.05		L and A Bush	Support			
		80027	80027.03		Matthew Sole	Support			
10.	Policy 7.C.5	80013	80013.01		Southern District Health Board	Support	Retain Policy 7.C.5 as notified	Reject	
		80016	80016.01		Horticulture New Zealand	Support			
		80038	80038.01 & 03		Ravensdown Ltd	Support			
		80055	80055.02		Director General of Conservation	Support			
		80059	80059.01		Kāi Tahu ki Otago	Support			
		80090	80090.03		Federated Farmers of New Zealand - Otago and North Otago Provinces	Support			
<b>Amended Policy 7.C.6</b>									
11.	Policy 7.C.6	80018	80018.03		Dunedin City Council	Support	Provide a catchment-scale focus, clear and achievable standards and consideration of entire system requirements. Amend as follows:	Accept in part	Taking a catchment scale approach is beyond the scope of PC8 and is the intent of the proposed Land and

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							<p>(1) The policy would benefit from improved clarity to ensure the intent of the policy is well understood. The wording as proposed will not meet the outcome the ORC seeks, that the policy “strengthens the expectations regarding reductions in sewage overflows into stormwater systems” as the expectations are not quantified or timebound.</p> <p>(2) It would be useful to clarify:</p> <p>a) what a “progressive” upgrade involves.</p> <p>b) how “minimise the volume of sewage” will be determined. It is noted the frequency and volume of sewage overflows is dependent on weather patterns and the number of rainfall events, which are variable each year.</p> <p>c) when and how the policy will be applied to require stormwater upgrades that specifically address sewage overflows.</p> <p>d) whether there is a target or timeframe for reducing overflows.</p> <p>e) how the ORC will require the implementation of policy 7.C.6, given there are no proposed changes to rules. The current rules permit stormwater discharges provided the discharge does not contain any human sewage. The DCC considers with the proposed wording, the outcome the ORC seeks “to improve the quality of discharges” will not be achieved through requiring “the progressive upgrade of stormwater reticulation systems” because it has no targeted direction and guidance for how this will be achieved.</p> <p>(3) Common terminology should be used to support conversations around improvements and change. Policy 7.C.6 would benefit from clarifying whether “sewage overflows” includes both “dry weather” as well as “wet weather” overflows.</p>		Water Regional Plan, which is currently being developed and will give full effect to the NPSFM 2020.
				FS808	<b>Otago Fish and Game Council and the Central South Island Fish and Game Council</b>	Support		Accept in part	
				FS809	<b>Public Health South</b>	Support		Accept in part	
12.	Policy 7.C.6	80028	80028.02		<b>Central Otago Environment Society</b>	Support	Specify regulatory limits for urban stormwater and sediment discharges and stormwater systems are progressively upgraded to meet such regulatory limits.	Reject	The relief requested is beyond the scope of PC8. However this is the intent of the proposed Land and Water Regional Plan, which is currently being developed and will give full effect to the NPSFM 2020.
				FS803	<b>Dunedin City Council</b>	Oppose		Accept	
13.	Policy 7.C.6	80078	80078.02		<b>Ngāi Tahu Ki Murihiku</b>	Support	Amend Policy 7.C.6 to give effect to Te Mana o te Wai, such as the following:  <u>Reduce the adverse environmental effects from existing stormwater reticulation systems by:</u>	Accept in part	At mediation, the parties agreed to amend clause (a) so that it is clear that the requirement is to implement appropriate measures to progressively reduce sewage

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							<p>(a) Requiring the progressive upgrade of stormwater reticulation systems to <del>minimise the volume of avoid sewage entering the system and the frequency and volume of sewage overflows; and</del></p> <p>(b) <del>To promote</del> Promoting the progressive upgrading of the <del>quality of water discharged from existing stormwater reticulation systems</del> to protect the mauri of waterbodies, including through:</p> <p>(i) The separation of sewage and stormwater; and</p> <p>(ii) Measures to prevent contamination of the receiving environment by industrial or trade waste; and</p> <p>(iii) The use of techniques to trap debris, sediments and nutrients present in runoff; and</p> <p>(d) The use of discharge to land options as a preference wherever practicable.</p>		entering the stormwater reticulation system. This provides some flexibility for situation-specific measures to be implemented, while still retaining the overall goal (to reduce sewage in stormwater reticulation systems), and recognising the more limited ability to manage adverse effects where infrastructure already exists.
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part:		Accept in part	
				FS809	Public Health South	Support in Principle		Accept in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
14.	Policy 7.C.6	80004 80022	80004.02 80022.03		Maori Point Vineyard Ltd (Arthur) B P Marsh	Oppose Support	<p>Policy 7.C.6(b) needs to be strengthened by amending “promoting” to “requiring”.</p> <p>(b) <del>To promote</del> Promoting Requiring the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:</p>	Accept	Two minor grammatical corrections are required to the mediated version.
				FS803	Dunedin City Council	Oppose		Reject	
				FS811	Kāi Tahu ki Otago	Support		Accept	
				FS807	Ngai Tahu ki Murihiku	Support		Accept	
15.	Policy 7.C.6	80055	80055.03		Director General of Conservation	Support in part	<p>Policy 7.C.6(b) needs to be strengthened to give effect to Policy 23 (4) NZCPS. This is because of the cross contamination with sewage systems, given the generally poor quality of discharges from existing stormwater reticulation systems. Add the following clauses:</p> <p><del>To promote</del> Promoting Requiring the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:</p> <p>(i) The separation of sewage and stormwater; and</p> <p>(ii) Measures to prevent contamination of the receiving environment by industrial or trade waste; and</p>	Accept in part	The changes agreed at mediation improve the clarity of the policy direction in relation to the reduction of sewage entering stormwater reticulation and requiring consideration of appropriate measures to progressively improve the quality of water discharged from existing stormwater reticulation systems.

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							(iii) <u>The use of techniques to trap debris, sediments and nutrients present in runoff; and</u> (iv) <u>Reducing contaminant and sediment loadings at source through contaminant treatment and by controls on land use activities; and</u> (v) <u>Requiring integrated management of catchments and stormwater networks; and</u> (vi) <u>Promoting design options that reduce flows into stormwater reticulation systems at source.</u>		It was also agreed at mediation to include a new clause to require measures to reduce and/or attenuate stormwater being discharged from rain events.
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part		Accept in part	
				FS809	Public Health South	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
				FS807	Ngai Tahu ki Murihiku	Support		Accept in part	
16.	Policy 7.C.6	80080	80080.11		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend Policy 7.C.6 as follows:  <u>Reduce and progressively avoid the adverse environmental effects from existing stormwater reticulation systems by:</u> ... (b) <del>To promote</del> <u>Promoting Require</u> the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, <u>including through:</u> (i)... (ii)... (iii)... (iv) <u>Measures to filter, attenuate or prevent runoff being discharged during rain events.</u>	Accept in part	At mediation, the parties agreed that the chapeau should be retained as notified as it recognised the more limited ability to manage adverse effects where infrastructure already exists.  It was also agreed at mediation to include a new clause to require measures to reduce and/or attenuate stormwater being discharged from rain events.
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS809	Public Health South	Support		Accept in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
				FS807	Ngai Tahu ki Murihiku	Support		Accept in part	
17.	Policy 7.C.6	80082	80082.02		Royal Forest and Bird Protection Society of New Zealand Inc	Support in part	Amend Policy 7.C.6 as follows:  <u>Progressively Reduce the adverse environmental effects and avoid increasing cumulative adverse effects from existing stormwater reticulation systems by:</u>  (a) <u>Requiring the progressive upgrade of stormwater reticulation systems to minimise the volume of sewage entering the system and the frequency and volume of sewage overflows; and</u> (b) <del>To promote</del> <u>Promoting</u> the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, <u>including through:</u> (i) <u>The separation of sewage and stormwater; and</u>	Accept in part	At mediation, the parties agreed that the chapeau should be retained as notified as it recognised the more limited ability to manage adverse effects where infrastructure already exists.  It was also agreed at mediation to include a new clause to require measures to reduce and/or attenuate stormwater being discharged from rain events.

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							(ii) Measures to prevent contamination of the receiving environment by industrial or trade waste; and (iii) Measures to prevent the presence of debris, sediments and nutrients in runoff through the use of techniques to trap debris, sediments and nutrients present in runoff; and (iv) Measures to filter reduce or prevent runoff being discharged during rain events.		
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
				FS807	Ngai Tahu ki Murihiku	Support		Accept in part	
18	Policy 7.C.6	80080	80080.12		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend the <b>Principle Reasons for Adopting</b> from reducing the “level of contaminants to be present” to reducing “adverse effects arising from” existing stormwater discharges: This policy is adopted to reduce <del>the level of contaminants present in adverse effects arising from</del> existing stormwater discharges.	Accept in part	At mediation, it was agreed that a minor amendment to the principal reasons was appropriate to reflect that the intention of the policy is to reduce the adverse effects of discharges from existing stormwater reticulation systems.
				FS809	Public Health South	Support		Accept in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
19	Policy 7.C.6	80019	80019.06		L and A Bush	Support	Approve the Plan Change.	Accept in part	Amendments are proposed to Policy 7.C.6 in response to other submissions.
		80027	80027.04		Matthew Sole	80027.04			
		80011	80011.06		Friends of Lake Hayes Soc Inc	80011.06			
20	Policy 7.C.6	80013	80013.02		Southern District Health Board	Support	Retain Policy 7.C.6 as notified	Reject	
		80016	80016.02		Horticulture New Zealand	Support			
		80038	80038.02		Ravensdown Ltd	Support			
		80059	80059.02		Kāi Tahu ki Otago	Support			
		80090	80090.04		Federated Farmers of New Zealand - Otago and North Otago Provinces	Support			
<b>New Policy 7.C.12</b>									
21	Policy 7.C.12	80018	80018.01		Dunedin City Council	Support	Provide a catchment-scale focus, clear and achievable standards and consideration of entire system requirements.	Reject	The relief requested is beyond the scope of PC8. However it is the intent of the proposed Land and Water Regional Plan, which is currently being developed and will give full effect to the NPSFM 2020 by including limits and thresholds within FMUs.
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support		Reject	
				FS811	Kāi Tahu ki Otago	Oppose in part		Accept	
				FS807	Ngai Tahu ki Murihiku	Oppose in part		Accept	

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
22.	Policy 7.C.12	80018	80018.04		Dunedin City Council	Support	<ol style="list-style-type: none"> <li>1. Provide clarity and guidance to ensure the intent of the policy is well understood and requirements are measurable, achievable, and targeted.</li> <li>2. Provide clear guidance on expectations, targets and timeframes for improvement in wastewater overflows.</li> <li>3. Policy 7.C.12(a) should focus on providing guidance on expectations around the quality of the discharge required. A water service provider needs certainty on the expectations for the quality of the discharge to enable the wastewater system to be designed, operated, maintained and monitored to meet those expectations.</li> <li>4. Clarify Policy 7.C.12(b) so the “measures” that are applied are clear, and there are appropriate expectations for implementation of “measures” to reduce wet weather overflows and minimise dry weather overflows.</li> <li>5. Clarify the meaning of “progressively reduce” in Policy 7.C.12(b).</li> <li>6. Clarify technical terms in Policy 7.C.12 to avoid ambiguity – the proposed policy switches between discharges from a wastewater treatment plant 7.C.12(a) and (c), and network discharges (b).</li> <li>7. Clarify the wording of policy 7.C.12(c) which is stronger than policy 7.B.1(g) of the operative Regional Plan: Water that promotes the discharge of contaminants to land in preference to water. Policy 7.C.12(c) should be clarified to include more guidance on the level of acceptable adverse effects and criteria used to determine when a discharge to water would be acceptable over a discharge to land.</li> <li>8. The DCC’s discharge consent monitoring often indicates no significant adverse water quality impacts, yet there is often a public expectation improvement must always occur. Clearer guidance on the expectations for information requirements and monitoring data required for a stormwater or wastewater discharge consent application would be helpful.</li> <li>9. Policy 7.C.12(d) requires “particular regard” to be given to any adverse effects on cultural values. The policy would benefit from clarity on when the level of adverse effects become unacceptable, or the mitigation required.</li> <li>10. Clarify how the ORC will require the implementation of Policy 7.C.12, given there are no proposed changes to rules and no methods associated with this policy to give guidance on how it will be implemented. The proposed policy provides little certainty on when or how it will be applied.</li> </ol>	Accept in part	<p>At mediation, the parties agreed that for clarity, two separate policies are required, one that relates to discharges from existing reticulated wastewater systems and another that relates to new reticulated wastewater systems.</p> <p>It was agreed by the parties to amend the chapeau of Policy 7.C.12 to limit its application to existing reticulated wastewater systems, including extensions, and the reduction of adverse effects from such systems. Changes were also agreed to the measure by which adverse effects are reduced. A number of structural amendments were agreed which the parties considered improved readability.</p> <p>New Policy 7.C.13 relates to new reticulated wastewater systems and directs that adverse effects are avoided in the first instance, and then otherwise minimised, from discharges from new systems. It also sets out a number of measures to achieve avoidance, and otherwise minimising, of adverse effects.</p>



Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support		Accept in part	
				FS809	Public Health South	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Oppose		Reject in part	
				FS807	Ngai Tahu ki Murihiku	Oppose		Reject in part	
23	Policy 7.C.12	80018	80018.06		Dunedin City Council	Support	Provide clear guidance on the management or application of biosolids to land, and for timeframes for making improvements.	Reject	The relief requested is beyond the scope of PC8 and is better addressed in the Land and Water Regional Plan, which is currently being developed.
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support		Reject	
				FS811	Kāi Tahu ki Otago	Oppose		Accept	
				FS807	Ngai Tahu ki Murihiku	Oppose		Accept	
24	Policy 7.C.12	80028	80028.xx		Central Otago Environment Society	Support	Specify regulatory limits for urban stormwater and sediment discharges and stormwater systems are progressively upgraded to meet such regulatory limits	Reject	The relief requested is beyond the scope of PC8. However it is the intent of the Land and Water Regional Plan, which is currently being developed and will give full effect to the NPSFM 2020 by including limits and thresholds within FMUs.
25	Policy 7.C.12	80082	80082.03		Royal Forest and Bird Protection Society of New Zealand Inc	Support in part	Amend Policy 7.C.12 as follows:  <u>Reduce the adverse effects of discharges of human sewage from reticulated wastewater systems and avoid adverse effects of discharges from new reticulated system by:</u> <u>(a) Requiring reticulated wastewater systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and</u> <u>(b) Requiring the implementation of measures to:</u> <u>(i) Progressively reduce the frequency and volume of wet weather overflows; and</u> <u>(ii) Minimise the likelihood of dry weather overflows occurring; and</u> <u>(c) The implementation of contingency measures to minimise the risk of a discharge from a wastewater reticulation system to surface water in the event of a system failure or overloading of the system beyond its design capacity; and</u> <del>(d)</del> <u>(d) Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and</u> <u>(d) Having particular regard to any adverse effects on cultural values; and</u> <del>(e)</del> <u>(e) Having particular regard to any adverse effects on cultural values</u>	Accept in part	Amendments are proposed to Policy 7.C.12 and a new policy proposed to enable different approaches for new and existing systems to address the practical constraints with applying some parts of Policy 7.C.12 to existing systems.  At mediation, the parties agreed the addition of clause (c) was appropriate given the use of wastewater overflows in some systems in Otago but preferred alternative wording.
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
				FS807	<i>Ngai Tahu ki Murihiku</i>	<i>Support</i>		Accept in part	
26.	Policy 7.C.12	80090	80090.05		<b>Federated Farmers of New Zealand - Otago and North Otago Provinces</b>	Support in part	Amend Policy 7.C.12 as follows:  <u>Reduce the adverse effects of discharges of human sewage from reticulated wastewater systems by:</u> <u>(a) <del>Requiring Ensuring</del> reticulated wastewater systems are to be designed, operated, maintained and monitored in accordance with recognised industry standards; and</u> <u>(b) Requiring the implementation of reasonable measures to:</u> <u>(i) Progressively reduce the frequency and volume of wet weather overflows; and</u> <u>(ii) Minimise the likelihood of dry weather overflows occurring; and</u>  [adopt (c) and (d) as proposed]	Accept in part	Amendments are proposed to Policy 7.C.12 and a new policy proposed to enable different approaches for new and existing systems to address the practical constraints with applying some parts of Policy 7.C.12 to existing systems.  At mediation, the parties agreed to amendments to clause (b) [now (d)] to clarify that measures to be implemented must be appropriate.
				FS809	<b>Public Health South</b>	<i>Support</i>		Accept in part	
27.	Policy 7.C.12	80013	80013.03		<b>Southern District Health Board</b>	Support in part	Amend Policy 7.C.12(b)(ii) from “minimise the likelihood” to “Eliminate as far as practicable”  <u>(ii) Eliminate as far as practicable. Minimise the likelihood of dry weather overflows occurring; and</u>	Reject	At mediation, the parties agreed to minor amendments to (b) [now (d)] to clarify that measures to be implemented must be appropriate.
				FS803	<b>Dunedin City Council</b>	<i>Oppose</i>		Accept	
				FS808	<b>Otago Fish and Game Council and the Central South Island Fish and Game Council</b>	<i>Support</i>		Reject	
				FS811	<b>Kāi Tahu ki Otago</b>	<i>Support</i>		Reject	
				FS807	<b>Ngai Tahu ki Murihiku</b>	<i>Support</i>		Reject	
28.	Policy 7.C.12	80059	80059.03		<b>Kāi Tahu ki Otago</b>	<i>Support in part</i>	Amend Policy 7.C.12(d) to read:  <u>(d) Having particular regard to any adverse effects on cultural values Kāi Tahu cultural and spiritual beliefs, values and uses.</u>	Accept	At mediation, the parties agreed that clause (d) as notified was inconsistent with other wording adopted in PC8 related to Kāi Tahu values, and agreed to replace it with alternative wording consistent with Policies 7.C.5 and 7.C.6.
				FS808	<b>Otago Fish and Game Council and the Central South Island Fish and Game Council</b>	<i>Support in part</i>		Accept	
				FS809	<b>Public Health South</b>	<i>Support</i>		Accept	
				FS810	<b>Royal Forest and Bird Protection Society of New Zealand Inc</b>	<i>Support</i>		Accept	
29.	Policy 7.C.12	80078	80078.03		<b>Ngāi Tahu Ki Murihiku</b>	Support	Ngāi Tahu ki Murihiku support discharges to land as a first preference to direct discharge of contaminants to water in order to protect the mauri of the waterbody. Amend Policy 7.C.12 to give effect to Te Mana o te Wai:  <u>Reduce the adverse effects of discharges of human sewage from reticulated wastewater systems by:</u> <u>(a) Promoting the progressive upgrading of reticulated wastewater systems to protect the mauri of waterbodies, including through:</u> <u>(i) preferring discharges to land over discharges to water, unless adverse effects associated with a</u>	Accept in part	At mediation, the parties agreed to include new clause (c) requiring promoting the progressive upgrading of existing systems, to recognise that opportunities to improve systems should be encouraged when they arise.  At mediation, the parties agreed that clause (d) as notified was inconsistent with other wording adopted in PC8 related to Kāi Tahu



Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							<p><u>discharge to land are greater than a discharge to water; and</u></p> <p><u>(ii) recognising and providing for the relationship of Kāi Tahu with Statutory Acknowledgement Areas and cultural values associated with waterbodies; and</u></p> <p><u>(iii) reducing the frequency and volume of overflows as an interim measure; and</u></p> <p><del>(a) Requiring reticulated wastewater systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and</del></p> <p><del>(b) Requiring the implementation of measures to:</del></p> <p><del>(i) Progressively reduce the frequency and volume of wet weather overflows; and</del></p> <p><del>(ii) Minimise the likelihood of dry weather overflows occurring; and</del></p> <p><del>(c) Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and</del></p> <p><del>(d) Having particular regard to any adverse effects on cultural values.</del></p>		values, and agreed to replace it with alternative wording consistent with Policies 7.C.5 and 7.C.6.
				FS802	Director General of Conservation	Support		Accept in part	
				FS803	Dunedin City Council	Oppose		Reject in part	
				FS808	Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part		Accept in part	
				FS809	Public Health South	Support		Accept in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Accept in part	
				FS811	Kāi Tahu ki Otago	Support		Accept in part	
30.	Policy 7.C.12	80019	80019.07		L and A Bush	Support	Approve the plan change.	Accept in part	Amendments are proposed to Policy 7.C.12 in response to other submissions.
		80011	80011.07		Friends of Lake Hayes Soc Inc	Support			
		80027	80027.05		Matthew Sole	Support			
31.	Policy 7.C.12	80016	80016.03		Horticulture New Zealand	Support	Retain Policy 7.C.12 as notified	Reject	
		80055	80055.04		Director General of Conservation	Support			
<b>Regional Plan: Water for Otago</b>									
32.	Policy 7.B.2	80018	80018.05		Dunedin City Council	Support	Revisit Policy 7.B.2 in light of the findings of the decisions panel on consent application RM19.051. Find a balance between the community's essential infrastructure needs and the management of discharges to the region's waterways.	Reject	The relief requested is out of scope and not 'on' PC8. Policy 7.B.2 is not part of PC8.
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Accept	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Oppose		Accept	
				FS811	Kāi Tahu ki Otago	Oppose		Accept	
				FS807	Ngai Tahu ki Murihiku	Oppose		Accept	

**Appendix 3: Part A provisions with changes agreed at mediation**

## PART A: URBAN DISCHARGES

Red text shows changes to the planning provisions proposed in the notified version of proposed Plan Change 8 (underline shows new wording and strike-through showing deleted wording).

Green text indicates further changes agreed to by the parties at mediation (underline shows new wording and strike-through showing deleted wording).

Blue text indicates further changes I have recommended post-mediation (underline shows new wording and strike-through showing deleted wording).

### Amended Policy 7.C.5

Avoid significant ~~Minimise the~~ adverse environmental effects and minimise other adverse effects on waterbodies, with respect to ~~of~~<sup>106</sup> discharges. ~~With respect to discharges~~ from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, ~~to require:~~ by requiring:

- (a) The separation of sewage and stormwater; and
- (b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and
- (c) The use of appropriate<sup>107</sup> techniques to trap debris, sediments and nutrients present in runoff; and<sup>108</sup>
- (d) Consideration of appropriate measures to reduce and/or attenuate stormwater being discharged from rain events; and<sup>109</sup>
- (e) Consideration of appropriate measures for ~~discharge-discharging~~<sup>110</sup> to land, in preference to ~~direct discharge-discharging directly~~<sup>111</sup> to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.<sup>112</sup>

### Explanation

In terms of the Plan's rules for permitted and discretionary activities for new discharges, or extensions to the catchment area of existing discharges from reticulated stormwater systems, the requirements of (a) to (c) will apply, as required.

### Principal reasons for adopting

This policy is adopted to reduce the potential for adverse effects arising from contaminants ~~to be~~<sup>113</sup> present in new stormwater discharges. This is intended to

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<sup>106</sup> 80082.01 Forest and Bird.

<sup>107</sup> 80018 DCC (paragraph 23).

<sup>108</sup> Clause 10(2)(b), Schedule 1, RMA – consequential amendment to 80080.09 Fish and Game and 80078.01 Ngāi Tahu Ki Murihiku.

<sup>109</sup> 80080.09 Fish and Game.

<sup>110</sup> Clause 10(2)(b), Schedule 1, RMA.

<sup>111</sup> Clause 10(2)(b), Schedule 1, RMA.

<sup>112</sup> 80078.01 Ngāi Tahu Ki Murihiku.

<sup>113</sup> 80080.10 Fish and Game.

mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

### Amended Policy 7.C.6

Reduce the adverse environmental effects from existing stormwater reticulation systems by:

- (a) Requiring the implementation of appropriate measures to progressively upgrade of stormwater reticulation systems to minimise the volume of reduce sewage entering the stormwater reticulation system and the frequency and volume of sewage overflows<sup>114</sup>; and
- (b) ~~To promote~~ Promoting Requiring<sup>115</sup> consideration of appropriate measures to progressively improve upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:<sup>116</sup>
- ~~(i) The separation of sewage and stormwater; and~~<sup>117</sup>
- (i) Measures to prevent contamination of the receiving environment by industrial or trade waste; and
- ~~(ii) The use of techniques to trap debris, sediments and nutrients present in runoff; and~~
- (ii) Measures to reduce and/or attenuate stormwater being discharged from rain events; and<sup>118</sup>
- ~~(iii) Measures for discharge~~ discharging<sup>119</sup> to land, in preference to direct discharge ~~discharging directly~~<sup>120</sup> to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.<sup>121</sup>

### Explanation

The Otago Regional Council will ~~encourage~~ require the operator of any existing stormwater reticulation system to improve the quality of stormwater discharged from the system. ~~Measures that can be taken to achieve this improvement include:~~

- ~~(a) The separation of sewage and stormwater;~~
- ~~(b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and~~
- ~~(c) The use of techniques to trap debris, sediments and nutrients present in runoff.~~

Priority will be given to improving discharges to those water bodies where natural and human use values are adversely affected. Such measures may not be

<sup>114</sup> 80018.03 DCC.

<sup>115</sup> 80004.02 Maori Point Vineyard Limited.

<sup>116</sup> 80018.03 DCC.

<sup>117</sup> Clause 10(2)(b), Schedule 1, RMA – Consequential amendment to 80018.03 DCC and 80004.02 Maori Point Vineyard.

<sup>118</sup> 80082.02 Forest and Bird, 80080.11 Fish and Game.

<sup>119</sup> Clause 10(2)(b), Schedule 1 RMA.

<sup>120</sup> Clause 10(2)(b), Schedule 1 RMA.

<sup>121</sup> 80078.02 Ngāi Tahu Ki Murihiku.

necessary where an existing discharge is having no more than a minor adverse effect on any natural or human use value supported by an affected water body.

### Principal reasons for adopting

This policy is adopted to reduce adverse effects arising from<sup>122</sup> the level of contaminants present in existing stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

### New Policy 7.C.12

Reduce the adverse effects of discharges of human sewage from existing reticulated wastewater systems, including extensions to those systems.<sup>123</sup>

by:

- ~~(ea)~~ Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and<sup>124</sup>
- ~~(ab)~~ Requiring ~~reticulated wastewater~~<sup>125</sup> systems to be ~~designed~~,<sup>126</sup> operated, maintained and monitored in accordance with recognised industry standards; and
- ~~(c)~~ Promoting the progressive upgrading of existing systems; and<sup>127</sup>
- ~~(bd)~~ Requiring the implementation of ~~measures to~~ appropriate;<sup>128</sup>
  - (i) ~~Measures to P~~ progressively reduce the frequency and volume of wet weather overflows; and
  - (ii) ~~Measures to M~~ minimise the likelihood of dry weather overflows occurring; and
  - (iii) ~~Contingency measures to~~ minimise the effects of discharges of wastewater as a result of system failure or overloading of the system; and<sup>129</sup>
- ~~(d)~~ Having particular regard to any adverse effects on cultural values.<sup>130</sup>
- (e) ~~Recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.~~<sup>131</sup>

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<sup>122</sup> 80080.12 Fish and Game.

<sup>123</sup> 80090.05 Federated Farmers.

<sup>124</sup> 80082.03 Forest and Bird.

<sup>125</sup> Clause 10(2)(b), Schedule 1, RMA.

<sup>126</sup> 80090.05 Federated Farmers.

<sup>127</sup> 80078.03 Ngāi Tahu Ki Murihiku.

<sup>128</sup> 80018.03 DCC.

<sup>129</sup> 80082.03 Forest and Bird.

<sup>130</sup> 80078.03 Ngāi Tahu Ki Murihiku.

<sup>131</sup> 80078.03 Ngāi Tahu Ki Murihiku, 80059.03 Kāi Tahu ki Otago.

**New Policy 7.C.13**

Avoid in the first instance, and otherwise minimise, the adverse effects of discharges from new reticulated wastewater systems by:

- (a) Preferring discharges to land, unless adverse effects associated with a discharge to land are greater than a discharge to water; and
- (b) Requiring systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and
- (c) Requiring the implementation of appropriate:
  - (i) Measures to minimise the frequency and volume of wet weather overflows;
  - (ii) Measures to minimise the likelihood of dry weather overflows occurring; and
  - (iii) Contingency measures to minimise the effects of discharges of wastewater as a result of system failure or overloading of the system; and
- (d) Recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.<sup>132</sup>

**Appendix 4: Part A section 32AA evaluation**

An analysis under section 32AA of the RMA was undertaken for the changes agreed by the parties to Part A of PC8 as shown in Appendix 3.

Options considered are:

- **Option 1: PC8 as notified**
- **Option 2: PC8 as agreed at mediation**

Option 1 has been assessed in the Section 32 Evaluation Report for PC8. Option 2 is assessed below.

BENEFITS	COSTS
<b>Environmental</b>	
<ul style="list-style-type: none"> <li>- Policies 7.C.5 and 7.C.6 have been refined, and Policy 7.C.12 has been redrafted into two separate policies. Redrafting to improve clarity will assist in their implementation and contribute to reducing environmental effects.</li> <li>- Strengthening the policy direction of Policy 7.C.5 to avoid significant adverse environmental effects and minimise other adverse effects, and Policy 7.C.13 to avoid adverse effects in the first instance and otherwise minimise the adverse effects of discharges from new reticulated wastewater systems, will result in better environmental outcomes.</li> <li>- Consideration of measures to reduce and/or attenuate stormwater being discharged from rain events in Policies 7.C.5 and 7.C.6 should result in environmental benefits.</li> </ul>	<ul style="list-style-type: none"> <li>- None identified.</li> </ul>
<b>Economic</b>	
<ul style="list-style-type: none"> <li>- The Policies have been refined to improve clarity which will assist in their implementation by providing clearer guidance to applicants and decision-makers on resource consent applications, clearer direction will assist with reducing the cost of the consenting process.</li> </ul>	<ul style="list-style-type: none"> <li>- There may be increased costs in upgrading stormwater and wastewater systems. As with the notified version, these are not timebound, allowing costs to be spread over time, and in order to meet the objectives of the NPSFM, it is likely that improvements to the quality of these discharges will be required in the future anyway.</li> </ul>
<b>Social</b>	



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- Refinement of provisions provide clarity and supports interpretation by all plan users.
  - None identified.

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### Cultural

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- Amendments provide for consideration of measures for discharge to land, in preference to direct discharge to water to better address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses to be considered.
- None identified.

### Efficiency and effectiveness

Option 2 is considered the most efficient and effective to achieve the (recommended) objective(s) of PC8<sup>133</sup> by:

- Strengthening the policy direction of Policy 7.C.5 to avoid significant adverse environmental effects and minimise other adverse effects, and to avoid adverse effects in the first instance in Policy 7.C.13.
- Improving and clarifying the notified policy guidance which will result in a more efficient consenting process and reduced costs for applicants and the consent authority.

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<sup>133</sup> Which as set out in the s32 report is “to strengthen the policy direction in the Water Plan for discharges of stormwater and wastewater.” page 16.

**Appendix 5: Part G recommended decisions on submissions**

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
<b>Policy 7.D.10</b>									
1.	Policy 7.D.10	80076	80076.03		Queenstown Lakes District Council	Support in part	Amend Policy 7.D.10 as follows:  <u>The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented to ensure water quality is maintained.</u>  Alternatively: Replace with the following:  <u>Ensure earthworks minimise erosion, land instability, and sediment generation and off-site discharge during construction activities associated with subdivision, use and development.</u>	Accept in part	At mediation, the parties agreed to add the words “to maintain water quality” to the end of Policy 7.D.10 to clarify the purpose of the policy.
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Reject in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Oppose		Reject in part	
2.	Policy 7.D.10	80080	80080.22		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend Policy 7.D.10 as follows:  <u>The loss or discharge of sediment from earthworks and associated cumulative effects, is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented.</u>	Reject	The decision requested does not add clarity or improve the policy.
				FS804	Federated Farmers of New Zealand - Otago and North Otago Provinces	Oppose		Accept	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Reject	
3.	Policy 7.D.10	80080	80080.23		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Insert provisions which defines or clarifies what is meant by “best practice guidelines” or the “best practicable option”.	Reject	The decision requested is unnecessary in a policy. Rule 14.5.2.1(c) references the <i>Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005) as a matter of discretion</i> . The guidelines are considered to be current best practice.
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Reject	
4.	Policy 7.D.10	80082	80082.26		Royal Forest and Bird Protection Society of New Zealand Inc	Support	Support Policy 7.D.10	Accept in part	Amendments are proposed to Policy 7.D.10 in response to other submissions.
5.	Policy 7.D.10	80011	80011.02		Friends of Lake Hayes Soc Inc	Support	Retain Policy 7.D.10 as notified	Reject	
		80016	80016.09		Horticulture New Zealand	Support			
		80055	80055.26		Director General of Conservation	Support			
		80059	80059.27		Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o	Support			

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
		80078	80078.27		Ōtākou and Hokonui Rūnanga (Kāi Tahu ki Otago) Ngāi Tahu Ki Murihiku	Support			
<b>Note 2</b>									
6.	Note 2	80042	80042.22		Otago Regional Council	Support in part	Amend Note 2 to section 14.5 as shown:  <u>Discharges resulting from earthworks for residential development are addressed only through rules in section 14.5.</u>	Accept	The decision requested clarifies that the rules in section 14.5 manage earthworks for residential development, and discharges from earthworks associated with activities other than residential development are still subject to the rule framework in other sections of the RPW.
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Reject	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Oppose		Reject	
<b>Rule 14.5.1.1</b>									
7.	Rule 14.5.1.1	80037	80037.01		Vivian and Espie Ltd	Oppose	Delete Rule 14.5.1.1	Reject	It is appropriate for ORC to have land use rules for activities that have an impact on water quality relating to the avoidance or mitigation of natural hazards. Regional councils and territorial authorities perform different (albeit interconnected) roles in managing earthworks.  It is appropriate for ORC to have land use rules for activities that have an impact on water quality. Regional councils and territorial authorities perform different (albeit interconnected) roles in managing earthworks.  While QLDC and ORC have overlapping responsibilities in relation to the use of land, QLDC cannot manage the discharge of sediment to water as this is a regional council function under section 30(1)(f) of the RMA. The discharge of sediment from earthworks arises from a use of land, therefore it is necessary for ORC to manage both the land use and discharge components of the activity in order to manage the potential adverse effects on water quality.
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Accept	
8.	Rule 14.5.1.1	80067	80067.01		John Edmonds & Associates Ltd	Oppose	Delete Rule 14.5.1.1	Reject	
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Accept	
9.	Rule 14.5.1.1	80071	80071.01		RCL Henley Downs Ltd	Oppose	Delete Rule 14.5.1.1	Reject	
				FS812	Waterfall Park Developments Limited	Support		Reject	
10.	Rule 14.5.1.1	80076	80076.01		Queenstown Lakes District Council	Support in part	Amend Rule 14.5.1.1 to exclude Queenstown Lakes District from application of rule 14.5.1.1, and clarify that land use erosion and sediment management is undertaken through Queenstown Lakes District Councils Proposed District Plan (PDP).  OR Delete the rule  OR Amend the rule to be consistent with Chapter 25 of the PDP, particularly Rules 25.5.11, 25.5.12 and 12.5.19.	Reject	
				FS803	Dunedin City Council	Oppose in part		Accept in part	
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Accept	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Oppose		Accept	
				FS812	Waterfall Park Developments Limited	Support		Reject	

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
11.	Rule 14.5.1.1	80018	80018.09		Dunedin City Council	Support	Align the earthworks rules with those of the 2GP including to remove duplication.	Reject	It is appropriate for ORC to have land use rules for activities that have an impact on water quality. Regional councils and territorial authorities perform different (albeit interconnected) roles in managing earthworks.  While DCC and ORC have overlapping responsibilities in relation to the use of land, DCC cannot manage the discharge of sediment to water as this is a regional council function under section 30(1)(f) of the RMA. The discharge of sediment from earthworks arises from a use of land, therefore it is necessary for ORC to manage both the land use and discharge components of the activity in order to manage the potential adverse effects on water quality.
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Accept	
12.	Rule 14.5.1.1	80113	80113.01		Remarkables Park Limited	Oppose	Amend Rule 14.5.1.1 such that earthworks already granted by Queenstown Lakes District Council are deemed to be a permitted activity; OR amend 14.5.2.1 accordingly.	Reject	The effects that the rules in PC8 seeks to manage, i.e. the effects of sedimentation discharges on water quality and natural hazards such as flooding, erosion and land instability, are not specifically managed in the QLDC District Plan, therefore it is not appropriate that an existing land use consent granted by QLDC should result in a deemed permitted activity in PC8.
				FS808	Otago Fish and Game Council and Central South Island Fish and Game Council	Oppose		Accept	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Oppose		Accept	
				FS812	Waterfall Park Developments Limited	Support		Reject	
13.	Rule 14.5.1.1	80080	80080.24		Otago Fish and Game Council and the Central South Island Fish and Game Council	Support in part	Amend Rule 14.5.1.1 to increase the relevance of this rule to all earthworks: as follows:  <u>The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development earthworks is a permitted activity providing:</u>	Reject in part	At mediation, it was agreed to retain the focus of the rules on residential development. The parties agreed to include a new definition of "Residential Development" to improve clarity.
				FS804	Federated Farmers of New Zealand - Otago and North Otago Provinces	Oppose		Accept in part	
				FS810	Royal Forest and Bird Protection Society of New Zealand Inc	Support		Reject in part	
				FS811	Kāi Tahu ki Otago	Support		Reject in part	
				FS807	Ngai Tahu ki Murihiku	Support		Reject in part	

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
14.	Rule 14.5.1.1	80080	80080.25		<b>Otago Fish and Game Council and the Central South Island Fish and Game Council</b>	Support in part	Amend Rule 14.5.1.1 to include water quality limits on the discharge consistent with direction in proposed Policy 7.D.10.	Accept in part	Setting limits for contaminants is a critical element of managing freshwater going forward. However this is the intent of the new proposed LWRP, and ORC is not in a position to do this across Otago as part of PC8. The proposed LWRP will give full effect to the NPSFM 2020. Work on identifying values and limits, including for suspended and deposited sediment, will be undertaken in the Freshwater Management Unit Process for the LWRP.
				FS802	<i>Director General of Conservation</i>	Support		Accept in part	
				FS810	<i>Royal Forest and Bird Protection Society of New Zealand Inc</i>	Support		Accept in part	
				FS811	<i>Kāi Tahu ki Otago</i>	Support		Accept in part	
				FS807	<i>Ngai Tahu ki Murihiku</i>	Support		Accept in part	
15.	Rule 14.5.1.1	80082	80082.27		<b>Royal Forest and Bird Protection Society of New Zealand Inc</b>	Support in part	Amend Rule 14.5.1.1 to ensure Policy 7.D.10 can be met (as it currently does not).	Reject	At mediation, it was agreed to remove the word "conspicuous" from Rule 14.5.1.1(g)(ii) to aid implementation.
				FS808	<i>Otago Fish and Game Council and Central South Island Fish and Game Council</i>	Support in part		Reject	
				FS811	<i>Kāi Tahu ki Otago</i>	Support		Reject	
				FS807	<i>Ngai Tahu ki Murihiku</i>	Support		Reject	
16.	Rule 14.5.1.1	80049	80049.03		<b>Phil Murray Resource Management Ltd</b>	Support	Apply sediment and discharge limits to urban areas.	Reject	10m is considered suitable for a range of circumstances and is appropriate to apply regionally to manage discharges of sediment from earthworks to ensure that water quality is maintained.
				FS803	<i>Dunedin City Council</i>	Oppose		Accept	
17.	Rule 14.5.1.1(b)	80018	80018.07		<b>Dunedin City Council</b>	Support	Amend the setback in Rule 14.5.1.1(b) to avoid conflict with the setback rules in the 2GP.	Reject	The decision requested does not contribute to achieving better environmental outcomes or fulfilling ORC's functions under s30 of the RMA. The purpose of marginal strips and esplanade strips is to protect water quality.
				FS808	<i>Otago Fish and Game Council and the Central South Island Fish and Game Council</i>	Oppose		Accept	
18.	Rule 14.5.1.1(b)	80055	80055		<b>Director General of Conservation</b>	Support in part	Retain Rule 14.5.1.1(b) with following changes:  <u>(b) Earthworks do not occur within 10 metres of a water body, a drain, a water race, or the coastal marine area, marginal strip, esplanade strip and legal road; and</u>	Reject	It is unnecessary to replicate all of clause (g) in Rule 14.5.2.1 as the effects in clause (g) are covered by matter of discretion (d) in Rule 14.5.2.1.  Standards in a permitted activity rule need to be sufficiently certain so that the Plan user knows whether they comply or not. It would be difficult for a Plan user to know whether the discharge from their activity renders the water unsuitable for irrigation for irrigation and processing of food crops.
19.	Rule 14.5.1.1(g)	80016	80016.10		<b>Horticulture New Zealand</b>	Support	Provide greater clarity in the administration of Rule 14.5.1.1 and Rule 14.5.2.1 by either replicating all of clause (g) in Rule 14.5.2.1  or by removing it from Rule 14.5.1.1 and moving it to Rule 14.5.2.1.  If Clause (g) is retained in Rule 14.5.1.1, insert new criterion as follows:  <u>(g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:</u>  ... <u>(v) any significant adverse effects on aquatic life.; or</u> <u>(vi) the rendering of fresh water unsuitable for the irrigation and processing of food crops.</u>	Reject	

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
				FS804	<i>Federated Farmers of New Zealand - Otago and North Otago Provinces</i>	Support in part		Reject	
20.	Rule 14.5.1.1(g)	80090	80090.46		<b>Federated Farmers of New Zealand – Otago and North Otago Provinces</b>	Oppose	Move Rule 14.5.1.1(g) to be under Rule 14.5.2.1	Reject	
21.	Rule 14.5.1.1	80011	80011.03 & 80011.11		<b>Friends of Lake Hayes Soc Inc</b>	Support	Approve the plan change Rule 14.5.1 and 14.5.1.1	Accept in part	Amendments are proposed to Rule 14.5.1.1 in response to other submissions.
22.	Rule 14.5.1.1	80059	80059.28		<b>Kāi Tahu ki Otago</b>	Support	Retain Rule 14.5.1.1 as notified	Reject	
		80078	80078.28		<b>Ngāi Tahu Ki Murihiku</b>	Support			
<b>Rule 14.5.2.1</b>									
23.	Rule 14.5.2.1	80037	80037.02		<b>Vivian and Espie Ltd</b>	Oppose	Delete Rule 14.5.2.1	Reject	It is appropriate for ORC to have land use rules for activities that have an impact on water quality. Regional councils and territorial authorities perform different (albeit interconnected) roles in managing earthworks.
		80067	80067.02		<b>John Edmonds &amp; Associates Ltd</b>				
				FS808	<i>Otago Fish and Game Council and Central South Island Fish and Game Council</i>	Oppose		Accept	
24.	Rule 14.5.2.1	80071	80071.02		<b>RCL Henley Downs Ltd</b>	Oppose	Delete Rule 14.5.2.1	Reject	
				FS812	<i>Waterfall Park Developments Limited</i>	Support		Reject	
25.	Rule 14.5.2.1	80076	80076.02		<b>Queenstown Lakes District Council</b>	Support in part	Amend Rule 14.5.2.1 to exclude Queenstown Lakes District from application of rule 15.4.2, and clarify that land use erosion and sediment management is undertaken through Queenstown Lakes District Councils Proposed District Plan (PDP)  OR Delete the rule  OR Amend the rule to be consistent with Chapter 25 of the PDP, particularly Rules 25.7 and 58.8.	Reject	It is appropriate for ORC to have land use rules for activities that have an impact on water quality. Regional councils and territorial authorities perform different (albeit interconnected) roles in managing earthworks.  While QLDC and ORC have overlapping responsibilities in relation to the use of land, QLDC cannot manage the discharge of sediment to water as this is a regional council function under section 30(1)(f) of the RMA. The discharge of sediment from earthworks arises from a use of land, therefore it is necessary for ORC to manage both the land use and discharge components of the activity in order to manage the potential adverse effects on water quality.
				FS803	<i>Dunedin City Council</i>	Oppose in part		Accept in part	
				FS808	<i>Otago Fish and Game Council and Central South Island Fish and Game Council</i>	Oppose		Accept	
				FS810	<i>Royal Forest and Bird Protection Society of New Zealand Inc</i>	Oppose		Accept	
				FS812	<i>Waterfall Park Developments Limited</i>	Support		Reject	
26.	Rule 14.5.2.1	80113	80113.02		<b>Remarkables Park Limited</b>	Oppose	Amend Part G: Rule 14.5.2.1 such that earthworks already granted by Queenstown Lakes District Council are deemed to be a permitted activity;  OR amend as follows:  <u>Except as provided by Rule 14.5.1.1 or where Queenstown Lakes District Council has granted resource consent for the use</u>	Reject	The effects that the rules in PC8 seeks to manage, i.e. the effects of sedimentation discharges on water quality and natural hazards such as flooding, erosion and land instability, are not specifically managed in the QLDC District Plan, therefore it is not appropriate that

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							<u>or works, the use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a restricted discretionary activity.</u> ...		an existing land use consent granted by QLDC should result in a deemed permitted activity in PC8.
				FS808	<b>Otago Fish and Game Council and Central South Island Fish and Game Council</b>	Oppose		Accept	
				FS810	<b>Royal Forest and Bird Protection Society of New Zealand Inc</b>	Oppose		Accept	
				FS812	<b>Waterfall Park Developments Limited</b>	Support		Reject	
27.	Rule 14.5.2.1(c)	80090	80090.47		<b>Federated Farmers of New Zealand - Otago and North Otago Provinces</b>	Oppose	Delete Rule 14.5.2.1(c)	Reject	At mediation, parties agreed to replace "compliance" with "the extent to which the activity complies with" the <i>Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016</i> . This acknowledges that the guidelines are not rigid and provide a range of tools and methods for erosion and sediment control which need to be selected based on the specific site and there will be variation in the way the guidelines are used.
28.	Rule 14.5.2.1(d)	80090	80090		<b>Federated Farmers of New Zealand - Otago and North Otago Provinces</b>	Oppose	Rule 14.5.2.1(d) Provide clarity on water quality guidelines.	Reject	As PC8 is an interim plan change, it is appropriate to refer simply to the water quality guidelines already in the RPW.
29.	Rule 14.5.2.1	80016	80016.11		<b>Horticulture New Zealand</b>	Support	Insert new clause in Rule 14.5.2.1 after (d) as follows:  <u>(e) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:</u> <u>(i) the production of conspicuous oil or grease films, scum or foams, or floatable or suspended materials;</u> <u>or</u> <u>(ii) any conspicuous change in the colour or visual clarity; or</u> <u>(iii) any emission of objectionable odour; or</u> <u>(iv) the rendering of fresh water unsuitable for consumption by farm animals; or</u> <u>(v) any significant adverse effects on aquatic life; or</u> <u>(vi) the rendering of fresh water unsuitable for the irrigation and processing of food crops.</u>  Consequential renumbering of notified clause (e) and (f).  And:	Reject	The proposed clause reads more like a standard than a matter of discretion. These effects would also be considered under matter of discretion (d) which considers any adverse effect on water quality.



Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							These rules could be strengthened by either replicating clause (g) in Rule 14.5.2.1 or by removing it from Rule 14.5.1.1 and moving it to Rule 14.5.2.1.		
30.	Rule 14.5.2.1	80090	80090.49		<b>Federated Farmers of New Zealand - Otago and North Otago Province</b>	Support in part	Amend by adding clause from Rule 14.5.1.1(g)	Reject	It is unnecessary to replicate all of clause (g) in Rule 14.5.2.1 as the effects in clause (g) are covered by matter of discretion (d) in Rule 14.5.2.1.
31.	Rule 14.5.2.1(e)	80059 80078	80059.29 80078.29		<b>Kāi Tahu ki Otago</b> <b>Ngāi Tahu Ki Murihiku</b>	Support in part	Amend Rule 14.5.2.1(e) as shown:  <u>Any adverse effect on mahika kai, on any natural or human use value, and</u>	Accept in part	At mediation, it was agreed that clauses (e) and (f) could be combined into one matter of discretion with sub-clauses to improve clarity.
				FS802	<i>Director General of Conservation</i>	Support		Accept in part	
				FS808	<i>Otago Fish and Game Council and Central South Island Fish and Game Council</i>	Support in part:		Accept in part	
				FS810	<i>Royal Forest and Bird Protection Society of New Zealand Inc</i>	Support		Accept in part	
32.	Rule 14.5.2.1(f)	80090	80090.48		<b>Federated Farmers of New Zealand - Otago and North Otago Provinces</b>	Support in part	Amend Rule 14.5.2.1 (f) as follows:  <u>Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.</u>	Reject	The wording as notified is appropriate and consistent with the wording used in other provisions in PC8.
33.	Rule 14.5.2.1	80011	80011.04 & 80011.12		<b>Friends of Lake Hayes Soc Inc</b>	Support	Approve the plan change	Accept in part	Amendments are proposed to Rule 14.5.1.1 in response to other submissions.
34.	Rule 14.5.2.1	80082	80082.28		<b>Royal Forest and Bird Protection Society of New Zealand Inc</b>	Support	Support Rule 14.5.2.1	Accept in part	
		80055	80055		<b>Director-General of Conservation</b>	Support			
<b>Definition: Earthworks</b>									
35.	Definition: Earthworks	80082	80082.19		<b>Royal Forest and Bird Protection Society of New Zealand Inc</b>	Support in part	Amend definition of "Earthworks" to include root raking	Reject	At mediation, the parties agreed to retain the definition of "Earthworks" as notified. It is from the National Planning Standards 2019 and the inclusion of root raking is not consistent with the definition under the planning standards.
36.	Definition: Earthworks	80076	80076.04		<b>Queenstown Lakes District Council</b>	Support in part	Amend definition of "Earthworks" to exclude earthworks in Queenstown Lakes District  OR Amend definition of earthquake to be consistent with the definition in the PDP as follows: <u>Earthworks:</u> <u>Means the disturbance of land by the removal or deposition on or change to the profile of land. Earthworks includes excavation, filling, cuts, root raking and blading, firebreaks, batters and the formation of roads, access, driveways, tracks</u>	Reject	At mediation, the parties agreed to retain the definition of "Earthworks" as notified.

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							<p><u>and the deposition and removal of cleanfill. Earthworks for the following shall be exempt from the rules XXX Erosion</u></p> <p><u>a. and sediment control except where subject to Rule XXX setback from waterbodies.</u></p> <p><u>b. The digging of holes for offal pits</u></p> <p><u>c. Fence posts.</u></p> <p><u>d. Drilling bores.</u></p> <p><u>e. Mining Activity, Mineral Exploration or Mineral Prospecting.</u></p> <p><u>f. Planting riparian vegetation.</u></p> <p><u>g. Internments within legally established burial grounds.</u></p> <p><u>h. of existing vehicle and recreational accesses and tracks, excluding their expansion.</u></p> <p><u>i. Deposition of spoil from drain clearance work within the site the drain crosses.</u></p> <p><u>j. Test pits or boreholes necessary as part of a geotechnical assessment or contaminated land assessment where the ground is reinstated to existing levels within 48 hours.</u></p> <p><u>k. Firebreaks not exceeding 10 metres width.</u></p> <p><u>l. Cultivation and cropping.</u></p> <p><u>m. Fencing in rural zones/environments for farming where any cut or fill does not exceed 1 metre in height or any earthworks does not exceed 1 metre in width.</u></p> <p><u>n. Earthworks where the following National Environmental Standards have regulations that prevail over the District Plan:</u></p> <p><u>(i) Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.</u></p> <p><u>(ii) Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.</u></p> <p><u>(iii) Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016.</u></p> <p><u>(iv) Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2016.</u></p>		
				FS803	<b>Dunedin City Council</b>	Oppose in part		Accept	
				FS808	<b>Otago Fish and Game Council and Central South Island Fish and Game Council</b>	Oppose		Accept	
				FS810	<b>Royal Forest and Bird Protection Society of New Zealand Inc</b>	Oppose		Accept	
37.	Definition: Earthworks	80090	80090.50		<b>Federated Farmers of New Zealand - Otago and North Otago Provinces</b>	Support in part	<p>Amend definition of "Earthworks" as follows:</p> <p><u>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.</u></p>	Reject	At mediation, the parties agreed to retain the definition of "Earthworks" as notified.

Row	Provision	Submitter ID	Submission Point ID	Further submitter ID	Submitter Name	Support/Oppose	Decision requested	ORC planner recommendation	Reasons
							<a href="#">cultivation, pastoral farming activities and disturbance of land for the installation of fence posts.</a>		
				FS803	<b>Dunedin City Council</b>	Support in part		Reject	
38.	Definition: Earthworks	80055	80055.27		<b>Director General of Conservation</b>	Support	Retain definition of "Earthworks" as notified	Accept	No amendments are proposed to the definition of "Earthworks".
		80016	80016.12		<b>Horticulture New Zealand</b>	Support			

**Appendix 6: Part G provisions with changes agreed at mediation**

## PART G: EARTHWORKS FOR RESIDENTIAL DEVELOPMENTS

**Red** text shows changes to the planning provisions proposed in the notified version of proposed Plan Change 8 (underline shows new wording and strike-through showing deleted wording).

**Green** text indicates further changes agreed to by the parties at mediation (underline shows new wording and strike-through showing deleted wording).

**Blue** text indicates further changes I have recommended post-mediation (underline shows new wording and strike-through showing deleted wording).

### New Policy 7.D.10

The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented to maintain water quality.<sup>134</sup>

### Note Below Section 14.5

- Note:
1. The rules in Section 14.5 do not apply to earthworks or soil disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.
  2. Discharges resulting from earthworks for residential development<sup>135</sup> are addressed only through rules in section 14.5.

### New Rule 14.5.1.1

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a **permitted** activity providing:

- (a) The area of exposed earth is no more than 2,500 m<sup>2</sup> in any consecutive<sup>136</sup> 12-month period per landholding; and
- (b) Earthworks do not occur within 10 metres of a water body, a drain, a water race, or the coastal marine area (excluding earthworks for riparian planting).<sup>137</sup> and
- (c) Exposed earth is stabilised upon completion of the earthworks to minimise erosion and avoid slope failure; and
- (d) Earthworks do not occur on contaminated or potentially contaminated land; and
- (e) Soil or debris from earthworks is not placed where it can enter a water body, a drain, a race or the coastal marine area; and

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<sup>134</sup> 80076.03 QLDC

<sup>135</sup> 80042.21 ORC, 80042.22 ORC

<sup>136</sup> 80082.27 Forest and Bird

<sup>137</sup> 80076.04 QLDC

- (f) Earthworks do not result in flooding, erosion, land instability, subsidence or property damage at or beyond the boundary of the property where the earthworks occur; and
- (g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:
- (i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
  - (ii) any ~~conspicuous~~<sup>138</sup> change in the colour or visual clarity; or
  - (iii) any emission of objectionable odour; or
  - (iv) the rendering of fresh water unsuitable for consumption by farm animals; or
  - (v) any significant adverse effects on aquatic life.

### **New Definition “Residential development”**

#### **Residential development:**

Means the preparation of land for, and construction of, development infrastructure and buildings (including additions and alterations) for residential activities, and includes visitor accommodation and retirement villages.

The terms development infrastructure, residential activity, visitor accommodation, and retirement village are defined in the National Planning Standards.<sup>139</sup>

### **New Rule 14.5.2.1**

Except as provided by Rule 14.5.1.1, the use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a **restricted discretionary** activity.

In considering any resource consent under this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) Any erosion, land instability, sedimentation or property damage resulting from the activities; and
- (b) Effectiveness of the proposed erosion and sediment control measures in reducing discharges of sediment to water or to land where it may enter water; and
- (c) The extent to which the activity complies ~~Compliance~~<sup>140</sup> with the *Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005)*; and
- (d) Any adverse effect on water quality, including cumulative effects, and consideration of trends in the quality of the receiving water body; and

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<sup>138</sup> 80080.25 Fish and Game

<sup>139</sup> 80080.24 Fish and Game

<sup>140</sup> 80090.47 Federated Farmers

- ~~(e) Any adverse effect on any natural or human use value, and on use of the coastal marine area for contact recreation and seafood gathering; and<sup>141</sup>~~
- ~~(f) Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.~~
- Any adverse effect on:
- i. Kāi Tahu cultural and spiritual beliefs, values and uses;
  - ii. Any natural or human use value;
  - iii. Use of water bodies or the coastal marine area for contact recreation and food gathering;
- and measures to avoid, remedy or mitigate these adverse effects.<sup>142</sup>

### **New Definition “Earthworks”**

**Earthworks** 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.

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<sup>141</sup> Clause 10(2)(b), Schedule 1, RMA – Consequential amendment to 80053.29 Kāi Tahu ki Otago, 80078.29 Ngāi Tahu ki Murihiku

<sup>142</sup> 80053.29 Kāi Tahu ki Otago, 80078.29 Ngāi Tahu ki Murihiku,

**Appendix 7: Part G section 32AA evaluation**



An analysis under section 32AA of the RMA was undertaken for the changes agreed by the parties to Part G of PC8 as shown in Appendix 6.

Options considered are:

- **Option 1: PC8 as notified**
- **Option 2: PC8 as agreed at mediation**

Option 1 has been assessed in the Section 32 Evaluation Report for PC8. Option 2 is assessed below.

BENEFITS	COSTS
<b>Environmental</b>	
<ul style="list-style-type: none"> <li>- In general, the amendments agreed at mediation do not alter the likely environmental benefits from PC8 which remain as per the section 32 report.</li> <li>- Improving the implementation of the provisions through amendments to clarify or improve drafting, will assist with achieving the environmental benefits expected.</li> </ul>	<ul style="list-style-type: none"> <li>- None identified.</li> </ul>
<b>Economic</b>	
<ul style="list-style-type: none"> <li>- The provisions have been refined to improve clarity which will assist in their implementation by providing clearer guidance to applicants and decision-makers on resource consent applications.</li> <li>- Clearer direction will assist with reducing the cost of the consenting process.</li> </ul>	<ul style="list-style-type: none"> <li>- None identified.</li> </ul>
<b>Social</b>	
<ul style="list-style-type: none"> <li>- Refinement of provisions provide clarity and supports interpretation by all plan users.</li> </ul>	<ul style="list-style-type: none"> <li>- None identified.</li> </ul>
<b>Cultural</b>	

- 
- Amendments to Rule 14.5.2.1 more concisely state the matters of discretion that relate to adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses which will assist with delivering the anticipated environmental benefits.
  - None identified.

### **Efficiency and effectiveness**

Option 2 is considered the most efficient and effective to achieve the (recommended) objective(s) of PC8<sup>143</sup> by:

- Improving and clarifying the notified policy guidance which will result in a more efficient consenting process and reduced costs for applicants and the consent authority.

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<sup>143</sup> Which as set out in the s32 report is “to reduce sediment loss from earthworks for residential development.” page 35.

## Appendix 8: Part H recommended decisions on submissions

Row	Provision	Submitter ID	Submission Point ID	Further Submitter ID	Submitter name	Support/ Oppose	Decision Requested	ORC Planner recommendation	Reasons
<b>Amended Policy 10.4.2</b>									
1.	Policy 10.4.2	80018	80018.08		Dunedin City Council	Support	<p>Include Smooth Hill as designated in the Dunedin 2GP as regionally significant infrastructure by including text beneath Policy 10.4.2 as:</p> <p><a href="#">To provide for the Smooth Hill landfill as designated in the Dunedin 2GP as regionally significant infrastructure.</a></p> <p>OR</p> <p>Insert a new policy to identify Smooth Hill as regionally significant infrastructure.</p>	Reject	<p>The decision requested is not within the scope of PC8 and is not “on” PC8. PC8 proposes a minor change to Policy 10.4.2 in order to align with the terminology of the proposed Regional Policy Statement 2019. Policy 4.3.2 of the PORPS 2019 lists the infrastructure considered to be nationally or regionally significant</p> <p>“Nationally Significant Infrastructure” and “Regionally Significant Infrastructure” are also defined in the proposed Otago Regional Policy Statement June 2021.</p>
				FS807	<i>Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (Kāi Tahu ki Otago)</i>	Oppose		Accept	Neither of the RPSs include the Smooth Hill landfill as regionally significant infrastructure.
				FS811	<i>Ngai Tahu ki Murihiku</i>	Oppose		Accept	
2.	Policy 10.4.2	80082	80082.29		Royal Forest and Bird Protection Society of New Zealand Inc	Oppose	Add definition of "Regionally significant infrastructure" to include airports, the port, telecommunications facilities, the rail network, storm water, sewage, systems, local authority water supply networks (for human consumption) and water treatment plants and other utilities, including energy generation, transmission and distribution networks, strategic telecommunications facilities as defined in section 5 of the Telecommunications Act 2001, the strategic Transport Network.	Reject	<p>The decision requested is not within the scope of PC8 and is not “on” PC8. PC8 proposes a minor change to Policy 10.4.2 in order to align with the terminology of the proposed Regional Policy Statement 2019. Policy 4.3.2 of the PORPS 2019 lists the infrastructure considered to be nationally or regionally significant.</p> <p>“Nationally Significant Infrastructure” and “Regionally Significant Infrastructure” are also defined in the proposed Otago Regional Policy Statement June 2021.</p>
				FS803	<i>Dunedin City Council</i>	Oppose		Accept	
				FS808	<i>Otago Fish and Game Council and Central South Island Fish and Game Council</i>	Support in part		Reject	
				FS811	<i>Kāi Tahu ki Otago</i>	Oppose		Accept	
				FS807	<i>Ngai Tahu ki Murihiku</i>	Oppose		Accept	
3.	Policy 10.4.2	80090	80090.51		Federated Farmers of New Zealand - Otago and North Otago Provinces	Support	Support Policy 10.4.2	Accept	No amendments are proposed for Policy 10.4.2
4.	Policy 10.4.2	80016	80016.13		Horticulture New Zealand	Support	Retain Policy 10.4.2 as notified	Accept	
		80055	80055.28		Director General of Conservation				
		80059	T80059.30		Kāi Tahu ki Otago				
		80078	80078		Ngāi Tahu Ki Murihiku				

## Appendix 9: Part H provisions

### Amended Policy 10.4.2

Avoid the adverse effects of an activity on a Regionally Significant Wetland or a regionally significant wetland value, but allow remediation or mitigation of an adverse effect only when the activity:

- (a) Is lawfully established; or
- (b) Is nationally or regionally significant ~~important~~ infrastructure, and has specific locational constraints; or
- (c) Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.

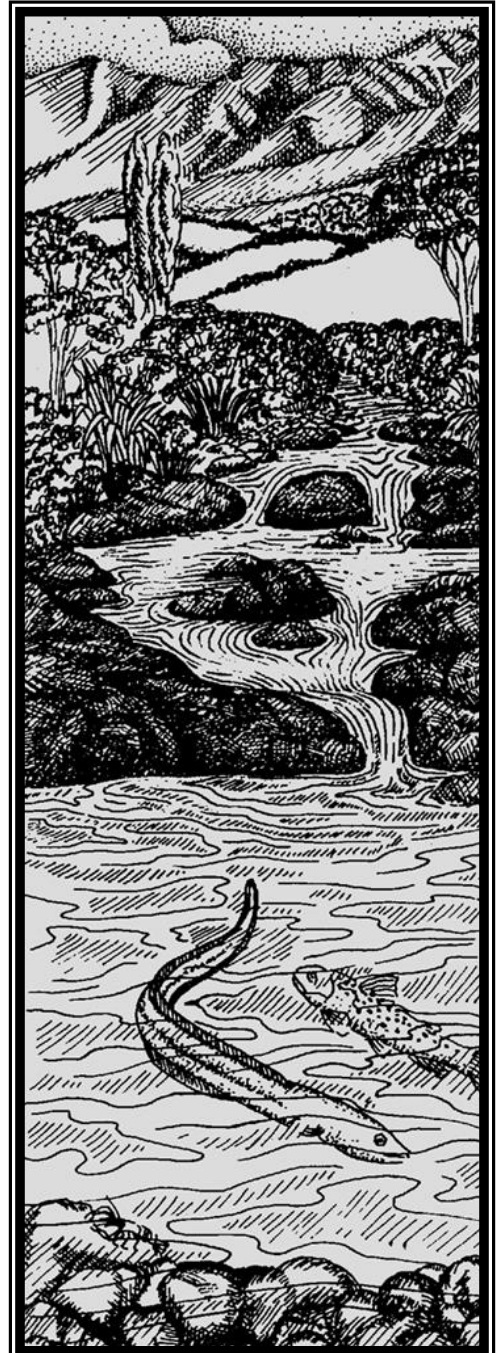
**Appendix 10: Relevant chapters of the RPW with recommended amendments to the PC8 urban provisions**

**Tracked Changed Version – Chapters 7, 10, 14, and 21**

Chapter
<p><b>Chapter 7</b></p> <p><b>Water Quality</b></p>
<p><b>Chapter 10</b></p> <p><b>Wetlands</b></p>
<p><b>Chapter 14</b></p> <p><b>Rules: Land Use other than in Lake or River Beds</b></p>
<p><b>Chapter 21</b></p> <p><b>Glossary</b></p>
<p><b>Key</b></p> <p><b>Red text</b> shows changes to the planning provisions proposed in the notified version of proposed Plan Change 8 that relate to the urban sector (underline shows new wording and strikethrough showing deleted wording).</p> <p><b>Green Text</b> indicates further changes agreed to by the parties at mediation (underline shows new wording and strike-through showing deleted wording).</p> <p><b>Blue text</b> indicates further changes recommended through evidence to the version of provisions agreed by the parties at mediation (underline shows new wording and strike-through showing deleted wording).</p> <p><b>Orange text</b> indicates the version of provisions of PC8 that relate to the primary sector that were approved in the Environment Court’s decision dated 31 January 2022. These provisions are shown in orange text as they have not yet been approved by the Council under clause 17 of Schedule 1.</p> <p><b>Note:</b> For the purposes of this evidence, new pages numbers have been inserted at the top of each page of Chapters 7, 10, 14 and 21. This page numbering if different to that of the page numbering in the operative Regional Plan: Water for Otago.</p>

# 7

## Water Quality



## **7.1 Introduction**

The provisions in this chapter are in addition to those in Chapter 5, which seek to maintain or enhance the natural and human use values supported by lakes, and rivers and wetlands; and those included in Chapter 9, which contain policies on groundwater quality.

## **7.2 Issues in general** *[Repealed – 1 May 2014]*

## **7.3 Issues related to point source discharges to water** *[Repealed – 1 May 2014]*

## **7.4 Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*

## **7.5 Objective** *[Repealed – 1 May 2014]*

### **7.A Objectives**

**7.A.1 To maintain water quality in Otago lakes, rivers, wetlands, and groundwater, but enhance water quality where it is degraded.**

**7.A.2 To enable the discharge of water or contaminants to water or land, in a way that maintains water quality and supports natural and human use values, including Kāi Tahu values.**

**7.A.3 To have individuals and communities manage their discharges to reduce adverse effects, including cumulative effects, on water quality.**

### **7.B Policies general**

**7.B.1 Manage the quality of water in Otago lakes, rivers, wetlands and groundwater by:**

- (a) Describing, in Table 15.1 of Schedule 15, characteristics indicative of good quality water; and**
- (b) Setting, in Table 15.2 of Schedule 15, receiving water numerical limits and targets for achieving good quality water; and**
- (c) Maintaining, from the dates specified in Schedule 15, good quality water; and**
- (d) Enhancing water quality where it does not meet Schedule 15 limits, to meet those limits by the date specified in the Schedule; and**
- (e) Recognising the differences in the effects and management of point and non-point source discharges; and**
- (f) Recognising discharge effects on groundwater; and**

- (g) **Promoting the discharge of contaminants to land in preference to water.**
  
- 7.B.2** **Avoid objectionable discharges of water or contaminants to maintain the natural and human use values, including Kāi Tahu values, of Otago lakes, rivers, wetlands, groundwater and open drains and water races that join them.**
  
- 7.B.3** **Allow discharges of water or contaminants to Otago lakes, rivers, wetlands and groundwater that have minor effects or that are short-term discharges with short-term adverse effects.**
  
- 7.B.4** **When considering any discharge of water or contaminants to land, have regard to:**
  - (a) **The ability of the land to assimilate the water or contaminants; and**
  - (b) **Any potential soil contamination; and**
  - (c) **Any potential land instability; and**
  - (d) **Any potential adverse effects on water quality; and**
  - (e) **Any potential adverse effects on use of any proximate coastal marine area for contact recreation and seafood gathering.**
  
- 7.B.5** **When considering any discharge of water from one catchment to water in another catchment, have regard to:**
  - (a) **Kāi Tahu values; and**
  - (b) **The adverse effects of introducing species that are new to the receiving catchment.**
  
- 7.B.6** **When assessing any consent to discharge contaminants to water, consider the need for and the extent of any zone for physical mixing, within which water will not meet the characteristics and limits described in Schedule 15, by taking account of:**
  - (a) **The sensitivity of the receiving environment; and**
  - (b) **The natural and human use values, including Kāi Tahu values; and**
  - (c) **The natural character of the water body; and**
  - (d) **The amenity values supported by the water body; and**
  - (e) **The physical processes acting on the area of discharge; and**
  - (f) **The particular discharge, including contaminant type, concentration and volume; and**
  - (g) **The provision of cost-effective community infrastructure; and**
  - (h) **Good quality water as described in Schedule 15.**
  
- 7.B.7** **Encourage land management practices that reduce the adverse effects of water or contaminants discharged into water.**



**7.B.8 Encourage adaptive management and innovation that reduces the level of contaminants in discharges.**

**7.C Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**

**7.C.1 When considering applications for resource consents to discharge contaminants to water, to have regard to opportunities to enhance the existing water quality of the receiving water body at any location for which the existing water quality can be considered degraded in terms of its capacity to support its natural and human use values.**

**Explanation**

There is the opportunity, particularly with new resource consents for existing discharges, to achieve an enhancement in water quality. This can occur when the consent holder re-examines the discharge activity and makes use of technological advances in the reduction, reuse, recycling, or treatment of contaminants. The Otago Regional Council will have regard to these opportunities when considering resource consents to discharge contaminants to water.

This policy applies to any location for which the existing water quality can be considered degraded in terms of its capacity to support its natural and human use values.

**Principal reasons for adopting**

This policy is adopted to ensure that opportunities are taken to achieve improved water quality in Otago's lakes and rivers. The policy reflects the importance of enhancing water quality to the region's people and communities.

*Rules: 12.A.2.1, 12.B.2.1, 12.B.3.1.*

**7.C.2 When considering applications for resource consents to discharge contaminants to water, or onto or into land in circumstances which may result in any contaminant entering water, to have regard to:**

- (a) The nature of the discharge and the sensitivity of the receiving environment to adverse effects;**
- (b) The financial implications, and the effects on the environment of the proposed method of discharge when compared with alternative means; and**
- (c) The current state of technical knowledge and the likelihood that the proposed method of discharge can be successfully applied.**

**Explanation**

When considering the avoidance, remedy or mitigation of the adverse effects of the discharge of contaminants to land or water under a resource consent, the Otago Regional Council will consider matters identified in (a) to (c) in the policy. This ensures the recognition of any financial or technical constraint upon the

adoption of alternative treatment or discharge methods, given the sensitivity of the receiving environment to the discharge.

**Principal reasons for adopting**

This policy is adopted to ensure that consideration is given to appropriate means for avoiding, remedying or mitigating the adverse effects of contaminants on water or land, to enable the most environmentally sound means to be adopted.

*Rules: 12.A.2.1, 12.B.2.1, 12.B.3.1.*

**7.C.3 When considering any resource consent to discharge a contaminant to water, to have regard to any relevant standards and guidelines in imposing conditions on the discharge consent.**

**Explanation**

The primary concern for the Otago Regional Council, in considering resource consents, is protecting the natural and human use values supported by water bodies. Guidelines applicable to Otago may assist in this task in terms of the development of resource consent conditions controlling the effects of any particular contaminant in the receiving waters.

This Plan does not set generic numerical standards for particular contaminants. Instead the Plan identifies specific natural and human use values and, prior to granting a discharge consent, Council must be satisfied that those values will not be compromised. Guidelines will be used when applicable to the type of discharge and the nature of the receiving environment. These will be considered on a case by case basis.

**Principal reasons for adopting**

This policy is adopted to signal that standards and guidelines will be used as appropriate in imposing conditions on discharge consents in order to achieve the Plan's objectives. The application of standards will provide certainty to the person proposing to undertake the discharge as to the requirements for avoiding, remedying or mitigating adverse effects on the natural and human use values supported by the receiving water body.

*Rules: 12.A.2.1, 12.B.2.1, 12.B.3.1.*

**7.C.4 The duration of any new resource consent for an existing discharge of contaminants will take account of the anticipated adverse effects of the discharge on any natural and human use value supported by an affected water body, and:**

- (a) **Will be up to 35 years where the discharge will meet the water quality standard required to support that value for the duration of the resource consent;**
- (b) **Will be no more than 15 years where the discharge does not meet the water quality standard required to support that value but will progressively meet that standard within the duration of the resource consent;**

- (c) Will be no more than 5 years where the discharge does not meet the water quality standard required to support that value; and
- (d) No resource consent, subsequent to one issued under (c), will be issued if the discharge still does not meet the water quality standard required to support that value.

### Explanation

Resource consents to discharge contaminants may be issued for up to 35 years under the Resource Management Act. The duration of new resource consents for existing discharges under this Plan will be set having regard to the effect of the discharge on the natural and human use values supported by any affected water body, in accordance with (a) to (d) of this policy.

The maximum duration of any resource consent will be 35 years. Where the discharge is adversely affecting any natural and human use value that the water body supports, the duration will be less. This encourages the resource consent holder to investigate alternatives, that will improve the discharge, in order to meet the standards required to support the natural and human use value.

In recognition of financial and technical constraints on those proposing to undertake the discharge, a short duration resource consent, which does not exceed 5 years, may be granted in accordance with (c), in which time they must comply with the relevant water quality standards. Discharges that do not comply by the time the resource consent has expired will not be granted a further resource consent for the discharge. Another option is to make a commitment to meet the water quality standard required to support the affected value progressively within the duration of the resource consent. The duration of such resource consents would not exceed 15 years, in accordance with (b).

### Principal reasons for adopting

This policy is adopted to give guidance for determining the appropriate duration of any resource consent to continue discharging contaminants. It will enable proper consideration of changes over time in the receiving environment, and to encourage, within technical and financial constraints, a reduction in the adverse effects of point source discharges on Otago's water bodies. This will assist in achieving the maintenance or enhancement of existing water quality.

Part A:  
Discharge  
policies

*Rules: 12.A.2.1, 12.B.2.1, 12.B.3.1.*

**7.C.5** Avoid significant ~~Minimise the~~ adverse environmental effects and minimise other adverse effects on waterbodies, with respect to ~~of~~ discharges ~~With respect to discharges~~ from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, ~~to require:~~ by requiring:

- (a) The separation of sewage and stormwater; and
- (b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and
- (c) The use of appropriate techniques to trap debris, sediments and nutrients present in runoff; and

- (d) Consideration of appropriate measures to reduce and/or attenuate stormwater being discharged from rain events; and
- (e) Consideration of appropriate measures for ~~discharge discharging to land, in preference to direct discharge discharging directly~~ to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

### Explanation

In terms of the Plan's rules for permitted and discretionary activities for new discharges, or extensions to the catchment area of existing discharges from reticulated stormwater systems, the requirements of (a) to (c) will apply, as required.

### Principal reasons for adopting

This policy is adopted to reduce the potential for adverse effects arising from contaminants to be present in new stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

Part A:  
Discharge  
policies

*Rules: 12.B.3.1*

*Other methods: 15.2.5.1, 15.4.2.1, 15.4.2.2.*

### 7.C.6 Reduce the adverse environmental effects from existing stormwater reticulation systems by:

- (a) Requiring the implementation of appropriate measures to progressively upgrade of stormwater reticulation systems to minimise the volume of reduce sewage entering the stormwater reticulation system and the frequency and volume of sewage overflows; and
- (b) To promote Promoting Requiring consideration of appropriate measures to the progressively improve upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:
  - (i) ~~The separation of sewage and stormwater; and~~
  - (ii) Measures to prevent contamination of the receiving environment by industrial or trade waste; and
  - (iii) The use of techniques to trap debris, sediments and nutrients present in runoff; and
  - (iii) ~~m~~ Measures to reduce and/or attenuate stormwater being discharged from rain events; and
  - (iv) ~~m~~ Measures for ~~discharge discharging to land, in preference to direct discharge discharging directly~~ to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

### Explanation

The Otago Regional Council will ~~encourage~~ require the operator of any existing stormwater reticulation system to improve the quality of stormwater discharged from the system. ~~Measures that can be taken to achieve this improvement include:~~

- ~~(a) The separation of sewage and stormwater;~~
- ~~(b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and~~
- ~~(c) The use of techniques to trap debris, sediments and nutrients present in runoff.~~

Priority will be given to improving discharges to those water bodies where natural and human use values are adversely affected. Such measures may not be necessary where an existing discharge is having no more than a minor adverse effect on any natural or human use value supported by an affected water body.

### Principal reasons for adopting

This policy is adopted to reduce adverse effects arising from the level of contaminants present in existing stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

*Rules: 12.B.3.1*

*Other methods: 15.2.5.1, 15.4.2.1, 15.4.2.2.*

- 7.C.7 To require that all practical alternative locations for the storage of hazardous substances have been considered before such storage occurs in close proximity to any lake or river or to mean high water springs; and, if it is not practical to locate elsewhere, to require that appropriate risk management contingencies are put in place.**

### Explanation

Although the use of hazardous substances may provide benefits to the community, the storage of such substances close to surface water also represents a risk of contamination through spillage or leakage. Any person intending to store hazardous substances in close proximity to any lake or river, or to mean high water springs, will require land use consent from the relevant city or district council. The district plan rules of those councils will specify the land to which the above requirements will apply.

When considering the location of new facilities for the storage of hazardous substances in close proximity to any lake, river or mean high water springs, the applicant should demonstrate that there are no other, more suitable, less sensitive locations available. If a less sensitive location is not practical, then appropriate design, construction and management practices must be established to minimise the risk of any hazardous substance entering water. For existing facilities where

it would be unreasonable to require relocation, appropriate spill containment measures must be established to ensure the lake, river or coastal environment is safeguarded.

**Principal reasons for adopting**

This policy is adopted to avoid the discharge into water where hazardous substances are inappropriately stored. There is an increased likelihood of such contamination where the storage occurs in close proximity to surface water bodies. Such discharges will adversely affect water quality and the ability of the water body to support natural and human use values.

*Other methods: 15.2.7.1, 15.4.2.2*

**7.C.8 To promote the use of contingency plans for the prevention, containment and recovery of the accidental spill of any hazardous substance which may adversely affect water quality.**

**Explanation**

In the development or modification of any industrial, commercial or agricultural facility where there is potential for the spillage of substances which could contaminate water, the Otago Regional Council will promote the adoption of a spills contingency plan. Such plans will involve four key elements:

- (a) Appropriate handling procedures will be encouraged to avoid accidental spills;
- (b) Mechanisms, such as bunding, will be encouraged to contain spills;
- (c) Appropriate clean-up and dispersal actions will be identified to remedy the effects where containment is not achieved; and
- (d) Proactive education.

The use of contingency plans will be promoted to city and district councils, industry groups, and the developers or owners of the identified facilities.

**Principal reasons for adopting**

This policy is adopted to reduce the incidence and severity of accidental spills of contaminants into, upstream of, or adjacent to, any water. This is important as such spills may undermine all previous efforts to maintain or enhance water quality.

*Other methods: 15.2.4.1, 15.2.7.1, 15.3.4.1, 15.4.2.2, 15.5.1.1.*

**7.C.9 To support the coordination of measures to remedy or mitigate the adverse effects associated with accidental spills which could potentially contaminate water.**

**Explanation**

The accidental spill of any contaminant that may adversely affect water quality will be remedied or mitigated by the clean-up and dispersal of the spilled contaminant. City and district councils, the Fire Service and others may be involved in spill clean-up operations. The Otago Regional Council will support

the coordination of the appropriate response to any accidental spill through the provision of advice on possible disposal or treatment options.

**Principal reasons for adopting**

This policy is adopted to ensure the appropriate agencies become involved in clean-up operations in the event of a spill of contaminants and that the clean-up operations themselves do not lead to the contamination of water.

*Other methods: 15.2.4.1, 15.2.7.1, 15.3.4.1, 15.4.2.2, 15.5.1.1.*

**7.C.10 Except in the case of a dam constructed to store contaminants, to avoid the damming or diversion of water over contaminated land where it would result in contamination of water or, where avoidance is not practicable, to require the removal or treatment of the contaminated land.**

**Explanation**

There is the potential for adverse effects on water quality where land contaminated by hazardous substances comes into contact with water. Such effects may occur:

- (a) Within a reservoir created by the damming of a water body;
- (b) Within diverted water where the water passes over contaminated land; or
- (c) Downstream of that reservoir or diverted water.

When considering any resource consent for new proposals for damming or diversion of water, the Otago Regional Council must be satisfied that the activity would not result in water being contaminated by its coming into contact with contaminated land. The Council maintains a register of contaminated sites in Otago.

One practical method of managing potential adverse effects from contaminants in a dam constructed to store contaminants, such as a mine tailings dam, is to immerse the contaminants beneath water in a controlled environment. This policy therefore does not apply and Policy 7.C.11 provides for such activities.

**Principal reasons for adopting**

This policy is adopted to prevent degradation of water quality caused by contaminated land coming into contact with water as a result of the damming or diversion of water. Mining tailings dams are exempt from this policy because that activity sometimes needs to immerse contaminants under water as one practicable method of managing potential adverse effects.

*Rules: 12.3.4.1*

**7.C.11 To require the holder of any consent for a dam constructed for the storage of contaminants to completely remedy any adverse effect of the failure or overtopping of the dam structure, either during or after its construction.**

**Explanation**

Where a resource consent is required for either:

- (a) the damming of water; or
- (b) the storage of hazardous substances,

for the purpose of establishing a tailings dam, the consent authority will require the person erecting the dam to plan for and provide measures, including bonds under Section 108 of the Resource Management Act, for the complete remediation of any loss or damage caused by the uncontrolled release of contaminants. There is a risk of such releases where the tailings dam constructed to store the contaminants fails or is overtopped, either during or after its construction.

#### **Principal reasons for adopting**

This policy is adopted to provide for the complete remediation of adverse effects arising from the failure or overtopping of a tailings dam.

Part A:  
Discharge  
policies

*Rules: 13.2.3.1, 13.3.2.1*

*Other methods: 15.2.4.1, 15.2.7.1, 15.3.4.1, 15.4.2.2, 15.5.1.1.*

#### **7.C.12 Reduce the adverse effects of discharges of human sewage from existing reticulated wastewater systems, including extensions to those systems, by:**

- ~~(ea)~~ **Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and**
- ~~(ab)~~ **Requiring ~~reticulated wastewater~~ systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and**
- ~~(c)~~ **Promoting the progressive upgrading of existing systems; and**
- ~~(bd)~~ **Requiring the implementation of ~~measures to~~ appropriate:**
  - ~~(i)~~ **Measures to ~~P~~ progressively reduce the frequency and volume of wet weather overflows; and**
  - ~~(ii)~~ **Measures to ~~M~~ minimise the likelihood of dry weather overflows occurring; and**
  - ~~(iii)~~ **Contingency measures to minimise the effects of discharges of wastewater as a result of system failure or overloading of the system; and**
  - ~~(d)~~ **Having particular regard to any adverse effects on cultural values.**
  - ~~(e)~~ **Recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.**

#### **7.C.13 Avoid in the first instance, and otherwise minimise, the adverse effects of discharges from new reticulated wastewater systems by:**



- (a) Preferring discharges to land, unless adverse effects associated with a discharge to land are greater than a discharge to water; and
- (b) Requiring systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and
- (c) Requiring the implementation of appropriate:
  - (i) Measures to minimise the frequency and volume of wet weather overflows;
  - (ii) Measures to minimise the likelihood of dry weather overflows occurring; and
  - (iii) Contingency measures to minimise the effects of discharges of wastewater as a result of system failure or overloading of the system; and
- (d) Recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.

## **7.D Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**

### **7.D.1 Encourage innovation in management practices and the sharing of information, including by:**

- (a) Council:**
  - (i) Providing and facilitating the sharing of information on water management and plan implementation including through fora, field days and brochures; and**
  - (ii) Supporting landholders in measuring or assessing contaminants in discharges; and**
  - (iii) Supporting the development of means to measure or assess contaminants in discharges; and**
  - (iv) Monitoring progress towards achievement of water quality objectives and Schedule 15 limits and targets, and making this information available on the Council website.**
- (b) Landholders:**
  - (i) Implementing practices that reduce the level of contaminants in discharges; and**
  - (ii) Providing relevant information to support the catchment or aquifer studies undertaken by Council; and**
  - (iii) Working as a group to achieve good quality water.**

- 7.D.2** Schedule 16 discharge thresholds apply to permitted activities, from 1 April 2026, at or below the reference flows set in Schedule 16B based on median flows.
- 7.D.3** Prohibit objectionable discharges of water or contaminants that degrade the natural and human use values, including Kāi Tahu values, of Otago lakes, rivers, wetlands and groundwater.
- 7.D.4** Provide for the restricted discretionary consenting of any discharge under section 12.C:
- (a) Where changes to land management practices or infrastructure have not been sufficient to meet permitted activity rules; or
  - (b) As part of the development of technology or innovative practices associated with improving water quality; or
  - (c) From a short-term activity with short-term adverse effects; and the duration will not exceed:
    - (1) Two years for discharges from a short-term activity with short-term adverse effects; or
    - (2) Five years for all other discharges where the contaminants in the discharge result from the activities of the applicant.

**7.D.5** When considering any discharge under section 12.C, have regard to:

- (a) The effects, including cumulative effects, of the discharge on water quality, ecosystem health and natural and human use values, including Kāi Tahu cultural and spiritual beliefs, values and uses; and
- (b) The physical characteristics of the land and the sensitivity of the receiving water; and
- (c) The quality and performance of the discharge management system to be used, and in particular,
  - (i) options to be employed to reduce any adverse environmental effects of the discharge; and
  - (ii) monitoring of the performance of the discharge management system; and
- (d) Any staged timeframe and any environmental management plan to achieve:
  - (i) Compliance with the permitted activity rules and Schedule 16 discharge thresholds for the duration of the consent; or
  - (ii) The demonstrable reduction of adverse environmental effects of the discharge over the duration of the consent; and
- (e) Trends in the quality of the receiving water relative to the Schedule 15 freshwater characteristics, limits, and targets and relative to any national bottom lines specified in Appendix 2A and 2B of the NPS-FM; and

- (f) **The extent to which potentially significant adverse effects arising from the discharge are avoided; and**
- (g) **The value of the existing investment in infrastructure; and**
- (h) **The current state of technical knowledge and the use of industry best practice for managing environmental effects; and**
- (i) **The extent to which co-ordinating the discharges across multiple landholdings enables water quality objectives to be more effectively met; and**
- (j) **The social, cultural and economic value of the use of land and water that gives rise to the discharge.**

**7.D.6 When considering applications for resource consent for discharges of nitrogen onto or into land in circumstances where it may enter water under Rule 12.C.3.2:**

- (a) **Restrict the duration of resource consents to a term of no more than 10 years; and**
- (b) **Have particular regard to:**
  - (i) **The water quality of the receiving water body; and**
  - (ii) **Any adverse effects on the natural or human use values of the receiving water body as set out in Schedule 1; and**
  - (iii) **Any adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses; and**
  - (iv) **Any measures proposed to reduce nitrogen discharged over the term of the resource consent, including any changes to land management practices or infrastructure; and**
  - (iv) **The benefits of aligning the expiry date with other resource consents for the same activity in the surrounding area or catchment.**

**7.D.7 Ensure the appropriate management and operation of animal effluent systems and management of the application of animal effluent to land by:**

- (a) **Requiring animal effluent systems to be designed, constructed and located appropriately and in accordance with good management practice; and**
- (b) **Ensuring that all animal effluent systems:**
  - (i) **Have sufficient storage capacity to ensure that the disposal of effluent to land does not occur under conditions that will result in contaminants entering into water; and**
  - (ii) **Include contingency measures to prevent discharges of effluent to a water body, an artificial watercourse, or the coastal marine area, either directly or indirectly; and**

- (iii) Are operated in accordance with a management plan for the purpose of preventing the unauthorised discharge of liquid or solid effluent to water; and
- (c) Avoiding the discharge of liquid and solid animal effluent to:
  - (i) water bodies, artificial watercourses, bores and soak holes, and the coastal marine area; and
  - (ii) land in a manner that results in ponding or overland flow to water; and
  - (iii) land when the soil moisture exceeds field capacity;
- (d) Requiring effluent application to be in accordance with good management practice; and
- (e) Granting resource consents for discharges of animal effluent for a maximum duration of up to 10 years in order to facilitate an efficient and effective transition from the operative freshwater planning framework towards a new integrated regional planning framework.

**7.D.8** Provide for the upgrading of existing animal effluent storage facilities that do not meet the standards in Rule 14.7.1.1 by:

- (a) Granting resource consents only where consent applications contain a timebound action plan for upgrading the existing animal effluent storage facility so that it meets the standards in Rule 14.7.1.1 as soon as possible; and
- (b) Staging implementation of performance standards based on risk in accordance with Rule 14.7.1.2 and Schedule 19.

**7.D.9** Enable farming activities while reducing their adverse environmental effects by:

- (a) Promoting the implementation of good management practices (or better) to reduce sediment and contaminant loss to water bodies; and
- (b) Managing the risk of sediment and contaminants in run off entering water as a result of farming activities by:
  - (i) Implementing setbacks from rivers, lakes, drains (excluding sub-surface drains), natural wetlands or the coastal marine area and establishing or maintaining riparian vegetation,
  - (ii) Limiting areas and duration of exposed soil,
  - (iii) Managing stock access to water bodies to avoid significant adverse effects on water quality, bed and bank integrity and stability, Kai Tahu cultural and spiritual beliefs, values and uses, and river and riparian ecosystems and habitats,
  - (iv) Setting interim minimum standards for intensive winter grazing; and
  - (v) Managing critical source areas.

**7.D.10** The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented to maintain water quality.

Part G:  
Sediment from  
earthworks for  
residential  
development

**7.6 Policies for the enhancement of water quality** *[Repealed – 1 May 2014]*

**7.7 Policies for point source discharges** *[Repealed – 1 May 2014]*

**7.7.1** *[Repealed – 1 May 2014]*

**7.7.2** *[Amended to 7.B.4 – 1 May 2014]*

**7.7.3** *[Renumbered as 7.C.1 – 1 May 2014]*

**7.7.4** *[Renumbered as 7.C.2 – 1 May 2014]*

**7.7.5** *[Repealed – 1 May 2014]*

**7.7.6** *[Amended to 7.B.6 – 1 May 2014]*

**7.7.7** *[Renumbered as 7.C.3 – 1 May 2014]*

**7.7.8** *[Repealed – 1 May 2014]*

**7.7.9** *[Renumbered as 7.C.4 – 1 May 2014]*

**7.7.10** *[Renumbered as 7.C.5 – 1 May 2014]*

**7.7.11** *[Renumbered as 7.C.6 – 1 May 2014]*

**7.8 Policies for non-point source discharges** *[Repealed – 1 May 2014]*

**7.8.1** *[Repealed – 1 May 2014]*

**7.8.2** *[Renumbered as 7.C.7 – 1 May 2014]*

**7.8.3** *[Renumbered as 7.C.8 – 1 May 2014]*

**7.8.4** *[Renumbered as 7.C.9 – 1 May 2014]*

**7.8.5** *[Renumbered as 7.C.10 – 1 May 2014]*

**7.8.6** *[Renumbered as 7.C.11 – 1 May 2014]*

**7.9 Anticipated environmental results** *[Repealed – 1 May 2014]*

# 10

## Wetlands



## 10.1 Introduction *[Repealed – 1 October 2013]*

## 10.2 Issues *[Repealed – 1 October 2013]*

## 10.3 Objectives

- 10.3.1 Otago’s wetlands and their individual and collective values and uses will be maintained or enhanced for present and future generations.
- 10.3.2 Otago’s Regionally Significant Wetlands and their values and uses are recognised and sustained.

## 10.4 Policies

### 10.4.1 Otago’s regionally significant wetland values are:

- A1 Habitat for nationally or internationally rare or threatened species or communities;
- A2 Critical habitat for the life cycles of indigenous fauna which are dependent on wetlands;
- A3 High diversity of wetland habitat types;
- A4 High degree of wetland naturalness;
- A5 Wetland scarce in Otago in terms of its ecological or physical character;
- A6 Wetland which is highly valued by Kai Tahu for cultural and spiritual beliefs, values and uses, including waahi taoka and mahika kai;
- A7 High diversity of indigenous wetland flora and fauna;
- A8 Regionally significant wetland habitat for waterfowl; and
- A9 Significant hydrological values including maintaining water quality or low flows, or reducing flood flows.

### 10.4.1A A Regionally Significant Wetland is any wetland that is:

- (a) Listed in Schedule 9 and mapped in maps F1-F63; or
- (b) Within a wetland management area listed in Schedule 9 and mapped in maps F1-F63; or
- (c) Higher than 800 metres above sea level.

### 10.4.2 Avoid the adverse effects of an activity on a Regionally Significant Wetland or a regionally significant wetland value, but allow remediation or mitigation of an adverse effect only when the activity:

- (a) Is lawfully established; or
- (b) Is nationally or regionally **significant important** infrastructure, and has specific locational constraints; or

Part H:  
Nationally or  
regionally  
important  
infrastructure



- (c) **Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.**

**10.4.2A** **Where the avoidance, remediation or mitigation of adverse effects on any Regionally Significant Wetland or any regionally significant wetland value is not adequate, financial contributions, determined in accordance with Chapter 17, may be required.**

**10.4.3** *[Repealed – 1 October 2013]*

**10.4.4** *[Repealed – 1 October 2013]*

**10.4.5** *[Repealed – 1 October 2013]*

**10.4.6** **To promote the conservation, creation and reinstatement of wetland areas and enhancement of individual and collective wetland values by:**

- (a) **Educating Otago’s people and communities about land use activities that may affect wetlands and their values;**
- (b) **Promoting the fencing of wetlands;**
- (c) **Initiating or supporting investigations and monitoring of wetlands and their values;**
- (d) **Supporting voluntary community and landholder programmes;**
- (e) **Initiating or undertaking works in consultation with local communities;**
- (f) **Providing information on wetlands and their values; or**
- (g) **Providing for the restoration or enhancement of wetlands and wetland values.**

**10.4.7** *[Repealed – 1 October 2013]*

**10.4.8** **The loss of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:**

- (a) **the loss of extent or values arises from any of the following:**
  - (i) **the customary harvest of food or resources undertaken in accordance with tikanga Maori**
  - (ii) **restoration activities**
  - (iii) **scientific research**
  - (iv) **the sustainable harvest of sphagnum moss**
  - (v) **the construction or maintenance of wetland utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020**
  - (vi) **the maintenance or operation of specified infrastructure, or other infrastructure (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020**

- (vii) natural hazard works (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020; or**
- (b) the regional council is satisfied that:**
  - (i) the activity is necessary for the construction or upgrade of specified infrastructure; and**
  - (ii) the specified infrastructure will provide significant national or regional benefits; and**
  - (iii) there is a functional need for the specified infrastructure in that location; and**
  - (iv) the effects of the activity are managed through applying the effects management hierarchy.**

Advice note: Refer to clause 3.21 of the National Policy Statement for Freshwater Management 2020 for definitions on “loss of value”, “natural inland wetland”, “effects management hierarchy”, “functional need”, “specified infrastructure” and “restoration”.
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## **10.5 Anticipated Environmental Results [Repealed – 1 October 2013]**

# 14

## Rules: Land Use other than in Lake or River Beds



## 14.1 Bore construction

Note: The construction of a bore is carried out for the purpose of taking groundwater, or which results in groundwater being taken. This is distinct from the activities of:

- The drilling of land carried out for any other purpose which is covered by rules under 14.2;
- The taking of groundwater, which is covered by rules under 12.2 in Chapter 12.

### 14.1.1 Controlled activities: Resource consent required but always granted

14.1.1.1 The excavation, drilling or other disturbance of land, other than in the bed of any lake or river, for the purpose of creating a bore, is a *controlled* activity.

In granting any resource consent for the excavation, drilling or other disturbance of land in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The location of the bore including its relationship to other bores and other activities; and
- (b) The planned depth of the bore; and
- (c) The management of the bore head and maintenance of the bore; and
- (d) The nature of the bore; and
- (e) The method of drilling or excavation; and
- (f) The duration of the resource consent; and
- (g) The information and monitoring requirements; and
- (h) Any bond; and
- (i) The review of conditions of the resource consent.

Applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.

#### **Principal reasons for adopting**

No person may use any land in a manner that contravenes a rule in a regional plan or any proposed regional plan, unless that activity is expressly allowed by a resource consent or is an existing lawful use (Resource Management Act Section 9(3)).

This rule is adopted to ensure that the Otago Regional Council has the opportunity to control the adverse environmental effects that may arise from penetration of an aquifer resulting from bore hole construction.

## 14.2 Drilling

### 14.2.1 Permitted activities: No resource consent required

14.2.1.1 The drilling of land, other than for the purpose of creating a bore, and other than on the bed of any lake or river, is a *permitted* activity providing:

- (a) The drilling does not occur on land over an aquifer identified in the C-series maps; and
- (b) The hole is filled or sealed on completion of the work so that contaminants are prevented from entering the hole at any level.

### 14.2.2 Controlled activities: Resource consent required but always granted

14.2.2.1 The drilling of land over an aquifer identified in the C-series maps, other than for the purpose of creating a bore and other than on the bed of any lake or river, is a *controlled* activity.

In granting any resource consent for the drilling of land in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The potential for contamination of groundwater; and
- (b) The location of the drilling; and
- (c) The planned depth of the drilling; and
- (d) The management of the drill hole on completion; and
- (e) The method of drilling; and
- (f) The duration of the resource consent; and
- (g) The information and monitoring requirements; and
- (h) Any bond; and
- (i) The review of conditions of the resource consent.

Applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.

### 14.2.3 Restricted discretionary activities: Resource consent required

14.2.3.1 Except as provided by Rules 14.2.1.1 and 14.2.2.1, the drilling of land, other than for the purpose of creating a bore and other than on the bed of any lake or river, is a *restricted discretionary* activity.

In considering any resource consent for the drilling of land in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) The potential for contamination of groundwater; and

- (b) The location of the drilling; and
- (c) The planned depth of the drilling; and
- (d) The management of the drill hole on completion; and
- (e) The method of drilling; and
- (f) The duration of the resource consent; and
- (g) The information and monitoring requirements; and
- (h) Any bond; and
- (i) The review of conditions of the resource consent.

**Principal reasons for adopting**

No person may use any land in a manner that contravenes a rule in a regional plan or any proposed regional plan, unless that activity is expressly allowed by a resource consent or is an existing lawful use (Resource Management Act Section 9(3)).

Rule 14.2.1.1 is adopted to enable drilling to occur, but in a manner that protects groundwater resources from the entry of contaminants. Rule 14.2.2.1 is adopted to ensure that the Otago Regional Council has the opportunity to control the adverse environmental effects that may arise whenever an identified aquifer is penetrated. Any other drilling is a restricted discretionary activity in order that any adverse effects on groundwater can be assessed.

**14.3 The erection, placement, extension, alteration, replacement, reconstruction, demolition or removal of a defence against water other than on the bed of any lake or river**

**14.3.1 Permitted Activities: No resource consent required**

- 14.3.1.1 The alteration or reconstruction of any defence against water, other than on the bed of any lake or river, is a *permitted* activity providing:
- (a) There is no permanent change to the scale, nature or function of the defence against water.

**14.3.2 Discretionary Activities: Resource consent required**

- 14.3.2.1 Except as provided for in Rule 14.3.1.1, the erection, placement, extension, alteration, replacement, reconstruction, demolition or removal, of any defence against water, other than on the bed of any lake or river, is a *discretionary* activity.

**Principal reasons for adopting**

No person may use any land in a manner that contravenes a rule in a regional plan or any proposed regional plan, unless that activity is expressly allowed by a resource consent or is an existing lawful use (Resource Management Act Section 9(3)).

The activities under Rule 14.3.1.1 will have no more than minor adverse effects on the environment. This rule is adopted to ensure that the Otago Regional Council has the opportunity to control defences against water so that they are constructed and maintained in a manner that does not exacerbate flood hazards or cause significant adverse effects on the environment.

## **14.4 Structures other than defences against water on the margins of lakes and rivers**

### **14.4.1 Permitted Activities: No resource consent required**

14.4.1.1 The erection or placement of any structure, other than a defence against water, within 7 metres of the margin of any lake, or within 7 metres of the top of the bank of any river, is a *permitted* activity, providing:

- (a) It does not result in the physical prevention or obstruction of access for works to avoid or mitigate any natural hazard; and
- (b) The Otago Regional Council is notified in writing, of the location and nature of the structure, at least seven working days prior to commencing the erection or placement.

### **14.4.2 Restricted discretionary activities: Resource consent required**

14.4.2.1 Except as provided for by Rule 14.4.1.1, the erection or placement of any structure, other than a defence against water, within 7 metres of the margin of any lake, or within 7 metres of the top of the bank of any river, is a *restricted discretionary* activity.

In considering any resource consent for the erection or placement of a structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following matters:

- (a) The potential for physical access along the river or lake, for works to avoid or mitigate any natural hazard, to be prevented or obstructed, and the degree to which such access will be obstructed.

#### **Principal reasons for adopting**

No person may use any land in a manner that contravenes a rule in a regional plan or any proposed regional plan, unless that activity is expressly allowed by a resource consent or is an existing lawful use (Resource Management Act Section 9(3)).

Rule 14.4.1.1 is adopted to ensure that no person is restricted by a structure from having ready access along lakes or rivers, with machinery if necessary, in order to carry out works for the purpose of hazard avoidance or mitigation. Any other erection or placement of a structure, other than a defence against water, is a restricted discretionary activity, in order that any adverse effects on physical access for this purpose can be assessed.

## **14.5 Earthworks for residential development**

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Sediment from  
earthworks for  
residential  
development

Note: 1. The rules in Section 14.5 do not apply to earthworks or soil disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.

2. Discharges resulting from earthworks for residential development are addressed only through rules in section 14.5.

### **14.5.1 Permitted activities: No resource consent required**

Part G  
Sediment from  
earthworks for  
residential  
development

- 14.5.1.1 The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a *permitted* activity providing:
- (a) The area of exposed earth is no more than 2,500 m<sup>2</sup> in any consecutive 12-month period per landholding; and
  - (b) Earthworks do not occur within 10 metres of a water body, a drain, a water race, or the coastal marine area (excluding earthworks for riparian planting); and
  - (c) Exposed earth is stabilised upon completion of the earthworks to minimise erosion and avoid slope failure; and
  - (d) Earthworks do not occur on contaminated or potentially contaminated land; and
  - (e) Soil or debris from earthworks is not placed where it can enter a water body, a drain, a race or the coastal marine area; and
  - (f) Earthworks do not result in flooding, erosion, land instability, subsidence or property damage at or beyond the boundary of the property where the earthworks occur; and
  - (g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:
    - (i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
    - (ii) any conspicuous change in the colour or visual clarity; or
    - (iii) any emission of objectionable odour; or
    - (iv) the rendering of fresh water unsuitable for consumption by farm animals; or
    - (v) any significant adverse effects on aquatic life.

### **14.5.2 Restricted discretionary activities: Resource consent required**

Part G  
Sediment from  
earthworks for  
residential  
development

- 14.5.2.1 Except as provided by Rule 14.5.1.1, the use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a *restricted discretionary* activity.



In considering any resource consent under this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) Any erosion, land instability, sedimentation or property damage resulting from the activities; and
- (b) Effectiveness of the proposed erosion and sediment control measures in reducing discharges of sediment to water or to land where it may enter water; and
- (c) ~~The extent to which the activity complies~~ Compliance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005); and
- (d) Any adverse effect on water quality, including cumulative effects, and consideration of trends in the quality of the receiving water body; and
- ~~(e) Any adverse effect on any natural or human use value, and on use of the coastal marine area for contact recreation and seafood gathering; and~~
- ~~(f) Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.~~

Any adverse effect on:

- i. Kāi Tahu cultural and spiritual beliefs, values and uses;
- ii. Any natural or human use value;
- iii. Use of water bodies or the coastal marine area for contact recreation and food gathering;

and measures to avoid, remedy or mitigate these adverse effects.

## 14.6 Rural land uses

### 14.6.1 Permitted activities: No resource consent required

14.6.1.1 Until Regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 or equivalent regulations come into force, the use of land for intensive winter grazing is a *permitted* activity providing:

- (a) Land on the farm was used for intensive winter grazing between 1 July 2014 and 30 June 2019 (inclusive); and
- (b) At all times, the area of the farm that is used for intensive winter grazing is no greater than the maximum area of the farm that was used for intensive winter grazing between 1 July 2014 and 30 June 2019 (inclusive); and
- (c) A vegetated strip of at least 5 metres is maintained between the intensively grazed area and any river, lake, wetland or

drain (excluding sub-surface drains), and all stock are excluded from this strip during intensive winter grazing; and

- (d) The intensive winter grazing does not occur in a natural wetland; and
- (e) There is no intensive winter grazing in any critical source area unless contaminants are prevented from entering a surface water body.

Advice Note: when regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 come into force, for rules applying to the use of land on a farm for intensive winter grazing refer to Subpart 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

#### **14.6.2 Discretionary activities: Resource consent required**

- 14.6.2.1 Until Regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 or equivalent regulations come into force, except as provided by Rule 14.6.1.1, the use of land for intensive winter grazing is a *discretionary* activity.

Advice Note: when regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 come into force, for rules applying to the use of land on a farm for intensive winter grazing refer to Subpart 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

Advice Note: Resource consent may also be required under Regulation 30 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. A resource consent may only be granted under Regulation 30 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 if the consent authority is satisfied that granting the consent will not result in an increase in—

- (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020; or
- (b) concentrations of contaminants in freshwater or other receiving environments (including the coastal marine area and geothermal water), compared with the concentrations as at the close of 2 September 2020.

Any resource consent granted under Regulation 30 must be for a term that ends before 1 January 2031.

## 14.7 Animal Waste Systems

Note: Resource consent may also be required under the Resource Management (National Environmental Standards for Freshwater) Regulations which contains additional restrictions in relation to activities within, or within a 100 metre setback of, a natural wetland.

### 14.7.1 Permitted activities: No resource consent required

14.7.1.1A The use of land for the construction, use and maintenance of a component of an animal effluent system that is not an animal effluent storage facility is a *permitted* activity providing:

- (a) for a component with a volume of less than 35,000 litres, the component does not have any visible cracks, holes or defects that would allow effluent to leak from the component;
- (b) for a component with a volume of 35,000 litres or above, the component is certified by a Suitably Qualified Person, as defined in Schedule 20, within the last five years as having no visible cracks, holes or defects that would allow effluent to leak from the component;
- (c) the component (excluding conveyance pipes) is not located:
  - (i) within 20 metres of any lake, river, Regionally Significant Wetland, water supply used for human consumption, bore or soak hole; or
  - (ii) above subsurface drainage (excluding a leak detection system); and
- (d) where the total volume of the animal effluent system exceeds 35,000 litres, a management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.

14.7.1.1 The use of land for the use and maintenance of an animal effluent storage facility that was constructed prior to 25 March 2020 is a *permitted* activity providing:

- (a) The animal effluent storage facility is sized in accordance with the 90<sup>th</sup> percentile as calculated by the Dairy Effluent Storage Calculator, and where relevant using a conversion factor for animals other than dairy cows determined by a Suitably Qualified Person as defined in Schedule 20;
- (b) The animal effluent storage facility is certified by a Suitably Qualified Person as defined in Schedule 20, within the last five years as:
  - (i) having no visible cracks, holes or defects that would allow effluent to leak from the animal effluent storage facility; and

- (ii) Meeting the relevant pond drop test criteria in Schedule 18 (excluding above-ground tanks, bladders, and solid animal effluent storage facilities); and
- (c) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.
- (d) Any certifications under (a) and (b) are provided to the Otago Regional Council upon written request.

Note Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1 and 14.7.3.1 do not manage discharges of liquid or solid animal effluent to land. Discharges of liquid and solid animal effluent are managed under the following rules: 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5.

- 14.7.1.2 The use of land for the use and maintenance of an animal effluent storage facility that was constructed prior to 25 March 2020 and does not comply with the conditions of Rule 14.7.1.1 is a *permitted* activity until the application date specified in Schedule 19.

## 14.7.2 **Controlled activities: Resource consent required**

- 14.7.2.1 The use of land for the construction, use and maintenance of an animal effluent storage facility constructed after 25 March 2020 is a *controlled* activity provided the following conditions are met:
- (a) The animal effluent storage facility is sized in accordance with the 90<sup>th</sup> percentile as calculated by the Dairy Effluent Storage Calculator, and where relevant using a conversion factor for animals other than dairy cows determined by a Suitably Qualified Person as defined in Schedule 20; and
  - (b) The animal effluent storage facility is either:
    - (i) Fully lined with an impermeable synthetic liner and has a leak detection system that underlies the animal effluent storage facility; or
    - (ii) Of concrete construction; or
    - (iii) An above-ground tank; or
    - (iv) Sealed with a clay liner; and
  - (c) The design of the animal effluent storage facility, and any leak detection system has been certified by a Chartered Professional Engineer as being in accordance with the

relevant parts of IPENZ Practice Note 21<sup>1</sup> and IPENZ Practice Note 27;<sup>2</sup> and

- (d) The animal effluent storage facility is not located:
  - (i) Within 50 metres of any lake, river or Regionally Significant Wetland; or
  - (ii) Within 90 metres of any water supply used for human consumption; or
  - (iii) Within 50 metres of any bore or soak hole; or
  - (iv) Above subsurface drainage (other than a leak detection system); and
- (e) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.

In granting any resource consent under this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The design and construction of the animal effluent storage facility, including storage capacity, nature of the solid or liquid animal effluent and the anticipated life of the animal effluent storage facility; and
- (b) The height of embankments and the placement and orientation relative to flood flows and stormwater run-off; and
- (c) Methods to protect the animal effluent storage facility from damage by animals and machinery; and
- (d) Quality and content of, and implementation of, the management plan prepared in accordance with Schedule 21; and
- (e) Potential adverse effects of construction, maintenance and use on water bodies, drains, groundwater, bores, drinking water supplies, the coastal marine area, stop banks, dwellings, places of assembly and urban areas; and
- (f) Location of the animal effluent storage facility; and
- (g) Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

### **14.7.3 Discretionary activities: Resource consent required**

- 14.7.3.1 The use of land for the construction, upgrade, use or maintenance of an animal effluent storage facility or a component of an animal

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<sup>1</sup> Available from <https://www.dairynz.co.nz/publications/environment/ipenz-21-farm-dairy-effluent-pond-design-and-construction/>

<sup>2</sup> Available from <https://www.dairynz.co.nz/publications/environment/ipenz-practice-note-27-dairy-farm-infrastructure/>

effluent system that is not an animal effluent storage facility is a *discretionary* activity provided it is not:

- (a) Permitted under Rules 14.7.1.1A, 14.7.1.1 or 14.7.1.2; or
- (b) Provided for by Rule 14.7.2.1.

# 21

## Glossary

Terms marked with an asterisk \* are terms defined by the Resource Management Act 1991.

In this Plan, the spelling of Māori words using ng and k is interchangeable (for example Ngāi Tahu and Kāi Tahu).

<b>Abandoned structure</b>	A structure that is no longer required or utilised for the purpose for which it was erected or placed.
<b>Access strip*</b>	Means a strip of land created by the registration of an easement in accordance with Section 237B (of the Resource Management Act 1991) for the purpose of allowing public access to or along any river, or lake, or the coast, or to any esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown (but excluding all land held for a public work except land held, administered or managed under the Conservation Act 1987 and the Acts named in the First Schedule to that Act).
<b>Adverse effect</b>	A detrimental effect.
<b>Aerial discharge</b>	The discharge of any agrichemical from any aircraft.
<b>Agricultural and horticultural activities</b> <i>(definition only applies where term is underlined in this Plan)</i>	All activities involved with the primary industries of agriculture and horticulture, including common stock drinking-water schemes, but excludes processing agricultural and horticulture produce.
<b>Allocation limit</b>	The maximum flow or quantity of water in a water body, which is able to be allocated to resource consents for taking.
<b>Alluvium</b>	Sediment including rock, gravel, sand or silt material deposited by flowing water on floodplains and in lake and river beds, as a result of alluvial processes.
<b>Alteration of the bed</b>	Any bed disturbance, reclamation or deposition.
<b>Amenity values*</b>	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.
<b>Animal waste</b>	Faeces or urine from any animal.
<b>Animal effluent storage facility</b>	A pond, tank, or structure primarily used for the containment or storage of animal effluent, but excludes any ancillary structures for the collection, conveyance or treatment of liquid or solid animal effluent, such as sumps, stone traps and weeping walls.



<b>Animal effluent system</b>	Means the collection, storage, or treatment of liquid or solid animal effluent.
<b>Annual renewable yield</b>	<i>[Repealed – 1 March 2012]</i>
<b>Annual volume</b> <i>(definition only applies where term is underlined in this Plan)</i>	The volume of water that can be taken or diverted in any 12-month period.
<b>Anticipated environmental result</b>	The intended result or outcome on the environment as a consequence of implementing the policies and methods.
<b>Any other activities</b> <i>(definition only applies where term is underlined in this Plan)</i>	Activities that are not agricultural and horticultural activities, hydro-electricity generation, industrial and commercial activities, tourism and recreation facilities, or town and community water supplies.
<b>Aquatic plant</b>	Any plant species that grows in water and is either totally or predominantly submerged in water.
<b>Aquifer</b>	A geological formation capable of holding water.
<b>Aquifer compression</b>	A reduction in an aquifer's capacity to hold water.
<b>Archaeological site</b>	Any place in New Zealand that <ul style="list-style-type: none"> <li>(a) EITHER – <ul style="list-style-type: none"> <li>(i) Was associated with human activity that occurred before 1900; or</li> <li>(ii) Is the site of the wreck of any vessel where that wreck occurred before 1900; and</li> </ul> </li> <li>(b) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand.</li> </ul> <p>- defined by Section 2 of the Historic Places Act 1993.</p>
<b>Artesian pressure</b>	The pressure of water in a confined aquifer resulting in water level rise above the bottom of the confining layer.
<b>Assessed maximum annual take</b>	The sum of the takes of groundwater as calculated under Method 15.8.3.1

<b>Assimilative capacity</b>	The ability of a water body to assimilate contaminants without adversely affecting the natural and human use values supported by the water body.
<b>Augmentation</b>	Increasing the supply of available water through the active management of water resources.
<b>Back-flow</b>	The return of water to the source water body, through the device used to take water, including back-siphoning.
<b>Bed*</b>	Means, - <ul style="list-style-type: none"> <li>(a) In relation to any river- <ul style="list-style-type: none"> <li>(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:</li> <li>(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</li> </ul> </li> <li>(b) In relation to any lake, except a lake controlled by artificial means, - <ul style="list-style-type: none"> <li>(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:</li> <li>(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</li> </ul> </li> <li>(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</li> <li>(d) In relation to the sea, the submarine areas covered by the internal waters and the territorial sea.</li> </ul>
<b>Bed disturbance</b>	Any activity which affects the bed or bank of a water body and includes any excavation, dredging, drilling, tunnelling, and any widening, deepening or altering of the course of the water body.
<b>Bedform</b>	The topography or shape of the bed of a lake or river.
<b>Bed material</b>	The sand, gravel or other alluvium forming part of the bed of a lake or river.
<b>Benthic invertebrate</b>	An animal without a backbone (e.g. snail, crustacean, worm, insect) living on, under, or within the bed material of a water body.
<b>BOD<sub>5</sub></b>	The quantity of oxygen consumed by microbial and chemical processes over a five day period at 20 degrees.

<b>Bore</b>	Every device or means, including any well or pit, which is drilled or constructed for the purpose of taking groundwater, or which results in groundwater being taken, other than piezometers or other monitoring devices used for water sampling purposes only.
<b>Bore interference</b>	The reduced ability of users in a localised area to take water from a bore, due to the taking of water from another bore, reducing the pressure and/or the level of groundwater.
<b>Bunding</b>	Constructing an embankment or low wall (usually concrete) designed to contain accidental spillage of a stored liquid.
<b>CFU</b>	Colony-Forming Units, an indication of faecal contamination.
<b>Cleanfill</b>	A natural material such as sand, gravel and rock, and such other materials as concrete, brick or demolition products that are free of soluble materials and are therefore not subject to biological or chemical breakdown.
<b>Coastal marine area*</b>	Means the foreshore, seabed, and coastal water, and the air space above the water - <ul style="list-style-type: none"> <li>(a) Of which the seaward boundary is the outer limits of the territorial sea:</li> <li>(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 - <ul style="list-style-type: none"> <li>(i) One kilometre upstream from the mouth of the river; or</li> <li>(ii) The point upstream that is calculated by multiplying the width of the river mouth by 5.</li> </ul> </li> </ul>
<b>Conditions*</b>	In relation to plans and resource consents, includes terms, standards, restrictions, and prohibitions.
<b>Consent authority*</b>	Means a regional council, a territorial authority, or a local authority that is both a regional council and a territorial authority, whose permission is required to carry out an activity for which a resource consent is required under the Resource Management Act 1991.
<b>Conspicuous change in visual clarity</b>	A visual change in water clarity of more than 40%.
<b>Consumptive use</b>	Where a use results in a net loss of water from the water body.
<b>Contact recreation</b>	Recreational activities involving contact with water; either primary (full immersion) or secondary (that which may result in some form of contact with water).
<b>Contaminant*</b>	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 -

- (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.

**Contaminated land**

Land at which hazardous substances occur at concentrations above background levels and where assessment indicates that that land poses, or is likely to pose, an immediate or long-term hazard to human health or the environment.

**Contravene\***

Includes fail to comply with.

**Controlled activity\***

If an activity is described in the Resource Management Act 1991, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and -

- (a) The consent authority must grant a resource consent (except if Section 106 of the Act applies); and
- (b) The consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved (whether in its plan or proposed plan, a national environmental standard, or otherwise); and
- (c) The activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.

**Controlled lake**

A lake where structures are used to manage the quantity of water leaving the lake.

**Critical source area**

Means a landscape feature such as a gully, swale, or depression that accumulates runoff from adjacent flats and slopes and delivers contaminants to surface water bodies such as rivers, lakes, and artificial watercourses (excluding subsurface drains, and artificial watercourses that do not connect to natural water bodies).

**Dairy Effluent Storage Calculator**

Means the Dairy Effluent Storage Calculator available from the Dairy NZ website <http://www.dairynzdesc.co.nz>

**Dam**

A structure used or to be used for the damming of any water, or water body.

**Datum**

The fixed level for basing subsequent level measurements, in this case datum means Otago Metric Datum, which is the Dunedin Vertical Datum (DVD 1958) plus 100 metres.

**Deemed permit**

A mining privilege in respect of water (see Appendix 2).

<b>Defence against water</b>	Any dam, weir, bank, carriageway, groyne, or reservoir, and any structure or appliance of any kind which has or may have the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence, in or out of a water body, of water including flood waters, which is specifically established for the purpose of flood hazard mitigation.
<b>Deposition</b>	The deposit of any substance, other than water or waterborne contaminants (discharge), or fill material (reclamation).
<b>Discharge*</b>	Includes emit, deposit, and allow to escape.
<b>Discretionary activity*</b>	<p>If an activity is described in the Resource Management Act 1991, regulations (including any national environmental standard), a plan, or a proposed plan as a discretionary activity, a resource consent is required for the activity and -</p> <p>(a) The consent authority may decline the consent or grant the consent with or without conditions; and</p> <p>(b) If granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.</p>
<b>Disposal field</b>	That part of a constructed on-site waste water treatment system where the effluent is discharged to land.
<b>District plan*</b>	<p>(a) Means an operative plan approved by a territorial authority under Schedule 1 of the Resource Management Act 1991; and</p> <p>(b) Includes all operative changes to the plan (whether arising from a review or otherwise).</p>
<b>Divert</b>	In relation to the diversion of water, is the process of redirecting the flow of water from its existing course to another.
<b>Down-hole pump test</b>	A test conducted to determine aquifer or bore characteristics.
<b>Drain</b>	Artificial channel or subsurface conduit (e.g. mole drain, tile drain or drainage tunnel) constructed to either lower the watertable or divert water, excluding a water race.
<b>Drainage water</b>	Water collected by and discharged from a drain.
<b>Drilling</b>	<p>The process of creating a hole in the ground with a drill to a depth greater than 1 metre. This does not include hole creation for the purpose of:</p> <ul style="list-style-type: none"> <li>• The construction of a bore;</li> <li>• The erection of fences or overhead utilities; or</li> <li>• The placement of building foundations.</li> </ul>

<b>Drill hole</b>	The hole created by drilling.
<b>Drinking-water supply reservoir</b>	A reservoir which is used primarily for the purpose of storing a supply of drinking water.
<b><u>Earthworks</u></b>	<u>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.</u>
<b>Ecosystem</b>	A dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.
<b>Effect*</b>	<p>In the Resource Management Act 1991, unless the context otherwise requires, the term effect includes -</p> <ul style="list-style-type: none"> <li>(a) Any positive or adverse effect; and</li> <li>(b) Any temporary or permanent effect; and</li> <li>(c) Any past, present, or future effect; and</li> <li>(d) Any cumulative effect which arises over time or in combination with other effects -</li> </ul> <p>regardless of the scale, intensity, duration, or frequency of the effect, and also includes -</p> <ul style="list-style-type: none"> <li>(e) Any potential effect of high probability; and</li> <li>(f) Any potential effect of low probability which has a high potential impact.</li> </ul>
<b>Effluent</b>	Liquid waste, including liquid leaching from solid waste.
<b>Enforcement order*</b>	Means an order made under Section 319 of the Resource Management Act 1991 for any purposes set out in Section 314 of the Act; and includes an interim enforcement order made under Section 320 of the Act.
<b>Environment*</b>	<p>Includes -</p> <ul style="list-style-type: none"> <li>(a) Ecosystems and their constituent parts, including people and communities; and</li> <li>(b) All natural and physical resources; and</li> <li>(c) Amenity values; and</li> <li>(d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.</li> </ul>
<b>Environmental flow and level regimes</b> <i>(definition only applies where</i>	The flow-sharing, allocation limits and minimum flows and levels established by the Water Plan as specified in Rule 12.1.4.4A.

*term is underlined  
in this Plan)*

<b>Erosion</b>	The processes of the wearing away of the land surface (including the land that forms the bed of a lake or river) by natural agents and the transport of the material that results.
<b>Esplanade reserve*</b>	Means a reserve within the meaning of the Reserves Act 1977 - (a) Which is either - (i) A local purpose reserve within the meaning of Section 23 of that Act, if vested in the territorial authority under Section 239 of the Resource Management Act 1991; or (ii) A reserve vested in the Crown or a regional council under Section 237D of the Resource Management Act 1991; and (b) Which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in Section 229 of the Resource Management Act 1991.
<b>Esplanade strip*</b>	Means a strip of land created by the registration of an instrument in accordance with Section 232 of the Resource Management Act 1991 for a purpose or purposes set out in Section 229 of the Act.
<b>Excavation over a groundwater protection zone</b>	The digging and removal of a volume of earth material from below the topsoil horizon in excess of 10 cubic metres, or to a depth of greater than 1 metre, but does not include that required for bore construction, or for the erection of fences, overhead utilities or foundations for buildings, or for land cultivation.
<b>Exotic plant</b>	A plant which is not native to New Zealand. These may include introduced plants which have been brought in by accident or design.
<b>Extraction</b>	Removal of material from the lake or river system.
<b>Faecal coliform</b>	A type of bacteria associated with animal excrement that indicates faecal pollution. If the faecal coliform count is high there may be disease-causing organisms present.
<b>Fauna</b>	All the animal life of a given place.
<b>Fertiliser</b>	Any proprietary substance specifically manufactured for use in increasing the nutrient status of land. Excludes compost, effluent or seaweed.
<b>Financial contribution</b>	A contribution as set out in Section 108(9) of the Resource Management Act.
<b>Fisheries and wildlife</b> ( <i>definition only applies where</i>	Activities relating to the management and enhancement of habitats of fish and indigenous wildlife.

*term is underlined  
in this Plan)*

<b>Flood carrying capacity</b>	The capacity of any channel to convey flood waters.
<b>Flooding of any other person's property</b>	Where a discharge of water or contaminants on one property causes inundation on another property.
<b>Flora</b>	All the plant life of a given place.
<b>Flushes</b>	Wet or damp areas of ground where the watertable intersects the land surface. Characterised by the presence of wetland species such as Sphagnum, and a greener, more lush appearance than surrounding vegetation.
<b>Ford</b>	Any modification of the bed to establish a crossing by which any vehicle, livestock, or persons may traverse through any water body.
<b>Galaxias</b>	The genus name of members of the native fish family Galaxiidae, which includes inanga (whitebait) and banded kokopu.
<b>Galaxiid</b>	A member of the native fish family Galaxiidae.
<b>Grassed swale</b>	An open artificial water body or drain with gently-sloping walls of permeable material that conducts water only when the substrate is saturated.
<b>Groundwater</b>	Water that occupies or moves through openings, cavities or spaces in geological formations under the ground.
<b>Groundwater protection zone</b>	An area of land in which land use and water use activities are to be managed to protect the underlying groundwater resource.
<b>Hapu</b>	Sub-tribe, extended whanau.
<b>Hazardous substance</b>	Unless expressly provided otherwise by regulations, any substance - <ul style="list-style-type: none"> <li>(a) With one or more of the following intrinsic properties:           <ul style="list-style-type: none"> <li>(i) Explosiveness:</li> <li>(ii) Flammability:</li> <li>(iii) A capacity to oxidise:</li> <li>(iv) Corrosiveness:</li> <li>(v) Toxicity (including chronic toxicity):</li> <li>(vi) Ecotoxicity, with or without bioaccumulation; or</li> </ul> </li> <li>(b) Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified in paragraph (a) of this definition.</li> </ul>



- defined by Section 2 of the Hazardous Substances and New Organisms Act 1996.

<b>Herbicide</b>	Substance toxic to plants and used to kill or control plants.
<b>High degree of naturalness</b>	Retaining characteristics not significantly modified by human beings or non-indigenous plants or animals.
<b>Historic place</b>	Any land (including an archaeological site); or any building or structure (including part of a building or structure); or any combination of land and a building or structure that forms part of the historical and cultural heritage of New Zealand and lies within the territorial limits of New Zealand; and includes anything that is in or fixed to such land.
<b>Hydrological values</b>	The natural processes of an ecosystem in providing regulated water flow and enhanced water quality.
<b>Impervious strata</b>	A layer of soil, rock or other natural material which does not allow the percolation of water.
<b>In-catchment needs</b> ( <i>definition only applies where term is underlined in this Plan</i> )	Water requirements of users where the water is taken or diverted for use within the Waitaki catchment.
<b>Indigenous species</b>	A New Zealand native species that is, or is thought to have been, naturally existing within the catchment.
<b>Industrial and commercial activities</b> ( <i>definition only applies where term is underlined in this Plan</i> )	Industrial and commercial activities (but excluding hydro-electricity generation) that are not served by a reticulated town and community water supply.
<b>Industrial or trade premises*</b>	Means - <ul style="list-style-type: none"> <li>(a) Any premises used for any industrial or trade purposes; or</li> <li>(b) Any premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or</li> <li>(c) Any other premises from which a contaminant is discharged in connection with any industrial or trade process -</li> </ul> but does not include any production land. In this plan, the phrase 'industrial or trade premises' includes any structure associated with electricity generation.
<b>Industrial or trade process*</b>	Includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or

waste material, and any intervening storage of the raw material, partly processed matter, or product.

<b>Industrial or trade waste</b>	Waste from an industrial or trade premises, that is derived from an industrial or trade process.
<b>Instantaneous take</b>	All takes of water occurring at a particular time.
<b>Intake structure</b>	The device by which water is taken from a water body.
<b>Intensive winter grazing</b>	Has the same meaning as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.
<b>Intrinsic values*</b>	In relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including - <ul style="list-style-type: none"> <li>(a) Their biological and genetic diversity; and</li> <li>(b) The essential characteristics that determine any ecosystem's integrity, form, functioning, and resilience.</li> </ul>
<b>Issue</b>	A matter of concern to the region's community regarding activities affecting some aspect of natural and physical resources and the environment of the region.
<b>Iwi</b>	Tribe.
<b>Iwi authority*</b>	Means the authority which represents an iwi and which is recognised by that iwi as having authority to do so. (The iwi authority for the Otago region is Te Runanga O Ngai Tahu).
<b>Iwi management plan</b>	A relevant planning document, such as the Kai Tahu Ki Otago Natural Resource Management Plan, recognised by an iwi authority affected by this Plan, to which local authorities shall have regard.
<b>Kai Tahu</b>	Descendants of Tahu, the tribe. The manawhenua of the Otago region. (Also known as Ngai Tahu).
<b>Kāi Tahu or Ngāi Tahu</b> ( <i>definition only applies where term is underlined in this Plan</i> )	The collection of individuals who descend from the primary hapū of Waitaha, Ngāti Mamoe, and Ngāi Tahu, namely Kāti Kurī, Kāti Irakehu, Kāti Huirapa, Ngāi Tuahuriri and Kai Te Ruahikihiki.
<b>Kaitiaki</b>	Guardians.
<b>Kaitiakitanga*</b>	Means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship.

<b>Kanakana</b>	The primitive parasitic native fresh water lamprey, <i>Geotria australis</i> .
<b>Kokopu</b>	Native fish species of the Galaxiid family, including banded kokopu ( <i>Galaxias fasciatus</i> ) and giant kokopu ( <i>G. argenteus</i> ), sometimes referred to as 'native trout'.
<b>Koura</b>	Native fresh water crayfish of the genus <i>Paranephrops</i> .
<b>Lake Tuakitoto</b>	The variable and more or less continuous body of water commonly known as Lake Tuakitoto, including Robson's Lagoon, situated at and about map reference NZMS260 H46:650370. The shoreline of the lake is defined as the variable extent of surface water, as it is observed at any particular time, whether of natural extent or whether restricted by any floodbank.
<b>Lake*</b>	Means a body of fresh water which is entirely or nearly surrounded by land.
<b>Land*</b>	<ul style="list-style-type: none"> <li>(a) Includes land covered by water and the air space above land; and</li> <li>(b) In a national environmental standard dealing with a regional council function under Section 30 of the Resource Management Act 1991 or a regional rule, does not include the bed of a lake or river; and</li> <li>(c) In a national environmental standard dealing with a territorial authority function under Section 31 of the Act or a district rule, includes the surface of water in a lake or river.</li> </ul>
<b>Land-based discharge</b>	The discharge of any agrichemical from any thing other than any aircraft.
<b>Land drainage</b>	The removal of water from in or on land.
<b>Landholder</b>	Includes land owner, lessee and occupier.
<b>Landholding</b>	<ul style="list-style-type: none"> <li>(1) For land subject to the Land Transfer Act 1952, land in: <ul style="list-style-type: none"> <li>(i) A single certificate of title; or</li> <li>(ii) Two or more adjoining certificates of title, with a common occupier.</li> </ul> </li> <li>(2) For land not subject to the Land Transfer Act 1952, all contiguous land last acquired under one instrument of conveyance and occupied by a common occupier.</li> </ul>
<b>Lawful take of water</b>	Any take under Section 14(3) of the Resource Management Act, any take exercised under Rules 12.1.2.1 to 12.1.2.6, or 12.2.2.1 to 12.2.2.3 of this Plan, any take exercised under the Transitional Regional Plan rule constituted by General Authorisations 1 to 5, 9 and 12, and any take under any resource consent or deemed permit under the Resource Management Act 1991.

<b>Leachate</b>	A liquid contaminant resulting from the liquid being exuded from or percolated through some more-or-less solid matter.
<b>Legal public access</b>	Includes legal roads, marginal strips, esplanade reserves, esplanade strips, access strips and Walkways.
<b>Line</b>	A wire or conductor (including a fibre optic cable) used or intended to be used for telecommunication or transmission of electricity.
<b>Liquid animal effluent</b>	Faeces and urine from land-based animals, including associated process water, wash-down water, contaminants and sludge but excluding solid animal effluent. For the purposes of this definition, it does not include incidental animal effluent present in livestock processing waste streams.
<b>Local authority</b>	A term that collectively describes regional councils, city councils, and district councils.
<b>Long-drop toilet</b>	An unlined hole or pit excavated for the disposal of human sewage, which is not subject to any treatment or flushing.
<b>Macro-invertebrate Community Index (MCI)</b>	An index of the proportion of sensitive to tolerant species (designed to assess the effects of nutrient enrichment in stoney streams, but also affected by dissolved oxygen, temperature and physical habitat features), among the community of benthic invertebrates that can be seen with the naked eye (see Appendix 1).
<b>Mahika kai</b>	Places where food is procured or produced, examples in the case of waterborne mahika kai include eels, whitebait, kanakana, kokopu, koura, fresh water mussels, indigenous waterfowl, watercress and raupo.
<b>Main stem</b>	The principal course of a river (i.e. does not include tributaries).
<b>Mana</b>	Authority, influence or prestige.
<b>Manawhenua*</b>	Means customary authority exercised by an iwi or hapu in an identified area.
<b>Margin</b>	Land alongside a river or lake.
<b>Mauri</b>	Life force; for example the mauri of a river is most recognisable when there is abundance of water flow and the associated ecosystems are healthy and plentiful; a most important element in the relationship that Kai Tahu have with the water bodies of Otago.
<b>Maximum allocation limit</b>	The quantity of groundwater as established under Policy 6.4.10A2.
<b>MCI</b>	See Macroinvertebrate Community Index.

**Mean annual  
recharge**

The quantity of groundwater recharge as calculated by Schedule 4D.

<b>Mean high water springs</b>	The average line of spring high tide.
<b>Method</b>	The practical action by which a policy is implemented.
<b>Micro hydro-electricity generation</b> <i>(definition only applies where term is underlined in this Plan)</i>	The generation of hydro-electricity not exceeding a capacity of 50 Kilowatts continuous output.
<b>Minimum flow</b>	The flow below which the holder of any resource consent to take water must cease taking water.
<b>Mining privilege</b>	See Appendix 2.
<b>Mixing zone</b>	An area of water associated with a discharge within which any standards or requirements relating to water quality are set aside to enable reasonable mixing to occur. (See Reasonable mixing).
<b>Mouth*</b>	For the purpose of defining the landward boundary of the coastal marine area, means the mouth of a river either - <ul style="list-style-type: none"> <li>(a) As agreed and set between the Minister of Conservation, the regional council, and the appropriate territorial authority in the period between consultation on, and notification of, the proposed regional coastal plan; or</li> <li>(b) As declared by the Environment Court under Section 310 of the Resource Management Act 1991 upon application made by the Minister of Conservation, the regional council, or the territorial authority prior to the plan becoming operative, -</li> </ul> and once so agreed and set or declared shall not be changed in accordance with Schedule 1 of the Act or otherwise varied, altered, questioned, or reviewed in any way until the next review of the regional coastal plan, unless the Minister of Conservation, the regional council, and the appropriate territorial authority agree.
<b>Natural and human use values</b>	Characteristics of a water body which are important to, or are an essential part of, ecological communities, or are enjoyed or utilised by people and communities. While some of these values are identified in Schedule 1, natural character, amenity values, existing lawful uses, and archaeological sites will be identified on a case-by-case basis.
<b>Natural and physical resources*</b>	Includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.
<b>Natural hazard*</b>	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.

<b>Noa</b>	Free from tapu or other restriction.
<b>Non-biodegradable</b>	Unable to be decomposed by living organisms present in the particular receiving environment.
<b>Non-complying activity*</b>	<p>If an activity is described in the Resource Management Act 1991, regulations (including a national environmental standard), a plan, or a proposed plan as a non-complying activity, a resource consent is required for the activity and the consent authority may -</p> <ul style="list-style-type: none"> <li>(a) Decline the consent; or</li> <li>(b) Grant the consent, with or without conditions, but only if the consent authority is satisfied that the requirements of Section 104D of the Act are met and the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.</li> </ul>
<b>Non-consumptive take **</b>	<p>A take is non-consumptive when:</p> <ul style="list-style-type: none"> <li>(1) The same amount of water is returned to the same water body at or near the location from which it was taken; and</li> <li>(2) There is no significant delay between the taking and the returning of the water.</li> </ul> <p>** as defined in the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010</p>
<b>Non-point source discharge</b>	A discharge of water or contaminant that enters a water body from a diffuse source, such as land runoff or infiltration.
<b>Notified use</b>	Any right in respect of natural water which was notified under Section 21 (2) or 21 (2A) of the Water and Soil Conservation Act 1967 (an 'existing authority' under Section 386(1)(b) of the Resource Management Act 1991).
<b>Objective</b>	The desired result, end state, situation or condition that is aimed for.
<b>Occupier*</b>	<p>Means -</p> <ul style="list-style-type: none"> <li>(a) The inhabitant occupier of any property; and</li> <li>(b) <i>[Repealed]</i></li> <li>(c) For the purposes of Section 16 of the Resource Management Act 1991, in relation to any land (including any premises and any coastal marine area), includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land.</li> </ul>

<b>On-site waste water treatment system</b>	Any system, such as a septic tank, designed to treat household liquid effluent including sewage within the boundary of the property on which the effluent was generated, and includes the treatment system and any attached disposal field.
<b>Open pile(d)</b>	The nature of a structure's supporting piles whereby no significant hindrance to the passage of water or sediment is caused.
<b>Operative*</b>	In relation to a policy statement or plan, or a provision of a policy statement or plan, means that the policy statement, plan, or provision - <ul style="list-style-type: none"> <li>(a) Has become operative - <ul style="list-style-type: none"> <li>(i) In terms of clause 20 of Schedule 1 of the Resource Management Act 1991; or</li> <li>(ii) Under Section 86F of the Act; and</li> </ul> </li> <li>(b) Has not ceased to be operative.</li> </ul>
<b>Papatipu Runanga</b>	The Papatipu Runanga and their takiwa for the Otago Region are described in the schedule to the Te Runanga o Ngai Tahu Act 1996.
<b>Percent probability flood</b>	A flood event which has a particular probability of being exceeded in any 12 month period.
<b>Permitted activity*</b>	If an activity is described in the Resource Management Act 1991, regulations (including any national environmental standard), a plan, or a proposed plan as a permitted activity, a resource consent is not required for the activity if it complies with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.
<b>Person*</b>	Includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate.
<b>Pest plant</b>	Any plant specified as a pest in a pest management strategy written under the Biosecurity Act 1993.
<b>Pesticide</b>	A substance or mixture of substances used to kill or control unwanted species of plants, animals or other organisms.
<b>Policy</b>	The course of action to achieve the objective.
<b>Point source discharge</b>	A discharge of water or contaminant that enters a water body at a definable point, often through a pipe or drain.
<b>Primary allocation</b>	The quantity of water established under Policy 6.4.2.
<b>Production land*</b>	(a) Means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products):



- (b) Does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals - and “production” has a corresponding meaning.

**Prohibited activity\***

If an activity is described in the Resource Management Act 1991, regulations (including a national environmental standard), a plan, or a proposed plan as a prohibited activity, -

- (a) No application for a resource consent may be made for the activity; and  
 (b) The consent authority must not grant a consent for it.

**Proposed plan\***

In the Resource Management Act 1991, unless the context otherwise requires, proposed plan -

- (a) Means a proposed plan, a variation to a proposed plan or change, or a change to a plan proposed by a local authority that has been notified under clause 5 of Schedule 1 but has not become operative in terms of clause 20 of Schedule 1; and  
 (b) Includes a proposed plan or a change to a plan proposed by a person under Part 2 of Schedule 1 that has been adopted by the local authority under clause 25(2)(a) of Schedule 1.

**Protective soil mantle**

A layer of soil, rock or other natural material which reduces the percolation of water.

**Public notice\***

- (a) Means a notice published in a newspaper circulating in the entire area likely to be affected by the proposal to which the notice relates; and  
 (b) If a local authority also publishes a notice on an Internet site to which the public have free access, includes that notice.

**Rahui**

Restrictions.

**Reasonable mixing**

The process where undiluted effluent disperses through receiving waters. Mixing results in a mixing zone where the concentration of contaminants varies from that in the effluent to that of the fully mixed receiving water. Reasonable mixing may be said to have occurred at some point between the point of discharge and the point at which the effluent is completely mixed with the receiving water. Beyond the reasonable mixing zone, the effluent and water mix complies with any water quality standards for the water body.

**Reclamation**

The permanent infilling of a water body or part of a water body with sand, rock, quarry material, concrete, or other similar material, for any purpose, and includes any embankment or causeway, but does not include any structure above water where that structure is supported by piles, or any deposition of material or infilling that is not permanent.

<b>Regional plan*</b>	<p>(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</p> <p>(b) Includes a regional coastal plan.</p>
<b>Regionally Significant Wetland</b>	See Policy 10.4.1A
<b>Regionally significant wetland value</b>	See Policy 10.4.1.
<b>Registered community drinking water supply</b>	A drinking water supply, which is registered under Section 69J of the Health Act and serves a community of more than 25 people for more than 60 days a year.
<b>Registered Historic Place</b>	Any Historic Place registered under Part II of the Historic Places Act 1993.
<b><u>Residential development</u></b>	<p><u>Means the preparation of land for, and construction of, development infrastructure and buildings (including additions and alterations) for residential activities, and includes visitor accommodation and retirement villages.</u></p> <p><u>The terms development infrastructure, residential activity, visitor accommodation, and retirement village are defined in the National Planning Standards.</u></p>
<b>Residual flow</b>	Refer to Policy 6.4.7.
<b>Resource consent</b>	A consent for an activity as set out in Section 87 of the Resource Management Act 1991; and includes all conditions to which the consent is subject.
<b>Restricted discretionary activity*</b>	<p>If an activity is described in the Resource Management Act 1991, regulations (including any national environmental standard), a plan, or a proposed plan as a restricted discretionary activity, a resource consent is required for the activity and -</p> <p>(a) The consent authority's power to decline a consent, or to grant a consent and to impose conditions on the consent, is restricted to the matters over which discretion is restricted (whether in its plan or proposed plan, a national environmental standard, or otherwise); and</p> <p>(b) The activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.</p>

<b>Reticulated system, or reticulation</b>	The means by which water, stormwater, sewage or other waterborne contaminant is collected and delivered prior to discharge.
<b>Riparian vegetation</b>	The terrestrial plants growing on the bed or margin of a water body.
<b>River*</b>	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).
<b>Runanga</b>	Local representative groups or community system of organisation.
<b>Sediment trap</b>	An excavated or bunded area in the bed of an ephemeral or intermittently flowing river designed and constructed solely for the purpose of allowing sediment to drop from the water column.
<b>Seven-day (“7-day”) mean annual low flow</b>	<p>The seven-day low flow in any year is determined by calculating the average flow over seven consecutive days for every seven consecutive day period in the year, and choosing the lowest.</p> <p>When this is done for every year of record, the seven-day mean annual low flow can be determined by adding the lowest seven-day low flows for every year of record and dividing by the number of years in the record.</p>
<b>Small dam</b>	<p>A dam:</p> <ul style="list-style-type: none"> <li>(a) Where the size of the catchment upstream of the dam is no more than 50 hectares; and</li> <li>(b) where the water stored immediately upstream of the dam is no more than 3 metres deep; and</li> <li>(c) where the volume of water stored by the dam is no more than 20,000 cubic metres.</li> </ul>
<b>Soil contamination</b>	Occurs where the discharge of a contaminant reduces the primary productive capacity of soil.
<b>Solid animal effluent</b>	Solid excreta from land-based animals that cannot be pumped and sprayed, including bedding material and manure, but does not include dead animals or animal parts.
<b>Stormwater</b>	The water running off from any impervious surface such as roads, carparks, roofs, and sealed runways.
<b>Structure*</b>	Means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.

<b>Suction dredging; Suction dredge mining</b>	Any activity utilising a motor, pump, and hose within a river bed.
<b>Suitably Qualified Person</b>	Has the meanings set out in Schedule 20.
<b>Sullage</b>	The waste water from sinks, basins, baths, showers and similar appliances, but not including toilet wastes (sometimes referred to as grey water).
<b>Supplementary allocation</b>	A volume of water established under Policies 6.4.9 or 6.4.10 which is able to be taken subject to a supplementary allocation minimum flow set under those policies.
<b>Suspended solids</b>	Particulate matter carried in suspension within water.
<b>Taking</b>	In relation to the taking of water, is the process of extracting the water for any purpose and for any period of time.
<b>Taoka</b>	Treasures.
<b>Tapu</b>	Sacred.
<b>Tarn</b>	Small mountain lake or pool, often formed in a cirque basin.
<b>Technical efficiency</b> <i>(definition only applies where term is underlined in this Plan)</i>	Using a resource in a way that any given output is produced at least cost, including avoiding waste.
<b>Territorial local authority</b>	A term that collectively describes city councils and district councils, but not regional councils.
<b>The Act</b>	The Resource Management Act 1991.
<b>To Dam</b>	In relation to the damming of water, is the process of impounding the water for any purpose and for any period of time, as in a reservoir.
<b>Tourism and recreation facilities</b> <i>(definition only applies where term is underlined in this Plan)</i>	Tourism and recreation facilities that are not served by a reticulated town and community supply, such as hotels, lodges, restaurants and ski fields.

<b>Town and community water supply</b> ( <i>definition only applies where term is underlined in this Plan</i> )	Reticulated water supplies servicing urban areas, rural-residential and residential subdivisions including all commercial and industrial premises and schools and other educational facilities located within the reticulated area.
<b>Trace amount of any contaminant</b>	A contaminant is present in a quantity that is incapable of practicable measurement.
<b>Transmissivity</b>	The degree to which an aquifer allows water to pass through it.
<b>Treaty of Waitangi (Te Tiriti o Waitangi)</b>	The same meaning as the word “Treaty” as defined in Section 2 of the Treaty of Waitangi Act 1975.
<b>Upland bogs</b>	A wet or spongy high altitude area of ground chiefly composed of decaying vegetable matter or peat.
<b>Use</b>	<i>[Repealed – 1 March 2012]</i>
<b>Vegetation</b>	Includes any trees, shrubs, plants or grasses.
<b>Vessel</b>	Every description of ship, boat, ferry, or craft used in navigation, whether or not it has any means of propulsion, and regardless of that means; and includes: a barge, lighter, or other like vessel; a hovercraft or other thing deriving full or partial support in the atmosphere from the reactions of air against the surface of the water over which it operates; a submarine or other thing used in navigation whilst totally submerged.
<b>Waahi taoka</b>	Treasured resource; values, sites and resources that are valued and reinforce the special relationship Kai Tahu have with Otago’s water resources.
<b>Waahi tapu</b>	Sacred places; sites, areas and values associated with water bodies that hold spiritual values of importance to Kai Tahu.
<b>Waitaki catchment</b> ( <i>definition only applies where term is underlined in this Plan</i> )	(a) Means the area of land bounded by watersheds draining into the Waitaki River; and (b) Includes aquifers wholly or partially within that area of land.
<b>Walkway</b>	A formal Walkway created under the New Zealand Walkways Act 1975.
<b>Water*</b>	(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.

<b>Water allocation committee</b>	Refer to Policy 6.4.12.
<b>Water body*</b>	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.
<b>Water conservation order*</b>	Has the meaning set out in Section 200 of the Resource Management Act 1991.
<b>“Water Info” phone</b>	The telephone service by which the Otago Regional Council provides frequently-updated information on water body condition including river flows.
<b>Water race</b>	An artificial channel used for conveying water for various uses, but not for the drainage of land.
<b>Water supply values</b>	The existence of a take for human consumption, which people and communities have come to depend upon.
<b>Water user group</b>	Refer to Policy 5.4.12.
<b>Wet bed</b>	That part of the bed of a lake or river which is covered by water.
<b>Wetland*</b>	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.  In this plan, ‘wetland’ excludes any wetland constructed for the purpose of water quality management.
<b>Whanau</b>	Family.
<b>Whanui</b>	Large, extended, broad.